United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, TUESDAY, JANUARY 19, 1999 *No. 8*

Senate

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Continued)

By Mr. DEWINE (for himself, Mr. HOLLINGS, Mr. ABRAHAM, Mr. SANTORUM, Mr. SPECTER, Mr. BYRD, Mr. HUTCHINSON, and Mr. VOINOVICH):

S. 61. A bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions; to the Committee on Finance.

THE CONTINUED DUMPING OR SUBSIDIZATION OFFSET ACT

Mr. DEWINE. Mr. President, today I join with Senators ABRAHAM, SANTORUM, SPECTER, HOLLINGS, BYRD, HUTCHINSON and others to introduce the Continued Dumping or Subsidy Offset Act. This legislation is designed to ensure that our domestic producers can compete freely and fairly in global markets. This bill is a top priority for me and my fellow cosponsors—not only because we believe it is good policy, but also because it is needed to respond to the current import dumping crisis in our steel industry.

As my colleagues know, the Tariff Act of 1930 gives the President the authority to impose duties and fines on imports that are being dumped in U.S. markets, or subsidized by foreign governments. Our bill would take the 1930 Act one step further. Currently, revenues raised through import duties and fines go to the U.S. Treasury. Under our bill, duties and fines would be transferred to injured U.S. companies as compensation for damages caused by dumping or subsidization.

We believe this extra step is necessary. Current law simply has not been strong enough to deter unfair trading practices. In some cases, foreign producers are willing to risk the threat of paying U.S. antidumping and countervailing duties out of the profits of dumping.

Current law also does not contain a mechanism to help injured U.S. industries recover from the harmful effects of foreign dumping and subsidization. These foreign practices have reduced the ability of our injured domestic industries to reinvest in plant, equipment, people, R&D, technology or to maintain or restore health care and pension benefits. The end result is this: continued dumping or subsidization jeopardizes renewed investment and prevents additional reinvestment from being made.

The current steel dumping crisis is the latest sobering example of why our legislation, among others, is needed to better enforce fair trade. Because of massive dumping, steel imports are at an all-time high. According to the American Iron and Steel Institute, 4.1 net tons of steel were imported in the month of October—that's the second highest monthly total ever, and is 56% higher than the previous year.

This surge in imports is having a direct impact on our own steel industry. In November, U.S. steel mills shipped nearly 7.4 million net tons of steel in November of last year—more than one million tons below what was shipped one year earlier. We have seen U.S. steel's industrial utilization rate fall from 93.1% in March of 1998 to 73.9% in January of 1999. And most troubling of all, approximately 10,000 jobs have been lost in our steel industry since last year. More layoffs are certain. Whether these jobs will ever be restored is uncertain. This is a genuine crisis for the communities in the Ohio River Valley and in other communities across the country.

This is not a case of being on the wrong side of a highly competitive market. Today's U.S. steel industry is a lean, efficient industry—a world leader thanks to restructuring and millions of dollars in modernization. U.S. steelworkers are the best and most productive in the world. In fact, America's workers devote the fewest manpower hours per ton of steel.

Simply being the best is not enough against foreign governments that either erect barriers to keep U.S. steel out, or subsidize their exports to distort prices. That's why we have trade laws designed to promote fair trade. However, it's clear that our current trade policies aren't working. Current law did not deter foreign steel producers from dumping their products in our country. These foreign producers have done the math. They have made a calculated decision that the risk of duties is a price they are willing to pay in return for the higher global market share they have gained by chipping away at the size and strength of our nation's steel industry.

It's time we impose a heavier price on dumping and subsidization. The Continued Dumping or Subsidization Offset Act would accomplish this goal. It would transfer the duties and fines imposed on foreign producers directly to their U.S. competitors. Under our bill, foreign steel producers would get a double hit from dumping: they would have to pay a duty, and in turn, see that duty go directly to aid U.S. steel producers.

In order to counter the adverse effects of foreign dumping and subsidization on U.S. industries, Congress should pass this bipartisan bill.

The steel crisis also has amplified the need for additional improvements in our trade laws, as well as tougher enforcement of existing laws. Last October, many of us in Congress came together to offer an early New Year's resolution for 1999: to stand up for steel.

Any crisis requires leadership. That's why Congress asked the President to make a New Year's Resolution of his own—one that would honor a pledge he made in 1992 to strongly enforce U.S. antidumping laws. Specifically, Congress asked the President for an action plan no later than January 5th—a plan that would end the distortion and disruption in global steel markets, as well as the disappearance of jobs and opportunity in U.S. steel plants. It was a call for presidential leadership.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

On January 8th, the President released a plan that fell far short of what we hoped. It was a plan that showed a reluctance to fully utilize our laws to ensure free and fair trade. It did not recommend any trade legislation to better protect U.S. industry from dumping. As a result, it sends a dangerous signal to foreign governments that dumping will not meet with a swift response from the United States.

I am concerned the President has not fully grasped the magnitude of this problem. In the past few months, I have visited with Ohio Valley steel producers and workers, including a number of the hundreds laid off because of foreign dumping. Their message was the same: the surge in steel imports represents a crisis of historic proportions.

The root of the current import crisis is the financial distress that plagues Asia and Russia, which has created a worldwide oversupply of steel. While foreign consumption of steel has nearly dried up, America's strong economy and open markets have made the United States a prime target for exporters. We are dedicated to assisting these economies—so we can avoid a global downturn. But turning a blind eye toward our steel workers is the wrong way to do it. We simply cannot afford to sacrifice the US steel industry and thousands of American jobs in a desperate attempt to prop up faulty foreign economies. This approach simply will not work.

Although the Commerce Department has initiated an investigation that could result in duties imposed against foreign steel, the President could pursue a number of options to reduce steel imports: He could begin serious and aggressive bilateral negotiations with countries that dump steel; initiate a ''201'' petition with the International Trade Commission if he believes steel imports pose a substantial threat to domestic industry; or take unilateral trade action, including quotas and tariffs, under the International Economic Emergency Powers Act.

The President's plan does not take any of these options. Instead, it treats the symptoms of dumping—declining profits and unemployment—rather than attack the disease itself. The damage from this disease has already been done. Absent tough action to address this dumping directly makes it more difficult for U.S. producers to regain their declining market share, and most important, to restore the jobs that have been lost.

Congress can insist on tough action by the President by passing legislation that will further discourage unfair trade practices. Passing the Continued Dumping or Subsidization Offset Act would be a good start. In addition, I will be joining with Senator ARLEN SPECTER of Pennsylvania to introduce legislation that would lower the statutory threshold for the International Trade Commission (ITC) to find injury caused by imports and establish a steel import permit and licensing program, allowing domestic industry access to critical import data more quickly.

Ultimately, we cannot achieve free and fair markets on a global scale unless our laws work to encourage all competitors to play by the rules. And ultimately, congressional action alone is no substitute for presidential leadership. That's why Congress and the American steel community need to keep the pressure on. In fact, thousands of steel workers from the Ohio Valley are arriving in our nation's capitol in a massive call for presidential leadership. It's time our President took a stand for fair trade. It's time for our President to stand up for steel.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 61

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Continued Dumping and Subsidy Offset Act of 1999''.

SEC. 2. FINDINGS OF CONGRESS.

Congress makes the following findings:

(1) Consistent with the rights of the United States under the World Trade Organization, injurious dumping is to be condemned and actionable subsidies which cause injury to domestic industries must be effectively neutralized.

(2) United States unfair trade laws have as their purpose the restoration of conditions of fair trade so that jobs and investment that should be in the United States are not lost through the false market signals.

(3) The continued dumping or subsidization of imported products after the issuance of antidumping orders or findings or countervailing duty orders can frustrate the remedial purpose of the laws by preventing market prices from returning to fair levels.

(4) Where dumping or subsidization continues, domestic producers will be reluctant to reinvest or rehire and may be unable to maintain pension and health care benefits that conditions of fair trade would permit. Similarly, small businesses and American farmers and ranchers may be unable to pay down accumulated debt, to obtain working capital, or to otherwise remain viable.

(5) United States trade laws should be strengthened to see that the remedial purpose of those laws is achieved.

SEC. 3. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by inserting after section 753 following new section:

''SEC. 754. CONTINUED DUMPING AND SUBSIDY OFFSET.

''(a) IN GENERAL.—Duties assessed pursuant to a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921 shall be distributed on an annual basis under this section to the affected domestic producers for qualifying expenditures. Such distribution shall be known as the 'continued dumping and subsidy offset'.

''(d) DEFINITIONS.—As used in this section:

''(1) AFFECTED DOMESTIC PRODUCER.—The term 'affected domestic producer' means any manufacturer, producer, farmer, rancher, or worker representative (including associations of such persons) that—

''(A) was a petitioner or interested party in support of the petition with respect to which an antidumping duty order, a finding under the Antidumping Act of 1921, or a countervailing duty order has been entered, and

''(B) remains in operation.

Companies, businesses, or persons that have ceased the production of the product covered by the order or finding or who have been acquired by a company or business that is related to a company that opposed the investigation shall not be an affected domestic producer.

''(2) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Customs.

''(3) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(4) QUALIFYING EXPENDITURE.—The term 'qualifying expenditure' means an expenditure incurred after the issuance of the antidumping duty finding or order or countervailing duty order in any of the following categories:

''(A) Plant.

''(B) Equipment.

''(C) Research and development.

''(D) Personnel training.

''(E) Acquisition of technology.

''(F) Health care benefits to employees paid for by the employer.

''(G) Pension benefits to employees paid for by the employer.

''(H) Environmental equipment, training, or technology.

''(I) Acquisition of raw materials and other inputs.

''(J) Borrowed working capital or other funds needed to maintain production.

''(5) RELATED TO.—A company, business, or person shall be considered to be 'related to' another company, business, or person if—

''(A) the company, business, or person directly or indirectly controls or is controlled by the other company, business, or person,

''(B) a third party directly or indirectly controls both companies, businesses, or persons,

''(C) both companies, businesses, or persons directly or indirectly control a third party and there is reason to believe that the relationship causes the first company, business, or persons to act differently than a nonrelated party.

For purposes of this paragraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.

''(c) DISTRIBUTION PROCEDURES.—The Commissioner shall prescribe procedures for distribution of the continued dumping or subsidies offset required by this section. Such distribution shall be made not later than 60 days after the first day of a fiscal year from duties assessed during the preceding fiscal year.

''(d) PARTIES ELIGIBLE FOR DISTRIBUTION OF ANTIDUMPING AND COUNTERVAILING DUTIES ASSESSED.—

''(1) LIST OF AFFECTED DOMESTIC PRODUCERS.—The Commission shall forward to the Commissioner within 60 days after the effective date of this section in the case of orders or findings in effect on such effective date, or in any other case, within 60 days after the date an antidumping or countervailing duty order or finding is issued, a list of petitioners and persons with respect to each order and finding and a list of persons that indicate support of the petition by letter or through questionnaire response. In those cases in which a determination of injury was not required or the Commission's records do not permit an identification of those in support of a petition, the Commission shall consult with the administering authority to determine the identity of the petitioner and those domestic parties who have entered appearances during administrative reviews conducted by the administering authority under section 751.

''(2) PUBLICATION OF LIST; CERTIFICATION.—The Commissioner shall publish in the Federal Register at least 30 days before the distribution of a continued dumping and subsidy offset, a notice of intention to distribute the offset and the list of affected domestic producers potentially eligible for the distribution based on the list obtained from the Commission under paragraph (1). The Commissioner shall request a certification from each potentially eligible affected domestic producer—

''(A) that the producer desires to receive a distribution;

''(B) that the producer is eligible to receive the distribution as an affected domestic producer; and

''(C) the qualifying expenditures incurred by the producer since the issuance of the order or finding for which distribution under this section has not previously been made.

''(3) DISTRIBUTION OF FUNDS.—The Commissioner shall distribute all funds (including all interest earned on the funds) from assessed duties received in the preceding fiscal year to affected domestic producers based on the certifications described in paragraph (2). The distributions shall be made on a pro rata basis based on new and remaining qualifying expenditures.

''(e) SPECIAL ACCOUNTS.—

''(1) ESTABLISHMENTS.—Within 14 days after the effective date of this section, with respect to antidumping duty orders and findings and countervailing duty orders in effect on the effective date of this section, and within 14 days after the date an antidumping duty order or finding or countervailing duty order issued after the effective date takes effect, the Commissioner shall establish in the Treasury of the United States a special account with respect to each such order or finding.

''(2) DEPOSITS INTO ACCOUNTS.—The Commissioner shall deposit into the special accounts, all antidumping or countervailing duties (including interest earned on such duties) that are assessed after the effective date of this section under the antidumping order or finding or the countervailing duty order with respect to which the account was established.

''(3) TIME AND MANNER OF DISTRIBUTIONS.—Consistent with the requirements of subsections (c) and (d), the Commissioner shall by regulation prescribe the time and manner in which distribution of the funds in a special account shall made.

''(4) TERMINATION.—A special account shall terminate after—

''(a) the order or finding with respect to which the account was established has terminated;

''(B) all entries relating to the order or finding are liquidated and duties assessed collected;

''(C) the Commissioner has provided notice and a final opportunity to obtain distribution pursuant to subsection (c); and

''(D) 90 days has elapsed from the date of the notice described in subparagraph (C).

Amounts not claimed within 90 days of the date of the notice described in subparagraph (C), shall be deposited into the general fund of the Treasury.''.

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting the following new item after the item relating to section 753:

''Sec. 754. Continued dumping and subsidy offset.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to all antidumping and countervailing duty assessments made on or after October 1, 1996.

By Mr. KOHL:

S. 62. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

THE FAMILY FARM RETIREMENT EQUITY ACT OF 1999

By Mr. KOHL:

S. 63. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

THE CHILD CARE INFRASTRUCTURE ACT

Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act, a bill to help improve the retirement security of our nation's farmers.

As we begin the 106th Congress, we can anticipate legislative action to strengthen retirement security and to boost individual savings on behalf of all Americans. With good reason, these issues have risen to the top of the nation's agenda. Americans are living longer and changing jobs more often. Medical costs are rising and demogarphic trends are undermining the long-term viability of our social security system. Comprehensive planning for the many years Americans are often able to enjoy in retirement is now more important than ever.

We took some steps to address retirement security in the 105th Congress, but the job is far from accomplished. We must be vigilant in acting to reform social security on behalf of all Americans and in addressing the unique retirement needs of individual groups of Americans. The legislation I introduce today attempts to act on behalf of one such group, a group at the heart of our American traditions, the family farmer.

As many of my colleagues know, farming is a highly capital-intensive business. To the extent that the average farmer reaps any profits from his or her farming operation, much of that income is directly reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. In addition, as self-employed business people, farmers do not have access to the pension or retirement funds that many Americans enjoy. When the time comes, farmers tend to rely on the sale of their accumulated capital assets, such as real estate, livestock, and machinery, in order to provide the income to sustain them during retirement. However, all too often, farmers are finding that the lump-sum payments of capital gains taxes levied on those assets leave little for retirement.

To alleviate this predicament, my legislation would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Second, my legislation would address the diminishing interest of our younger rural citizens in continuing in farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that my proposal will be one tool we can use to make farming more viable for the next generation.

In past Congresses, this proposal has enjoyed the support of farmers and farm organizations throughout the country and the endorsement of the American Farm Bureau Federation, the American Sheep Industry Association, the American Sugar Beet Association, the National Association of Wheat Growers, the National Cattleman's Beef Association, the National Corn Growers Association, National Pork Producers Council, and the Southwester Peanut Growers Association. In addition, a modified version of this legislation was included in the Targeted Investment Incentive and Economic Growth Act of 1997, as introduced by Minority Leader DASCHLE and other Senators. I look forward to working with these groups and my colleagues again this Congress to act on this important legislation as swiftly as possible.

In addition, I am introducing the Child Care Infrastructure Act, a bill to provide a tax credit for businesses that create child care opportunities for their employees. While I will have much more to say about this important legislation at a later date, I did want to put it in the hopper today. Providing quality child care is and should be at the center of our agenda for the 106th Congress. My proposal is a low-cost approach to address this issue by involving the private sector and has received praise from businesses, parents, and day care workers alike.

I ask unanimous consent that the full text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 62

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

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Family Farm Retirement Equity Act of 1999''.

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

''SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

''(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if for any taxable year a taxpayer has qualified net farm gain from the sale of qualified farm assets, then, at the election of the taxpayer, such gain shall be recognized only to the extent it exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

''(b) ASSET ROLLOVER ACCOUNT.—

''(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) CONTRIBUTION RULES.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

''(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

''(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

''(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

''(3) ANNUAL CONTRIBUTION LIMITATIONS.—

''(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

''(i) the qualified net farm gain for the taxable year, or

''(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

''(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

''(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

''(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

''(A) the net capital gain of the taxpayer for the taxable year, or

''(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with dispositions of qualified farm assets.

''(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

''(3) QUALIFIED FARMER.—

''(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

''(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

''(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

''(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

''(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

''(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

''(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

''(1) IN GENERAL.—Any individual who—

''(A) makes a contribution to any asset rollover account for any taxable year, or

''(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

''(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

''(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).''.

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.''.

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

''(e) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking ''or'' and inserting ''an asset rollover account (within the meaning of section 1034A), or''.

(B) The heading for section 4973 is amended by inserting ''**ASSET ROLLOVER ACCOUNTS**,'' after ''**CONTRACTS**''.

(C) The table of sections for chapter 43 is amended by inserting ''asset rollover accounts,'' after ''contracts'' in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Section 408(a)(1) (defining individual retirement account) is amended by inserting ''or a qualified contribution under section 1034A,'' before ''no contribution''.

(2) Section 408(d)(5)(A) is amended by inserting ''or qualified contributions under section 1034A'' after ''rollover contributions''.

(3)(A) Section 6693(b)(1)(A) is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(B) Section 6693(b)(2) is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

''Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.''.

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

S. 63

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Care Infrastructure Act of 1999''.

SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

''SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 25 percent of the qualified child care expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(A) to acquire, construct, rehabilitate, or expand property—

''(i) which is to be used as part of a qualified child care facility of the taxpayer,

''(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(iii) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

''(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

''(D) under a contract to provide child care resource and referral services to employees of the taxpayer.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

''If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.''

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''plus'' at the end of paragraph (11),

(B) by striking the period at the end of paragraph (12), and inserting a comma and ''plus'', and

(C) by adding at the end the following:

''(13) the employer-provided child care credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45D. Employer-provided child care credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 66. A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

THE INTRODUCTION OF THE KATE MULLANY NATIONAL HISTORIC SITE DESIGNATION ACT OF 1999

Mr. MOYNIHAN. Mr. President, it is with great pride that I rise today with my distinguished colleague Senator SCHUMER to introduce the ''Kate Mullany National Historic Site Designation Act,'' a bill to designate the Troy, New York, home of pioneer labor organizer Kate Mullany as a National Historic Site. A similar measure introduced in the House of Representatives last year by Congressman MICHAEL R. MCNULTY engendered a great deal of support and was cosponsored by over 100 members.

Like many Irish immigrants settling in Troy, Kate Mullany found her opportunities limited to the most difficult and low-paying of jobs, the collar laundry industry. Troy was then known as ''The Collar City''—the birthplace of the detachable shirt collar. At the age of 19, Kate stood up against the often dangerous conditions and meager pay that characterized the industry and lead a movement of 200 female laundresses demanding just compensation and safe working conditions. These protests marked the beginning of the Collar Laundry Union, which some have called ''the only bona fide female labor union in the country.''

Kate Mullany's courage and organizing skills did not go unnoticed. She later traveled down the Hudson River to lead women workers in the sweatshops of New York City and was ultimately appointed Assistant Secretary of the then National Labor Union, becoming the first women ever appointed to a national labor office.

On April 1, 1998, Kate Mullany's home was designated as a National Historic Landmark by Secretary of the Interior Bruce Babbitt and on July 15 First Lady Hillary Rodham Clinton presented citizens of Troy with the National Historic Landmark plaque in a celebration. By conferring National Historic Site status on this important landmark, we can ensure that Kate Mullany's contributions to the labor movement and the cause of women's equality in the workplace are not soon forgotten.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 66

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Kate Mullany National Historic Site Designation Act''.