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ROLL NUMBER

DESCRIPTION

4003

2001 SENATE FINANCE AND TAXATION

SCR 4003

2001 SENATE STANDING COMMITTEE MINUTES  
BILL/RESOLUTION NO. 4003

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 01/10/01

Tape Number	Side A	Side B	Meter #
	x		0-19.4
1/17/01 - 2	x		4.4-11

Committee Clerk Signature *Wille W. Kraft*

Minutes:

Senator Urlacher: Opened the meeting. Roll call was taken, all were present.

Senator Urlacher: Called the hearing on SCR 4003, a resolution urging Congress to reduce or eliminate the impediment of capital gains and state taxes on passage of property to succeeding generations.

John Walstad, Legislative Council, introduced the bill.

John Walstad: Bill is from the Interim Tax Committee relating to passing property to succeeding generations. Capital gains taxes and estate taxes should be reduced or eliminated.

Senator Urlacher: Is there other areas that allow the movement of property within the family?

John Walstad: I am not sure, I do not know of any specific exemptions that make it easier. There are ways to avoid capital gains or estate taxes but that needs to be done well in advance.

Senator Nichols: With regard to the estate tax, what is the amount for a family and is that changing on the federal level?

John Walstad: The tax depends on the size of the estate. When you're talking about a substantial estate tax, you're talking about a substantial dollar value in property that's passing from one generation to another. The valuation increase is perhaps inflationary rather than actual wealth accumulation. The tax hit is on inflationary growth when actual wealth generated and the property value is actually less than you end up owing in taxes.

Senator Urlacher: There's also a cap on increases in the estate exception, is there not?

John Walstad: There is and that amount is an increasing amount.

Joan Galster: From the Tax Commissioner's Office: The current minimum before there is any Federal or state tax due is an estate of \$675,000. That gradually goes and up and the cap right now is a million dollars in the year 2006.

Senator Stenehjem: Are farmers treated differently than any other business owners?

Joan Galster: It's based on any decedents total gross estate regardless of what it is. There are certain exemptions.

Senator Stenehjem: Is a sole proprietorship treated the same as a farm?

Joan Galster: They would be treated the same.

John Risch: From the United Transportation Union, had opposing testimony. See written testimony.

Senator Christmann: Are you troubled by the fact that in smaller estates it's a double taxation?

John Risch: I'm not tremendously troubled that if someone who has accumulated a great wealth at some point should have to pay tax on a portion of that.

Senator Christmann: Not to argue with any specific figures, there's a difference between a great deal of wealth and a modest size farm, is it still going to get potentially taxed? It doesn't take a huge farm because of land value, it might be something that is big enough to make a living for

Page 3

Senate Finance and Taxation Committee  
Bill/Resolution Number 4003  
Hearing Date 01/10/01

one family but yet is pretty substantial in the land valuation because of the inflation. The ones With the great wealth aren't paying this anyway because they are able to have attorneys and work things so they don't have a tax consequence. What are your thoughts on that?

John Risch: There are a lot of ways to avoid it. I'm of the belief that the few who do have pay it, the gov't has bent over backwards with payment periods, etc. There have been steps taken in the right direction.

Senator Kroeplin: Questioned him about a certain figure in his written testimony.

John Risch: Explained where he got information from.

Senator Urlacher closed the hearing on 4003. Action delayed.

Discussion held 1/17/01.

COMMITTEE ACTION: 1/17/01

Motion made by Senator Wardner for a DO PASS, Seconded by Senator Christmann.

Vote was 6 yeas, 0 nay, and 0 absent or not voting. Bill carrier was Senator Nichols.

Date: 1/17/01  
Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 4003**

Senate Finance and Taxation Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Wardner Seconded By Christmann

Total (Yes) 18 No 0

Absent D

Floor Assignment Nichols

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
**January 17, 2001 4:01 p.m.**

**Module No: SR-07-1162**  
**Carrier: Nichols**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SCR 4003: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4003 was placed on the Eleventh order on the calendar.**

2001 HOUSE FINANCE AND TAXATION

SCR 4003

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4003

House Finance and Taxation Committee

Conference Committee

Hearing Date March 20, 2001

Tape Number	Side A	Side B	Meter #
1	X		
Committee Clerk Signature	<i>Janie Stein</i>		

Minutes:

**REP. AL CARLSON, CHAIRMAN** Opened the hearing.

**JOHN WALSTAD, ATTORNEY FOR THE LEGISLATIVE COUNCIL**, Testified that the bill was introduced by the interim Taxation Committee. The committee was given a study to look at ways to improve retirement possibilities for farmers. See the Report of the North Dakota Legislative Council, Fifty Seventh Legislative Assembly, 2001, page 350.

**REP. WINRICH** What is the current limit on the estate taxes?

**JOHN WALSTAD** It is \$675,000.

**REP. WINRICH** Do you have an estimate of the number of farms in North Dakota that would fall under that, in fact, have to pay estate taxes?

Page 2

House Finance and Taxation Committee  
Bill/Resolution Number SCR 4003  
Hearing Date March 20, 2001

**JOHN WALSTAD** No, the committee didn't gather information on that. The information the committee used was more in the nature of heresy.

**REP. CARLSON** The way this is written regarding estate tax and capital gains tax, it sure applies to a lot of people that don't own farms.

**JOHN WALSTAD** That is certainly correct, there were some amendments at the final meeting of the committee. In the title of the resolution, there was a reference to farm property, that was removed, so the sentence about what we are asking Congress to do, does not just apply to farm property, it is any kind of property.

With no further testimony, the hearing was closed.

**COMMITTEE ACTION** 3-20-01

**REP. NICHOLAS** Made a motion for a **DO PASS**

**REP. RENNERFELDT** Second the motion. **MOTION CARRIED**

**14 Yes    1 No    0 Absent**

**REP. HERBEL** Was given the floor assignment.

Date: 3-20-01  
Roll Call Vote #: 1

**2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SCR 4003**

House **FINANCE & TAXATION** Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

## Legislative Council Amendment Number

### Action Taken

Motion Made By Rep. Nicholas Seconded By Rep. Rennerfeldt

Total (Yes) 14 No 1

Absent 0

Floor Assignment 2nd. Herbel

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
**March 20, 2001 11:10 a.m.**

**Module No: HR-48-6117**  
**Carrier: Herbel**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SCR 4003: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends DO PASS (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SCR 4003 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

SCR 4003

# **united transportation union**

SCH  
SCH Legislative Director  
NORTH DAKOTA LEGISLATIVE BOARD



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Testimony of John Risch  
Before the Senate Committee on  
Finance and Taxation  
Opposing SCR 4003  
January 10, 2001

Mr. Chairman members of the committee, my name is John Risch. I am the North Dakota legislative Director of the United Transportation Union. The UTU is the largest rail labor union in North America. Our membership includes conductors, engineers, switchmen, trainmen and yardmasters.

In recent years much has been said about the unfairness of the so-called "death tax", but contrary to most of the talk, the estate tax is a fair and necessary tax.

Between 98 and 99 percent of all estates in America pass from one generation to another without any estate tax being assessed. Federal estate taxes don't kick in until net assets (after debts and charitable contributions are deducted) exceed \$675,000 for a single person and \$1.35 million for a married couple. In the year 2006, the single exemption will increase to \$1 million and \$2 million for married couples.

The estate tax raises a considerable amount of revenue for the federal treasury and helps limit concentrations of power and wealth. One of the arguments heard in the Congress of 1916 when the estate tax first became law was that the tax was needed to "break up the swollen fortunes of the rich."

Steel magnate Andrew Carnegie wrote some 100 years ago that, "The parent who leaves his son enormous wealth...generally deadens the talents and energies of the son and leads him to lead a less useful and less worthy life than he otherwise would."

Carnegie's point brings to mind the recent welfare reform debates, when some claimed that giving a single mother \$10,000 a year in welfare stifles her incentive to work. If that is truly the case, just think how much worse it must be for someone who gets a windfall of \$10 million or even a \$1 billion. So the estate tax could even be a hidden blessing for some of the few being taxed.

The estate tax is assessed on less than 2% of the nation's largest estates, making it a very progressive tax. And from the point of view of most taxpayers, that's a very good thing. When those with great amounts of wealth pay more, it lessens the tax burden on the rest of us.

In fiscal year 2000, the federal estate tax is expected to raise \$27 billion. Wiping out this tax would require either raising taxes on others or reducing the anticipated budget surplus.

Even if eliminating the estate tax simply lowered the overall budget surplus, do the wealthiest Americans need tax relief? Or might it be better to provide tax relief to farmers, workers, and small business owners?

It's worth noting that the bulk of the largest wealth accumulations in our country have never been touched by the income tax--they're mainly unrealized capital gains. Without the estate tax, those gains would remain untaxed forever because wealth is not taxed as income at death.

The estate tax encourages charitable giving:

Although only 300 estates reported gross assets of more than \$20 million in 1995, those estates were responsible for about 40% of all reported charitable bequests. In the previous year, the 280 estates worth more than \$20 million were responsible for more than half of reported charitable bequests.

Without a progressive estate tax, bequests to charity would probably be a lot lower. A 1998 report by the U.S. Treasurer's Office found that, "There is overwhelming evidence that estate taxes stimulate charitable bequests." After all, a \$10 million bequest to charity generates the full \$10 million in gratitude and recognition, while the same \$10 million leaves heirs with as little as \$4.5 million (after federal and state taxes).

Both the family farmer and the small business owner are poster children for the anti-estate tax movement, but the truth is that few of them are subject to estate taxes. In 1998 there were just 48,000 estates in the United States that paid any estate tax. Of those, only 1200 of them were made up primarily of small businesses and farms. And unlike other couples, a farm couple can shelter up to \$2.6 million from tax.

In addition, IRS rules allow on-going family farms or businesses to value their assets at less than market value and to pay any estate taxes over nearly 15 years at interest rates as low as 2%. If anything, the estate tax actually encourages heirs to keep businesses in the family rather than selling.

#### Conclusion:

Compared to other ways of paying for government, who could quarrel with a tax that raises a good deal of money without bothering almost 99 percent of us, encourages charitable giving, helps build character and promotes America's core economic and democratic values?

For these reasons I urge the committee to make a "DO NOT PASS" recommendation on SCR 4003.

**Background on the Estate Tax:** The estate tax is the federal government's only tax on accumulated wealth. From its inception 83 years ago, the estate tax has applied only to the very largest estates. In 2001 the exemption level is \$675,000 for individuals and \$1.35 million for couples.

The estate tax rate starts at 33% and has a top marginal rate of 39% (after credits for state inheritance taxes) on taxable estates larger than \$21 million. The estate tax exemption will be phased up to \$1 million—\$2 million for couples—by 2006. The portion of a decedent's estate passing to a spouse is exempt from tax.

In 1995, fewer than 32,000 estates (1.4% of all decedents) paid any estate tax. Only about a third of estates with gross assets between \$600,000 and \$1 million were taxable—and the average tax for estates of this size was just \$17,000. The percentage of estates that paid tax gradually rose to 77% for estates worth more than \$20 million. After deducting expenses and amounts retained by spouses, effective estate tax rates ranged from 3% on estates with gross values of \$600,000 to \$1 million up to about 30% on estates worth \$5 million to \$20 million. The effective rate fell to 22% on estates worth more than \$20 million, mainly because these estates gave a large share of their assets to charity.

Effective Federal Estate Tax Rates, 1995 By Size of Gross Estate	
Gross Estate	Effective Tax Rate
\$ 600,000 to 1,000,000	3.0%
\$ 1,000,000 to 2,500,000	12.5%
\$ 2,500,000 to 5,000,000	24.3%
\$ 5,000,000 to 10,000,000	29.0%
\$10,000,000 to 20,000,000	31.2%
\$20,000,000 or more	22.5%
Figures show federal estate taxes as a percent of net estates, after deducting expenses and amounts retained by spouses.	
Source: Internal Revenue Service	

## CAPITAL GAINS

# THE ESTATE OF THE NATION

Poor little rich kids and their parents hit up Congress for the first tax cut of the season

By JANE BRYANT QUINN

**S**OB. PITY THE POOR RICH. THEY HAVE TO PAY A "death" tax—or rather, their estates have to pay, which means less for their heirs. Poor kids. All that heavy lifting in the stock market by Mom and Dad, and the kids don't get to keep it all. Where's the justice? Who will stand up for the rights of the descendants of multimillionaires?

As it turns out, Congress will. Compassionately, conservatives have just voted en masse to phase out the tax on all estates, even those of billionaires. The hearts of many a liberal bleed for big money, too. The president says he'll veto the Republican bill, but the Dems remain open to deals that would slash the tax substantially. It's cool to worry about the rich.

Not that rich kids were mentioned aloud in the speeches touting this first big tax-cut bill of the election season. Instead, Congress held itself out as the champion of small businesses and farms that otherwise might be sold to pay the taxes due. I've also heard a general gush against the "unfairness" of the tax.

It's hard to know whether the average American really believes this stuff, or even if the politicians do. Rep. Jennifer Dunn, a Republican from Washington state who cosponsored the House bill, claims that "almost every family farm or business" pays a "compliance tax," in the form of billions of dollars spent "to ensure that loved ones will have enough cash on hand to pay the death tax." Almost every family? Is she kidding, or what?

You may or may not be among the wealthy, or feel their pain. But at least let me clear up who pays this tax, and when.

■ *It is not a death tax!* That's just a politically clever name. At death, around 98 percent of all estates are inherited entirely free of the federal tax. You'll owe zero on money left to a spouse or charity, and zero on estates of modest size. Taxes don't kick in until your assets (minus debts and expenses) exceed a certain sum. Singles pay on net worth in excess of \$675,000 (rising to \$1 million in 2006). With planning, a married couple can exempt \$1.35 million (rising to \$2 million in 2006). Far more can be sheltered, with insurance and personal-residence trusts. In these brackets, people like to say they're middle class, but they're actually in the top 4 percent.

■ *Estate taxes are not breaking up family farms.* Economist Neil Hart of Iowa State University, who specializes in tax law for farmers, says that he has never seen a farm sold for this reason. Farmers, he says, are being used as shields for people who've fattened on stocks.

Family farms already enjoy generous estate-tax breaks. Farms can be valued at perhaps only half of their fair market price. Any taxes due can be paid over nearly 15 years, at interest rates as low as 2 percent. And unlike most couples, farm couples can shelter up to \$2.6 million from tax. Almost all farms already pass estate-tax free,

Hart says. Of the properties taxed, a significant portion belong to absentee owners—say, a Wall Street guy with an Idaho ranch.

■ *Estate taxes aren't destroying small businesses, either.* This sector is healthier than ever (although you'd never know it, when heirs weep to Congress about the burdens they face). Like farms, family firms get special breaks. With good planning, a couple can pass to the next generation some \$5 million in business assets or \$8 million in farm assets, says law professor Charles Davenport of Rutgers University. Fewer than 48,000 estates paid any federal estate tax in 1998. Of these, just 1,200 were made up primarily of small businesses and farms. This is a crisis!

■ *When part or all of a small firm is sold at death, family is usually the reason, not tax.*

Maybe none of the kids want to run the business. Maybe one of them does but the others want to be bought out. Maybe the firm has problems that Dad never faced. For heirs hard up for the estate tax, our tender-minded Congress could make more business estates tax exempt, or even raise the exemption for individuals. But, gosh, how unfair to think about helping the "little" multimillionaire without also helping the really rich.

■ *If the estate tax isn't fair, I don't know what*



To me, taxes should fall on those who can most afford to pay. Phasing out the estate tax over the next 10 years would save \$105 billion for America's wealthiest people (almost all of them not in small farms or businesses). After that, they'd save an average of \$50 billion a year. Had the tax been abolished in 1997, a few hundred tycoons would have saved \$10 million each.

Opponents of estate taxes dismiss all this as minor money. But those billions would more than pay for a Medicare drug benefit, says economist Henry Aaron of the Brookings Institution in Washington, D.C. (Aaron sounds like your typical throwback. It's so unfashionable to fret about people without health insurance, so unclassy to think it odd to tax \$60,000 in income but not an inherited \$60 million).

Opponents also moan that the rich are forced to spend vast sums on lawyers, to minimize their tax. But their actual bills have never been checked by empirical research. Almost certainly, part of the cost arises from income-tax planning, business-succession issues and family matters, all of which would continue to exist. Based on interviews with practitioners, Davenport puts the price of pure estate-tax planning at 0.1 percent of a "modest" gross estate (\$10,000 on \$10 million). Is that a good reason to abolish the estate tax, before addressing any other public-policy issue?

What's more, the bill includes an arcane provision known as "carryover basis." It levies a capital-gains tax on large, inherited assets, whose profits are never taxed today. Supposedly, this new provision would eventually tap the superrich for a bit of the windfall they'd gain from estate-tax repeal. "But it's an administrative nightmare," says New York estate-planning attorney Sanford Schlesinger. Carryover basis was passed, then repealed as unworkable. 20 years ago, Davenport assumes the new tax would be repealed, too.

It's such a great time to be rich. Americans worship their billionaires and, like all disciples, feel honored to serve. I should warn major heirs that, once free of estate tax, parents might be less inclined to give you money *before* they die. But into each life, a little rain...

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## Q: What are estate and gift taxes and how are they calculated?

**A:** Estate and gift taxes are used to tax large transfers of wealth between individuals. Gift taxes are imposed on transfers made during an individual's lifetime, and estate taxes are imposed on transfers made at the time of death. Although gift taxes and estate taxes are paid separately, they are a *unified* tax in the sense that a single graduated rate schedule applies to the cumulative total of taxable transfers made through gifts and estates. The accompanying table shows this rate schedule.

Although the taxation of gifts and estates may seem complicated at first glance, the calculation of estate and gift taxes is actually quite similar to the calculation of personal income taxes. As with the income tax, there are *exemptions* and *credits* that are applied before the progressive rate schedule is applied. Estate taxes are different in one important way, however: they are calculated over a lifetime, not year by year. For income tax purposes, that is, taxable income for 1998 is the total taxable income earned from January 1 to December 31 of 1998. In other words, it doesn't matter how much you earned in 1997 or 1996-- all that counts is how much you earned in 1998. For estate and gift tax purposes, on the other hand, it *does* matter how much a taxpayer has given away in the past. The gift tax rate for 1998 depends on the total amount of *taxable* gifts a taxpayer has given since 1976 (when the estate and gift taxes were unified).

**Exemptions:** Each taxpayer is allowed to give \$10,000 (\$20,000 for married joint filers) in gifts to any single individual in the course of a year tax-free. This is a *per-recipient* exemption, so (for example) a taxpayer wishing to give away \$50,000 to her five grandchildren could do so tax-free (if the gifts were split evenly) in 1997. This means that the only way gifts can be taxed is if a single taxpayer gives more than \$10,000 (\$20,000 for married joint filers) to another individual.

**Credits:** Most gifts and estate *above* the annual exemption are not subject to tax. This is because each taxpayer is allowed a lifetime credit against taxable gifts and estate. In 1997, the credit amount was \$192,800. Under the rate schedule shown in the table, this credit is equivalent to a \$600,000 exemption from the gift and estate tax. (To see why this is true, click here.) This means that even if a taxpayer gives more than \$10,000 to a single recipient in a given year, the gift amount above \$10,000 will *not* be subject to tax unless this taxpayer has already given a total of \$600,000 in taxable gifts since 1976.

**Other Exemptions:** There are some cases in which one can give more than \$10,000 worth of gifts without facing the gift and estate tax. These include:

- gifts to a spouse
- gifts of paying tuition or medical expenses
- gifts to political organizations
- gifts to charity.

**Calculating the Tax:** Any gifts or estate value left over when all exemptions and credits are taken into account is taxable according to the above table. The tax rate ranges from 18 percent on the first \$10,000 of taxable gifts and estate to 55 percent on taxable gifts and estate over \$3 million. [However, since the \$192,800 credit has the effect of exempting the first \$600,000 of taxable gifts and estate, the lowest rate that is ever applied is the 37% rate.] In

Estate and Gift Tax Rate Schedule	
Total gifts and estate subject to Marginal tax	rate
\$0-\$10,000	18%*
\$10,000-\$20,000	20%*
\$20,000-\$40,000	22%*
\$40,000-\$60,000	24%*
\$60,000-\$80,000	26%*
\$80,000-\$100,000	28%*
\$100,000-\$150,000	30%*
\$150,000-\$250,000	32%*
\$250,000-\$500,000	34%*
\$500,000-\$750,000	37%
\$750,000-\$1,000,000	39%
\$1,000,000-\$1,250,000	41%
\$1,250,000-\$1,500,000	43%
\$1,500,000-\$2,000,000	45%
\$2,000,000-\$2,500,000	49%
\$2,500,000-\$3,000,000	53%
\$3,000,000 and over	55%

\* The 1997 exemption level of \$600,000 means that these rates are not currently applicable.

In addition, a 5 percent surtax is imposed on taxable transfers between \$10 million and \$21,040,000. Taxable estate value includes the value of all property owned at the time of death plus any gifts made in the three years prior to death. However, this value is reduced by the value of debts, funeral expenses, and costs of administering and settling the estate. Finally, of course, any portion of a decedent's estate that is given to a spouse or to charity is not taxed.

Updated 11/5/1998

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 Back to Frequently Asked Questions

## Estate Taxes and the 1997 Taxpayer Relief Act

Page 1 of 1

Q: How did the 1997 Taxpayer Relief Act change estate taxation? Who benefits from these changes?

A: The most important change in the taxation of estates is in the **effective exemption amount**. Until 1997, each taxpayer was allowed a lifetime *credit* against estate and gift taxes of \$192,800. At the current rate schedule, this was equivalent to a \$600,000 exemption from estate and gift taxes: this meant that taxpayers who gave no taxable gifts during the course of their lives would pay no tax on the first \$600,000 of taxable estate. The 1997 Act raised the amount of the unified credit gradually over nine years. The following table shows how the credit amount will change between 1998 and 2006, when the effective exemption will reach its final amount of \$1,000,000.

A second important change in the estate tax law has to do with the annual gift tax exclusion. Until 1997, each individual could give a total of \$10,000 (\$20,000 for married joint filers) per recipient in gifts without incurring any tax. But since this amount was not indexed for inflation, the real value of the \$10,000 exclusion had been falling since 1976, when the \$10,000 amount was set. The Taxpayer Relief Act indexes the \$10,000 exclusion to the rate of inflation. This means that the real value of the gift exclusion in future years will remain exactly \$10,000.

Last Updated 11/5/1998

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 Back to Frequently Asked Questions

Tax Year	Credit Amount	Exemption Amount
1997	192,800	600,000
1998	202,050	625,000
1999	211,300	650,000
2000	220,550	675,000
2001	220,550	675,000
2002	229,800	700,000
2003	229,800	700,000
2004	287,300	850,000
2005	326,300	950,000
2006	345,800	1,000,000