

any way belittle this fine mining company that has invested almost \$2 billion in the State of Nevada.

I think it is time, as I stated at the start of this discussion, we deal just with the facts. Let us deal just with the facts. As Jack Webb, I repeat, the Joe Friday of the "Dragnet" series, said, we need to deal with the facts, have this discussion on the facts, not rhetoric that has no bearing on the issues.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, 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 sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:36 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 457. An act to authorize the Secretary of the Army to provide technical assistance to local interests for planning the establishment of a regional water authority in northeastern Ohio.

H.R. 1715. An act respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

H.R. 1905. An act making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

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-1577. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 95-03; to the Committee on Appropriations.

EC-1578. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92-17; to the Committee on Appropriations.

EC-1579. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation and the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting jointly, pursuant to law, the report of unaudited financial statements for the six-month period ending September 30, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC-1580. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on transportation security; to the Committee on Commerce, Science, and Transportation.

EC-1581. A communication from the Administrator of the Energy Information Administration, the Department of Energy, transmitting, pursuant to law, the report entitled, "Emissions of Greenhouse Gases in the United States, 1987-1994"; to the Committee on Energy and Natural Resources.

EC-1582. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1583. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, the report for fiscal years 1994-1995; to the Committee on Energy and Natural Resources.

EC-1584. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, the report for fiscal years 1994 and 1995; to the Committee on Energy and Natural Resources.

EC-1585. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on reasonably identifiable Federal and State expenditures for endangered species in fiscal year 1993; to the Committee on the Environment and Public Works.

EC-1586. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, notice of a Presidential determination relative to disaster relief assistance to Ecuador; to the Committee on Foreign Relations.

EC-1587. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on oil pollution prevention training; to the Committee on the Environment and Public Works.

EC-1588. A communication from the Chief Financial Officer of the National Aeronautics and Space Administration (NASA), transmitting, pursuant to law, the report on mixed waste activities; to the Committee on the Environment and Public Works.

EC-1589. A communication from the Chairperson of the Department of the Navy Retirement Trust, transmitting, pursuant to

law, reports relative to the 1993 annual pension report; to the Committee on Governmental Affairs.

EC-1590. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-114 adopted by the Council on October 10, 1995; to the Committee on Governmental Affairs.

EC-1591. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a revised report entitled "Audit of the District of Columbia's Recycling Program"; to the Committee on Governmental Affairs.

EC-1592. A communication from the Special Counsel of the United States, transmitting, pursuant to law, a report relative to the fiscal year 1995 audit and investigative activities of the Office of Special Counsel; to the Committee on Governmental Affairs.

EC-1593. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the report of the annual audit for fiscal year 1995; to the Committee on Governmental Affairs.

EC-1594. A communication from the Executive Director of the Marine Mammal Commission, transmitting, pursuant to law, the annual report on audits and investigations during fiscal year 1995; to the Committee on Governmental Affairs.

EC-1595. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC-1596. A communication from the President and Chief Executive Officer of the United States Enrichment Corporation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with amendments:

S. 1316. A bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes (Rept. No. 104-169).

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. KYL (for himself and Mr. FAIRCLOTH):

S. 1397. A bill to provide for State control over fair housing matters, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BREAUX (for himself and Mr. BROWN):

S. 1398. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. EXON, Mr. ROCKEFELLER, Mr. KERREY, and Mr. CONRAD):

S. 1399. A bill to amend title 49, United States Code, to ensure funding for essential

air service program and rural air safety programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM (for herself, Mr. DODD, and Mr. JEFFORDS):

S. 1400. A bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. FAIRCLOTH):

S. 1397. A bill to provide for State control over fair housing matters, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE KYL-FAIRCLOTH STATE FAIR HOUSING LAWS RECOGNITION ACT OF 1995

Mr. KYL. Mr. President, I rise to introduce the Kyl-Faircloth State Fair Housing Laws Recognition Act of 1995. I thank Senator FAIRCLOTH for his cosponsorship of this bill, and his leadership in States rights issues. I am pleased to introduce this amendment which will prohibit the Department of Housing and Urban Development [HUD] from enforcing a complaint of discrimination on the basis of a housing provider's occupancy standard, and thereby transferring from HUD to the States and localities the authority to set occupancy standards.

Mr. President, an occupancy standard specifies the number of people who may live in a residential rental unit. In July of this year, HUD general counsel Nelson Diaz issued a memorandum which, in effect, supplants the traditional two-per-bedroom occupancy standard, and may force housing owners to accept six, seven, eight, or even nine people in a two-bedroom apartment. HUD should not be establishing national occupancy standards.

HUD was created in 1965 with the best of intentions: To build and fund housing for the poor. But the agency's regulations have gone far beyond the scope of that intent. Housing is first and foremost a local issue. The Federal Government should play a limited role in it. State officials are closer to the situation and can tailor standards to meet the needs of their communities.

HUD has accepted a two-per-bedroom standard as reasonable in enforcing fair housing discrimination laws under the Fair Housing Act. Most public housing units subscribe to that standard. That is, until Henry Cisneros became Secretary of HUD. Secretary Cisneros and his then Deputy, Roberta Achtenberg, disagreed with the traditional occupancy standard, arguing that it discriminates against larger families.

The new HUD standard is without factual foundation. Mr. Diaz has used the Building Officials and Code Administrators [BOCA] Property Maintenance Code as a foundation for his occupancy standard. The BOCA code,

however, is a health and safety code specifically drafted by engineers and architects to provide guidance to municipalities on the maximum number of individuals who may safely occupy any building. It was never intended to alter the minimum number of family members HUD could require owners to accept under fair housing law.

The code was adopted without any consultation, public hearings, or analysis of its impact on the Nation's rental housing industries. That is wrong. Secretary Cisneros, through HUD's general counsel, has circumvented the Federal Government's rulemaking process by imposing this standard through an advisory without public hearings.

Mr. President, the Manufactured Housing Institute, Arizona Association of Homes and Housing for the Aging, and the Arizona Multihousing Association endorse the bill. Arizona Gov. Fife Symington, speaker of the Arizona House of Representatives Mark Killian, and president of the Arizona Senate John Greene have sent me a letter in support of this bill. I ask unanimous consent that their letter be printed in the RECORD.

States and localities should establish occupancy standards, not a Federal bureaucracy. Several States have an occupancy standard including my own home State, Arizona. And it has worked well. It is time we begin returning a certain amount of authority back to the States. Public housing laws are a good place to start. That is why I introduce this bill which blocks HUD's attempt to set a national occupancy standard, and transfers that authority to the States and cities. I urge my colleagues to cosponsor this bill. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1379

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

SECTION 1. RECOGNITION OF STATE FAIR HOUSING LAWS.

(a) AMENDMENT OF FAIR HOUSING ACT.—Section 807(b)(1) of the Fair Housing Act (42 U.S.C. 3607(b)(1)) is amended—

(1) by striking “(b)(1) Nothing” and inserting “(b)(1)(A) Nothing”; and

(2) by adding at the end the following:

“(B) A State law regarding the number of occupants permitted to occupy a dwelling—

“(i) shall be presumptively reasonable for the purposes of determining familial status discrimination in residential rental housing; and

“(ii) shall not form the basis of any action by the Secretary to withdraw equivalency status from any State, locality, or agency.

“(C) The Secretary shall not establish a de jure or de facto national occupancy code.

“(D) Each State, locality, or agency with HUD equivalency status shall have complete and final control over fair housing cases involving occupancy standards within its jurisdiction without the intervention of the Secretary.”

(b) ENFORCEMENT.—Notwithstanding any other provision of this Act, no funds shall be

available to the Department of Housing and Urban Development under this Act to carry out the Fair Housing Act unless the Department complies with the amendment made by subsection (a).

SEC. 2. EFFECTIVE DATE.

This Act and the amendments made by this Act shall apply to cases filed on or after December 31, 1995.

ARIZONA STATE LEGISLATURE,
Phoenix, AZ, October 16, 1995.

Hon. JOHN KYL,
U.S. Senate,
Russell Building,
Washington, DC.

DEAR SENATOR KYL: Thank you for your prompt and decisive action regarding the issue of federal intervention in the area of occupancy standards as outlined in our joint letter of August 15, 1995. As you know, the issue has been a very divisive one in Arizona, and has now spread to other states nationwide.

We believe that your proposed legislation will resolve the issue by reaffirming the right of each state to set standards that it deems most appropriate. We especially applaud your requirement that HUD shall not establish a national occupancy standard, but defer to authorized state agencies in the administration of cases involving occupancy standards.

We fully support your legislation and by this letter have notified other Members of the Arizona delegation of our support. We appreciate your leadership on this issue and compliment your excellent staff for their work on the bill. If we may assist you in any way to promote the passage of this legislation, please let us know.

Sincerely,

FIFE SYMINGTON,
Governor, State of Arizona.

JOHN GREENE,
President, Arizona Senate.

MARK W. KILLIAN,
Speaker, Arizona House of Representatives.

By Mr. BREAU (for himself and Mr. BROWN):

S. 1398. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary.

FEDERAL CRIME PENALTIES LEGISLATION

• Mr. BREAU. Mr. President, I was honestly shocked to learn of the huge difference that exists between the Federal penalties for trafficking powder cocaine and for trafficking the exact same amount of crack cocaine.

Right now, selling 5 grams of crack cocaine results in the same 5-year mandatory minimum prison term as selling 500 grams of powder cocaine. Selling 50 grams of crack cocaine gets you a 10-year minimum sentence, while you'd have to sell 5,000 grams of powder cocaine to get the same 10 years in prison.

While these penalties are vastly different—100 times greater if you sell crack cocaine—the damage caused by these criminal acts are the same. Lives are lost, families are destroyed, careers are ruined, and our Nation itself is seriously threatened.