

OFFICE OF POLICY AND LEGAL ANALYSIS

To: Members, Joint Standing Committee on Education and Cultural Affairs
From: Hillary Risler, Esq., Legislative Analyst
Date: April 26, 2021
Subj: **LD 452, “An Act To Require Certain Schools To Provide Menstrual Products” (Tepler)**

SUMMARY

This bill requires school administrative units to require all schools that serve students in grades 6 to 12 to make available menstrual products to students at no cost in all school bathrooms.

TESTIMONY

- **Proponents:** Rep. Tepler (sponsor); Hanna Sanders, Holly Couturier, MPA; Laura Harper, Maine Family Planning; Belle Bocal, Junior League of Portland, ME; Eileen King, MSMA; Grace Leavitt, MEA; Medline Welch, Molly Johnson, Sage Collis, Melinda Nadeau, MASN
 - “Period poverty” is very real in the state and the country, and students may miss school because of a lack of access to menstrual products
 - Access to menstrual products is key to health, dignity, and well-being, and should be treated just like toilet paper, paper towels and soap – they are essential items that people who menstruate need to use
 - Many schools provide menstrual products in a Nurses office, but that requires the student to request permission to go to the Nurses office, who may also be busy or, not every school has a full time school nurse, which means products may not always be accessible; Nurse’s also have limited budgets, and these shouldn’t be considered to be healthcare supplies
 - Studies show that there is a stigma around menstruation and forcing a trip to a Nurse’s office may increase the potential for embarrassment and harassment
 - The menstrual products need to be in locations that make the most sense to run the school and keep the students comfortable
 - Lack of access to menstrual products reduces educational opportunity and creates inequity
 - Concern that the bill does not consider students who begin menstruating at an earlier age, and whether there are locations other than bathrooms that menstrual products should be made available to students
- **Opponents:** None
- **Neither For Nor Against:** None

ISSUES FOR CONSIDERATION:

- **Potential State Mandate** - The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

COMMITTEE REQUESTS FOR ADDITIONAL INFORMATION:

- Information about how many schools are (and conversely are not) making menstrual products available to students – is there a sense of who is and who is not doing this?
- What is the estimated cost for covering 90% of the funding to cover the potential state mandate?
 - Please see estimate provided by OFPR, attached
- What is provided through EPS for supplies, and when was that last adjusted?
 - From Joanne Allen, DOE:
 - The FY 2022 per pupil amount for supplies is \$399 per student for grades PK-8 and \$552 per student for grades 9-12. An inflation factor is applied to this amount annually, as directed by statute. ([20-A MRSA §15680](#))
 - This component was last reviewed by MEPRI in 2017 and the report found that “overall, school units are generally spending less on supplies and equipment than the EPS model allocates for that purpose”. This component is under review in the current review contract cycle.
- Are there any national resources available on age appropriate methods of dispensing menstrual products?
- Other States’ laws on providing free menstrual products in school bathrooms:
 - **California** – ([AB10](#), 2017) Requires a public school maintaining any combination of classes from grade 6 to grade 12, inclusive, that meets a 40% pupil poverty threshold specified in federal law to stock 50% of the school’s restrooms with feminine hygiene products that are free-of-charge to students.
 - **Delaware** – ([HB20](#), 2021) Requires all public and charter schools maintaining any combination of grades 6-12 to provide free feminine hygiene products in a minimum of ½ of bathrooms, including those designated non-gender conforming,

used by students who can have a menstrual cycle, by the 2021-2022 school year. Schools must publish on the school's website and post in the school's common areas the locations of the bathrooms where feminine hygiene products are provided.

- **Illinois** – ([HB3215](#), 2018) Requires a school district to make feminine hygiene products available, at no cost to students, in the bathrooms of public school buildings serving grades 6 through 12.
- **New Hampshire** – ([SB142](#), 2019) Requires school boards to make menstrual hygiene products available, free-of-charge, in restrooms designated for girls and gender-neutral restrooms located in public middle and high schools.
- **New York** – ([N.Y. Pub Health, Title 6 §267](#), 2018) Requires all elementary and secondary public schools in New York State that serve students in any grade from six to twelve, to provide feminine hygiene products to students in school restrooms, at no cost. Public school districts, in consultation with their school nurse or medical director, must determine the types of products to make available
- **Virginia** – ([HB405](#), 2020) Requires each school board to make tampons or pads available, at all times and at no cost to students, (i) in such accessible locations as it deems appropriate in each elementary school in the local school division and (ii) in the bathrooms of each middle school and high school in the local school division.

PRELIMINARY FISCAL IMPACT STATEMENT:

- Potential State Mandate – Unfunded; Significant cost statewide



130th MAINE LEGISLATURE

LD 452

LR 998(01)

An Act To Require Certain Schools To Provide Menstrual Products

Preliminary Fiscal Impact Statement for Original Bill

Sponsor: Rep. Tepler of Topsham

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Preliminary Fiscal Impact Statement

Potential State Mandate - Unfunded

State Mandates

Required Activity	Unit Affected	Local Cost
Requires all schools that serve students in grades 6 to 12 to make menstrual products available to students at no cost in all school bathrooms.	School	Significant statewide

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

LD 452 - Require Certain Schools To Provide Menstrual Products

Summary of Fiscal Impact

	Fiscal Year 2021-22	Fiscal Year 2022-23	Fiscal Year 2023-24	Fiscal Year 2024-25
General Fund	\$ 1,060,326	\$ 583,326	\$ 583,326	\$ 583,326

Detail of Assumptions

Grade Level	# of Students (2020-2021)	Price per unit	Price	Quantity
6	13,084	\$ 0.12	\$ 59.69	500
7	13,370	\$ 0.16	\$ 41.07	250
8	13,649			
9	13,874			
10	14,027			
11	13,848			
12	13,741			
Total	95,593			
Percent female	48.43%			
# of females grade 6-12	46,296			
Avg price (tampons/napkins)	\$ 0.14			
Number needed per student/per month	10			
Cost per student/per month	\$ 1.40			
Total cost per month	\$ 64,814			
School year = 10 months	10			
Total annual costs	648,140			
90% State funded	\$ 583,326			
	Ongoing cost			
		Cost for dispenser:		
		5 bathrooms (assumes 2 female, 2 male, 1 gender neutral)		
		300 Schools (assume half of 600 schools have grades 6-12)		
		Coinless dispenser	\$ 318.00	
		# of dispensers needed	1500	
		Cost for dispensers	\$ 477,000	
		90% State Funded	\$ 429,300	One time cost

Source: Number of students, gender, and school bathrooms provided by the Department of Education
 Price for menstrual products, dispenser from Officesupply.com