

118TH CONGRESS  
1ST SESSION

# H. R. 245

To establish a grant program for nebulizers in elementary and secondary schools.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2023

Ms. JACKSON LEE introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish a grant program for nebulizers in elementary and secondary schools.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Breath of Fresh Air  
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) 25,000,000 people, including 7,000,000  
9 children, have asthma.

1           (2) Almost 13,000,000 people report having an  
2           asthma attack in the past year and asthma accounts  
3           for nearly 2,000,000 emergency department visits  
4           each year.

5           (3) Every day in the United States—

6                   (A) 30,000 people have an asthma attack;

7                   and

8                   (B) 11 people die from asthma.

9           (4) Nearly 5,000,000 asthma sufferers are  
10           under 18 years of age, and 1 out of every 10 school-  
11           aged children has asthma.

12           (5) Minorities are adversely affected by asthma,  
13           as—

14                   (A) African Americans are 3 times more  
15                   likely to die from asthma; and

16                   (B) Hispanics may have an elevated risk  
17                   for exposure to air pollution since a dispropor-  
18                   tionate number live in areas failing to meet one  
19                   or more national standards for air pollutants.  
20                   (It is estimated that 80 percent of Hispanics  
21                   live in areas that failed to meet one United  
22                   States Environmental Protection Agency air  
23                   quality standard, compared to 65 percent of Af-  
24                   rican Americans and 57 percent of Whites.)

1 **SEC. 3. GRANT PROGRAM FOR NEBULIZERS.**

2 (a) PROGRAM REQUIRED.—The Secretary of Edu-  
3 cation shall carry out a program under which the Sec-  
4 retary makes grants to local educational agencies, to be  
5 used by the local educational agencies for one or both of  
6 the following:

7 (1) To purchase nebulizers for use in elemen-  
8 tary and secondary schools served by the local edu-  
9 cational agency.

10 (2) To provide training to enable elementary  
11 and secondary schools served by the local edu-  
12 cational agency to meet the requirements of sub-  
13 section (d)(1), but only if nebulizers are already in  
14 use at such schools or are acquired through this pro-  
15 gram.

16 (b) ELIGIBILITY.—

17 (1) LOCAL EDUCATIONAL AGENCIES.—To be el-  
18 ible to receive a grant under this section, a local  
19 educational agency shall submit an application to  
20 the Secretary at such time, in such form, and con-  
21 taining such information as the Secretary may re-  
22 quire.

23 (2) ELEMENTARY AND SECONDARY SCHOOLS.—  
24 To be eligible to receive a nebulizer through a grant  
25 under this section, a school may be any public or  
26 private school served by the local educational agency,

1       except that an internet- or computer-based commu-  
2       nity school is not eligible.

3       (c) MATCHING FUNDS REQUIRED.—

4             (1) IN GENERAL.—To be eligible to receive a  
5       grant under this section, the local educational agen-  
6       cy must provide matching funds from non-Federal  
7       sources equal to not less than 25 percent of the  
8       amount of the grant.

9             (2) WAIVER.—The Secretary shall waive the re-  
10       quirement of paragraph (1) for a local educational  
11       agency if the number of children counted under sec-  
12       tion 1124(c)(1)(A) of the Elementary and Secondary  
13       Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)) is  
14       20 percent or more of the total number of children  
15       aged 5 to 17, inclusive, served by the local edu-  
16       cational agency.

17       (d) TRAINING AND COORDINATION REQUIRED.—A  
18       local educational agency that receives a grant under this  
19       section shall demonstrate that, for each elementary and  
20       secondary school at which the nebulizers are to be used—

21             (1) there is a full-time certified school nurse on  
22       staff;

23             (2) the school has the trained personnel and  
24       other resources necessary to use the nebulizers;

1           (3) local paramedics and other emergency serv-  
2           ices personnel are notified where on school grounds  
3           the nebulizers are to be located;

4           (4) the nebulizer will be integrated into the  
5           school's emergency response plan or procedures; and

6           (5) the school has procedures in place to ensure  
7           that parents are notified of the availability of the  
8           nebulizers, how to provide their child's prescription  
9           asthma medication to the school, and how to author-  
10          ize use of a nebulizer to assist their child when  
11          medically appropriate.

12          (e) PRIORITY.—In making grants under this section,  
13          the Secretary shall give priority to local educational agen-  
14          cies—

15               (1) having jurisdiction over a geographic area  
16               with respect to which the Director of the Centers for  
17               Disease Control and Prevention has determined that  
18               the prevalence of asthma is at least 10 percent high-  
19               er than the national average;

20               (2) that do not already have at least one  
21               nebulizer in each school served by the local edu-  
22               cational agency;

23               (3) that serve schools at which a significant  
24               number of students, staff, and visitors are present  
25               on school grounds during a typical day; and

1           (4) that have not received funds under the  
2           Rural Access to Emergency Devices Act (42 U.S.C.  
3           254c note).

4           (f) ESEA DEFINITIONS.—The terms used in this sec-  
5           tion shall have the meanings given to such terms in section  
6           8101 of the Elementary and Secondary Education Act of  
7           1965 (20 U.S.C. 7801).

8           (g) AUTHORIZATION OF APPROPRIATIONS.—There  
9           are authorized to be appropriated to carry out this section  
10          such sums as may be necessary for each of fiscal years  
11          2023 through 2028.

12       **SEC. 4. CONSTRUCTION.**

13          Nothing in this Act shall be construed—

14               (1) to create liability for use of a nebulizer or  
15               affect liability for such use that exists under other  
16               law; or

17               (2) to supersede a State law regulating nursing.

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