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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Diaper Inclusion in Accounts for Parental Expense Reduction Act” or the “DIAPER Act”.

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

(a) HSAs.—Section 223(d)(2) of the Internal Revenue Code of 1986 is amended—

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

(2) by adding at the end the following:

“(E) DIAPER.—For purposes of this paragraph, the term ‘diaper’ means a disposable absorbent garment for infants to be used for the purposes of maintaining the health of the infant by ensuring excreta is collected.”.

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

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

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

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