

117TH CONGRESS
2D SESSION

S. 3660

To amend the Internal Revenue Code of 1986 to make diapers an allowable expense for purposes of health flexible spending arrangements and health savings accounts.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2022

Ms. ERNST (for herself, Mr. CASEY, Mr. CRAMER, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to make diapers an allowable expense for purposes of health flexible spending arrangements and health savings accounts.

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 “Diaper Inclusion in
5 Accounts for Parental Expense Reduction Act” or the
6 “DIAPER Act”.

1 **SEC. 2. INCLUSION OF DIAPERS AS QUALIFIED MEDICAL**
 2 **EXPENSES.**

3 (a) HSAs.—Section 223(d)(2) of the Internal Rev-
 4 enue Code of 1986 is amended—

5 (1) in subparagraph (A), by striking “products”
 6 in the second sentence and inserting “products and
 7 diapers”, and

8 (2) by adding at the end the following:

9 “(E) DIAPER.—For purposes of this para-
 10 graph, the term ‘diaper’ means a disposable ab-
 11 sorbent garment for infants to be used for the
 12 purposes of maintaining the health of the infant
 13 by ensuring excreta is collected.”.

14 (b) FSAs.—Section 106(f) of the Internal Revenue
 15 Code of 1986 is amended—

16 (1) by striking “shall be treated” and inserting
 17 “and diapers (as defined in section 223(d)(2)(E))
 18 shall be treated”, and

19 (2) by inserting “AND DIAPERS” in the heading
 20 after “PRODUCTS”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to taxable years beginning after
 23 the date of the enactment of this Act.

