IN THE SENATE OF THE UNITED STATES

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on ________________

A BILL

To amend the Internal Revenue Code of 1986 to reinstate estate and generation-skipping taxes, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “For the 99.5 Percent Act”.

SEC. 2. MODIFICATIONS TO ESTATE, GIFT, AND GENERA-
TION-SKIPPING TRANSFER TAXES.

(a) Modification of Rates.—Section 2001(c) of the Internal Revenue Code of 1986 is amended by striking the last 2 rows and inserting the following:
"Over $750,000 but not over $3,500,000 ............. $248,300 plus 39 percent of the excess of such amount over $750,000.

Over $3,500,000 but not over $10,000,000 ........ $1,320,800 plus 45 percent of the excess of such amount over $3,500,000.

Over $10,000,000 but not over $50,000,000 ....... $4,245,800 plus 50 percent of the excess of such amount over $10,000,000.

Over $50,000,000 but not over $1,000,000,000 .. $24,245,800 plus 55 percent of the excess of such amount over $50,000,000.

Over $1,000,000,000 ............................................. $546,745,800 plus 65 percent of the excess of such amount over $1,000,000,000."

(b) EXCLUSION AMOUNT.—

(1) ESTATE TAX.—Paragraph (3) of section 2010(c) of the Internal Revenue Code of 1986 is amended to read as follows:

“(3) BASIC EXCLUSION AMOUNT.—For purposes of this subsection, the basic exclusion amount is $3,500,000.”.

(2) MODIFICATION TO GIFT TAX EXCLUSION AMOUNT.—Paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) the applicable credit amount in effect under section 2010(c) for such calendar year (determined as if the basic exclusion amount in section 2010(c)(2)(A) were $1,000,000), reduced by”. 
(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying, and generation-skipping transfers and gifts made, after December 31, 2023.

SEC. 3. MODIFICATION OF RULES FOR VALUE OF CERTAIN FARM, ETC., REAL PROPERTY.

(a) In General.—Paragraph (2) of section 2032A(a) of the Internal Revenue Code of 1986 is amended by striking “$750,000” and inserting “$3,000,000”.

(b) Inflation Adjustment.—Paragraph (3) of section 2032A(a) of such Code is amended—

(1) by striking “1998” and inserting “2024”,

(2) by striking “$750,000” each place it appears and inserting “$3,000,000”, and

(3) by striking “calendar year 1997” and inserting “calendar year 2023” in subparagraph (B).

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2023.

SEC. 4. MODIFICATION OF ESTATE TAX RULES WITH RESPECT TO LAND SUBJECT TO CONSERVATION EASEMENTS.

(a) Modification of Exclusion Limitation.— Subparagraph (B) of section 2031(c)(1) of the Internal
Revenue Code of 1986 is amended by striking “$500,000” and inserting “$2,000,000”.

(b) Modification of Applicable Percentage.—Paragraph (2) of section 2031(c) of the Internal Revenue Code of 1986 is amended by striking “40 percent” and inserting “60 percent”.

c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2023.

SEC. 5. Clarification Regarding Disallowance of Step-Up in Basis for Property Held in Certain Grantor Trusts.

(a) In General.—Section 1014 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subsection (f) as subsection (g), and

(2) by inserting after subsection (e) the following:

“(f) Property Held in Certain Grantor Trusts.—This section shall not apply to property—

“(1) held in a trust of which the transferor is considered the owner under subpart E of part I of subchapter J, and
“(2) if, after the transfer of such property to
the trust, such property is not includible in the gross
estate of the transferor for purposes of chapter 11.”.

(b) CONFORMING AMENDMENT.—Section 6662(k) of
the Internal Revenue Code of 1986 is amended by striking
“1014(f)” and inserting “1014(g)”.

(e) EFFECTIVE DATE.—The amendments made by
this section shall apply to transfers after the date of the
enactment of this Act.

(d) NO INERENCE.—No inference may be drawn
from the amendments made by this section with respect
to the application of section 1014 of the Internal Revenue
Code of 1986 to property described in subsection (f) of
such section (as added by subsection (a)) which was trans-
ferred on or before the date of enactment of this Act.

SEC. 6. LIMITATION ON DISCOUNTS; VALUATION RULES
FOR CERTAIN TRANSFERS OF NONBUSINESS
ASSETS.

(a) IN GENERAL.—Chapter 14 of subtitle B of the
Internal Revenue Code of 1986 is amended by adding at
the end the following new section:
“SEC. 2705. LIMITATION ON DISCOUNTS; VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.

“(a) LIMITATION ON DISCOUNT BY REASON OF FAMILY CONTROL.—

“(1) IN GENERAL.—For purposes of this subtitle, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), if the transferor, the transferee, and members of the family of the transferor and transferee have control of such entity immediately before such transfer, no discount shall be allowed—

“(A) by reason of the fact that the transferor or transferee does not have control of such entity,

“(B) by reason of the lack of marketability of the interest, or

“(C) for any other reason.

“(2) DEFINITIONS.—In this subsection, the terms ‘control’ and ‘member of the family’ have the same meanings given such terms in section 2704(c).

“(3) ATTRIBUTION.—For purposes of this section, the rule of section 2701(e)(3) shall apply for purposes of determining the interests held by any individual.
“(b) Valuation Rules for Certain Transfers of Nonbusiness Assets.—

“(1) In general.—For purposes of this subtitle, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

“(A) the value of any nonbusiness assets held by the entity with respect to such interest shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

“(B) such nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

“(2) Nonbusiness Assets.—For purposes of this subsection—

“(A) In general.—The term ‘nonbusiness asset’ means any asset other than an asset which is used in the active conduct of a trade or business.

“(B) Passive Assets Treated as Nonbusiness Assets.—
“(i) IN GENERAL.—For purposes of subparagraph (A), a passive asset shall be treated as a nonbusiness asset unless—

“(I) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

“(II) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

“(ii) MATERIAL PARTICIPATION.—For purposes of clause (i)(II), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

“(C) WORKING CAPITAL TREATED AS USED IN TRADE OR BUSINESS.—Any asset (including a passive asset) which is held as a part
of the reasonably required working capital
needs of a trade or business shall be treated as
used in the active conduct of a trade or busi-
ness.

“(3) PASSIVE ASSET.—For purposes of this
subsection, the term ‘passive asset’ means any—

“(A) cash or cash equivalents,

“(B) stock in a corporation or any other
equity, profits, or capital interest in any entity,

“(C) evidence of indebtedness, option, for-
ward or futures contract, notional principal con-
tract, or derivative,

“(D) asset described in clause (iii), (iv), or
(v) of section 351(e)(1)(B),

“(E) annuity,

“(F) real property used in 1 or more real
property trades or businesses (as defined in sec-
tion 469(e)(7)(C)),

“(G) asset (other than a patent, trade-
mark, or copyright) which produces royalty in-
come,

“(H) commodity,

“(I) collectible (within the meaning of sec-
tion 408(m)), or
“(J) any other asset specified in regulations prescribed by the Secretary.

“(4) Look-thru Rule.—

“(A) In General.—If a nonbusiness asset of an entity described in paragraph (1) consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity.

“(B) 10-Percent Interest.—The term ‘10-percent interest’ means—

“(i) in the case of an interest in a corporation, direct ownership of at least 10 percent (by vote or value) of the stock in such corporation,

“(ii) in the case of an interest in a partnership, direct ownership of at least 10 percent of the capital or profits interest in the partnership, and

“(iii) in any other case, direct ownership of at least 10 percent of the beneficial interests in the entity.”.

(b) Conforming Amendments.—
(1) Section 2031(b) of the Internal Revenue Code of 1986 is amended by inserting “(after application of section 2705(b))” after “shall be determined”.

(2) The table of sections of chapter 14 of subtitle B of such Code is amended by adding at the end the following:

“Sec. 2705. Limitation on discounts; valuation rules for certain transfers of nonbusiness assets.”.

(e) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 7. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR GRANTOR RETAINED ANNUITY TRUSTS.

(a) In General.—Subsection (b) of section 2702 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and by moving such subparagraphs (as so redesignated) 2 ems to the right;

(2) by striking “For purposes of” and inserting the following:

“(1) In General.—For purposes of”;

(3) by striking “paragraph (1) or (2)” in paragraph (1)(C) (as so redesignated) and inserting “subparagraph (A) or (B)”; and
12

(4) by adding at the end the following new paragraph:

“(2) ADDITIONAL REQUIREMENTS WITH RESPECT TO GRANTOR RETAINED ANNUITIES.—For purposes of subsection (a), in the case of an interest described in paragraph (1)(A) (determined without regard to this paragraph) which is retained by the transferor, such interest shall be treated as described in such paragraph only if—

“(A) the right to receive the fixed amounts referred to in such paragraph is for a term of not less than 10 years and not more than the life expectancy of the annuitant plus 10 years,

“(B) such fixed amounts, when determined on an annual basis, do not decrease during the term described in subparagraph (A), and

“(C) the remainder interest has a value, as determined as of the time of the transfer, which is—

“(i) not less than an amount equal to the greater of—

“(I) 25 percent of the fair market value of the property in the trust, or

“(II) $500,000, and
“(ii) not greater than the fair market value of the property in the trust.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

SEC. 8. CERTAIN TRANSFER TAX RULES APPLICABLE TO GRANTOR TRUSTS.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

“CHAPTER 16—SPECIAL RULES FOR GRANTOR TRUSTS

“Sec. 2901. Application of transfer taxes.

“SEC. 2901. APPLICATION OF TRANSFER TAXES.

“(a) IN GENERAL.—In the case of any portion of a trust to which this section applies—

“(1) the value of the gross estate of the deceased deemed owner of such portion shall include all assets attributable to that portion at the time of the death of such owner,

“(2) any distribution from such portion to one or more beneficiaries during the life of the deemed owner of such portion shall be treated as a transfer by gift for purposes of chapter 12, and
“(3) if at any time during the life of the deemed owner of such portion, such owner ceases to be treated as the owner of such portion under subpart E of part 1 of subchapter J of chapter 1, all assets attributable to such portion at such time shall be treated for purposes of chapter 12 as a transfer by gift made by the deemed owner.

“(b) Portion of Trust to Which Section Applies.—This section shall apply to—

“(1) the portion of a trust with respect to which the grantor is the deemed owner, and

“(2) the portion of the trust to which a person who is not the grantor is a deemed owner by reason of the rules of subpart E of part 1 of subchapter J of chapter 1, and such deemed owner engages in a sale, exchange, or comparable transaction with the trust that is disregarded for purposes of subtitle A.

For purposes of paragraph (2), the portion of the trust described with respect to a transaction is the portion of the trust attributable to the property received by the trust in such transaction, including all retained income therefrom, appreciation thereon, and reinvestments thereof, net of the amount of consideration received by the deemed owner in such transaction.
“(c) Exceptions.—This section shall not apply to any trust that is includible in the gross estate of the deemed owner (without regard to subsection (a)(1)).

“(d) Deemed Owner Defined.—For purposes of this section, the term ‘deemed owner’ means any person who is treated as the owner of a portion of a trust under subpart E of part 1 of subchapter J of chapter 1.

“(e) Reduction for Taxable Gifts to Trust Made by Owner.—The amount to which subsection (a) applies shall be reduced by the value of any transfer by gift by the deemed owner to the trust previously taken into account by the deemed owner under chapter 12.

“(f) Liability for Payment of Tax.—Any tax imposed pursuant to subsection (a) shall be a liability of the trust.”.

(b) Clerical Amendment.—The table of chapters for subtitle B of such Code is amended by adding at the end the following new item:

“Chapter 16. Special Rules for Grantor Trusts”.

(c) Effective Date.—The amendments made by this section shall apply—

(1) to trusts created on or after the date of the enactment of this Act,

(2) to any portion of a trust established before the date of the enactment of this Act which is attrib-
utable to a contribution made on or after such date, and

(3) to any portion of a trust established before the date of the enactment of this Act to which section 2901(a) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies by reason of a transaction described in section 2901(b)(2) of such Code on or after such date.

SEC. 9. ELIMINATION OF GENERATION-SKIPPING TRANSFER TAX EXEMPTION FOR TRANSFERS TO CERTAIN PERSONS.

(a) IN GENERAL.—Section 2642 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(h) ELIMINATION OF GST EXEMPTION FOR TRANSFERS TO CERTAIN PERSONS.—

“(1) IN GENERAL.—

“(A) TRANSFER TO NON-EXEMPT PERSON.—In the case of any direct skip or taxable distribution made to any person who is not an exempt person, the inclusion ratio shall be 1.

“(B) TAXABLE TERMINATION.—In the case of any taxable termination which occurs at any time immediately after no exempt person is
a beneficiary of the trust, the inclusion ratio shall be 1.

“(C) EXEMPT PERSON.—

“(i) IN GENERAL.—For purposes of this subsection, the term ‘exempt person’ means—

“(I) a natural person—

“(aa) who is assigned to a generation which is 2 or fewer generations below the generation assignment of the transferor, or

“(bb) whose date of birth precedes the date on which the trust was created, or

“(II) a trust in which all interests are held by persons described in subclause (I).

“(ii) EXCEPTION.—For purposes of clause (i)(II), any interest which is used primarily to postpone or avoid the application of this subsection shall be disregarded.

“(2) DATE OF CREATION.—

“(A) IN GENERAL.—For purposes of determining the date on which a trust was created under paragraph (1)(C)(i)(I)(bb), if the trust
was created before January 1, 2024, such trust shall be deemed to have been created on January 1, 2024.

“(B) Date of Creation of Pour-Over Trusts.—

“(i) In General.—In the case of any generation-skipping transfer of property which involves the transfer of property from one trust to another trust, the date of the creation of the transferee trust shall be treated as being the earlier of—

“(I) the date of the creation of such transferee trust, or

“(II) the date of the creation of the transferor trust.

“(ii) Multiple Transfers.—In the case of multiple transfers to which clause (i) applies—

“(I) the date of the creation of the transferor trust shall be determined under such clause, and

“(II) subsequent to the determination described in subclause (I), the date of the creation of the trans-
feree trust shall be determined under such clause.

“(3) GENERATION ASSIGNMENT.—For purposes of this subsection, the provisions of section 2653(a) shall not apply.

“(4) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this subsection.”.

(b) REPEAL.—Section 1433(b)(2) of the Tax Reform Act of 1986 (Public Law 99-514) is repealed.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) REPEAL.—The amendment made by subsection (b) shall apply to generation-skipping transfers (within the meaning of section 2611 of the Internal Revenue Code of 1986) made after the date of enactment of this Act.

SEC. 10. SIMPLIFYING GIFT TAX EXCLUSION FOR ANNUAL GIFTS.

(a) IN GENERAL.—Paragraph (1) of section 2503(b) of the Internal Revenue Code of 1986 is amended to read as follows:
“(1) IN GENERAL.—

“(A) LIMIT PER DONEE.—In the case of gifts made to any person by the donor during the calendar year, the first $10,000 of such gifts to such person shall not, for purposes of subsection (a), be included in the total amount of gifts made during such year.

“(B) CUMULATIVE LIMIT PER DONOR.—

“(i) IN GENERAL.—The aggregate amount excluded under subparagraph (A) with respect to all transfers described in clause (ii) made by the donor during the calendar year shall not exceed twice the dollar amount in effect under such subparagraph for such calendar year.

“(ii) TRANSFERS SUBJECT TO LIMITATION.—The transfers described in this clause are—

“(I) a transfer in trust,

“(II) a transfer of an interest in a passthrough entity,

“(III) a transfer of an interest subject to a prohibition on sale, and

“(IV) any other transfer of property that, without regard to with-
drawal, put, or other such rights in
the donee, cannot immediately be liq-
uidated by the donee.”.

(b) CONFORMING AMENDMENT.—Section 2503 of the
Internal Revenue Code of 1986 is amended by striking
subsection (c).

c) REGULATIONS.—The Secretary of the Treasury,
or the Secretary of the Treasury’s delegate, may prescribe
such regulations or other guidance as may be necessary
or appropriate to carry out the amendments made by this
section.

(d) EFFECTIVE DATE.—The amendments made by
this section shall apply to any calendar year beginning
after the date of the enactment of this Act.

SEC. 11. GROSS UP FOR TAXABLE GIFTS.

(a) IN GENERAL.—Section 2503 of the Internal Rev-
enue Code of 1986, as amended by section 10, is amend-
ed—

(1) in subsection (a), by striking “The term”
and inserting “Subject to subsection (c), the term”,

(2) by inserting after subsection (b) the fol-
lowing:

“(c) GROSS UP.—An amount equal to the taxes paid
by an individual under section 2501 for any calendar year
on the transfer of property by gift during such calendar year shall be treated for purposes of this subtitle as a taxable gift made during such calendar year.”.

(b) Effective Date.—The amendments made by this section shall apply to calendar years beginning after the date of enactment of this Act.

SEC. 12. DEFINITION OF EXECUTOR.

(a) Establishment of General Definition of Executor for Internal Revenue Code of 1986.—

(1) Subchapter C of chapter 11 of subtitle B of the Internal Revenue Code of 1986 is amended by striking section 2203.

(2) Section 7701(a) of such Code is amended by adding at the end the following:

“(51) Executor.—

“(A) In general.—The term ‘executor’ means—

“(i) the executor or administrator of the decedent, or

“(ii) if there is no executor or administrator appointed, qualified, and acting within the United States, any person in actual or constructive possession of any property of the decedent.
“(B) AUTHORITY.—For purposes of this title, an executor shall be authorized to act on behalf of the decedent, including with respect to any liability or obligation incurred under this title which preceded the death of the decedent.

“(C) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to determine the executor of a decedent in the case where 2 or more persons satisfy the applicable requirements under subparagraph (A) with respect to the decedent.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 2652 of the Internal Revenue Code of 1986 is amended by striking subsection (d).

(2) Section 6036 of such Code is amended by striking “(as defined in section 2203)”.

(3) The table of sections for subchapter C of chapter 11 of subtitle B of such Code is amended by striking the item relating to section 2203.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.