116TH CONGRESS  
1ST SESSION  

H. R. ____

To increase the availability and affordability of menstrual hygiene products for individuals with limited access, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Meng introduced the following bill; which was referred to the Committee on ___________________

A BILL

To increase the availability and affordability of menstrual hygiene products for individuals with limited access, and for other purposes.

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 “Menstrual Equity For
5 All Act of 2019”.

(Original Signature of Member)
SEC. 2. MENSTRUAL HYGIENE PRODUCTS FOR STUDENTS.

(a) In General.—Section 4108(5)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7118(5)(C)) is amended—

(1) in clause (vi), by striking “or” after the semicolon;

(2) in clause (vii), by inserting “or” after the semicolon; and

(3) by adding at the end the following:

“(viii) provide free menstrual hygiene products to students who use menstrual hygiene products;”.

(b) Definitions.—Section 4102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7112) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

“(6) Menstrual Hygiene Products.—

“(A) In General.—The term ‘menstrual hygiene products’ means sanitary napkins and tampons. All items must conform to applicable industry standards.

“(B) Rulemaking.—By not later than 1 year after the date of enactment of the Men-
strual Equity For All Act of 2019, the Secretary, in consultation with the Secretary of Health and Human Services, shall promulgate rules with respect to this paragraph.”.

SEC. 3. MENSTRUAL HYGIENE PRODUCTS FOR INCARCERATED INDIVIDUALS AND DETAINERS.

(a) REQUIREMENT FOR STATES.—Beginning on the date that is 180 days after the date of the enactment of this Act, and annually thereafter, the chief executive officer of each State that receives a grant under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) (commonly referred to as the “Edward Byrne Memorial Justice Assistance Grant Program”) shall submit to the Attorney General a certification, in such form and containing such information as the Attorney General may require, that all incarcerated individuals and detainees in that State have access to menstrual hygiene products on demand and at no cost to the incarcerated individuals and detainees, and that no visitor is prohibited from visiting an incarcerated individual due to the visitor’s use of menstrual hygiene products.

(b) REDUCTION IN GRANT FUNDING.—In the case of a State whose chief executive officer fails to submit a certification required under subsection (a) in a fiscal year,
the Attorney General shall reduce the amount that the State would have otherwise received under section 505 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) by 20 percent for the following fiscal year.

(c) REALLOCATION.—Amounts not allocated to a State under section 505 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) for a fiscal year pursuant to subsection (b) shall be reallocated under such section to States that submit such certifications.

(d) MENSTRUAL HYGIENE PRODUCTS.—For the purposes of subsection (a), the term “menstrual hygiene products” means sanitary napkins and tampons. All items must conform to applicable industry standards.

(e) AVAILABILITY FOR FEDERAL PRISONERS.—The Attorney General shall make rules requiring, and the Director of the Bureau of Prisons shall take such actions as may be necessary to ensure, the distribution and accessibility without charge of menstrual hygiene products to prisoners in the custody of the Bureau of Prisons, including any prisoner in a Federal penal or correctional institution, any Federal prisoner in a State penal or correctional institution, and any Federal prisoner in a facility administered by a private detention entity, to ensure that each...
prisoner who requires these products may receive them in sufficient quantity.

(f) AVAILABILITY FOR DETAINEES.—The Secretary of Homeland Security shall take such actions as may be necessary to ensure that menstrual hygiene products are distributed and made accessible to each alien detained by the Secretary of Homeland Security, including any alien in a facility administered by a private detention entity, at no expense to the alien.

SEC. 4. MENSTRUAL HYGIENE PRODUCTS AVAILABILITY FOR HOMELESS INDIVIDUALS UNDER EMERGENCY FOOD AND SHELTER GRANT PROGRAM.

Subsection (a) of section 316 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11346(a)) is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(7) guidelines that ensure that amounts provided under the program to private nonprofit organizations and local governments may be used to pro-
vide sanitary napkins and tampons. All items must conform to applicable industry standards.”.

SEC. 5. MENSTRUAL HYGIENE PRODUCTS REIMBURSEMENT FROM HEALTH FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 106 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(h) MENSTRUAL HYGIENE PRODUCTS.—

“(1) IN GENERAL.—Amounts paid or incurred for menstrual hygiene products shall be treated as a qualified medical expense eligible for reimbursement from a health flexible spending arrangement.

“(2) MENSTRUAL HYGIENE PRODUCTS DEFINED.—For purposes of paragraph (1), the term ‘menstrual hygiene products’ means sanitary napkins, tampons, liners, cups, and similar items used by individuals with respect to menstruation. All items must conform to applicable industry standards.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.
SEC. 6. MENSTRUAL HYGIENE PRODUCTS COVERED BY MEDICAID.

(a) In General.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1902(a)(10)(A), by striking “and (29)” and inserting “, (29), and (30)”;

(2) in section 1905—

(A) in subsection (a)—

(i) in paragraph (29), by striking “and” at the end;

(ii) by redesignating paragraph (30) as paragraph (31); and

(iii) by inserting after paragraph (29) the following new paragraph:

“(30) menstrual hygiene products (as defined in subsection (ff)); and”;

(B) by adding at the end the following new subsection:

“(ff) MENSTRUAL HYGIENE PRODUCTS.—For purposes of subsection (a)(30), the term ‘menstrual hygiene products’ means sanitary napkins, tampons, liners, cups, and similar items used by individuals with respect to menstruation and that conform to industry standards.”.

(b) Effective Date.—

(1) In General.—Subject to paragraph (2), the amendments made by this section shall apply
with respect to medical assistance furnished during
or after the first calendar quarter beginning on or
after the date that is 1 year after the date of the
enactment of this Act.

(2) Exception for state legislation.—In
the case of a State plan under title XIX of the So-
cial Security Act (42 U.S.C. 1396 et seq.) that the
Secretary of Health and Human Services determines
requires State legislation in order for the respective
plan to meet any requirement imposed by amend-
ments made by this section, the respective plan shall
not be regarded as failing to comply with the re-
quirements of such title solely on the basis of its
failure to meet such an additional requirement be-
fore the first day of the first calendar quarter begin-
ning after the close of the first regular session of the
State legislature that begins after the date of the en-
actment of this Act. For purposes of the previous
sentence, in the case of a State that has a 2-year
legislative session, each year of the session shall be
considered to be a separate regular session of the
State legislature.
SEC. 7. MENSTRUAL HYGIENE PRODUCTS FOR EMPLOYEES.

Section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) is amended by adding at the end the following:

“(g) The Secretary shall by rule promulgate a requirement that each employer with not less than 100 employees provide menstrual hygiene products free of charge for employees of the employer. For purposes of the preceding sentence, ‘menstrual hygiene products’ means sanitary napkins and tampons. All items must conform to applicable industry standards.”.

SEC. 8. MENSTRUAL HYGIENE PRODUCTS IN FEDERAL BUILDINGS.

(a) REQUIREMENT.—The head of each agency shall ensure that menstrual hygiene products are stocked in, and available free of charge in, each covered restroom in each covered public building under the jurisdiction of such agency.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) AGENCY.—The term “agency” has the meaning given such term in section 551 of title 5, United States Code.

(2) COVERED PUBLIC BUILDING.—The term “covered public building” means a public building (as defined in section 3301 of title 40, United States
Code) that is open to the public and contains a restroom, and includes a building listed in section 6301 or 5101 of such title.

(3) COVERED RESTROOM.—The term “covered restroom” means each restroom in a covered public building except for a restroom designated solely for use by men.

(4) MENSTRUAL HYGIENE PRODUCTS.—The term “menstrual hygiene products” means sanitary napkins and tampons. All items must conform to applicable industry standards.