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

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2012

Ms. RICHARDSON (for herself and Ms. NORTON) 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.

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SECTION 2. FINDINGS.

The Congress finds as follows:
(1) 25,000,000 people, including 7,000,000 children, have asthma.

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

(3) Every day in the United States—

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

(B) 11 people die from asthma.

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

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

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

(B) Hispanics may have an elevated risk for exposure to air pollution since a disproportionate number live in areas failing to meet one or more national standards for air pollutants.

(It is estimated that 80 percent of Hispanics live in areas that failed to meet one United States Environmental Protection Agency air...
quality standard, compared to 65 percent of African-Americans and 57 percent of Whites.)

SEC. 3. GRANT PROGRAM FOR NEBULIZERS.

(a) PROGRAM REQUIRED.—The Secretary of Education shall carry out a program under which the Secretary makes grants to local educational agencies, to be used by the local educational agencies for one or both of the following:

(1) To purchase nebulizers for use in elementary and secondary schools served by the local educational agency.

(2) To provide training to enable elementary and secondary schools served by the local educational agency to meet the requirements of subsection (d)(1), but only if nebulizers are already in use at such schools or are acquired through this program.

(b) ELIGIBILITY.—

(1) LOCAL EDUCATIONAL AGENCIES.—To be eligible to receive a grant under this section, a local educational agency shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.
(2) ELEMENTARY AND SECONDARY SCHOOLS.—

To be eligible to receive a nebulizer through a grant under this section, a school may be any public or private school served by the local educational agency, except that an Internet- or computer-based community school is not eligible.

(e) MATCHING FUNDS REQUIRED.—

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

(2) WAIVER.—The Secretary shall waive the requirement of paragraph (1) for a local educational agency if the number of children counted under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)) is 20 percent or more of the total number of children aged 5 to 17, inclusive, served by the local educational agency.

(d) TRAINING AND COORDINATION REQUIRED.—A local educational agency that receives a grant under this section shall demonstrate that, for each elementary and secondary school at which the nebulizers are to be used—
(1) there is a full-time certified school nurse on staff;

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

(3) local paramedics and other emergency services personnel are notified where on school grounds the nebulizers are to be located;

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

(5) the school has procedures in place to ensure that parents are notified of the availability of the nebulizers, how to provide their child’s prescription asthma medication to the school, and how to authorize use of a nebulizer to assist their child when medically appropriate.

(e) PRIORITY.—In making grants under this section, the Secretary shall give priority to local educational agencies—

(1) having jurisdiction over a geographic area with respect to which the Director of the Centers for Disease Control and Prevention has determined that the prevalence of asthma is at least 10 percent higher than the national average;
(2) that do not already have at least one nebulizer in each school served by the local educational agency;

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

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

(f) **ESEA DEFINITIONS.**—The terms used in this section shall have the meanings given to such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2013 through 2018.

**SEC. 4. CONSTRUCTION.**

Nothing in this Act shall be construed—

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

(2) to supersede a State law regulating nursing.