

SCHOOL ACCESS TO EMERGENCY EPINEPHRINE ACT

JULY 30, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 2094]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2094) to amend the Public Health Service Act to increase the preference given, in awarding certain asthma-related grants, to certain States (those allowing trained school personnel to administer epinephrine and meeting other related requirements), having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

H.R. 2094, the “School Access to Emergency Epinephrine Act,” was introduced on May 22, 2013, by Rep. Phil Roe (R-TN) and Rep. Steny Hoyer (D-MD) and subsequently referred to the Committee on Energy and Commerce.

The legislation would amend the Public Health Service Act to give preference in awarding certain asthma grants to States that agree to establish school-based emergency epinephrine programs that meet specific requirements.

## BACKGROUND AND NEED FOR LEGISLATION

Nearly 6 million children have food allergies, and many of them have had severe reactions. A study in the *Journal of Pediatrics* suggests these rates are rising.<sup>1</sup> Severe allergic reactions can lead to anaphylaxis, a systemic reaction that causes swelling that can obstruct airways and lead to death. According to the Centers for Disease Control and Prevention (CDC), more than 15% of school-aged children with food allergies have had a reaction at school where teachers and other school personnel may be unprepared to handle the emergency.<sup>2</sup>

Epinephrine is the most effective treatment for anaphylaxis, and it can be administered simply and quickly using an epipen. Children who have had a severe allergic reaction often carry an epipen and self-medicate as needed. In 2004, Congress enacted H.R. 2023, the “Asthma Schoolchildren’s Treatment and Health Management Act,” which created the Children’s Asthma Treatment Grants Program and authorized preferences for States that allow students to self-administer medication to treat asthma and anaphylaxis in accordance with specified requirements. The legislation did not address the needs of students who may have severe allergies, but have not been diagnosed.

H.R. 2094, the “School Access to Emergency Epinephrine Act,” would amend the Children’s Asthma Treatment Grants Program and other asthma programs administered by the Department of Health and Human Services (HHS) to aid schools in preparing to treat severe allergic reactions. The bill would give preference in awarding certain asthma-related grants to States that allow school personnel to administer epinephrine to a student in an emergency and meet other requirements. To receive the preference, States would have to certify that their civil liability laws provide adequate civil liability protection to school personnel who administer epinephrine in an emergency. School personnel would be required to have appropriate training. Schools would be required to have a plan in place for having at least one trained employee on site during school hours and to maintain a supply of epinephrine.

## HEARINGS

The Committee on Energy and Commerce has not held hearings on the legislation.

<sup>1</sup> <http://pediatrics.aappublications.org/content/early/2011/06/16/peds.2011-0204.abstract>

<sup>2</sup> <http://www.cdc.gov/healthyyouth/foodallergies/>

#### COMMITTEE CONSIDERATION

On July 17, 2013, the full Committee met in open markup session and approved H.R. 2094 by unanimous consent.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Upton to order H.R. 2094, reported to the House, without amendment, was agreed to by unanimous consent. There were no record votes taken in connection with ordering H.R. 2094 reported.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of the legislation is to give preference in awarding certain asthma grants to States that allow trained school personnel to administer epinephrine in an emergency.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2094, the “School Access to Emergency Epinephrine Act”, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the House of Representatives, the Committee finds that H.R. 2094, the “School Access to Emergency Epinephrine Act” contains no earmarks, limited tax benefits, or limited tariff benefits.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

JULY 22, 2013.

Hon. FRED UPTON,  
*Chairman, Committee on Energy and Commerce,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2094, the School Access to Emergency Epinephrine Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Santiago Vallinas.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 2094—School Access to Emergency Epinephrine Act*

H.R. 2094 would authorize the Secretary of Health and Human Services, in awarding asthma-treatment grants, to give preference to states that require schools to:

- Maintain an emergency supply of epinephrine,
- Permit trained personnel of the school to administer epinephrine, and
- Have a plan for ensuring trained personnel are available to administer epinephrine during all hours of the school day.

In addition, to obtain the preference for grants under the bill, states would have to certify that their laws provide civil liability protection to school personnel that administer epinephrine.

The bill would not change the purposes for which the Secretary makes asthma-related grants or the amount of funding available. CBO estimates that implementing H.R. 2094 would not have a significant impact on the federal budget. Enacting H.R. 2094 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2094 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Santiago Vallinas. The estimate was approved by Holly Harvey, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 2094, the “School Access to Emergency Epinephrine Act,” establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 2094, the “School Access to Emergency Epinephrine Act,” specifically would not direct specific rule making within the meaning of 5 U.S.C. 551.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This Act may be cited as the “School Access to Emergency Epinephrine Act.”

*Section 2. Additional preference to pertain States that allow trained school personnel to administer epinephrine*

Section 2 would amend the Children’s Asthma Treatment Grants Program and other asthma programs administered by HHS to aid in preparing schools to treat severe allergic reactions in emergency situations. The section would provide a preference in awarding certain asthma-related grants to States that allow school personnel to administer epinephrine to a student of the school reasonably believed to be having an anaphylactic reaction. To receive such preference, States would have to certify that their civil liability laws provide adequate civil liability protection to school personnel who administer epinephrine under such circumstances. School personnel would be required to receive training in the administration of epinephrine. Schools would be required to have a plan in place for having at least one trained employee on site during school hours and to maintain a supply of epinephrine in a secure location that is easily accessible.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**PUBLIC HEALTH SERVICE ACT**

\* \* \* \* \*

**TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE**

\* \* \* \* \*

**PART P—ADDITIONAL PROGRAMS**

**SEC. 399L. CHILDREN’S ASTHMA TREATMENT GRANTS PROGRAM.**

(a) \* \* \*

\* \* \* \* \*

(d) PREFERENCE FOR STATES THAT ALLOW STUDENTS TO SELF-ADMINISTER MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.—

(1) PREFERENCE.—The Secretary, in making any grant under this section or any other grant that is asthma-related (as determined by the Secretary) to a State, shall give preference to any State that satisfies the following:

(A) \* \* \*

\* \* \* \* \*

(F) SCHOOL PERSONNEL ADMINISTRATION OF EPINEPHRINE.—*In determining the preference (if any) to be given to a State under this subsection, the Secretary shall give additional preference to a State that provides to the Secretary the certification described in subparagraph (G) and that requires that each public elementary school and secondary school in the State—*

*(i) permits trained personnel of the school to administer epinephrine to any student of the school reasonably believed to be having an anaphylactic reaction;*

*(ii) maintains a supply of epinephrine in a secure location that is easily accessible to trained personnel of the school for the purpose of administration to any student of the school reasonably believed to be having an anaphylactic reaction; and*

*(iii) has in place a plan for having on the premises of the school during all operating hours of the school one or more individuals who are trained personnel of the school.*

(G) CIVIL LIABILITY PROTECTION LAW.—*The certification required in subparagraph (F) shall be a certification made by the State attorney general that the State has reviewed any applicable civil liability protection law to determine the application of such law with regard to elementary and secondary school trained personnel who may administer epinephrine to a student reasonably believed to be having an anaphylactic reaction and has concluded that such law provides adequate civil liability protection applicable to such trained personnel. For purposes of the previous sentence, the term “civil liability protection law” means a State law offering legal protection to individuals who give aid on a voluntary basis in an emergency to an individual who is ill, in peril, or otherwise incapacitated.*

\* \* \* \* \*

(3) DEFINITIONS.—For purposes of this subsection:

(A) \* \* \*

\* \* \* \* \*

(E) *The term “trained personnel” means, with respect to an elementary or secondary school, an individual—*

*(i) who has been designated by the principal (or other appropriate administrative staff) of the school to administer epinephrine on a voluntary basis outside their scope of employment;*

*(ii) who has received training in the administration of epinephrine; and*

*(iii) whose training in the administration of epinephrine meets appropriate medical standards and has been documented by appropriate administrative staff of the school.*

\* \* \* \* \*

