

119TH CONGRESS
1ST SESSION

H. R. 3128

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

APRIL 30, 2025

Mrs. WATSON COLEMAN (for herself, Ms. DeLauro, Ms. Norton, Ms. Tlaib, Mr. Davis of Illinois, Mrs. Foushee, Mr. Jackson of Illinois, Mr. Johnson of Georgia, Mr. Nadler, Mrs. Dingell, Mr. Carson, Mrs. Cherfilus-McCormick, Mrs. McClain Delaney, Mr. McGarvey, Ms. Elfreth, and Mr. Mackenzie) 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving Diaper Af-
3 fordability Act of 2025”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Diapers are an essential need for the health
7 and hygiene of babies and toddlers.

8 (2) Families without adequate access to diapers
9 face a higher risk of poor health outcomes for their
10 children, including diaper rash, severe dermatitis, in-
11 fections, and hospitalization, while also posing a sig-
12 nificant risk to maternal mental health.

13 (3) Families with diaper need lack a sufficient
14 supply of diapers to keep a baby or toddler clean,
15 dry, and healthy.

16 (4) 46 percent of families with children age 4
17 or below struggle to provide the diapers their chil-
18 dren need; this is an increase from 1 in 3 families
19 expressing diaper need before the COVID–19 pan-
20 demic.

21 (5) Low-income families make up 2 out of 3
22 families with diaper need; a disproportionate amount
23 of these families are Black or Latino.

24 (6) Annually, families spend between \$945 and
25 \$1,500 on diapers for a child under age 4; a low-
26 income family of 4 spends 2.6 times more of their

1 income on diaper costs compared to a family of 4
2 making median income.

3 (7) Diaper need affects not only the health and
4 well-being of the child but it can affect the economic
5 security of the entire family, forcing families with di-
6 aper need to cut back on food purchases and per-
7 sonal savings.

8 (8) 25 percent of parents and caregivers with
9 diaper need reported having to miss work or school
10 because they did not have enough diapers to drop
11 their child off at childcare, and reported missing, on
12 average, 5.1 workdays in the past 30 days; this rep-
13 resents a loss of \$296 per month for a parent earn-
14 ing the Federal minimum wage of \$7.25 per hour.

15 (9) No permanent State or Federal child safety-
16 net program allocates dollars specifically for the pur-
17 chase of diapers.

18 **SEC. 3. INCLUSION OF DIAPERS AS QUALIFIED MEDICAL**
19 **EXPENSES.**

20 (a) HEALTH SAVINGS ACCOUNTS.—Section
21 223(d)(2) of the Internal Revenue Code of 1986 is amend-
22 ed by adding at the end of subparagraph (A) the following:
23 “Notwithstanding the first sentence, amounts paid for dia-
24 pers shall be treated as paid for medical care.”.

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

5 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
 6 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
 7 tion 106 of such Code is amended by adding at the end
 8 the following new subsection:

9 “(h) REIMBURSEMENTS FOR DIAPERS.—For pur-
 10 poses of this section and section 105, expenses incurred
 11 for diapers shall be treated as incurred for medical care.”.

12 (d) DEPENDENT CARE ASSISTANCE AND DEPEND-
 13 ENT CARE FLEXIBLE SPENDING ARRANGEMENTS.—Sec-
 14 tion 129(e)(1) of such Code is amended by adding at the
 15 end the following: “Such term shall include expenses in-
 16 curred for diapers.”.

17 (e) LIMITED PURPOSE FLEXIBLE SPENDING AR-
 18 RANGEMENTS AND HEALTH REIMBURSEMENT ARRANGE-
 19 MENTS.—Section 223(c)(1)(B) of such Code is amended
 20 by striking “and” at the end of clause (ii), by striking
 21 the period at the end of clause (iii) and inserting “, and”,
 22 and by adding at the end the following new clause:

23 “(iv) coverage under a flexible spend-
 24 ing arrangement, or health reimbursement
 25 arrangement, that pays or reimburses for

coverage described in clause (ii) (other than long-term care services and, in the case of a flexible spending arrangement, other than through insurance). Coverage shall not fail to be treated as coverage described in the preceding sentence solely by reason of paying or reimbursing expenses incurred for diapers.”.

(f) EFFECTIVE DATES.—

(1) DISTRIBUTIONS FROM HEALTH SAVINGS ACCOUNTS.—The amendments made by subsections (a) and (b) shall apply to amounts paid after December 31, 2024.

(2) REIMBURSEMENTS.—The amendment made by subsections (c) and (d) shall apply to expenses incurred after December 31, 2024.

(3) LIMITED PURPOSE HSA AND HRA.—The amendments made by subsection (e) shall apply to months beginning after December 31, 2024.

SEC. 4. PROHIBITION OF RETAIL SALES TAXES.

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

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