

**ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL
ACT OF 1980¹**

[Public Law 96–270]

[As Amended Through P.L. 108–201, Enacted February 24, 2004]

【Currency: This publication is a compilation of the text of Public Law 96–270. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

SHORT TITLE

SECTION 1. This Act may be cited as the “Asbestos School Hazard Detection and Control Act of 1980”.

【20 U.S.C. 3601 note】

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the

¹The Asbestos School Hazard Detection and Control Act of 1980 (20 U.S.C. 3601–3611) is Public Law 96–270 (June 14, 1980; 94 Stat. 487).

health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this Act to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this Act to—

(1) direct the Secretary of Education to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 400(c)(1)(A)¹ of the General Education Provisions Act) to prepare a plan describing the manner in which information relating to programs established under this Act shall be distributed to local educational agencies;

(3) provide scientific, technical, and financial assistance to State educational agencies and local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

【20 U.S.C. 3601】

TASK FORCE

SEC. 3. (a)(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this Act referred to as “Task Force”). The Task Force shall be composed of ten members, who shall be appointed by the Secretary within 30 days after the effective date of this Act, as follows:

¹ Probably should refer to section 400(c)(1).

(A) One representative of the Department of Education, recommended by the Secretary of Education.

(B) One representative of the Department of Health and Human Services.

(C) One representative of the National Cancer Institute.

(D) One representative of the Environmental Protection Agency, recommended by the Administrator of such agency.

(E) One representative of the National Institute of Environmental Health Sciences.

(F) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(G) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b)(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings.

(c)(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS-16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Education to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The duties of the Task Force shall include—

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(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this Act;

(3) the review of applications for grants and loans under sections 5 and 6 of this Act, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 7 of this Act by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(f) The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 6 has expired.

[20 U.S.C. 3602]

STATE PLAN

SEC. 4. (a) Not later than six months after the effective date of this Act, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 400(c)(1)(A)¹ of the General Education Provisions Act) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after the effective date of this Act, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this Act;

(B) the health hazards associated with exposure to asbestos fibers; and

¹ Probably should refer to section 400(c)(1).

(C) the procedures established by the Secretary under section 7 for carrying out activities under programs under this Act, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b).

(b) Not later than six months after the submission of the plan described in subsection (a), and each six months thereafter during the two-year period beginning on the effective date of this Act, the State agency or unit designated under paragraph (4) of subsection (a) shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection.

【20 U.S.C. 3603】

ASBESTOS HAZARDS DETECTION PROGRAM

SEC. 5. (a)(1)(A) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 7(a)(1) of this Act. Grants may be made under this section only during the two-year period beginning on the effective date of this Act.

(B) The Secretary may make grants to State educational agencies for the Federal share of the costs of carrying out any asbestos detection program if—

(i) the State, through the State educational agency or some other appropriate State agency, is making grants to local educational agencies for asbestos hazard detection programs, and

(ii) such programs meet the standards established by the Secretary under section 7(a)(1) of this Act.

(C) Grants may be made under this section only during the two-year period beginning after the date of enactment of this Act.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program.

(b)(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application—

(A) contains a description of the methods to be used by the local educational agency, or in the case of an application by the State educational agency the methods to be used by the local educational agencies receiving grants from the State, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing;

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 7(a)(1) and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before the effective date of this Act unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 7(a)(1).

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1976.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Sec-

retary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

- (A) Visual inspections of school buildings.
 - (B) The sampling of building and insulation materials.
 - (C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.
- (c) Local and State educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.
- (d) During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

[20 U.S.C. 3604]

ASBESTOS HAZARDS CONTROL LOAN PROGRAM

SEC. 6. (a)(1) There is established within the Department of Education an Asbestos Hazards Control Loan Program (hereinafter in this Act referred to as the "Loan Program"), which shall be administered by the Secretary in accordance with this section.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 7(a)(2).

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such para-

graph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

(b) Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury. Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this Act.

(c)(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the two-year period beginning on the effective date of this Act. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 7(a)(1), or, in the case of testing conducted before the effective date of this Act, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 7(b) of this Act, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2)); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 7(b).

No loan may be awarded under this section for any project described in subsection (a)(2) which was completed before January 1, 1976.

(d) During each of the three calendar years after the year in which this Act is enacted, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

[20 U.S.C. 3605]

STANDARDS AND SAFETY PROCEDURES

SEC. 7. (a)(1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 4(a)(4)—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 6 of this Act. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

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(b) After reviewing recommendations submitted to the Secretary by the Task Force under section 3(e)(5), the Secretary, with the concurrence of the Task Force, shall by regulation establish—

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 6, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

【20 U.S.C. 3606】

RECOVERY OF COSTS BY THE UNITED STATES

SEC. 8. (a)(1) As a condition of the award of any grant under section 5 or loan under section 6, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 5;

(B) the amount outstanding on any loan made to the recipient under section 6; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this Act. Within one year after the effective date of this Act, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations.

(c) If the Attorney General determines in the report under subsection (b) that the United States should seek to recover the amounts expended by the United States to carry out this Act, the

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Attorney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b).

【20 U.S.C. 3607】

EMPLOYEE PROTECTION

SEC. 9. No State or local educational agency receiving assistance under this Act may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

【20 U.S.C. 3608】

RETAINED RIGHTS

SEC. 10. Except as otherwise provided in section 8, nothing in this Act shall—

- (1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or
- (2) affect the rights of any party under any other law.

【20 U.S.C. 3609】

DEFINITIONS

SEC. 11. For purposes of this Act—

- (1) the term “asbestos” means—
 - (A) chrysotile, amosite, or crocidolite; or
 - (B) in fibrous form, tremolite, anthophyllite, or actinolite;
- (2) the term “Attorney General” means the Attorney General of the United States;
- (3) the term “imminent hazard to the health and safety” means, for purposes of section 6, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;
- (4) the term “local educational agency” means—
 - (A) any local educational agency as defined in section 198(a)(10)¹ of the Elementary and Secondary Education Act of 1965; and
 - (B) the governing authority of any nonprofit elementary or secondary school;
- (5) the term “nonprofit elementary or secondary school” means—
 - (A) any elementary or secondary school (as defined in section 198(a)(7)¹ of the Elementary and Secondary Edu-

¹Public Law 103-382 amended section 198 in its entirety and redesignated it as section 14101 (20 U.S.C. 8801).

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cation Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term “school buildings” means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term “Secretary” means the Secretary of Education, or his designee;

(8) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term “State educational agency” has the same meaning given such term by section 198(a)(17)¹ of the Elementary and Secondary Education Act of 1965.

[20 U.S.C. 3610]

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a)(1) There are authorized to be appropriated—

(A) for the asbestos detection program under section 5, for the fiscal year ending September 30, 1981, and for the succeeding fiscal year, a total of not more than \$22,500,000; and

(B) for the asbestos hazards control loan program under section 6, not more than \$75,000,000 for the fiscal year ending September 30, 1981, and \$75,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs under this Act shall be considered automatically eligible for the one-year contingent extension under section 414² of the General Education Provisions Act.

(c) If funds appropriated to carry out this Act are insufficient to pay the total amount required to make all the grants and loans authorized under this Act, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this Act have the greatest financial need for receiving funds under this Act and shall make determinations regarding the approval of

¹ See footnote 1 on the previous page.

² Section 414 was redesignated as section 422 by section 212(b)(1) of Public Law 103-382.

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applications for such grants or loans in accordance with such criteria.

(d) Notwithstanding any other provision of this Act, the authority of the Secretary to enter into agreements, or to make payments, under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

【20 U.S.C. 3611】