

**114TH CONGRESS**

\_\_\_\_ SESSION

**H.R./S. XXXX**

To amend title 42, United States Code, to create a trial of financial incentives for living kidney donations and deceased donor donations.

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IN THE HOUSE OF REPRESENTATIVES/SENATE OF THE UNITED STATES  
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**A BILL**

To amend title 42, United States Code, to create a trial of financial incentives for living kidney donations and deceased donor donations.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trial of Financial Incentives (Fi) for Living Kidney Donors  
5 and Families of Deceased Donors Act.”.

6 **SEC. 2. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.**

7 (a) DEVELOPING PILOT PROGRAM FOR FINANCIAL INCENTIVES.—

8 (1) ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.—Section 372(b) of the  
9 Public Health Service Act (42 U.S.C. § 274(b)) is amended in subsection (2) by adding at  
10 the end the following:

11 (P) No later than six months after the date of enactment of the Trial of Financial  
12 Incentives (Fi) for Living Kidney Donors and Families of Deceased Donors Act,  
13 develop and implement an experimental policy, consistent with 42 C.F.R. § 121.8(g),  
14 for providing financial incentives (hereafter, “Fi”) to living kidney donors and families  
15 of deceased donors of organs.

16 (Q) The Fi program created pursuant to subparagraph (P) shall not:

17 (i) Alter the standards and methods of organ distribution under subparagraph  
18 (D), except that living kidney donors shall receive the next available kidney upon  
19 failure of their remaining kidney, and organs shall be allocated first to those  
20 transplantable patients with the shortest life expectancy;

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Prepared for the FAIR Foundation  
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1 (ii) Alter the quality standards used pursuant to subparagraph (E); or

2 (iii) Permit payments to the family of an adult deceased donor if the donor was  
3 not registered with "Donate Life America" to be an organ donor or did not  
4 otherwise state an intention to be an organ donor in a will or advanced directive.

5 (R) The Fi program created pursuant to subparagraph (P) shall:

6 (i) Prohibit Fi payments to non-U.S. Citizens;

7 (ii) Prohibit spouses who are parents to children under age 18 from having  
8 living donor kidney surgeries for Fi within 30 days of one another;

9 (iii) Prohibit any additional payment arrangements, other than those Fi  
10 payments made by Medicare pursuant to the Trial of Financial Incentives (Fi) for  
11 Living Kidney Donors and Families of Deceased Donors Act, from being made  
12 among living kidney donors and recipients, families of deceased donors and  
13 recipients, or any other person, for organs donated in exchange for Fi payments;  
14 and

15 (iv) Prohibit Fi payments to living kidney donors who did not undergo a  
16 waiting period of at least two weeks prior to donation.

17 (S) No later than one year after the date of enactment of the Trial of Financial  
18 Incentives (Fi) for Living Kidney Donors and Families of Deceased Donors Act, and  
19 every year thereafter, submit to the Secretary a report containing information including  
20 but not limited to the costs and patient outcomes associated with organs donated in  
21 exchange for Fi compared to previous costs and outcomes of patients receiving organs  
22 from uncompensated donors.

23 (T) For the purposes of this section, the terms "financial incentives" and Fi mean a  
24 tax-free monetary payment of \$50,000.00 in the payee's elected form of tax credit, tax  
25 deduction, retirement plan contribution, direct deposit, or direct-to-charitable donation,  
26 payable by Medicare to qualifying living kidney donors and families of adult deceased  
27 donors in exchange for the donation. Qualifying donations shall be determined under  
28 existing procedures, and such procedures shall not discriminate on the basis of sex,  
29 race, religion, or sexual orientation.

30 (U) No living kidney donor shall be denied health or life insurance on the basis of  
31 having been a living kidney donor.

32 (b) REPORTING.—Section 376 of the Public Health Service Act (42 U.S.C. § 274d) is  
33 amended by inserting after "and clinical status of organ transplantation" the following: "  
34 including information transmitted to the Secretary pursuant to 42 U.S.C. § 274(b)(2)(S)."

35 **SEC. 3. AMENDMENTS TO THE NATIONAL ORGAN TRANSPLANT ACT.**

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1 (a) REMOVAL OF PROHIBITION.—Section 301 of the National Organ Transplant Act (42  
2 U.S.C. § 274e) is amended in section (a) by adding immediately after “The preceding sentence  
3 does not apply with respect to human organ paired donation” the following: “, nor with respect  
4 to financial incentives (Fi) provided to living kidney donors and families of deceased donors  
5 pursuant to the trial program created by the Organ Procurement and Transplantation Network  
6 in accordance with 42 U.S.C. § 274(b)(2)(P).”

7 (b) SUPERSEDURE.—Section 301 of the National Organ Transplant Act (42 U.S.C. § 274e)  
8 is further amended by adding at the end the following:

9 (d) The provisions of this subchapter shall supersede any and all State laws insofar  
10 as they may now or hereafter relate to the donation of organs in exchange for financial  
11 incentives (Fi).  
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