

it is not uncommon for USDA to seek substitutes for even the most popular food items. In the early 1990s, for example, USDA temporarily suspended feeding program purchases of peanut butter because peanut prices had risen sharply. If the primary goal of the National School Lunch Program and food assistance programs is to alleviate this nation's malnutrition and hunger, it is wrong for the federal government to waste limited financial resources on buying quota peanuts to further support a small special interest group of peanut quota holders who are already subsidized by the American consumer.

Again, Mr. President, I support passage of the child nutrition reauthorization, but am disappointed in not being able to offer my amendment. I thank those that have worked so hard on its behalf. While the opportunity is not available today to offer the amendment, I have every intention of offering this proposal to relevant legislation in the future.

Mr. LUGAR. Mr. President, I rise today in support of S. 2286, the Child Nutrition and WIC Reauthorization Amendments of 1998. The child nutrition programs have been critically important in helping meet the nutritional needs of our children. The bill before us, which was unanimously reported out of the Senate Committee on Agriculture, Nutrition, and Forestry, is a bipartisan effort to reauthorize and improve these successful programs. Nutrition programs in the Congress have a long history of bipartisan support and cooperation and I am pleased to report that this bill is no exception.

As an Indianapolis school board member and the city's mayor in the 1960's and 1970's, I saw firsthand the need to provide nutritional assistance to children. Since that time, the child nutrition programs have changed in many ways. Although the programs may need some fine tuning, today's programs have been successful in ensuring that our nation's children have access to nutritious foods, providing a critical nutrition safety net.

In 1997, approximately 89,000 schools enrolling 46 million children participated in the National School Lunch program. Although participation in the school breakfast program is not as large as that in the school lunch program, it has continued to grow. Since 1994, school breakfast participation has increased about 13 percent so that now over 70 percent of schools operating a school lunch program also operate a school breakfast program.

The WIC program, which provides nutritious foods and other support to lower-income infants and children (up to age 5), and pregnant, postpartum, and breast-feeding women, has been successful at reducing the number of low-birth-weight babies. Its success has led to strong support over the years. In 1997, average monthly WIC participation was 7.4 million persons. In many states, the program has reached the long sought after goal of full funding.

The bill before us makes improvements to the child nutrition programs. Recently we have seen reports on fraud and abuse in the WIC and Child and Adult Care Food Programs. S. 2286 strengthens the anti-fraud provisions in both programs. The bill requires WIC recipients to be physically present when being certified or recertified for the program. The bill also requires that recipients provide documentation of their income to prove that they are in fact eligible to participate in the program. The legislation cracks down on fraudulent vendors participating in the WIC program. Under most circumstances, WIC vendors who are convicted of trafficking will be permanently disqualified unless it can be proven that the disqualification will cause undue hardship for WIC recipients. In the Child and Adult Care Food Program, State agencies will be required to visit child care sites prior to approving participation by a provider.

The bill also makes amendments to streamline school food service operations. Specifically, S. 2286 allows schools to operate after-school snack programs through the National School Lunch Program rather than separately through the Child and Adult Care Food Program. Without this change, those schools choosing to operate an after-school program, along with the school lunch program, would have to submit paperwork for two separate programs. Streamlining these operations will free up precious time so that school food service personnel can better serve our nation's children. The bill also improves access, for low-income children up to age 18, to the after-school snack and the summer food service programs.

The bill creates a new universal school breakfast pilot program that will evaluate the effect of providing free breakfasts to elementary school children, regardless of income, on school performance and dietary intake. The new spending in this bill is fully offset by rounding down reimbursement rates to the nearest whole cent for meals served by schools and child care centers.

Finally, the bill reauthorizes the child nutrition programs through fiscal year 2003.

Mr. President, S. 2286 was unanimously reported out of the Senate Committee on Agriculture, Nutrition, and Forestry on June 25, 1998. I urge my colleagues to support this bill, thus ensuring that our nation's children continue to have access to these important programs.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated by Mr. Williams, one of his secretaries.

##### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

#### MEASURES REFERRED

The Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following measure which was referred to the Committee on Energy and Natural Resources:

S. 2402. A bill to direct the Secretary of Agriculture to convey certain lands in San Juan County, New Mexico, to San Juan College.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7008. A communication from the Executive Director of the Presidio Trust, transmitting, pursuant to law, the report of a rule entitled "Management of the Presidio" (RIN3212-AA01) received on September 15, 1998; to the Committee on Energy and Natural Resources.

EC-7009. A communication from the Executive Director of the State Justice Institute, transmitting, pursuant to law, the Institute's report under the rules of the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 1996 and 1997; to the Committee on Governmental Affairs.

EC-7010. A communication from the Secretary of Veterans Affairs, transmitting, the Department's report entitled "Plain Language Action Plan"; to the Committee on Veterans' Affairs.

EC-7011. A communication from the President and the Chairman of the John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, the Center's annual report for fiscal year 1997; to the Committee on Rules and Administration.

EC-7012. A communication from the Secretary of Defense, transmitting, notice of routine military retirements; to the Committee on Armed Services.

EC-7013. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Eligible Basis Reduced by Federal Grants" (Rev. Rul. 98-49) received on September 16, 1998; to the Committee on Finance.

EC-7014. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Commerce in Explosives" (RIN1512-AB55) received on August 28, 1998; to the Committee on Finance.

EC-7015. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients" (Docket 98N-0636) received on September 16, 1998; to the Committee on Labor and Human Resources.

EC-7016. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services,

transmitting, pursuant to law, the report of a rule entitled "Pediculicide Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment; Correction" (Docket 81N-0201) received on September 16, 1998; to the Committee on Labor and Human Resources.

EC-7017. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Irradiation in the Production, Processing and Handling of Food; Correction" (Docket 98N-0392) received on September 16, 1998; to the Committee on Labor and Human Resources.

EC-7018. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Specifically Approved States Authorized to Receive Mares and Stallions Imported From Regions Where CEM Exists" (Docket 98-059-1/2) received on September 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7019. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Almonds Grown in California; Increased Assessment Rate" (Docket FV98-981-2 FR) received on September 16, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7020. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Fishery" (I.D. 0710981) received on September 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7021. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Use of Radio Frequencies Above 40GHz for New Radio Applications" (Docket 94-124) received on September 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7022. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding a radio astronomy coordination zone in Puerto Rico (Docket 96-2) received on September 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7023. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Stone Crab Fishery of the Gulf of Mexico; Amendment 6" (I.D. 041698G) received on September 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7024. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of two rules regarding final flood elevation determinations (63 FR 42264, 63 FR 45737) received on September 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-7025. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "List of Communities Eligible for the Sale of Flood Insurance" (63 FR 42257) received on Septem-

ber 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-7026. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (63 FR 42259) received on September 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-7027. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of three rules regarding changes in flood elevation determinations (63 FR 45729, 45732, 42262) received on September 16, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-7028. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "An Approach for Plant-Specific, Risk-Informed Decisionmaking: Inservice Testing" (Guide 1.175) received on September 16, 1998; to the Committee on Environment and Public Works.

EC-7029. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "An Approach for Plant-Specific, Risk-Informed Decisionmaking: Graded Quality Assurance" (Guide 1.176) received on September 16, 1998; to the Committee on Environment and Public Works.

EC-7030. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "An Approach for Plant-Specific, Risk-Informed Decisionmaking: Technical Specifications" (Guide 1.177) received on September 16, 1998; to the Committee on Environment and Public Works.

EC-7031. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Chapter 3.9.7 Risk-Informed Inservice Testing" (NUREG-0800) received on September 16, 1998; to the Committee on Environment and Public Works.

EC-7032. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Chapter 16.1 Risk-Informed Decisionmaking: Technical Specifications" (NUREG-0800) received on September 16, 1998; to the Committee on Environment and Public Works.

EC-7033. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, the Administration's report entitled "Federal Space Situation Report for Chattanooga, TN"; to the Committee on Environment and Public Works.

EC-7034. A communication from the Director of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerances" (FRL6027-1) received on September 16, 1998; to the Committee on Environment and Public Works.

EC-7035. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a payment to Rewards Program Participant 98-21; to the Committee on Foreign Relations.

EC-7036. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice that the President has authorized the use of funds under the U.S. Emergency

Refugee and Migration Assistance Fund to meet the needs of persons at risk due to the Kosovo crisis; to the Committee on Foreign Relations.

EC-7037. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended—Fees for Application and Issuance of Nonimmigrant Visas" (Notice 2894) received on September 16, 1998; to the Committee on Foreign Relations.

EC-7038. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of agreements between the American Institute in Taiwan and the people on Taiwan concluded during calendar year 1997; to the Committee on Foreign Relations.

EC-7039. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties entered into by the United States (98-131—98-138); to the Committee on Foreign Relations.

EC-7040. A communication from the Assistant Secretary of Labor, transmitting, pursuant to law, the report of a rule regarding application of the Prevailing Conditions of Work requirement (UIPL No. 41-98) received on September 17, 1998; to the Committee on Labor and Human Resources.

EC-7041. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, a notice of additions and deletions to the Committee's Procurement List dated September 8, 1998; to the Committee on Governmental Affairs.

EC-7042. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "Final Authorization of State Hazardous Waste Management Program Revisions" (FRL6160-9) received on September 17, 1998; to the Committee on Environment and Public Works.

EC-7043. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of a rule entitled "National Priorities List for Uncontrolled Hazardous Waste Management Sites" (FRL6161-2) received on September 17, 1998; to the Committee on Environment and Public Works.

EC-7044. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Fishery; Inseason Adjustment; Closure" (I.D. 080698A) received on September 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7045. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Regulations to Implement a Stand Down Requirement for Trawl Catcher Vessels Transiting Between the Bering Sea and Aleutian Islands Management Area and Gulf of Alaska" (I.D. 051898A) received on September 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7046. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Opening Directed Fishing for Pollock in Statistical Area 610 in the Gulf of

Alaska" (I.D. 090998A) received on September 17, 1998; to the Committee on Commerce, Science, and Transportation.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

H.R. 10. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes (Rept. No. 105-336).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2493. A bill to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands.

### EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Robert Bruce King, of West Virginia, to be United States Circuit Judge for the Fourth Circuit.

(The above nomination was reported with the recommendation that he be confirmed.)

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself, Ms. SNOWE, Ms. COLLINS, Mr. TORRICELLI, Ms. MIKULSKI, Mr. GRAHAM, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. INOUE):

S. 2497. A bill to ban certain abortions; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Ms. MOSELEY-BRAUN):

S. 2498. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of agricultural cooperatives and to allow declaratory judgment relief for such cooperatives; to the Committee on Finance.

By Mr. GLENN:

S. 2499. A bill to provide for a transition to market-based rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself, Mr. THOMAS, and Mr. BINGAMAN):

S. 2500. A bill to protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas; to the Committee on Energy and Natural Resources.

By Ms. MOSELEY-BRAUN (for herself and Mr. GRASSLEY):

S. 2501. A bill to amend the Internal Revenue Code of 1986 to exempt small issue bonds for agriculture from the State volume cap; to the Committee on Finance.

### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Ms. SNOWE, Ms. COLLINS, Mr. TORRICELLI, Ms. MIKULSKI, Mr. GRAHAM, Ms. LANDRIEU, and Mr. LIEBERMAN):

S. 2497. A bill to ban certain abortions; to the Committee on the Judiciary.

#### THE LATE-TERM ABORTION LIMITATION ACT OF 1998

Mr. DURBIN. Mr. President, today the Senate is beginning consideration of a very controversial and contentious issue, the veto override of the Partial-Birth Abortion Ban Act.

I will vote to sustain the President's veto of this bill, which I believe is seriously flawed. But to make my position clear and state in positive terms what I believe we should do to address this troubling issue, I am introducing legislation today known as the Late-Term Abortion Limitation Act of 1998.

I am pleased to have a bipartisan group of Senators as original cosponsors of this legislation, including Senators SNOWE, COLLINS, TORRICELLI, MIKULSKI, GRAHAM, LANDRIEU, and LIEBERMAN.

We believe that post-viability abortions should be allowed in only two types of situations—when the life of the mother is in danger or when she faces a medically certified risk of grievous physical injury.

Senators DASCHLE and SNOWE put forward a measure last year that reflected this principle. I support them, and our legislation builds on what they did.

Our bill has one significant difference from the Daschle proposal, an addition that we believe enhances the Daschle amendment. Our legislation would require a second non-treating doctor's certification that the abortion is medically necessary to protect the life of the mother or prevent grievous physical injury. This second certification could be waived only in the case of a medical emergency, and the physician would have to document the nature of the medical emergency.

We believe this approach is one that can be passed in the United States Senate. It is backed by a substantial and bipartisan group of Senators. It is a compromise approach that can bring to a reasonable conclusion the long-running debate over late-term abortion procedures. I urge my colleagues to read the language closely and give it careful consideration as a good faith effort to resolve this troubling issue in a fair and humane manner.

Unlike the Partial Birth Abortion Ban Act, this legislation would actually reduce the number of late-term abortions because, instead of banning only one procedure, the measure would ban all post-viability abortions except when a continuation of the pregnancy risks grievous physical injury to the mother or poses a threat to her life.

At the same time, the legislation holds to the Roe versus Wade standard which makes a clear distinction be-

tween abortions occurring before and after viability. Unlike the partial birth abortion ban, our bill preserves this important distinction and is thus more likely to pass court scrutiny. Before viability, a decision to have an abortion must be made by a woman, her doctor, her family, and her conscience. But in the closing weeks of a pregnancy, the court affirms a role for addressing the public concern about late-term abortions and makes it clear that the State can draw the line limiting abortions to the most serious circumstances.

I hope the legislation we are introducing today can help us resolve this debate once and for all, in a manner that is consistent with our laws and the views of most of the American people.

I ask unanimous consent that a summary of the bill and the text of the measure be printed in the RECORD.

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

S. 2297

*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 "Late Term Abortion Limitation Act of 1998".

#### SEC. 2. BAN ON CERTAIN ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

#### "CHAPTER 74—BAN ON CERTAIN ABORTIONS

"Sec.

"1531. Prohibition of post-viability abortions.

"1532. Penalties.

"1533. Regulations.

"1534. State law.

"1535. Definitions

#### "§ 1531. Prohibition of Post-Viability Abortions.

"(a) IN GENERAL.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion—

"(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

"(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

"(b) NO CONSPIRACY.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

"(c) MEDICAL EMERGENCY EXCEPTION.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.