To amend the Internal Revenue Code of 1986 to provide a child tax credit for pregnant moms with respect to their unborn children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2022

Mr. Smith of Missouri (for himself, Mr. Lamborn, Mr. Bacon, Mr. Kelly of Mississippi, Mr. Schweikert, Mr. Mullin, Mr. Weber of Texas, Mr. McKinley, Mr. Gosar, Mr. Burgess, Mrs. Wagner, Ms. Salazar, Ms. Herrell, Mr. Rodney Davis of Illinois, Mr. Carey, Mr. Mast, Mr. Luetkemeyer, Mrs. Miller-Meeks, Mr. Cawthorn, Mr. Palazzo, Mr. LaTurner, Mr. Feenstra, Mr. Ellzey, Mrs. Rodgers of Washington, Ms. Granger, Mrs. Miller of Illinois, Mr. Long, Mr. Budd, and Mr. Graves of Louisiana) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 provide a child tax credit for pregnant moms with respect to their unborn children, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
1 SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Tax Credit for Pregnant Moms Act of 2022”.

2 SEC. 2. CHILD TAX CREDIT ALLOWED WITH RESPECT TO UNBORN CHILDREN.

(a) In General.—Section 24 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(l) Credit Allowed With Respect to Unborn Children.—For purposes of this section—

“(1) In general.—The term ‘qualifying child’ includes an unborn child of an eligible taxpayer, and the requirements of subsections (e)(1) and (h)(7) shall be treated as met with respect to such child, for—

“(A) the taxable year immediately preceding the year in which such child is born alive, if the taxpayer includes on the return of tax for such taxable year a social security number for such child which is issued before the due date for such return of tax (without regard to extensions), or

“(B) the taxable year in which such child is miscarried or stillborn, if the taxpayer includes on the return of tax for the taxable year the identification number from a certificate of
miscarriage or stillbirth issued for such child under section 229A(b) of the Public Health Service Act.

“(2) RETROACTIVE OR DOUBLE CREDIT ALLOWED IN CERTAIN CASES TO ENSURE EQUAL ACCESS TO THE CREDIT FOR UNBORN CHILDREN.—

“(A) IN GENERAL.—In the case of a qualifying child of an eligible taxpayer who is born alive and with respect to whom the credit under this section is not claimed under paragraph (1)(A) for the taxable year described in such paragraph, for the taxable year in which the child is born alive, with respect to such child—

“(i) the amount of the credit allowed (before the application of this subsection) under subsection (a), and

“(ii) the amount of the credit allowed (before the application of this subsection) under subsection (d)(1),

shall each be increased by the amount of the credit which would have been allowed under each such subsection respectively with respect to such child for the preceding taxable year if such child had been treated as a qualifying child of the taxpayer for such preceding year.
“(B) Special rule for splitting of credit.—In the case of a child otherwise described in subparagraph (A) who, but for this subparagraph, would not be treated as a qualifying child of the eligible taxpayer for the taxable year in which such child is born alive—

“(i) subparagraph (A) shall not apply with respect to such child,

“(ii) such child shall be treated as a qualifying child for purposes of this section for such taxable year of—

“(I) the eligible taxpayer, and

“(II) any other taxpayer with respect to whom such child would, without regard to this subparagraph, be treated as a qualifying child, and

“(iii) in the case of the eligible taxpayer, the amount of the credit allowed under subsection (a) and the amount of the credit allowed under subsection (d)(1) for such taxable year shall each be equal to the amount of the credit which would have been allowed under each such subsection respectively with respect to such child for the preceding taxable year if such child
had been treated as a qualifying child of
the eligible taxpayer for such preceding
year.

“(3) DEFINITIONS.—For purposes of this sub-
section—

“(A) BORN ALIVE.—The term ‘born alive’
has the meaning given such term by section
8(b) of title 1, United States Code.

“(B) ELIGIBLE TAXPAYER.—The term ‘eli-
gible taxpayer’ means a taxpayer who—

“(i) with respect to a child, is the
mother who—

“(I) carries or carried such child
in the womb, and

“(II) is the biological mother of
such child or initiated the pregnancy
with the intention of bearing and re-
taining custody of and parental rights
to such child (or acted to such effect),
or

“(ii) in the case of a joint return, is
the husband of such mother,

but only if such taxpayer includes on the return
of tax for the taxable year the social security
number of such taxpayer (of at least 1 of such
mother or husband, in the case of a joint return).

“(C) Social security number.—The term ‘social security number’ has the meaning given such term by subsection (h)(7).

“(D) Unborn child.—The term ‘unborn child’ means an individual of the species homo sapiens, from the beginning of the biological development of that individual, including fertilization, until the point of the earlier of being born alive or death.”.

(b) Conforming Amendment.—Subsection (a) of section 24 of the Internal Revenue Code of 1986 is amended by striking “for which the taxpayer is allowed a deduction under section 151”.

(e) Application.—The amendments made by this section shall apply to children born alive, stillborn, or miscarried in taxable years beginning after the date of the enactment of this Act.

SEC. 3. MISCARRIAGE OR STILLBIRTH CERTIFICATES.

Part A of title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:
“SEC. 229A. MISCARRIAGE OR STILLBIRTH CERTIFICATES.

“(a) FORM CERTIFYING MISCARRIAGE OR STILLBIRTH.—Upon the request of a parent of an unborn child who dies pursuant to a miscarriage or stillbirth desiring a certificate described in subsection (b), a qualifying health care practitioner who attends or diagnoses such miscarriage or stillbirth may submit to the Secretary, acting through the Director for the National Center for Health Statistics (referred to in this section as the ‘Director’), a form certifying the miscarriage or stillbirth that includes—

“(1) the name of the unborn child (if provided by the requesting parent);

“(2) the sex of the child (if known);

“(3) the probable gestational age of the child;

“(4) identifying information of the parents of the unborn child;

“(5) a written certification from such practitioner stating, under penalty of perjury pursuant to section 1746 of title 28, that—

“(A) the mother was diagnosed as having been pregnant with the unborn child, according to standard medical practice, by such practitioner or another licensed health care practitioner; and

“(B) the unborn child died—
“(i) as a result of a miscarriage or stillbirth attended by or diagnosed by the certifying practitioner; and

“(ii) not as a result of an induced abortion or any other act that was intended by the mother to cause the death of the unborn child, including through the use of any abortion-inducing drug, but not including any treatment of an ectopic pregnancy;

“(6) a written certification from the mother of the unborn child stating, under penalty of perjury pursuant to section 1746 of title 28, United States Code, that the unborn child died as described in paragraph (9)(B); and

“(7) any other information as the Director may require.

“(b) Certificate of Miscarriage or Stillbirth.—Within 60 days of receipt of a form certifying a miscarriage or stillbirth submitted by a qualifying health care practitioner under subsection (a), the Secretary, acting through the Director, shall issue to the requesting parent a certificate of miscarriage or stillbirth that includes—

“(1) a unique identification number for the unborn child who was miscarried or stillborn;
“(2)(A) the name of the unborn child, as provided on the form under subsection (a); or

“(B) if a name does not appear on such original or amended form and the requesting parent does not wish to provide a name for the unborn child, ‘baby boy’ or ‘baby girl’, as applicable (or ‘baby’ if the child’s sex is unknown), and the last name of the parent;

“(3) the probable gestational age of the child;

“(4) the following statement, which shall appear on the front of the certificate: ‘This certificate is not proof of a live birth’;

“(5) the names of the parents; and

“(6) any other information as the Director may require.

“(e) FEES.—The Secretary, acting through the Director, may require payment of a fee from the requesting parent for obtaining a certificate of miscarriage or stillbirth under subsection (b), in an amount that is not greater than the actual cost of processing such certificate.

“(d) DISCLOSURE.—Information submitted to the Secretary under subsection (a) and issued by the Secretary under subsection (b) shall be confidential, and shall not be disclosed other than as provided in such subsections or as otherwise used in the administration of the child tax
credit allowed under section 24 of the Internal Revenue Code of 1986.

“(e) DEFINITIONS.—For purposes of this section—

“(1) MISCELLANEOUS.—The term ‘miscarriage’ means the involuntary death of an unborn child who was carried in the womb for a period of less than 20 weeks.

“(2) QUALIFYING HEALTH CARE PRACTITIONER.—

“(A) IN GENERAL.—The term ‘qualifying health care practitioner’—

“(i) means an individual who is licensed to practice medicine and surgery, osteopathic medicine and surgery, or midwifery, or who is otherwise legally authorized to perform births and to diagnose and attend miscarriages or stillbirths; and

“(ii) excludes any such individual who is acting within the scope of employment with, self-employment as or with, or volunteer service for, an abortion center.

“(B) ABORTION CENTER.—For purposes of subparagraph (A)(ii), the term ‘abortion center’—
“(i) means any entity for which at least one percent of its gross receipts are from performing abortions (including the use or prescription of any abortion-inducing drug, but excluding any procedure that is necessary to prevent the death of a pregnant mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, so long as every reasonable effort is made to preserve the lives of both the pregnant mother and her unborn child);

“(ii) includes the entire legal entity described in clause (i), including any entity that controls, is controlled by, or is under common control with, such legal entity; and

“(iii) excludes any hospital (as defined in section 1861(e) of the Social Security Act).

“(3) STILLBIRTH.—The term ‘stillbirth’ means the involuntary death of an unborn child who was carried in the womb for 20 weeks or more.
“(4) UNBORN CHILD.—The term ‘unborn child’ means an individual of the species homo sapiens, from the beginning of the biological development of that individual, including fertilization, until the point of the earlier of being born alive (as defined in section 8(b) of title 1, United States Code) or death.”.