To clarify that pilot programs that honor and reward organ donation are not preempted by Federal criminal law and that offering and accepting such benefits in accordance with a pilot program are not criminal acts.

IN THE HOUSE OF REPRESENTATIVES

Mr. CARTWRIGHT introduced the following bill; which was referred to the Committee on

A BILL

To clarify that pilot programs that honor and reward organ donation are not preempted by Federal criminal law and that offering and accepting such benefits in accordance with a pilot program are not criminal acts.

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 “Organ Donation Clari-

5 fication Act of 2016”.

6 SEC. 2. FINDINGS.

7 Congress finds the following:
(1) As of January 2016, 121,000 people await an organ transplant, with 100,000 of those people waiting for a kidney, and average wait times are approaching five years for a kidney, with twice as many people being added to waiting lists as getting a transplant.

(2) Kidney transplants peaked in 2006 and have declined since due to a scarcity of both living and deceased donors.

(3) Of the roughly two million Americans who die annually, only 10,500 to 13,800, representing less than one percent of all deaths each year, possess major organs healthy enough for transplanting.

(4) On average, 22 people a day died while waiting for an organ, with the majority of those people waiting on a kidney.

(5) In 2013 nearly 3,000 people were permanently removed from kidney waiting lists and 2,000 from liver, heart, and lungs waiting lists because they became permanently too sick to receive a transplant.

(6) 90% of dialysis patients are not employed because dialysis requires multiple treatments per week which last several hours and leave patients drained, thus creating a huge financial burden on
the patients, their families, and the government which is not included in the cost estimates above.

(7) A patient receiving a kidney transplant on average has an additional 10-15 years of life at a much more enjoyable and productive level as compared with remaining on dialysis, while receiving a kidney from a living donors providing 4-8 years of additional life as compared to receiving a kidney from a deceased donor.

(8) As medical advances extend people’s lives as they wait for an organ transplant, waiting lists will get longer and the costs for individuals and the Federal Government will increase significantly.

(9) Roughly seven percent of the Medicare budget goes to the End Stage Renal Disease Program, with dialysis costing Medicare over $87,000 per patient per year, as Federal law dictates that Medicare will cover dialysis for everyone who has made minimal Social Security tax payments.

(10) A kidney transplant pays for itself in less than two years, with each transplant saving an average of over $745,000 in medical costs over a 10-year period, 75 percent of which is savings to the taxpayers.
(11) Experts project that if the supply of transplant kidneys could be increased to meet the demand, taxpayers would save more than $5,500,000,000 per year in medical costs.

(12) The World Health Organization estimates that 10 percent of all transplants take place on the international black market, the last choice for desperate patients facing an alternative of death, however recipients often face infected kidneys and have poor health outcomes and donors are often victimized.

(13) Present policy on domestic donation, which is not evidence based and has never been subject to studies or pilots to determine effectiveness in increasing the availability of donated organs and the effectiveness of safeguards that prevent coercion or exploitation, precludes all but altruistic donation, prohibiting any form of incentive or benefit for donors.

(14) Experts are arriving at a consensus that trials are necessary to find new methods of promoting additional organ donation which will save lives and reduce organ trafficking.
SEC. 3. CLARIFICATION OF CERTAIN PROVISIONS OF THE
NATIONAL ORGAN TRANSPLANT ACT.

(a) Relation to Other Laws.—

(1) Governments Encouraging Organ Donation.—Section 301 of the National Organ Transplant Act (42 U.S.C. 274e) shall not—

(A) apply to actions taken by the Government of the United States or any State, territory, tribe, or local government of the United States to carry out a covered pilot program; or

(B) prohibit acceptance of any non cash benefits provided by the pilot program under subparagraph (A).

(2) No Prohibition on Other Benefits Programs.—Nothing in this section shall be construed to prohibit actions, other than actions described in this section, taken by any State, territory, tribe, or unit of local government in the United States to provide benefits for organ donation, including pursuant to section 301 of the National Organ Transplant Act (42 U.S.C. 274e).

(3) Clarification of Meaning of Benefit.—For purposes of the National Organ Transplant Act, valuable consideration does not include the following:
(A) Reimbursement for travel, lodging, food during travel, and other expenses related to donation.

(B) Provision of or reimbursement for dependent care needs related to donation.

(C) Reimbursement for lost wages related to donation.

(D) Medical expenses related to donation and all related follow up care including preventative follow up care and medication.

(E) Paperwork or legal costs related to donation.

(F) Any insurance policy against the risk of death or disability as a result of donating an organ or the longer-term health effects of having donated an organ.

(b) DEFINITION.—In this section:

(1) The term “organ” means the human kidney, liver, heart, lung, pancreas, bone marrow obtained by aspirate, cornea, eye, bone and other musculoskeletal tissue, skin, and heart valves and other cardio and vascular tissue.

(2) The term “covered pilot program” means a pilot program approved by the Secretary of Health and Human Services, subject to an ethical review
board process, with a term of not more than 5 fiscal
years, for the purpose of measuring the effect of re-
moving disincentives or providing a non cash benefit
that may increase the organ pool. Distributions of
organs from deceased donors under the pilot pro-
gram shall be conducted only through the Organ
Procurement and Transplantation Network at a
transplant center approved by the United Network
for Organ Sharing or any other entity designated by
the Secretary of Health and Human Services.