

116TH CONGRESS
2D SESSION

H. R. 8394

To amend the Internal Revenue Code of 1986 to treat diapers as qualified medical expenses; and to prohibit States and local governments to impose a tax on the retail sale of diapers.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2020

Mrs. WATSON COLEMAN (for herself, Ms. DELAURO, and Ms. LEE of California) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, 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 amend the Internal Revenue Code of 1986 to treat diapers as qualified medical expenses; and to prohibit States and local governments to impose a tax on the retail sale of diapers.

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 “Improving Diaper Af-
5 fordability Act of 2020”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) One in 3 families with infants and toddlers
4 struggles to provide the diapers their children need.

5 (2) Low-income families with infants spend 14
6 percent of their income on diapers alone, which is
7 roughly \$936 per child, per year.

8 (3) Low-income families spend twice as much
9 on diapers for their children, compared to families
10 who have the means to buy diapers in bulk at a
11 lower price.

12 (4) More than 5 million children under the typ-
13 ical potty training age of 3-years-old live in low-in-
14 come families.

15 (5) Diaper need affects not only the health and
16 well-being of the child but it can affect the economic
17 security of the entire family.

18 (6) Over half of families in diaper need who
19 rely on child care in order to go to work or school,
20 missed work or school in the preceding month be-
21 cause they did not have the diapers they needed to
22 put their child in child care.

23 (7) No State or Federal child safety-net pro-
24 gram allocates dollars specifically for the purchase of
25 diapers.

1 (8) Since the start of the COVID-19 pandemic,
 2 diaper banks around the country have experienced
 3 double, triple, or greater increase in demand for dia-
 4 pers due to the pandemic and economic shutdown.

5 **SEC. 3. INCLUSION OF DIAPERS AS QUALIFIED MEDICAL**
 6 **EXPENSES.**

7 (a) HEALTH SAVINGS ACCOUNTS.—Section
 8 223(d)(2) of the Internal Revenue Code of 1986 is amend-
 9 ed by adding at the end of subparagraph (A) the following:
 10 “Notwithstanding the preceding sentence, amounts paid
 11 for diapers shall be treated as paid for medical care.”.

12 (b) ARCHER MSAs.—Section 220(d)(2)(A) of such
 13 Code is amended by adding at the end the following: “Not-
 14 withstanding the preceding sentence, amounts paid for
 15 diapers shall be treated as paid for medical care.”.

16 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
 17 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
 18 tion 106 of such Code is amended by adding at the end
 19 the following new subsection:

20 “(f) REIMBURSEMENTS FOR DIAPERS.—For pur-
 21 poses of this section and section 105, expenses incurred
 22 for diapers shall be treated as incurred for medical care.”.

23 (d) DEPENDENT CARE ASSISTANCE AND DEPEND-
 24 ENT CARE FLEXIBLE SPENDING ARRANGEMENTS.—Sec-
 25 tion 129(e)(1) of such Code is amended by adding at the

1 end the following: “Such term shall include expenses in-
2 curred for diapers.”.

3 (e) LIMITED PURPOSE FLEXIBLE SPENDING AR-
4 RANGEMENTS AND REIMBURSEMENT ARRANGEMENTS.—

5 Section 223(c)(1)(B) of such Code is amended by striking
6 “and” at the end of clause (ii), by striking the period at
7 the end of clause (iii) and inserting “, and”, and by adding
8 at the end the following new clause:

9 “(iv) coverage under a flexible spend-
10 ing arrangement, or health reimbursement
11 arrangement, that pays or reimburses for
12 coverage described in clause (ii) (other
13 than long-term care services and, in the
14 case of a flexible spending arrangement,
15 other than through insurance). Coverage
16 shall not fail to be treated as coverage de-
17 scribed in the preceding sentence solely by
18 reason of paying or reimbursing expenses
19 incurred for diapers.”.

20 (f) EFFECTIVE DATES.—

21 (1) DISTRIBUTIONS FROM HEALTH SAVINGS AC-
22 COUNTS.—The amendments made by subsections (a)
23 and (b) shall apply to amounts paid after December
24 31, 2019.

1 (2) REIMBURSEMENTS.—The amendment made
2 by subsection (c) and (d) shall apply to expenses in-
3 curred after December 31, 2019.

4 (3) LIMITED PURPOSE HSA AND HRA.—The
5 amendments made by subsection (e) shall apply to
6 months beginning after December 31, 2019.

7 **SEC. 4. PROHIBITION OF RETAIL SALES TAXES.**

8 A State, or unit of local government of a State, may
9 not impose a sales tax on the retail purchase of diapers.

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