

ALASKA LEGISLATURE COMMITTEES FILED 1997-1998 80/2

9273 HOUSE LABOR & COMMERCE

MEMORANDUM

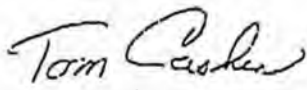
STATE OF ALASKA
DEPARTMENT OF LABOR
Office of the Commissioner

TO: Rep. Norm Rokeberg
Chairman
House Labor and Commerce

DATE: January 29, 1997

FILE: gutotlaw

PHONE: 465-2700


FROM: Tom Cashen
Commissioner

SUBJECT: Response to
Questions on
Alternative Work
Week Schemes

The following information is provided in response to questions from the chair and other members of your committee in the hearing of January 27.

All assume an average hourly wage of \$17.50 per hour and a four week rotation schedule as provided in examples by Fort Knox/ Amax.

Current schedule (21 8-hour shifts in each 28 day period) under current law - 160 straight time (ST) hours and 8 hours at time-and-a-half (OT) - employee receives \$3,010 in wages for the four week period.

Proposed schedule (14 12-hour shifts in each 28 day period) -

- under current law - 112 ST and 56 OT hours - \$3,430
- under Amax proposal - 152 ST and 16 OT - \$3,080

"Gross pay neutral" wage rate, which if paid under current law for the proposed 12-hour schedule would equal the \$3,080 pay for four weeks under the Amax proposal - \$15.71 per hour.

Cost to Amax (Wages only) of working proposed schedule of current law, as opposed to under their proposed exemption, based on 240 employees under plan - \$1,092,000.

Committee staff should already have received additional information regarding the existing "4-10's" flex plan at Ft. Knox from our Fairbanks office. If I can be of further assistance to the committee, please do not hesitate to contact me or Special Assistant Dwight Perkins.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LABOR

WAGE & HOUR ADMINISTRATION
LABOR STANDARDS & SAFETY DIVISION

675 SEVENTH AVENUE, STATION J
FAIRBANKS, ALASKA 99701
PHONE: (907) 451-2886
FAX: (907) 451-2585

Dear Employer:

RE: Voluntary Flexible Work Hour Plan

The Department recently received your request for information about the Voluntary Flexible Work Hour Plan. The provisions governing the Flexible Work Hour Plan may be found in Wage & Hour Pamphlet #100 under AS 23.10.060(15) on pages 15/16 and 8 AAC 15.102 on pages 31/32. We have enclosed a copy for you to review before you apply for approval of your plan.

We have included a blank form which must be completed and submitted to the Department. Please include a detailed description of your Flexible Work Hour Plan. We will return the original.

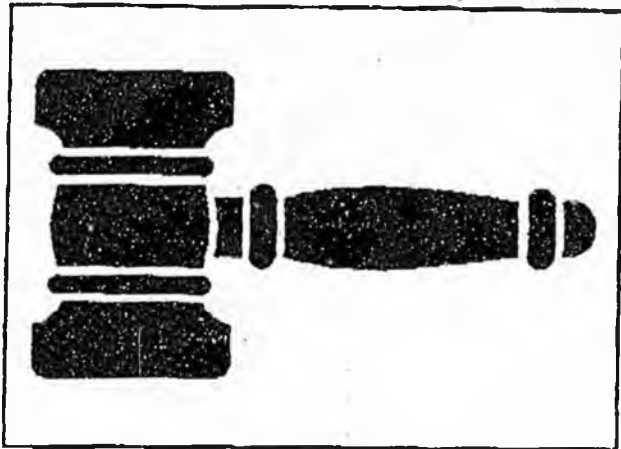
If your plan is approved, you must maintain the approved form as a permanent part of your personnel records. Each participating employee must sign and date a copy of the approved plan. Be sure to maintain a signed copy in either the employee's personnel file or a file with all employees' copies. The Department does not keep a copy signed by the individual employee.

The Flexible Work Hour Plan exemption cannot apply to all work places or types of employment. The legislative intent of the exemption was very clear. It was to provide a vehicle for workers whose normal work week was 35 to 40 hours per week to compress their work week and enjoy a longer time off. It also relieved the employer of the liability for overtime for those hours worked up to 10 each day.

This exemption is not to allow employers to circumvent overtime requirements. Therefore, any plan that has circumvention as its purpose, will be denied. Employees must voluntarily choose the Flexible Work Hour Plan. It must not be a condition of employment. Substantial deviations from the original approved plan which result in overtime savings for the employee will be interpreted as voiding the plan and could result in overtime claims.

Please contact the Wage and Hour Office in your area if you have questions about the Flexible Work Hour Plan or other labor law.

Enclosures:



DEPARTMENT OF LABOR
WAGE & HOUR
ADMINISTRATION
675 7th Avenue, Station J
Fairbanks, Alaska 99701

Telephone #: (907) 451-2886
Fax #: (907) 451-2885

TO: Shirley Armstrong / Rep. Rokkeberg FAX # 465-2040

DEPT. Attention: Labor Commerce DATE 1/29/97

FROM: Monte Jordan / Fairbanks

DEPT. DEPT OF LABOR/LABOR STANDARD & SAFETY/W & H

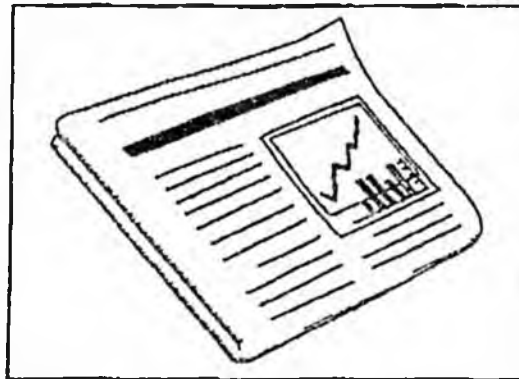
ADDITIONAL COMMENTS This is the packet we give re
mail to employers asking about the flexible work hour

plan. The # of employees statewide with approved
"flex-plans" is 1096

NO. OF PAGES TO FOLLOW: 5

Please contact Commissioner's Office,
Juneau for more detailed info
about the - Employers' Names &
Industry.

Monte



PLEASE NOTE: THE RETURN
TRANSPORTATION CLAIMS WERE
AGAINST THE CONSTRUCTION CONTRACTOR
OSBOENE / TIC

8 AAC 15.102

8 AAC 15.102

8 AAC 15.102. VOLUNTARY FLEXIBLE WORK HOUR PLANS. (a) A request for an exemption for a voluntary flexible work hour plan established under AS 23.10.060(15) must be filed by the employer with a wage and hour administration office of the department. The request must be in writing, and must include

(1) a statement that the employer and employee participating in the flexible work hour plan understand that work performed in excess of 10 hours in a day or in excess of 40 hours in a week must be compensated at the rate of one and one-half times the regular rate of pay.

(2) a description of the flexible work hour plan;

(3) a statement that the flexible work hour plan has not been made a condition of employment and that participation in the plan is voluntary; and

(4) the original signature of the employer or authorized representative.

(b) The department will approve a voluntary flexible work hour plan that conforms to the requirements of this section and the provisions of AS 23.10.060(15). An approved plan constitutes the certificate required in AS 23.10.060(15)(D). The department will issue the certificate, or a notice of denial, within five working days after receipt of the plan. A certificate issued under this section takes effect on the day it is signed by the department's representative. A voluntary flexible work hour plan may not be instituted until the certificate takes effect. A notice of denial issued by the department under this section will include the specific reason for the denial.

(c) An appeal of a notice of denial must be filed with the commissioner within 20 days after receipt of the notice of denial. The appeal must be in writing, and must set out the specific reasons upon which the appeal is based. The commissioner will grant or reject the appeal within 10 workdays after receipt of the appeal. The commissioner's decision is final.

(d) An part of the records required under AS 23.10.100, an employer must maintain a signed statement of voluntary participation of each employee participating in an approved voluntary flexible work hour plan.

(e) An employee may choose to participate in an approved voluntary flexible work hour plan at initial employment or at any other time during employment. Once an employee has chosen to participate in an approved voluntary flexible work hour plan, that employee is bound to do so, and may opt out of participation in the voluntary flexible work hour plan only from November 1 through December 31 each calendar year. Termination of an employee,

8 AAC 15.102

8 AAC 15.120

regardless of the cause of termination, voids that employee's participation. An employee who is rehired by the employer must again choose to participate in the voluntary flexible work hour plan in order to be included in the approved plan. Nothing in this subsection prohibits the employer and employee from agreeing to the withdrawal of the employee from an approved plan at any time. (BEE. 9/28/85, Register 95)

Authority: AS 23.05.060
AS 23.10.060
AS 23.10.085
AS 23.10.100

8 AAC 15.105. MINIMUM WAGE. (a) As used in AS 23.10.065, "prevailing Federal Minimum Wage Law" means that rate established in Sec. 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. Sec. 206 (a)(1)) as the minimum wage generally applicable to employees subject to that Act.

(b) The department will determine compensable hours subject to the payment of the minimum wage or the contractually established wage in accordance with the provisions of 29 C.F.R. secs. 785.11-785.25, 785.27-785.33, 785.35-785.45, and 785.47-785.48. (BEE. 12/9/78, Register 68; am 9/28/85, Register 95)

Authority: AS 23.05.060
AS 23.10.065
AS 23.10.085
AS 23.10.095

Editor's note: Copies of the federal statute and regulations cited in 8 AAC 15.105 are included in this pamphlet following the Administrative Code citations.

Article 3. Exemptions

Section

- 120. Minimum wage exemption for handicapped persons
- 125. Minimum wage exemption for student learners
- 130. Exemption for searching for placer or hard rock minerals
- 135. Exemption for individuals under 18 who are part-time employees
- 140. Determining the number of employees for purposes of AS 23.10.060(d)(1)
- 145. Small mining operations

8 AAC 15.120. MINIMUM WAGE EXEMPTION FOR HANDICAPPED PERSONS. (a) An application to employ a person at less than the minimum wage established under AS 23.10.065 must be made either on a form provided by the department or by filing an application for a special certificate to employ a handicapped person (29 C.F.R. Part 525) with the Regional Director of the Wage and Hour Division, U.S. Department of Labor, 909 First Avenue, Seattle, Washington, 98104.

- (A) \$10,000 for an unmarried person; or
 (B) \$15,000 for a married couple; or

(13) An individual who drives a taxicab, is compensated for taxicab services exclusively by customers of the service, whose written contractual arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch services are based upon flat contractual rates and not based on a percentage share of the individual's receipts from customers, and whose written contract with owners of taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that the contract places no restrictions on hours worked by the individual or on areas in which the individual may work except to comply with local ordinances. (§ 2(1) ch 171 SLA 1959; am § 1 ch 2 SLA 1962; am § 1 ch 50 SLA 1972; am § 2 ch 124 SLA 1978; am § 1 ch 115 SLA 1982; § 2 ch 12 SLA 1990; am § 2 ch 13 SLA 1993)

Sec. 23.10.060. Payment for overtime. (a) An employer who employs employees engaged in commerce or other business, or in the production of goods or materials in the state may not employ an employee for a workweek longer than 40 hours or for more than eight hours a day. This section does not apply to the employment of a person acting in a supervisory capacity.

(b) If an employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid.

(c) This section is considered included in all contracts of employment.

(d) This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as "regular course of business" is defined by regulations of the commissioner;

(2) an employee employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(3) an employee of an employer engaged in small mining operations where not more than 12 employees are employed, if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(4) an employee engaged in agriculture;

(5) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(6) a switchboard operator employed in a public telephone exchange that has fewer than 750 stations;

(7) [Repealed, Sec. 5 ch 13 SLA 1993.]

(8) an employee in an otherwise exempted employment or proprietor in a retail or service establishment engaged in handling telegraphic, telephone, or radio messages for the public under an agency or contract arrangement with a telegraph or communications company where the telegraph message or communications revenue of the agency does not exceed \$500 a month;

(9) an employee employed as a seaman;

(10) an employee employed in planting or tending trees, cruising, or surveying, or bucking, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed 12;

(11) an individual employed as an outside buyer of poultry, eggs, cream, or milk in their raw or natural state;

(12) casual employees as may be liberally defined by regulations of the commissioner;

(13) an employee of a hospital whose employment includes the provision of medical services;

(14) work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement;

(15) work performed by an employee under a voluntary flexible work hour plan if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the department; and

(B) the department has issued a certificate approving the plan that states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one

STATE OF ALASKA
DEPARTMENT OF LABOR
WAGE AND HOUR ADMINISTRATION
675- 7TH AVENUE, STATION J
FAIRBANKS, AK 99701

Name of Employer or DBA (Please Print) Date

Authorized Representative (Please Print) Telephone

Address City State Zip Code

FLEXIBLE WORK HOUR PLAN

This is our request to enter into a Flexible Work Hour Plan. The intent of this plan is not to afford the employer relief from the payment of overtime. It is designed to allow some scheduling flexibility by affording the employee an opportunity to work a reduced number of days within a 40-hour work week. Therefore, an employee working under this plan will not be scheduled to regularly work hours in excess of 40 hours per week. Occasional hours of work by an employee under this plan in excess of 40 hours per week and 10 hours per day must be compensated at the rate of time and a half. I also understand in making this request approved plans will be subject to periodic screening by the Department of Labor to protect against unlawful use to circumvent the payment of overtime.

The following is the description of the Flexible Hour Work Plan that we have agreed to enter into:

The above described plan is entered into VOLUNTARILY on the part of all parties and IS NOT a condition of employment.

Employer's Authorized Signature Title

STATE USE ONLY

Date Approved:	
Date Disapproved:	Authorized Representative

The following is to be signed by the employee after Department approval:

Employee Name (Please Print) Date

Employee Signature

0-LS0329AE
Cramer
1/27/97

CS FOR HOUSE BILL NO. 68()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THERRIAULT, Kelly, Vezey, James

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an exemption from the requirement for payment for overtime
2 under a voluntary work hour plan for work performed by employees at certain
3 mines; and providing for an effective date."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 23.10.060(d) is amended by adding a new paragraph to read:

6 (17) work performed by an employee employed in any capacity at a
7 surface mining operation under a voluntary flexible work hour plan if

8 (A) the employee and the employer have signed a written
9 agreement and the written agreement has been filed with the department; and

10 (B) the department has issued a certificate approving the plan
11 that states the work is for 40 hours a week and not more than 12 hours a day;
12 for work over 40 hours a week or 12 hours a day under a flexible work hour
13 plan not included as part of a collective bargaining agreement, compensation
14 at the rate of one and one-half times the regular rate of pay shall be paid for

1 the overtime.

2 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

January 18, 1997

REPRESENTATIVE GENE THERRIAULT
Room 511, State Capitol
Juneau, Alaska 99801-1182

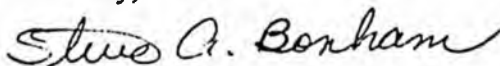
IN REGARDS TO: House Bill 68
AMAX GOLD, INC. / FORT KNOX MINE

Dear Mr. Therriault:

In regards to the proposed schedule change for Fort Knox Mine, I am in complete support. I am a heavy equipment operator currently working the present schedule. The proposed schedule change would be beneficial to me as our current schedule allows me very little leisure time with my family and it is extremely hard to adapt to the constant changing shifts from week to week. Physically, the current work schedule is very demanding, due to the difficulty of lack of rest and sleeping ability. Personally, it takes me two to three days to adapt to the current schedule changes. I feel it is a safety problem, especially for the equipment operators. My job consists of operating very large equipment in sometimes very close quarters to other equipment and personnel. Everyone needs to be alert under these conditions.

I would appreciate your support in favor of this proposed change.

Sincerely,



Steve A. Bonham
36 College Road, Ste. 2-251
Fairbanks, Alaska 99701

HB68

**Greens Creek Workers
Residency and Place of Residence
Third Quarter 1996**

Data for third quarter 1996 for Greens Creek was matched against the three most recent permanent fund dividend files to determine Alaska residency and to obtain mailing address zip code information. The most recent zip code was used to determine the city of residence.

Total Workers	Nonresident Workers	Alaska Residents			
		Total	Juneau	SE	Rest of AK
235	71	164	142	14	8
Source: Alaska Department of Labor, Research and Analysis					

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Total
Current Rules								
Straight Time	8	8	8	8	8			40
Overtime	4	4	4	4	4	12	12	44
Proposed								
Straight Time	12	12	12	4				40
Overtime				8	12	12	12	44

Ave. Wage Rate 17.50/hr

Present Hour

168 hrs every 4 wks.

124 Straight Time (2,170)

44 Time $\frac{1}{2}$ hr. OT (1,155)

(168

\$3,325

Proposed

168 hrs every 4 wks

152 straight time (2,660)

16 hrs $\frac{1}{2}$ hr. OT (420)

168

\$3,080

441 P. at 17.50

16 hrs at 17.50

29 hrs

$$3,325 - 3,080 = \$245 \text{ mo}$$

$$250 \text{ employees} \times \$245 \text{ mo} = 61,250 \text{ mo} \times 12 = \$735,000 \text{ yr}$$

$$250 \text{ employees} \times 168 \text{ hrs mo} = 42,000 \text{ hrs mo} \times 12 = 504,000 \text{ hrs/yr} = \$1.45$$

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 13, 1997

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 1/26/97

The LABOR AND COMMERCE Committee considered:

HB 30

HOUSE BILL NO. 30

CIVIL LIABILITY FOR SKATEBOARDING

“An Act relating to civil liability for skateboarding; and providing for an effective date.”

recommends it be replaced with the following committee substitute CSHB30 the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept,Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) Sponsor, Court

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Tom Brind</i>			✓	
<i>John Caudrey</i>	✓			
<i>Joe Ryan</i>	✓			
<i>Tom Kelly</i>			✓	

CHAIR'S SIGNATURE

Tom Kelly

1-29-97

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 15, 1997

FURTHER REFERRALS:

Date of Committee Action: 2/5/97

The LABOR AND COMMERCE Committee considered:

HB 68

HOUSE BILL NO. 68

VOLUNTARY FLEXIBLE WORK PLAN: OVERTIME

"An Act relating to the exemption from the requirement for payment for overtime under a voluntary work hour plan; and providing for an effective date."

recommends it be replaced with the following committee substitute CSHB 68(LAC) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) DC _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Kishore</i>		X		
<i>Tom Landrum</i>		✓		
<i>John Coughlin</i>	✓			
<i>Tom Buse</i>		✓		
<i>Norm Kotely</i>			✓	
<i>Bill Hendry</i>			✓	✓
<i>Joe Ryan</i>		✓		

CHAIR'S SIGNATURE *Norm Kotely* 2/5/97

ALASKA STATE LEGISLATURE
House of Representatives



Labor and Commerce Committee

Shirley:

2/5/97

Per HNR:

1) special vote procedure

today for hb 68

TD Cathy
2/5/97
1:20pm.

- A) Democrats First
- B) Ryan 1st Republican
- C) HNR last

Brice
Kulinka
Ryan
Hudson
Sanderson
Coulbers
S

2) Don't blame Mike. He was
in bed. HNR ran into some
others & went out

John

01/29/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
14:43:43 PARTICIPANT LIST (ALL PARTICIPANTS) BY:SIT
TCN:70165 SCHEDULED FOR:01/29/97 15:00 TO 17:30 FOR:SIT
PUBLIC HEARING HOUSE LABOR & COMMERCE

LOCATION:SITKA

HB 68	DARRELL	HILDEBRAND	✓ FT KNOX - YES	TESTIFY
HB 68	DENNIS	ALEXANDER	✓ FT KNOX - YES	TESTIFY
HB 68	STEPHEN	LANG	Q ✓	TESTIFY

01/29/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
14:54:18 PARTICIPANT LIST (TESTIFIERS ONLY) BY:JNU
TCN:70165 SCHEDULED FOR:01/29/97 15:00 TO 17:30 FOR:MAT
PUBLIC HEARING HOUSE LABOR & COMMERCE

LOCATION:MATSU

HB 68	MR	ROBERT	YOUNG	NO	TESTIFY
HB 68	MR	TOM	REHARD	} - speak for all 4 pages	TESTIFY
HB 68	MR	WILLIAM	NOWAK		TESTIFY
HB 68	MS	INGRID	YOUNGS		TESTIFY

01/29/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

15:55:27

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:70165

SCHEDULED FOR:01/29/97 15:00 TO 17:30

FOR:ANC

PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION: ANCHORAGE

HB 68	TERRY	QUIRK ✓ - NO	TESTIFY
HB 68	LORIN	JOHNSON ✓ - NO	TESTIFY
HB 68	MALCOLM	AUBLE ✓ - NO	TESTIFY
HB 68	CURTIS	HALL - written Jackson	TESTIFY
HB 68	STEVE	ANDERSON - "NO" 302	TESTIFY
HB 68	WAYNE	PLUMB ✓ - NO	TESTIFY
HB 68	MICHAEL	KILLIAN ✓ - NO	AK WORKERS TESTIFY
HB 68	ART	FOURNIER	TESTIFY
HB 68	PHIL	THINGSTAD	} left written
HB 68	TOM	EVANS	
HB 68	ED	HAMILTON	
HB 68	DAN	REPASKY ✓ L1547 1B&C	TESTIFY
HB 68	MARK	JOHNSON ✓ - NO	TESTIFY
HB 68	J.R. "HANK"	LANGMAN ✓	TESTIFY
HB 68	MIKE	GALLAGHER ✓ - NO	TESTIFY
HB 68	DAVID	FCRD ✓ - NO B.A. From workers	TESTIFY
HB 68	BLAKE	JOHNSON ✓ - NO	TESTIFY
HB 68	MANO	FREY ✓ - wrong #'s/admits	TESTIFY
HB 68	JAMES	CONATSE ✓ - NO	TESTIFY

01/29/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

16:30:30

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:70165 SCHEDULED FOR:01/29/97 15:00 TO 17:30

FOR:ANC

PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION: ANCHORAGE

HB 68	TERRY	QUIRK	TESTIFY
HB 68	LORIN	JOHNSON	TESTIFY
HB 68	MALCOLM	AUBLE	TESTIFY
HB 68	CURTIS	HALL	TESTIFY
HB 68	STEVE	ANDERSON	TESTIFY
HB 68	WAYNE	PLUMB	TESTIFY
HB 68	MICHAEL	KILLSAN	AK WORKERS TESTIFY
HB 68	ART	FOURNIER	TESTIFY
HB 68	PHIL	THINGSTAD	TESTIFY
HB 68	TOM	EVANS	TESTIFY
HB 68	ED	HAMILTON	TESTIFY
HB 68	DAN	REPASKY	TESTIFY
HB 68	MARK	JOHNSON	TESTIFY
HB 68	J.R. "HANK"	LANGMAN	TESTIFY
HB 68	MIKE	GALLAGHER	TESTIFY
HB 68	DAVID	FORD	TESTIFY
HB 68	BLAKE	JOHNSON	TESTIFY
HB 68	MANO	FREY	TESTIFY
HB 68	JAMES	CONATSE	TESTIFY
HB 68	DAN	LOUDERBACK	TESTIFY

-NO ✓

01/29/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

15:06:33

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:FBX

TCN:70165 SCHEDULED FOR:01/29/97 15:00 TO 17:30

FOR:FBX

PUBLIC HEARING HOUSE LABOR & COMMERCE

LOCATION:FAIRBANKS

LOCATION	NAME	STATUS	PHONE	ACTION
HB 68	MR. JOHN WARD	✓		TESTIFY
HB 68	MR. DENNIS BROSMAN	✓		TESTIFY
HB 68	MR. JOHN BRODING	✓		TESTIFY
HB 68	MR. JOHN BENCK	✓		TESTIFY
HB 68	MS. CAROL DESNOYERS	✓		TESTIFY
HB 68	MR. CLARENCE NAZURUK	✓	942	TESTIFY
HB 68	MR. JESUS PRIM	✓		TESTIFY
HB 68	MR. LYLE JOHNSTON	✓	942	TESTIFY
HB 68	MR. JIM BLAKEWAY	✓		TESTIFY
HB 68	MR. MATT CLOWARD	✓		TESTIFY
HB 68	MR. MONTY BURBANK	✓		TESTIFY
HB 68	MR. CLICK BISHOP	✓	302	TESTIFY
HB 68	MR. TONY ROYBAC	✓		TESTIFY
HB 68	MR. MIKE TOMSHA	✓		TESTIFY
HB 68	MR. NED GRIFFITH	✓	942	TESTIFY
HB 68	MR. DAN SIMIEN	✓		TESTIFY
HB 68	MR. CLARENCE NAZURUK	✓		TESTIFY
HB 68	MR. SCOTT VAUGHN	✓		TESTIFY
HB 68	MR. ED THOMS	✓	942	TESTIFY
HB 68	MR. RICHARD ROSE	✓	IBEW	TESTIFY
HB 68	MR. JOE ROSSER	✓		TESTIFY
HB 68	MR. RICK BOYLES	✓	959	TESTIFY
HB 68	MR. RICHARD STALEY	✓		TESTIFY
HB 68	MR. CHARLES PASKVAN	✓	942	TESTIFY
HB 68	MS. SANDRA MCGILL	✓	959	TESTIFY

How can it be voluntary

PRES. 942

work 2411 942 ETRNOX

20

HB 68	MR.	AL	ASHCRAFT		TESTIFY
HB 68	MR.	BRUCE	MITCHELL	NO	TESTIFY
HB 68	MR.	FRED	SMITH	Yes	TESTIFY
HB 68	MR.	PAUL	CUPPY	NO → manipulate	TESTIFY
HB 68	MS.	MICHELLE	SIMPSON	Yes	TESTIFY
HB 68	MS.	JANE	BENEDICT	Yes / Husband FFMI / Laundry	TESTIFY
HB 68	MR.	HOWARD	ALLOWAY	FT KNOX	TESTIFY
HB 68	MR.	STEVE	BRANDT	959	TESTIFY
HB 68	MR.	GLEN	BAYSINGER	Yes - work - MAY -	TESTIFY
HB 68	MS.	DARLENE	HERBERT	FT Knox - NO	TESTIFY
HB 68	MR.	JIM	LAITI	NO	TESTIFY
HB 68	MR.	MIKE	SWEENEY	Yes	TESTIFY
HB 68	MR.	GREG	CHAPIN	Fairbanks Gold "work funds me"	TESTIFY
HB 68	MR.	STEVE	STEEL	" Yes	TESTIFY
HB 68	MR.	BRENDAN	MOYLAN	NO	TESTIFY
HB 68	MR.	DWAYNE	COUCH	Yes	TESTIFY
HB 68	MR.	JOHN	BROWN		TESTIFY
HB 68		CORY	BELLOWS	FT Knox Yes	TESTIFY
HB 68	MR.	BRAD	MERRILL	" " from KPC Yes " " 1/24/9	TESTIFY
HB 68	MR.	MARK	HAMBLETON		TESTIFY
HB 68	MR.	MIKE	MENNAGHAN	LQ42 - NO new	TESTIFY
HB 68	MR.	EDWARD	IRBY	FT Knox Yes	TESTIFY
HB 68	MR.	WAYNE	PEPLER	" "	TESTIFY
HB 68	MR.	DONNIE	RICE		TESTIFY
HB 68	MR.	DEAN	CLARK		TESTIFY
HB 68	MR.	GARY	ALLEN		TESTIFY
HB 68	MR.	JEFF	HOWE	FT Knox - Yes	TESTIFY
HB 68	MR.	TIM	SHARP	no AK (Luhaw) VICE PRES 942	TESTIFY
HB 68	MR.	ALEX	KARVELIS	FT Knox Yes	TESTIFY
HB 68	MS.	MICHELLE	STEEL	FGMI	TESTIFY

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PARTICIPANT LIST (ALL PARTICIPANTS)

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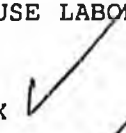
FOR:FBX

PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION:FAIRBANKS

HB 68	MR.	TERRY	COX	FGMI	TESTIFY
HB 68	MR.	TIM	RENNER	LOCAL 1243	TESTIFY
HB 68	MR.	PATRICK	SUMPTER	#959	TESTIFY



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Industries & Work Exempt from Overtime Pay Requirements (AS 23.10.060(d))

If enacted, HB 68 would provide year-round surface metal mining operations are exempt from statutory overtime pay requirements. Other industries and types of employment already exempted under AS 23.10.060(d) include the following:

- ▶ Small business operations with no more than 4 employees (AS 23.10.060(d)(1))
- ▶ Agricultural, horticultural and dairy products processing and marketing industries (AS 23.10.060(d)(2))
- ▶ Small mining operations with no more than 12 employees (AS 23.10.060(d)(3))
- ▶ Agricultural (e.g., farming) operations (AS 23.10.060(d)(4))
- ▶ News publications with a circulation of less than 1,000 (AS 23.10.060(d)(5))
- ▶ Public telephone exchanges with fewer than 750 stations (AS 23.10.060(d)(6))
- ▶ An individual or retail or services proprietor who, as part of an agency or contract arrangement, handles telephone, radio or telegraphic messages for a telegraph or telephone company, the revenue of such arrangement not exceeding \$500 per month (AS 23.10.060(d)(7))
- ▶ An individual employed as a seaman (AS 23.10.060(d)(8))
- ▶ Forestry and lumbering operations with no more than 12 employees (AS 23.10.060(d)(9))
- ▶ An individual employed as an outside buyer in the poultry and dairy products industries (AS 23.10.060(d)(10))
- ▶ An individual employed to perform an activity which is not part of the ordinary course of a business, trade, profession or occupation by an employer (AS 23.10.060(d)(11))
- ▶ Hospital employees who provide medical services (AS 23.10.060(d)(12))
- ▶ Employment settings where a voluntary flexible work hour plan has been established (AS 23.10.060(d)(13))
- ▶ Trucking operations (AS 23.10.060(d)(15))
- ▶ An individual employed as a community health aide by a regional or local health care organization (AS 23.10.060(d)(16))

ALASKA STATE LEGISLATURE
House of Representatives

COMMITTEE ASSIGNMENTS

OIL & GAS, CHAIRMAN
LABOR & COMMERCE, VICE CHAIRMAN
ADMINISTRATIVE REGULATION REVIEW, VICE CHAIRMAN
HEALTH, EDUCATION & SOCIAL SERVICES, MEMBER
ECONOMIC DEVELOPMENT, MEMBER



INTERIM:
718 WEST 4TH AVENUE, SUITE 640
ANCHORAGE, AK 99501
PHONE: (907) 258-8181
FAX: (907) 258-2918

SESSION:
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

JUST THE FAX

Date: 1/24/90

TO: Ann Harp

FAX: 276-1963 Telephone 272-6571

FROM: Representative Norman Rokeberg

FAX: (907) 465-2040 Telephone: (907) 465-4968

Number of Pages: 127 (including this page)

Comments: Here is a copy of the information provided to L+C Committee for HB-68

Have A Nice Day

BRIEFING PAPER

AMENDMENT TO STATUTORY OVERTIME PAY EXEMPTION

Fairbanks Gold and the Council of Alaska Producers support an amendment that would change the current employee voluntary flexibility work hour law (AS 23.10.060(A)(B)). Under current law, upon approval by the Department of Labor, an employer may establish a work week schedule consisting of no more than 40 hours per week or 10 hours per day and exempts such work schedules from the payment of overtime. (AS 23.10.060(d)(14).) Attached is an amendment to this exemption which would increase the number of hours worked in a day without overtime from 10 hours to 12 hours so long as the total work week hours without overtime do not exceed 40 hours.

The purpose of the proposed change in the law is to benefit employees and improve the economics of those companies which are operating in the State and to improve the investment climate for those mining companies which are considering whether or not to come to the State. The following discussion regarding Fairbanks Gold and its employees exemplifies how changing the law could benefit other Alaskan mining companies and their employees by enhancing operation economics and providing year-round, high-paying jobs to Alaskan residents.

Fairbanks Gold recently commenced open pit mining operations near Fairbanks, Alaska. In an effort to make the operation more effective and enhance the benefits which an employee can receive from a modified work schedule, Fairbanks Gold would like to develop a work plan which would call for mine employees to work 12 hours per day without overtime for a certain number of days per week.

Mine employees would benefit from the increase to 12 hours in their daily shifts because they would work the same number of hours at increased pay in

14 days as it currently takes 21 days to work. This means more time at home with their families. In addition, employees would receive the following benefits:

- ✓ more time to spend with family
- ✓ Greater pay due to increased number of overtime hours each month
- ✓ no increase in safety incidents in moving from a 10 to 12 hour shift
- ✓ increased employee morale and job satisfaction due to longer periods of off-work time
- ✓ lower absenteeism
- ✓ fewer health problems

The overall benefit to Fairbanks Gold of amending the exemption to permit a 12 hour work day without overtime is increased operating efficiency, including increased mineral production and operational continuity. This, in turn, improves the company's competitive position in the global metals market. Increased operating efficiency has the additional benefit of reducing the economic exposure of the mine to the inevitable fluctuations in metal prices, helping to protect the projected life-span of the mine.

In short, the proposed amendment to AS 23.10.060(d)(14) brings with it many benefits to both mining operations and mine employees in Alaska.

Fairbanks Gold's mine workers have signed a petition endorsing the proposed amendment to the statutory exemption, based on the above listed benefits. The Department of Labor maintains the ultimate decision on whether to approve a company's request for an exemption to prevent potential abuses.

Local hire a part of global plan

By PATRICIA JONES
Staff Writer

Controversy about Outsiders heading to build Fort Knox made headlines last summer, but the mine's top brass reiterated on Friday their claim of a 90 percent local hire rate for the permanent work force.

"In the past, we've not done a good job communicating and addressing your legitimate concerns," Fort Knox general manager Steve Lang told about 50 local politicians and state employees visiting the mine Friday for a ceremonial gold pour.

He detailed the source of all 243 employees working at Fort Knox, owned by Englewood, Colo. based Amax Gold. Lang said 220 employees were hired within Alaska, 17 transferred from Amax Gold or its parent company Cyprus Amax, and six people were recruited from out of state.

"And I'm one of the six," Lang added, with a touch of irony in his voice.

Lang came to Fort Knox in early November, after managing one of the largest gold mines in North America, the Twin Creeks Mine near Winnemucca, Nev. That project produces more gold each year than Fort Knox, but uses a different, less expensive, processing method.

Fort Knox, which grinds ore and extracts gold with cyanide, is the largest gold mill in North America, but its annual 350,000 ounce production rate ranks it sixth in U.S. gold producers.

Lang's 16 years of experience in various mine operations and management bring a "good combination" of leadership to Fort Knox's operational startup, said Amax Gold president S. Scott Shellhaas, in a company statement.

The manager is bound to face continuing labor relations challenges in a project that is of high importance to the Fairbanks economy. The mine is unique in its year-round operation. Workers already are asking for changed work schedules, which present a problem because of labor laws. Also looming for any large project is the possibility of a bid among workers to unionize.

Dealing with the project's construction cost overruns, which range between \$100 million and \$150 million, may be a daunting first task.

"I'd heard of Fort Knox—certainly I'd heard of the overruns," Lang said, recalling his knowledge about the Fairbanks-based project. "Amax's experience isn't unique—most major mining projects experience cost overruns."

Making mine operations more efficient will be Lang's starting point, and employees are hoping it will mean a change in work

schedules for them. Most employees work 40 hours a week and rotate through three different shift schedules—days, swings and graveyards, eliminating nearly all overtime pay.

Workers would rather clock in for 12 hours a day, rather than eight, and enjoy more days off in the same pay period. It would also result in some overtime pay.

"The time off would be a huge personal benefit to everyone," said Doug Holland, who runs one of the mine's two huge 22-yard shovels. "We're working the worst schedule ever to be invented."

State labor law mandates overtime for every hour worked over eight hours for miners, rather than looking at the week's cumulative total, Holland pointed out. Both employees and mine managers plan to lobby for a change, he said.

"It's to the mine's advantage for us to work 12-hour shifts—they get higher production, because there's not three shift changes every day, only two," Holland said.

Making fewer trips each week to the mine would also please Jack Paulson, a computer operator who controls the mill machinery. He drives from North Pole every day in a car pool, spending about \$40 a week for gas, he said.

He's quite satisfied with his new job, other than the long commute and rotating shifts. "For me, this is a great opportunity and the timeline is perfect."

He plans to work through the entire life of the mine, 12 to 15 years, and then retire for the second time. Paulson retired from the U.S. Air Force as a life support supervisor and a survival specialist at the end of August, just a week before he was hired to work at Fort Knox.

Like most mill employees, Paulson received training on-the-job. Fort Knox managers say they've spent \$600,000 to teach employees their jobs at the gold mine.

Both Paulson and Holland said they're satisfied with the pay and benefits offered by the mine. Nearly 200 of the mine's employees are hourly workers, earning an average wage of \$17.50 per hour during their 40-hour work weeks. A comprehensive benefits package costs the company about \$5.50 per hour more, Lang said.

"The hourly pay is kind of on the high end of medium—definitely not union scale," Holland said. "We're using all brand new equipment, which is a benefit, so you kind of overlook the \$1 or \$2 an hour. It's the number of hours and lack of overtime that bothers everyone."

Local labor unions, while en-



Miss Mothers/News-Miner

IN HIS HANDS—Fort Knox General Manager Steve Lang carries the 1244-roy ounce bar of gold that was poured Friday at the mine.

joying increased work during the construction phases, would like to represent workers at Fort Knox. Currently, all mine employees are non-union, somewhat of an aberration in Fairbanks and Alaska, where many salaried employees like teachers, university professors and governmental employees are represented by collective bargaining units.

"I think (Fort Knox) should be union to ensure that the work conditions and wages are so that a person can make a decent living," said Milt Behr, district representative for the Operating Engineers Local 302.

He declined to comment when asked if he or other union representatives have discussed organization with any of the mine's employees. "We don't have an agreement with Fairbanks Gold. They've not been real receptive, it's the nicest way to put it."

In a recent interview, Shellhaas said other Amax Gold operations typically don't include union representation. "We like to think our employees can communicate directly with us and that we don't need a middle person."

State statistics reflect that, on average, miners earn higher wages than what Fort Knox is offering. Depending on the type of minerals extracted, mining jobs pay about \$5,000 a month.

Those same statistics indicate the statewide average monthly salary, when considering all jobs available, is \$2,691. In Fairbanks, it is \$2,480 per month.

"Fort Knox does represent a big boost in good-paying jobs," said Neil Fried, a state labor economist. "Mining and construction is showing up these days as the fastest growing in the state."

Because Fort Knox operates

year-round, rather than only during summer months like most construction projects or smaller-scale mining operations, its steady employment is "a real welcome thing," Fried added.

Economists predict jobs as heavy equipment operators will be the fastest growing in Alaska for the next nine years, due partially to past construction and ongoing production at Fort Knox.

That growth, 9.12 percent projected annually through 2005 for excavating and loading machine operators, is also partially due to the field's relatively small number of current workers.

"It's the single biggest construction project in the state... this is big enough to show up on construction statistics and to help explain why employment is growing in the local economy more than most places in the state," Fried said.

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**Greens Creek Workers
Residency and Place of Residence
Third Quarter 1996**

Data for third quarter 1996 for Greens Creek was matched against the three most recent permanent fund dividend files to determine Alaska residency and to obtain mailing address zip code information. The most recent zip code was used to determine the city of residence.

Total Workers	Nonresident Workers	Alaska Residents			
		Total	Juneau	SE	Rest of AK
235	71	164	142	14	8
Source: Alaska Department of Labor, Research and Analysis					

Current Schedule

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday		Hours	Dollars
Week 1	Days	Days	Days	Days	Days	Off	Off	Straight Time	40	\$700
								Overtime	0	\$0
Week 2	Off	Off	Swing	Swing	Swing	Swing	Swing	Straight Time	40	\$700
								Overtime	0	\$0
Week 3	Swing	Swing	Off	Night	Night	Night	Night	Straight Time	40	\$700
								Overtime	8	\$210
Week 4	Night	Night	Night	Off	Off	Days	Days	Straight Time	40	\$700
								Overtime	0	\$0
								Straight Time	160	\$2,800
								Overtime	8	\$210
								Total	168	\$3,010

Proposed

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday		Hours	Dollars
Week 1	Days	Days	Days	Days	Off	Off	Off	Straight Time	40	\$700
								Overtime	8	\$210
Week 2	Off	Off	Off	Off	Night	Night	Night	Straight Time	36	\$630
								Overtime	0	\$0
Week 3	Night	Off	Off	Off	Day	Day	Day	Straight Time	40	\$700
								Overtime	8	\$210
Week 4	Off	Night	Night	Night	Off	Off	Off	Straight Time	36	\$630
								Overtime	0	\$0
								Straight Time	152	\$2,660
								Overtime	16	\$420
								Total	168	\$3,080



Metal and Nonmetal Mines Fatal Accident Investigation Report

**UNITED STATES
DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION**

**Western District
Metal and Nonmetal Mine Safety and Health**

**ACCIDENT INVESTIGATION REPORT
SURFACEMETAL MINE
FATAL POWERED HAULAGE ACCIDENT**

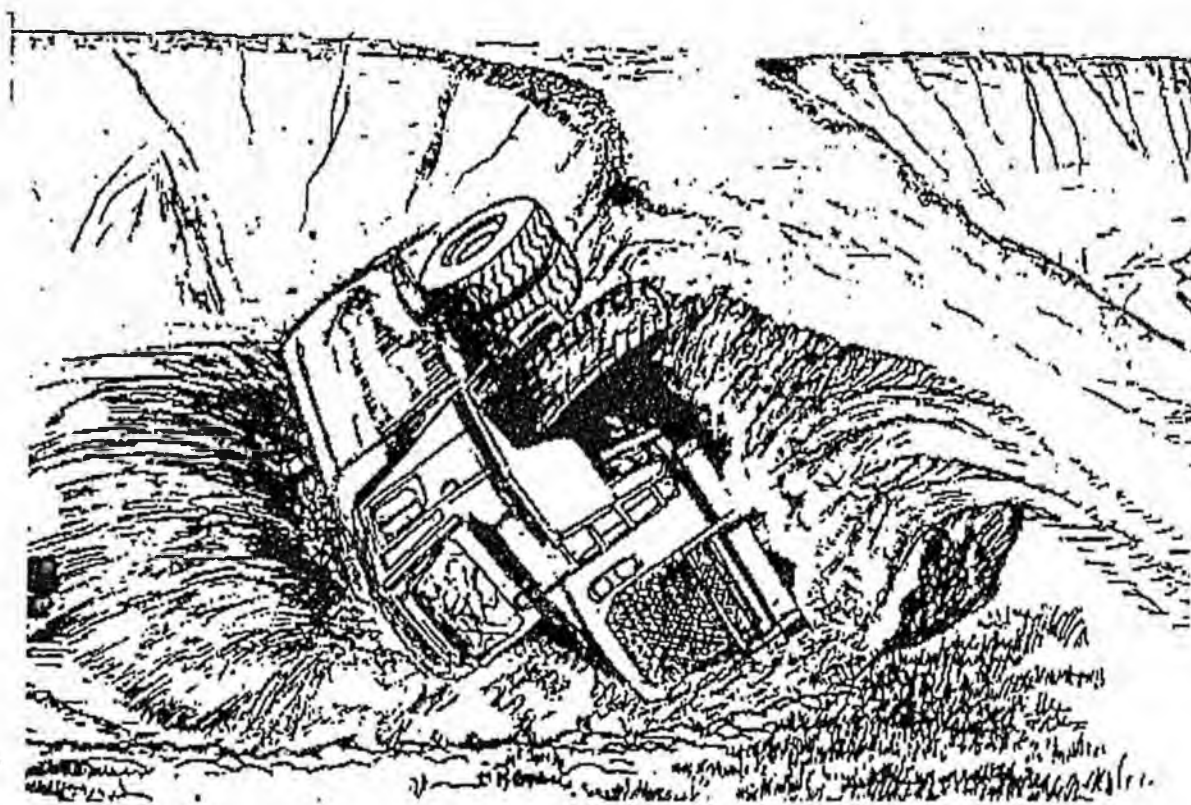
**Kiewit Pacific Company, Contractor ID No. IJM
Fort Knox Mine, ID No. 50-01616
Fairbanks Gold Mining, Inc.
Fairbanks, North Star Borough, Alaska**

September 19, 1995

By

**Robert Casey
Mine Safety and Health Inspector**

**Western District Office
3333 Vaca Valley Parkway, Suite 600
Vacaville, California 95688
Fred M. Hansen
District Manager**



GENERAL INFORMATION

Lorin McCorkindale, 27, was fatally injured when the water truck he was being trained to operate overturned. The trainer received minor injuries. The accident occurred at approximately 8:45 p.m., September 19, 1995, at the Fort Knox Mine, ID # 50-01616, a surface gold mine under development 25 miles northeast of Fairbanks, Alaska.

The Western District Manager, Fred M. Hansen, was notified of this accident at 10:50 p.m., September 19. An investigation was started the following day. Information for this report was obtained by evaluating the accident scene and interviewing company employees.

The Fort Knox Mine was operated by Fairbanks Gold Mining Company, Inc., a subsidiary of Amax Gold, Inc., of Englewood, Colorado. The mine was in a developmental stage, having opened May 5, 1995. It was anticipated that production would begin in the fall of 1996. Most development work was being performed by contractors, with Morrison Knudsen Company of Boise, Idaho, being the prime contractor. Kiewit Pacific Company, of Vancouver, Washington, was engaged in the construction of a tailings dam, a fresh water dam, and other mining and milling facilities. The accident occurred at the tailings dam construction area and involved Kiewit Pacific Company employees.

There was a total of 560 individuals working at the minesite. Two hundred were employees of Kiewit Pacific. Work was performed during two twelve-hour shifts, seven days a week.

Principal mine officials were:

Fairbanks Gold Mining Company, Inc.

Kenneth Pohle, President
Warren Woods, Mine Superintendent
Dierk Brown, Administration Superintendent

Morrison Knudsen Company

Loren Ottonello, Project Manager
John Jones, Construction Manager
William Hooper, Safety Director
Timothy Rote, Night Superintendent

Kiewit Pacific Company

Bartlett Miller, Area Manager
Michael Lowe, Project Manager
Michael Crennan, Assistant Project Manager/Safety Director
Donald Fry, Night General Superintendent

Training for the Fort Knox Mine and Kiewit Pacific Company was conducted according to a plan approved by MSHA June 30, 1995.

The last regular inspection of this operation was conducted August 8-12, 1995.

PHYSICAL FACTORS INVOLVED

The accident occurred on a main haul road near a tailings dam that was under construction. Near the toe of the dam the haul road narrowed to 45 feet as it bridged a 15 foot deep, 84 foot wide, v-cut ditch. The dirt fill supporting the haul road had sides with an approximate 1 1/2 to 1 slope, and a culvert to permit drainage. There were no berms along this section of the road. As the height of the dam increased the road was periodically elevated.

The vehicle involved in the accident was a 1978 Caterpillar Model 773 haul truck chassis, Company No. 19-692, serial # 63G2207. It carried an 11,000 gallon tank manufactured by Klein Products, Inc. The truck was approximately 13 feet wide, 15 feet high, and 27 feet long.

A rollover protective structure (ROPS) was neither required nor provided on this vehicle. However, the occupants were afforded some degree of protection by the water tank extending higher than the cab. The driver was wearing a seat belt at the time of the accident. Neither a stationary seat nor seat belt was provided for the passenger/task trainer. The right door was tied in the closed position with a rag.

The tires were in good condition and tie rods and connections were intact. Witnesses indicated that the brakes were operational. There had been some difficulties reported in placing the truck into reverse gear.

According to a Caterpillar dealer's representative, the lack of lift rams on the truck indicated that it was initially put into service as a water haul truck, rather than having been converted from the rock bed mode. The tank was equipped with baffles to limit water movement.

At the time of the accident the weather was fair with clear skies. It was becoming dusk and lighting plants had just been activated.

A right-hand traffic pattern was used at the mine.

The victim was about two hours into his first shift when the accident occurred. At the time he was being checked out on his driving skills by the company's driver/trainer.

DESCRIPTION OF THE ACCIDENT

Richard Guillaume, truck driver/trainer, reported for work at 7:00 p.m., his regular starting time, and was assigned to drive the Caterpillar Model 773 water truck. While at the pump/standpipe tank fill area,

he encountered James McBride, Tailings Dam Superintendent, who was accompanied by a new hire, Lorin McCorkindale. Guillaume was told that McCorkindale would be riding and driving with him for training and evaluation purposes.

Guillaume drove the truck to the tailings dam construction area. He accomplished some watering and compaction work while orienting McCorkindale on traffic patterns and operational requirements of the water truck. According to Guillaume, after about an hour and a half McBride stopped them and asked if his trainee was ready to drive the truck. At that point McCorkindale began driving with Guillaume as his passenger. McCorkindale continued the compaction work on the dam. After about fifteen or twenty minutes, McBride returned and told them to go up the valley and water a parking area that was becoming dusty. One more compaction pass was made and then they started to the parking lot, with McCorkindale driving. He stopped on the right side of the dam to await the passage of a loaded Cat Model 777 material haul truck. The truck was coming down a grade and across the culvert area, which was not as wide as the general haul road.

Guillaume said he then told McCorkindale to pull out to the center of the road and proceed. As the truck began to move, the right front tire came close to the edge of the roadway causing the earth to crumble and the truck to lean. McCorkindale then applied the brakes, which may have created a water surge that caused additional weight to bear on the crumbling edge. The truck overturned coming to rest upside down at the bottom of the 15 foot deep, v-cut ditch. Grader operator Charles Strand witnessed the accident and said he could see the water truck was too close to the edge of the fill. He saw it begin to lean and overturn as it was still moving forward.

The truck and accompanying dirt apparently plugged the culvert. Water from the tank gushed out and rapidly filled the ditch and truck cab.

Guillaume said he had braced himself for the overturn and was upside down in the flooded cab when it came to rest. Sensing that his legs were above water, he managed to move his upper body into the airspace. He kicked out a front window but was unable to exit the crushed cab. He then kicked out the passenger side window and escaped after first trying to pull McCorkindale free.

Strand alerted McBride, who then ran to the accident scene along with others in the area. They assisted Guillaume and attempted to free McCorkindale.

A nearby Cat D-10 Dozer was immediately summoned. It was used to make two quick cuts to access the water truck, and then to push it up so that the cab was out of the water.

McCorkindale, pinned in the cab, was checked for life signs but none were found. The "Jaws of Life" were required in order to extricate him. Upon removal, EMT's attempted to revive him but the effort was unsuccessful and he was pronounced dead.

Guillaume was treated at the scene for shock and bruises. After his condition was stabilized he was taken to the hospital in Fairbanks. He received further treatment and was then released.

The preliminary autopsy report on McCorkindale indicated that he died instantly of massive head injuries. There was no evidence of drowning.

CONCLUSION

The accident occurred because the water truck was driven too close to the unbermed edge of the elevated roadway. Contributing to the accident may have been the inexperience of the driver, narrowing of the roadway, and an unstable edge to a steep embankment.

CITATIONS AND ORDERS ISSUED

The following Citations and Orders were issued to Kiewit Pacific Company:

Order No.4133222, 103K, issued 9/20/95

A fatal accident occurred on September 19, 1995, at 9:45 p.m. when a Cat 773 water truck overturned on an embankment. This Order prohibits use of the area where the accident occurred until an investigation is conducted by MSHA.

Citation No. 4133223, 104(a), Section 56.9300(a), issued 9/20/95

There were no berms on the main haul road where it crossed a V-shaped ditch that was 84 feet in width. The road, fifteen feet Above the bottom of the ditch had sides with a 1 1/2 to 1 slope. At 45 feet in width, this was the narrowest section of the haul road.

Citation No. 4133224, 104(a), Section 56.9303, issued 9/20/95

The material and/or design of the haul road where it ramps across a culvert was not sufficient to support the loads using it. The edge of the ramp gave way causing an overturn of a Cat water haul truck, resulting in fatal injuries to its driver, and minor injuries to an accompanying trainer.

Citation No. 4133226, 104(a), Section 56.9200(d), issued 9/23/95

Provisions were not made for secure travel on the Cat Model 773 water haul truck No. 19-692, (SN63G2207) in that a bucket with padding was used to seat the trainer.

Citation No. 4133227, 104(a), Section 14100(b), issued 9/23/95

The passenger door on the Cat Model 773 water haul truck No. 19-692, (SN63G2207), was tied closed with a rag, as its latch was inoperable. The truck was involved in a rollover accident in which the trainer had to kick the window glass out of the right door in order to exit the flooding truck.


Fort Knox Gold Mine, ID No. 50-01616-IJM

Respectfully submitted by:

/s/ Robert G. Casey
Mine Safety & Health Inspector

Approved by:

Fred M. Hansen
District Manager

Related Fatal Alert Bulletin:  [\[FAB95M32\]](#)

[HOME](#) [PREVIOUS PAGE](#)

MEMORANDUM

Representative John Cowdery

TO: Rep. Rokeberg
FROM: Rep. Cowdery/ Casey Sullivan
DATE: 5 February 97
RE: flex plan list
Cc:

NOTE:

In regards to the flex plan list submitted for the Labor and Commerce Committee, it was requested from the Dept. Of Labor Legislative Liason, Dwight Perkins. This information was requested to illustrate the number of companies that are utilizing the flex plan similar to that in HB68. Mr. Perkins gave his permission to copy and distribute as we saw fit.

Thank you



TONY KNOWLES, GOVERNOR

DEPARTMENT OF CORRECTIONS

REPLY TO:

PO BOX 112000
JUNEAU, ALASKA 99811-2000
PHONE (907) 465-3376

February 5, 1997

Casey Sullivan
Legislative Assistant
Representative John Cowdery
State Capital
Juneau, Alaska 99811-1182

Dear Mr. Sullivan,

RE: HB 68 Information

In regards to the union agreement documents I sent, via Fax, to you about our Department's flex scheduling and 84 Hour work schedules, etc., for Correctional Officers, and other bargaining union agreements flex staffing and overtime provisions, etc., you have my permission to distribute them however you want, as they are all public documents available to anyone.

Should you have any further questions on this matter, please contact us.

Sincerely,

Joseph Reeves
Deputy Director/Administrative Services Manager
Division of Administrative Services
(907) 465-3315



Fatal Alert Bulletin

METAL/NONMETAL MINE FATALITY - On September 19, 1995, an apprentice truck driver was killed at a gold pit. The employee was driving a water truck along with a journeyman driver on the tailings dam at the mine. When the wheels of the truck came close the edge of the dam, the ground gave way causing the truck to overturn into a trench. The trench quickly filled with water from the water tank on the truck. The journeyman driver was able to get out of the cab, but the driver was pinned in the cab and drowned. This is the 32nd fatality reported in calendar year 1995 in the metal and nonmetal mining industries. As of this date in 1994, there were 31 fatalities reported in these industries. This death is the 11th fatality classified as powered haulage this year. There were also 12 powered haulage fatalities during the same period in 1994.

For more information:  [MSHA's Fatal Accident Investigation Report \[FTL95M32\]](#)

[HOME](#)[PREVIOUS PAGE](#)



MSHA News Release No. 95-022

MSHA News Release No. 95-022
Mine Safety and Health Administration
Contact: (703) 235-1452

June 19, 1995

PROPOSED BILL WOULD ENDANGER MINERS, MINE SAFETY CHIEF SAYS

Citing the Federal government's record of success in protecting miners, Assistant Secretary of Labor for Mine Safety and Health Davitt McAteer has denounced a proposal to repeal the Federal mine safety and health law.

"America's miners deserve the best on-the-job protections we can give them," McAteer said. "Mining is a unique and dangerous industry. And mining was significantly more dangerous in the days before Congress established effective Federal mine safety enforcement.

"In the past, too many miners faced a cruel choice between unemployment and a mining job that was apt to end in disabling injury, chronic lung disease, or death. Congressman Ballenger's proposed legislation would be a giant step in the wrong direction," McAteer said. "This bill would hurt a lot of hard-working men and women."

Secretary of Labor Robert Reich has said of the proposed "Safety and Health Improvement and Regulatory Reform Act of 1995," introduced in the House of Representatives by Subcommittee on Workforce Protection Chairman Cass Ballenger (R-NC), "This is not reform, this is retreat."

By repealing the Federal Mine Safety and Health Act, Ballenger's proposal would:

- Slash mandatory Federal inspections of underground mines from four per year to one;
- End mandatory Federal inspections of surface mines;
- Eliminate the current "true picture" aspect of in-mine inspections by dropping prohibition of advance notice and canceling mine inspectors' right to check out mine workplaces without a warrant; and
- Prevent Federal mine inspectors from closing an unsafe mine for uncorrected hazards, extreme operator negligence, or a pattern of violations.

In addition, under the proposal:

- Mine operators would pay no penalty for violating the law, so long as violations found by inspectors were corrected later;
- Federal mine inspectors could no longer order untrained miners withdrawn from the workplace;
- The Labor Department's Mine Safety and Health Administration (MSHA) would be abolished.

"The Mine Act is a statute that works," McAteer said. "Repealing a good law isn't reform."

Since passage of the Federal Coal Mine Health and Safety Act of 1969, McAteer noted, fatal coal mining accidents plummeted from 311 in 1968 to 44 last year, while coal production and productivity have soared. After the Federal Mine Safety and Health Act of 1976 brought metal and nonmetal mines under the same law, these mines also have seen deaths drop from 136 in 1978 to 40 last year.

"During those year, mine hazards have not somehow gone away," McAteer said. "Vigilance is the

difference."

"Mining remains a hazardous industry," McAteer said. "It's been just 13 months since the last fatal mine explosion. Let's not turn back the clock."

"I wish I could say that it is now safe to relax our vigilance on miners' safety and health," McAteer said, "but that simply is not the case. Even with strong enforcement, criminal violations of Federal mine safety standards have led to mine disasters such as the Southmountain mine explosion that killed eight Virginia coal miners less than three years ago. Less vigilance through inspections invites a greater danger of mining accidents."

"MSHA's vigilance also is key to the progress we are making against disabling coal miners' 'black lung' disease," McAteer said. "Federal benefit payments for 'black lung' consume over a billion dollars annually. This is not the time to slack off on prevention efforts."

McAteer also endorsed keeping MSHA as a separate agency. "MSHA's tightly defined mission has been a key to its effectiveness," McAteer said. "Without MSHA, miners and mine operators would have to rely on a overburdened Occupational Safety and Health Administration (OSHA), for which mining would be just one of many industries needing attention."

"In 1968, 78 men died in a West Virginia mine explosion. In 1972, a silver mine fire claimed 91 lives. Since then, no mine tragedy in this country has approached such a magnitude," McAteer said. "Do we really want to go back to those days?"

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MSHA News Release No. 95-004

MSHA News Release No. 95-004
Mine Safety and Health Administration
Contact: (703) 235-1452

January 9, 1995

SAFETY VIOLATIONS NOTED AT CALIFORNIA AND NEVADA SURFACE MINES

Mines in California and Nevada are among those where inspectors taking a close look at trucks and other mobile surface equipment found more than 500 serious violations of federal mine safety rules in a special nationwide series of inspections last month.

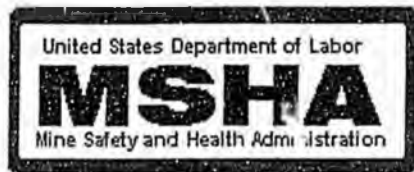
During special visits last month to check haulage equipment at a sample of 362 mines in 33 states, braking system defects were the most common violation, found on 119 trucks and other types of mobile mine equipment used on the surface. Inoperative or missing backup alarms, steering defects, tire defects, oil or fuel leaks and multiple equipment defects also accounted for a large number of serious violations.

MSHA inspected six Nevada mines and cited one for serious violations. The agency issued two citations in California following inspections of 15 mines.

Safety defects, including bad brakes, were the most frequent common factor in 92 surface haulage deaths from 1989 through 1993. MSHA recently announced a series of seminars on haulage safety, including brake inspection and maintenance, to be held in mining areas throughout the country. The Reno seminar will be held in the University of Nevada's Scrugham Hall in Room 101 beginning at 9 a.m. Thursday, Jan. 19. For information on other seminars, mining personnel are encouraged to contact their area MSHA office.

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Congressional Testimony of the Assistant Secretary on H.R. 1834

**Statement of J. Davitt McAteer,
Assistant Secretary of Labor for Mine Safety and Health,
submitted to the Subcommittee on Workforce Protections of
the Economic and Educational Opportunities Committee
of the United States House of Representatives
on H.R. 1834, the Safety and Health Improvement
and Regulatory Reform Act of 1995**

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to provide the views of the Administration on H.R. 1834, the Safety and Health Improvement and Regulatory Reform Act of 1995, and the bill's likely impact on mine safety and health in the United States.

I. Introduction

H.R. 1834 represents a radical change in federal mine safety and health enforcement. The bill would repeal most of the Federal Mine Safety and Health Act of 1977 ("the Mine Act"), 30 U.S.C. 801 et seq. It would merge the Mine Safety and Health Administration ("MSHA"), which enforces the Mine Act, with the Occupational Safety and Health Administration ("OSHA").

Current mine safety and health standards--with certain exceptions--would be enforced under the Occupational Safety and Health Act of 1970, as amended by the bill. Mine inspections would be severely curtailed. Enforcement tools would be eliminated or restricted. Miners would lose existing rights with respect to their participation in inspections and with respect to protection from employer retaliation. The issuance of new mine safety and health standards would be subject to a series of burdensome requirements, including cost-benefit analysis and risk assessment. Existing standards would also be subject to these analytical requirements, either as part of a periodic Agency review or in response to private petitions.

These changes reflect an untested, and risky, approach to the problem of protecting the Nation's miners. H.R. 1834 breaks with a long series of federal statutes, culminating in the Mine Act, that finally succeeded in reducing death and disease in the mines. But mines remain complex and dangerous workplaces. The Mine Act--as well as a separate, specialized agency--are still essential, unless we wish to repeat past tragedies.

H.R. 1834 is presented as a cost-cutting measure, designed to make better use of the federal government's resources for occupational safety and health. Mr. Chairman, that aim is admirable. Unfortunately, H.R. 1834 would mean greater risks for miners, without offering better protection for other workers. All workers should enjoy the gains in safety and health achieved for miners by MSHA and the Mine Act. Repealing the Act and dismantling the Agency are not the way to reach that goal.

Our opposition to H.R. 1834 should not be seen as an unwillingness to pursue genuine reform and innovation. MSHA has worked hard at reinvention, with good results. We have enlisted miners and mine operators in addressing the most serious hazards in the mines, from explosions to haulage accidents. With the mining community, we have examined the challenges facing mine rescue operations. MSHA's Small Mine Summit focused on the safety problems of small mines and helped them comply with the law. We have opened up the Agency's policy-making process to the public. We are re-examining the scope and purpose of our mine inspections, and the way accident investigations are conducted. As the President's direction, we have reviewed MSHA's regulations page-by-page to identify obsolete rules. We are exploring the prospects for negotiated rule-making, for reducing reporting requirements, and for minimizing penalties for non-serious violations. In May, we entered into a safety partnership with a coal company that employs twenty-four production contractors. This model project has the potential for leading the way to improvements in small-mine safety.

MSHA is ready to expand on promising initiatives like these. We are not prepared, however, to compromise the integrity of the federal mine safety and health program. That program works. It is a valuable national asset.

II. The Impact of Repealing the Federal Mine Safety and Health Act of 1977

I will address specific features of H.R. 1834, and the changes the bill would make in existing law, later in my testimony. Let me first sketch the historical development of federal mine safety and health law. The Subcommittee should understand where the current law came from. Viewing H.R. 1834 in the light of history reveals this new bill for what it is: a major step backward.

By repealing the Federal Mine Safety and Health Act of 1977, and by substituting a much-weaker enforcement scheme, H.R. 1834 would return us to an earlier era. Mining communities remember that era, even if others have forgotten. Mine explosions were common. Roof falls were routine. Disabling black lung disease was endemic. Miners and their families paid the price. Some with their lives; others with their jobs, when mines were sealed after explosions or fires. The human and economic costs of mine accidents, and of occupational disease, are felt in many ways-- and not just in mining communities, but across the Nation.

A. The History of Federal Mine Safety Legislation

The continuing toll of deaths, injuries, and illness became less and less acceptable to the American public--and rightly so. It took determined efforts by the federal government, over many years, to bring change. Each legislative step was driven by disaster, by the failure of state regulation, and by the shortcomings of prior statutes. We must understand this history, or we risk repeating it. Mining remains inherently dangerous. Indeed, new technologies and practices--like high-voltage longwall mining machines, diesel-powered equipment, and burning hazardous waste for fuel--pose new threats to the safety and health of miners. They need to be carefully managed. Now is not the time to experiment with a new regulatory approach.

H.R. 1834 would be the first federal law to weaken statutory protections for miners. Federal involvement with mine safety and health began in 1910, when Congress created the Bureau of Mines in the Department of the Interior. The Bureau was simply a research organization. It investigated mine disasters, studied mining methods and technology, and shared its discoveries with the mining industry. Not until 1941, after a long string of explosions, did Congress give the Bureau the right to enter and inspect mines. Even then, the Bureau had no authority to set safety standards or to make sure that mine operators followed safe practices. In 1952--eleven years and several disasters later--new legislation established minimal safety standards for coal mines (small mines were exempted). There were no penalties for violating the standards. The Bureau was authorized, however, to issue withdrawal orders in cases of imminent danger. In 1966, Congress passed the first statute to regulate non-coal mines. The statute's modest enforcement scheme provided no penalties for violations and a number of standards were advisory.

Each of these statutes, over the course of six decades, brought some improvements in mine safety and

health. They long preceded federal efforts to improve occupational safety and health in other industries. But their standards and remedies fell far short of what was needed, as disasters continued to prove. A coal mine explosion in Farmington, West Virginia that killed 78 miners in 1968 led to passage of the first truly comprehensive mine safety and health statute in American history. Mr. Chairman, I was there at Farmington, after the explosion, while families of the missing miners waited for news. Seventy-eight miners died. The bodies of thirteen miners were never recovered. Today, the mine is sealed.

In the wake of Farmington, Congress passed a landmark law, the Federal Coal Mine Health and Safety Act of 1969. (I should point out that the Coal Act helped shape the Occupational Safety and Health Act of 1970). The Coal Act established strict interim standards for safety and health, including the first limit on coal mine dust concentrations, designed to prevent black lung. The Secretary of the Interior was authorized to issue new, improved standards and to seek civil and criminal penalties for violations of the statute. Passage of the Coal Act was a turning point. It marks the beginning of the current era in mine safety and health.

It was not the end of mine disasters, however. A 1972 fire at the Sunshine Silver Mine in Idaho killed 93 miners. The mine was not covered by the Coal Act. Back-to-back explosions at a Kentucky coal mine killed 26 miners in 1976. The mine had a history of Coal Act violations. Tragedies like these--and weak enforcement efforts--once again forced Congress to strengthen the law. The result was the current statute, the Federal Mine Safety and Health Act of 1977. H.R. 1834 would repeal that law.

The Mine Act made a number of important changes in the law. It brought all mines under one statute. It made civil penalties more effective. It established training requirements for miners and allowed them to take a more active role in addressing hazards. Congress carefully considered which agency should enforce the Mine Act. It transferred enforcement authority from the Interior Department to the Department of Labor. Rather than adding to the responsibilities of the Occupational Safety and Health Administration, Congress created a new agency: the Mine Safety and Health Administration. This decision recognized the unique nature of mining. The choice of a separate, specialized agency was sound in 1977. It remains sound today.

B. The Current State of Mine Safety and Health

H.R. 1834 starts from a valid premise: that tremendous progress has been made in mine safety and health. But the conclusion drawn from that premise--that the Mine Act should be repealed and MSHA eliminated--is badly flawed. Mines are, indeed, safer and healthier than ever before. Fatality rates have dropped dramatically since 1969. Coal miners then were five times more likely to be killed on the job. Metal and non-metal miners were more than twice as likely to die in an accident. The prevalence of black lung disease, which slowly suffocates miners, has declined by some estimates more than two-thirds.

These facts do not cut in favor of H.R. 1834. Just the opposite is true. The dramatic improvements in mine safety and health are proof that the Mine Act and MSHA are working. We do not claim sole credit for the success of the last twenty-five years. The mining community as a whole shares in this achievement. Most miners and mine operators alike have a commitment to safety and health that once was rare. Technological advances--driven, in part, by the law--have reduced miners' exposure to some risks. There are many factors that help explain why things have improved.

It is clear, however, that without federal intervention, conditions in the mines would not have improved. And it would be a mistake to believe that things have changed for good, that our success cannot be reversed, that the Mine Act and MSHA have exhausted their purpose. The fact is that H.R. 1834 puts all of our achievements at risk. The bill fails to recognize that in mining, the more some things change, the more others stay the same. Key among these constant factors is the quick pace of change in the workplace and the ever presence of hazards.

Mining remains a highly competitive industry. American mining companies now compete around the globe, often against countries where miners are killed on an appalling scale. In the long run, a safe mine is a productive mine. Coal-mining productivity, for example, has soared as fatalities have fallen. In the

short run, though, safety costs money. Moreover, it is a fact of economic life that mine operators do not bear the full cost of the deaths, injuries, and illnesses suffered by their workers. The workers themselves, as well as society as a whole, carry part of this burden. There is a crucial need, then, to strengthen incentives for maintaining mine safety and health. Federal regulation, and a range of incentives and sanctions serve that purpose.

The same mining technology that spares some miners from exposure to hazards increases the risk to others. Longwall mining systems are a case in point. They help account for sharp increases in coal-mine productivity. At the same time, longwall systems create new challenges for safety and health, including the control of dust. Dust, in turn, causes black lung disease. The history of black lung is tied closely to the mechanization of mining, and that link has not been broken yet. Longwall systems can also result in the liberation of huge quantities of explosive methane gas.

For all of the progress made since 1969, mining remains one of the most dangerous industries. The work environment changes rapidly and unpredictably. As one hazard is corrected, another may appear. Not surprisingly, then, miners still die in explosions, in roof falls, and in blasting accidents. Miners still develop black lung and silicosis, and persistent problems in monitoring and controlling dust levels are unsolved. The Mine Act is as necessary as it ever was. MSHA still has many things to do.

I will not burden the Subcommittee with a complete catalogue of the mining industry's most recent disasters--or its near-misses. Many Members will recall the 1992 explosion at the Southmountain coal mine in Virginia, which killed eight miners. Others may remember the 1993 shaft collapse that killed four copper miners in Arizona. That same year, an Ohio coal mine filled with 800 million gallons of water and 30 miners barely made it to the surface. Earlier this year, 51 miners survived a massive cave-in at a Wyoming iron mine. One miner died shortly after he was rescued from the mine.

Mr. Chairman, I know that you have toured a coal mine. Indeed, you suggested in 1993 that your colleagues (in your own words) "go down into the mine . . . just so they understand how bad things are down there." I endorse your recommendation. I would be pleased to help with the necessary arrangements.

My point, Mr. Chairman, is simple. There are mines in all 50 states. If we fail to regulate mine safety and health effectively, we do so at our peril--and at the peril of American miners. That fact was true in 1910. It was true in 1941. It was true in 1952, in 1966, in 1969, and 1977. It is true today, and it will be true tomorrow.

C. The Proposed Changes in Existing Law

As I have said, H.R. 1834 would repeal the provisions of the 1977 Mine Act that deal directly with mine safety and health (Titles I, II, and III of the statute). For those provisions, the bill would substitute an amended version of the Occupational Safety and Health Act of 1970 ("the OSH Act"). The bill's amendments to the OSH Act are themselves sweeping. H.R. 1834 represents a sweeping and unwelcome change in mine safety and health standard-setting and enforcement. In every respect, the ability of the federal government to protect miners would be seriously weakened. In particular, it would be wrong to repeal the Mine Act believing that a statute suitable for other industries will work for mining.

Specific Changes Made by H.R. 1834

H.R. 1834 contains some provisions addressing mine safety and health directly. It also makes dramatic amendments to the Occupational Safety and Health Act, while leaving other provisions of that statute intact. I would now like to address some of the specific ways in which H.R. 1834 would change the legal framework for mine safety and health enforcement.

(a) Inspections

Let me begin with the core of the current program: inspections. H.R. 1834 makes no provision for warrantless mine inspections. A warrant-requirement would greatly complicate the Agency's task.

Moreover, underground mines, now required to be inspected four times a year, would be inspected only once under the bill. The bill would eliminate required inspections for surface mines altogether. Finally, the bill creates a mechanism for exempting employers from federal inspections, if the employer participates in a so-called "consultation program" with state or private entities or if employees are significantly involved in a safety and health program.

These are extreme proposals for mine safety. Mine inspections save lives. A study of mine safety and health enforcement reached that common-sense conclusion in 1985. Congress understood the importance of mandating inspections when it passed the Coal Act in 1969 and the Mine Act in 1977. The frequent inspections required by Section 103(a) of the Mine Act-- which grants MSHA a "right of entry to, upon, or through any coal or other mine"--have been essential to improvements in mine safety and health.

Mine operators have a strong incentive to comply with safety and health standards when they are certain that they will be inspected. Frequent inspections are critical to effective enforcement. They also make it easier for MSHA to provide compliance assistance and technical support, because MSHA is familiar with the mines. The better MSHA knows the mines, the more effective the agency is--in virtually everything it does.

Reducing or eliminating mandatory inspections, as H.R. 1834 would do, is unwise. Mines are complex. By definition, the working environment changes all the time. As mined material is removed, an entirely new workplace is created in as little as 24 hours. Roof conditions vary from place to place. Explosive methane may be liberated. Mechanical systems may fail. A mine that is safe one day may be dangerous the next. A mine with a good safety record may confront new challenges daily. Personnel changes, too, can make a dramatic difference in the safety of a mine.

Obviously, around-the-clock inspector presence is neither possible nor desirable. But H.R. 1834 goes much too far in the opposite direction. One required inspection a year for underground mines is simply not enough to ensure that safety and health standards will be met.

Eliminating the inspection requirement for surface mines is equally unwise. Accidents at surface mines have been a serious problem, recently resulting in the deaths of more miners than caused by underground mine accidents.

Certainly, voluntary efforts to improve safety and health are worth encouraging. MSHA has a number of programs designed to educate and train mine personnel, to provide help in complying with the Mine Act, and to offer technical assistance for especially difficult problems. The Mine Act also encourages miners to take an active role in safety and health matters, by providing for the involvement of miners' representatives in inspections and by protecting miners from safety-related discrimination. Nothing in the Mine Act--and nothing in MSHA's practices--discourages mine operators from voluntary action.

We do not believe that the "incentives" created by H.R. 1834 address any genuine shortcoming in the current mine safety and health program. Indeed, the bill fails to recognize the importance of independent oversight of working conditions. This oversight is vital in an industry like mining, where employers may dominate an entire community.

In this context, I should mention that H.R. 1834 eliminates a number of important rights now held by miners, which help them to stand up for safety and health. These rights include:

- (1) the miner's right to select a representative to accompany government inspectors with pay (Section 103(f) of the Mine Act);
- (2) the miner's right to obtain an immediate mine inspection--without first exposing himself to employer retaliation--when circumstances warrant (Section 103(g) of the Mine Act); and
- (3) the miner's right to immediate reinstatement when he files a non-frivolous complaint of safety-related job discrimination (Section 105(c) of the Mine Act).

In short, H.R. 1834 threatens to empower employers at the expense of miners and other workers.

The "consultation program" envisioned by H.R. 1834 is particularly troubling. In mining, both in this country and elsewhere, purely voluntary safety programs have a record of failure. Paid consultants, certified or not, have not proved to be adequate substitutes for government inspectors. MSHA invests heavily in the recruitment, training, and supervision of its inspectors. No inspectorate is perfect, of course. But a "consultation program" could expose workers to far greater risks as the result of incompetence or malfeasance by persons with responsibility for safety and health. I regret to say that MSHA has secured many criminal convictions and guilty pleas involving persons certified under the Mine Act to perform such functions as dust sampling, mine examinations, and miner training.

Mr. Chairman, how MSHA deploys its inspectors is a key issue for the Agency and the mining community. During this Administration, MSHA has taken a number of steps to make sure that our inspections maximize benefits to safety and health. We want to focus our resources where they will do the most good and to avoid unnecessary burdens on the mining community--without diminishing protections to miners. The current provisions of the Mine Act are not an obstacle to this process. For all the reasons I have mentioned, mandating frequent inspections was, and remains, a sound idea. We can continue to reform the inspection process without changing the statute.

(b) Civil Penalties and Other Sanctions

To encourage compliance with safety and health standards, the Mine Act established a system of sanctions, ranging from civil fines to withdrawal orders to criminal penalties. This system was the product of long experience, reflected in the legislative history of the Mine Act. The tough sanctions provided by the Mine Act have been integral to winning improvements in mine safety and health. Now, H.R. 1834 proposes to eliminate or radically revise almost every enforcement tool now used by MSHA. In some instances, these changes would immediately increase miners' exposure to hazards.

The Mine Act was adopted in 1977 in part because Congress believed that civil penalties (dollar fines) imposed under the Coal Act had been ineffective. The Coal Act had established a civil penalty system to cure the shortcomings of the 1952 coal mine safety statute.

Section 110(a) of the Mine Act now requires MSHA to impose a civil penalty whenever a safety or health standard has been violated. The statute identifies six factors to be considered in setting a penalty, ranging from the operator's size and history of violations to the gravity of the violation, as well as the operator's good-faith abatement of the violation. MSHA's regulations have established a careful system for weighing these factors, and penalty assessments are subject to review by the Federal Mine Safety and Health Review Commission.

Once a mine operator has been cited under the Mine Act, and ordered to correct a violation, he must comply within a specified time. If he does not, MSHA may issue a withdrawal order under Section 104(b) of the Mine Act, closing the affected area of the mine. This remedy provides a strong incentive for mine operators to address hazards that may harm miners.

H.R. 1834 would make drastic changes in the current system. Unless a death or serious injury had already occurred, OSHA could impose a fine only if an employer, after receiving notice, failed to correct a violation. Even then, the fine would be discretionary and the employer's negligence could not be considered in proposing a penalty. Moreover, the fine would be the only remedy available to OSHA, except in cases of imminent danger--emergencies, in other words. H.R. 1834 makes no provision for the enforcement tool now provided by Section 104(b) of the Mine Act: a withdrawal order for failure to abate a violation.

The "right-to-cure" approach taken by H.R. 1834 may sound fair and reasonable. In reality, it is badly suited to mine safety and health enforcement. Some mine operators--and not just the very worst actors--in the rush of the day may be tempted to run the risk of violating safety and health standards. Inspections will be infrequent. Even if a violation is found, the operator can escape a penalty simply by exercising his "right to cure."

Imagine if a speeding motorist had to pay a ticket only if he failed to slow down after he was stopped by a highway patrolman. Speed limits would have very little effect on drivers, even though people understand that speeding can be dangerous. Safety and health standards are the speed limits of mining. Under H.R. 1834, present incentives for compliance will disappear.

The consequences could be disastrous, as history proves. We already have experience under a statute comparable to H.R. 1834: the Federal Coal Mine Safety Act of 1952, which lacked a civil penalty scheme and the other remedies now found in the Mine Act. The 1952 statute failed to protect miners because it failed to give mine operators a strong incentive to comply with the law. Mr. Chairman, turning the clock back to 1952 is not a reform.

In addition to the enforcement tools already mentioned, H.R. 1834 would eliminate a number of Mine Act sanctions that contribute to effective enforcement. They include various withdrawal orders under Section 104 of the Mine Act, which may be issued for: (1) an unwarrantable failure to comply with the law, (2) a pattern of significant-and-substantial violations, and (3) the employment of untrained miners. Section 103(k) of the Mine Act now authorizes MSHA to control rescue and recovery operations after a mine accident. H.R. 1834 would eliminate this authority, which has often saved lives.

Mr. Chairman, several provisions in H.R. 1834 would provide for tough penalties in cases of death or serious injury. In those cases, punishment may be appropriate. But it will not bring back a dead miner or heal an injured worker. Experience has taught us that when it comes to safety on the job, preventing harm must be our goal. Mining is carried out in naturally hazardous settings. Prevention is the only approach that can harness these hazards. A good statute will encourage employers to take the right measures before an accident happens. The Mine Act is a strict statute, but I make no apologies for it. Mining is a dangerous business, and the Mine Act's sanctions and remedies reflect that fact. We must be able to discourage mine operators from taking risks with safety and health. H.R. 1834 does not meet this need.

(c) Standard-Setting

I have discussed the importance of complying with safety and health standards. The process of setting, and modifying, those standards is crucial as well. Here, too, H.R. 1834 would mean major changes in the current process. Taken together, those changes would make it much harder to issue new standards--including standards that reduce the burden on industry. The bill would also jeopardize existing rules, even when their positive effect is undisputed. Unlike the Mine Act, H.R. 1834 provides no mechanism for ensuring that existing protections for miners will not be reduced.

Today, Section 101(a) of the Mine Act authorizes the Secretary of Labor, acting through MSHA, to "develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines." These standards are referred to as "improved" standards because they are intended to replace interim standards established by Congress itself. Section 101(a)(9) of the Mine Act prohibits a reduction in "the protection afforded miners by an existing mandatory health or safety standard."

H.R. 1834 would preserve existing mine safety and health standards, but only for the time being. The bill would repeal the Mine Act provision that prevents a reduction in statutory protections for miners. The bill would also repeal Mine Act Section 101(a)(6), which now governs standards for "toxic materials or harmful physical agents." Under that provision, MSHA's health standards must insure that:

no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazard dealt with by such standard for the period of his working life.

In place of the current standard-setting process, H.R. 1834 would substitute a rigid, costly, and time-consuming procedure, defined by mandatory cost-benefit analysis and risk assessment. In this respect, H.R. 1834 shares in the very serious flaws of other so-called regulatory reform bills now before

Congress. I will not repeat the Administration's criticisms of those proposals today. I must point out, however, that H.R. 1834 is remarkable in subjecting every rule--no matter how modest its monetary impact--to detailed analysis. Unlike other bills and Executive Orders, the reach of H.R. 1834 is not limited to "major rules."

Just as troubling is the dilemma created by the H.R. 1834's requirement of risk assessments at the same time that the bill proposes to eliminate the National Institute for Occupational Safety and Health (NIOSH). MSHA depends on NIOSH for health research on miners and for expert scientific and medical advice on health standards for miners. MSHA also relies on NIOSH for research and testing on respirators used to protect miners from coal dust and other hazardous contaminants. Without the help of NIOSH, MSHA's efforts to improve the health of miners--and its ability to comply with the requirements of H.R. 1834--would be gravely hurt.

The regulatory analysis required by H.R. 1834 will not lead to better rules. It will simply add time and money to the rule-making process--if it does not discourage the Agency from even attempting to issue needed rules. All of the bill's analytical requirements are subject to judicial review. Under H.R. 1834, rule-making litigation will increase exponentially.

Mr. Chairman, the standards-provisions of H.R. 1834 offer miners and other workers even less protection than they have now. Miners continue to be exposed to hazardous substances, from mine dust to diesel exhaust to cyanide fumes. New substances are regularly introduced underground. Yet MSHA's air quality standards are more than twenty years old. Its noise standard is similarly outdated. MSHA has no rules addressing the hazards posed by the use of diesel-powered equipment in the mines. Nor does MSHA have a hazard-communication standard that would help inform miners of the dangers they face. This is no time to make it harder to protect miners. H.R. 1834 would do just that.

Worse, the bill would jeopardize existing rules, by subjecting them to the same analytical requirements as proposed rules. Not only would the Agency be required to review all of its rules, it would also face review petitions from private parties. Such petitions would make it impossible for the Agency to set priorities and to conduct its review in an orderly, cost-effective fashion. Agency action with respect to existing rules would also be subject to judicial review. Funds spent on enforcement and compliance assistance (on inspectors and engineers) would be diverted to regulatory analysis and litigation (to economists and lawyers), simply to maintain rules that save lives and preserve health.

Mr. Chairman, the "regulatory reform" envisioned by H.R. 1834 is not in the best interests of miners and other workers. Our analysis leads to only one conclusion: the imagined benefits of H.R. 1834 do not justify the real costs that the bill will impose on working Americans.

(d) Repeal of Existing MSHA Rules

As I have said, H.R. 1834 will preserve most existing mine safety and health standards, at least temporarily. But the bill would also repeal after one year certain MSHA rules now in the Code of Federal Regulations. None of these repeals is justified, but I will focus on just one: the repeal of 30 C.F.R. Part 50, which addresses among other things the reporting of accidents, injuries, and illnesses.

MSHA's reporting requirements are comprehensive--and therefore invaluable. Getting timely, complete, and accurate information on accidents, injuries, and illnesses is vital to MSHA's mission. It lets the Agency identify safety and health problems and work toward solutions. The information now generated by Part 50 is recognized as comprehensive and is relied on by government and industry alike. Without Part 50, our picture of the state of mine safety and health would be far less clear. Our efforts to improve conditions would be far less successful.

Part 50 repeal is inconsistent with the bill's professed interest in rewarding good actors, in punishing bad actors, and in improving the quality of regulations. All of these efforts depend on comprehensive information, and that is what Part 50 provides.

III. The Impact of Merging MSHA and OSHA

Mr. Chairman, most of my testimony has been devoted to the changes H.R. 1834 would make in the current law governing mine safety and health. Let me turn now to the administrative changes proposed by the bill, primarily the merger of MSHA with the Occupational Safety and Health Administration.

Measures to streamline government are popular today, I know. This particular measure, however, would be a mistake. Mine safety and health have long been the responsibility of a separate, specialized federal agency. Today, that means MSHA. Like repealing the Mine Act, eliminating MSHA would be a set-back for miners and the mining community.

I have explained that mining is unique. That is why MSHA has a field structure that places our personnel as close to the mines as possible. That is why federal efforts to improve occupational safety and health began with mining, 85 years ago. That is why the Mine Act is the product of decades of legislative development.

When it passed the Mine Act in 1977, and transferred authority for mine safety and health to the Labor Department, Congress decided to preserve a separate enforcement agency, with separate funding authority. The report of the House Committee on Education and Labor observed that:

Mining represents a small segment of the working population, yet the operation is of a nature that is so unique, so complex, and so hazardous as to not fit neatly under the Occupational Safety and Health Act.

H.R. Rep. No. 312, 95th Cong., 1st Sess. at p. 1.

As a result, MSHA was established to succeed the Mining Enforcement and Safety Administration (MESA), an Interior Department agency. The Federal Mine Safety and Health Review Commission was also created as an independent body to adjudicate disputes arising out of the Act.

Congress specifically decided against giving OSHA responsibility for mine safety and health. Neither industry nor labor disagreed. Congress had good reasons for its decision. It recognized the special character of mining. It understood that OSHA had a very broad jurisdiction and faced many competing demands on its resources. In short, Congress knew that protecting American miners was a difficult and pressing job.

MSHA was assigned that job. Tremendous progress has been made. MSHA enjoys a good working relationship with the mining community. By focusing on practical solutions to real problems, the Agency has largely managed to avoid controversy. But MSHA's job is not over. The fundamental facts about mining have not changed. Mining remains one of the most dangerous industries in the United States, as well as one of the most economically vital. That mining's safety record has improved tells us that MSHA and the Mine Act are working--not that they are expendable.

Merging MSHA and OSHA would raise legitimate concerns about the federal commitment to mine safety and health. It would be unwise to shift resources away from protecting miners in the hope that other workers somehow would benefit. As you know, the gap between OSHA's resources and its mission has always been very large. Even if every dollar now spent on mine safety and health were applied toward closing that gap, we would still fall far short.

I fear that merging MSHA and OSHA would lead--in time, and despite the best intentions--to an erosion of expertise in mine safety and health. That has happened in other countries, when specialized mine safety and health agencies were integrated into larger organizations. Certainly, it would be impossible for a small office in a big agency to be as responsive to the mining community as MSHA has been. In the end, I am afraid, miners and the mining community would be left where they were before the federal government first decided to do the job right. What is more, workers in other industries would be no better off.

The notion of an MSHA-OSHA merger may be driven, in part, by the belief that the states would come to play a bigger role in mine safety and health. That view overestimates the ability of the states to tackle this job. Unlike the OSH Act, the Mine Act does not provide for state plans, by which the states assume authority for enforcing the statute. Even if the Mine Act were repealed and replaced by a new version of the OSH Act, mine safety and health would almost certainly remain a federal responsibility.

A few states do have mine safety agencies, which receive modest grants under the Mine Act. But even these few state agencies lack the resources to do the job now done by MSHA. Most limit their efforts to education and training, and the coordination of mine rescue efforts. Very few states, if any, would be eager to take on an expensive and difficult new task.

IV. Conclusion

Thank you for the opportunity to present our views to the Subcommittee. I have been candid about the serious defects in H.R. 1834. Let me urge you, with all due respect, to reconsider the proposals embodied by this bill. Federal efforts to protect miners from death, illness, and injury have a long history. History not only explains, it justifies the existence of a strict mine safety and health statute, enforced by a separate, specialized agency.

I also want to assure you and the Subcommittee that we are committed to improving the way MSHA does its job. The provisions of H.R. 1834 and the Subcommittee's hearings, as well as the statements of industry and labor leaders, have focussed on several areas deserving attention. Right now, we are re-examining the scope and purpose of our mine inspections. We are also increasing our training and compliance assistance efforts.

Mr Chairman, MSHA is ready to expand on these initiatives. I look forward to keeping you apprised of our progress.

[HOME](#)[PREVIOUS PAGE](#)

Labor & Commerce Committee
AGENDA

Good Afternoon

This Meeting Of The House Special Committee On Oil And Gas Is Called To Order
On January 27, 1996 At _____ PM

For The Record The Committee Members Present Are:

Rep. Norman Rokeberg, Chairman
Rep. John Cowdery, Vice Chairman
Rep. Bill Hudson
Rep. Joe Ryan
Rep. Jerry Sanders
Rep. Tom Brice
Rep. Gene Kubina

If A Committee Member Arrives Late Announce:
Representative (Name) Has (Joined) (Left) The
Committee At (Time).

Our committee secretary for our committee is Ms. Kathy Wood, Supervisor for House Records.

A Quorum (Is) (Is Not) Present.

On Today's Calendar We Have:

a public hearing on

1. HB 68 Voluntary Flexible Workplan - Overtime
Sponsor Statement, Rep Gene Therriault

Teleconference Site: Anchorage - Fairbanks - Valdez - *Bethel*

Anyone Wishing To Testify On HB 68 and Who Has Not Already Done So, Please Sign The
Witness Register For The Secretary, Printing Your Name, Address, Telephone Number, Agency
Or Business And Title.

The Public Hearing For Cs For HB 68 Is Now Open:

Witness Testimony Will be Limited To a maximum of 3 minutes

Take Testimony In Order, Recognizing Each Witness By Name:

1. Other Legislators (Ask Other Legislators To Join The Committee At The Table)
2. Individuals With Time Constraints
3. Individuals In Order On Witness List.
4. Teleconferenced Testimony Should Be Rotated Between Locations.
(Teleconference Moderator Will Provide You With A List Of Witnesses
At The Various Locations)

Would the sponsor of HB 68 like To Make Any Opening Remarks - Representative Therriault

Each New Witness Should Be Reminded Of The Following:

For The Record, Please Clearly State Your Full Name, Your Affiliation And Title. If You Have Written Testimony, Please Summarize It And Provide The Committee With A Full Written Copy.

Signal The Importance Of Particular Testimony Or Discussion By Saying: **For The Record Or Will The Committee Secretary Note For The Record.....**So The Committee Secretary Will Take Special Note Of The Discussion.

After Hearing All The Speakers Announce:

Is there any further testitmony - Hearing None

Public Testimony Is Now Closed For HB 68. Is There Any Further Discussion By The Committee.

If Not.....Representative Cowdery

**The The Chair Will Entertain A Motion To Move Cs For HB 68
(As Amended) From Committee With Individual Recommendations.**

At the end of committee business announce: **THIS COMMITTEE STANDS AJOURNED AT (time)**

Gold-Mining Firms Act to

Jan 27, '97

WSJournal

They Reduce Costs, Scratch New

By MARK HEINZL

And AARON LUCCHETTI

Staff Reporters of THE WALL STREET JOURNAL

Gold companies are hunkering down, struggling to weather one of the most prolonged slumps in gold prices in years.

Mining companies are slashing costs and tearing up plans for new mines as the price of the precious metal continues to slide to three-year lows. Just since November the price of gold futures traded on the New York Mercantile Exchange's Comex division has plunged to \$353.40 an ounce from above \$380. The skidding price is enough to turn many high-cost mines into money-losing duds and spoils the economics of many planned projects.

"No question, if prices stay at this range, you will see fewer new gold mines," says Dennis Wheeler, chairman and chief executive officer of Coeur D'Alene Mines Corp. in Coeur D'Alene, Idaho.

Many analysts believe gold prices will linger at current levels or lower for several months. Gold prices have been pushed downward by slumping investment demand and the fear of increasing supplies from central banks. In Europe, central banks have been pressured to sell their gold reserves in an effort to meet debt requirements for European monetary union in 1999.

Outlook for Investment

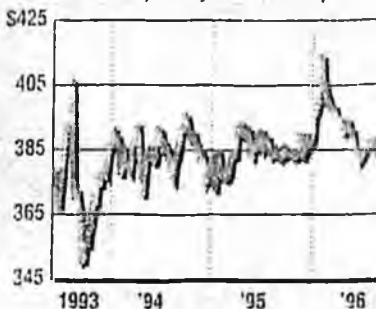
Unless the stock market experiences a hefty correction or inflation rears its head, gold investment demand probably will remain low as investors turn to financial investments with higher returns.

"It would take a very substantial market correction of about 15% to turn things around for gold," says William O'Neill, chief futures strategist for Merrill Lynch & Co. The price could bottom out at between \$330 and \$350 an ounce, before turning slightly upward, analysts say. The decline in the mineral's price has sent investors in gold-mining stocks running for cover. The Toronto Stock Exchange's gold-stock index has dropped 5.5% since mid-November. Last year investors were focused on gold companies with potential discoveries of new deposits; this year "we will see the market start to reward companies that have cash flow, production and reserve value," says Victor Flores, a gold-fund manager with United Services Advisers Inc., a San Antonio mutual fund company.

An early casualty of gold's weakness is the Casa Berardi mine in Quebec. One of its owners, Toronto-based TVX Gold Inc., recently announced plans to shutter the mine, which eats up more than \$350

As Gold Prices Fall...

New York Mercantile Exchange continuous contract; dollars per troy ounce, weekly data



Some Companies Find Gold Cos

Estimated average revenue per ounce of gold to break even in 1996

Echo Bay Mines	\$449	Agnico E
Pegasus Gold	447	TVX Gold
Amex Gold	427	Placer Dc
Cambior	377	Battle Mo
Santa Fe Pacific Gold	373	Kinross C

an ounce in cash operating costs. The company said it will take an undetermined write-down on the project.

At five of the 22 largest U.S. mines, the costs to produce gold are at or at \$347.20 an ounce, the 39-month low gold touched last week. At current prices, "most mines are keeping their head above water, but the others will have to take cost-cutting measures, from stopping grade production to shutting the mine down," says John L. Dobra, an economist at the University of Nevada-Reno.

About 10%-15% of the world's gold mining could be postponed if prices stay at current levels for a sustained period, says Jeffrey M. Christian, managing director of CPM Group, an industry consultant. World-wide, gold is produced at an average cash cost of \$257 an ounce, says Gold Fields Mineral Services Ltd., a London industry research consultant. However, the cost including capital expenditures could be as high as \$315 an ounce, only about \$40 an ounce lower than the current commodity price. **'Challenging Times' Ahead**

"Every company is looking very carefully" at cutting costs, says Leanne Bagnall, a gold analyst for Salomon Brothers. Companies are expected to reduce spending in exploration, administration and low-grade gold mining, which has a high cost of production, analysts say.

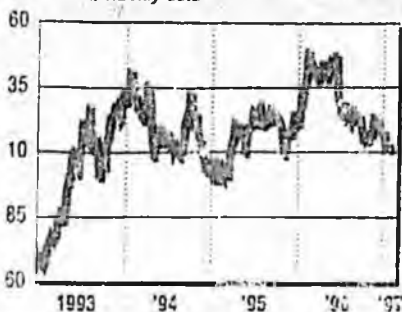
FOCUS

Meet Price-Slump Challenge Head-on, With No Quick Relief in Sight

Glitter

Gold Stocks Tumble...

Philadelphia Exchange XAU gold-and-silver stock index: weekly data



High Price

North American gold companies required

5347	Newmont Mining	\$309
339	Homestake Mining	305
332	Barrick Gold	286
329		
318		

Source: Nesmit Burns Inc.

Coeur D'Alene Mines has recently laid off 47% of its staff, halted all charitable donations and sold the company jet in an effort to make up lost profits. "We anticipate more challenging times ahead," says J. Wheeler, its chief executive.

Pegasus Gold Inc., a Spokane, Wash., gold concern that mines about 570,000 ounces a year, has also taken steps to survive in the new lower price range. The company recently announced it would reduce its exploration budget by about 50%, freeze senior-management salaries and delay construction on new gold projects in Montana and Chile until 1998.

"We looked at the current gold market and our cost structure, and we just needed to reduce spending," says John Pearson, director of investor relations for Pegasus. Pearson says the construction delay will shift about \$100 million in capital spending ending in 1995, when the company will reassess the market. "Right now, the whole gold market is a negative environment; investor sentiment is weak," he says.

Lower gold prices have also hurt Echo Bay Mines Ltd., a Denver company struggling to increase its gold reserves and production. The company recently took a charge of \$77 million after ripping up plans to develop its big Alaska gold project, Alaska-Juneau, and also canceled com-

mon-share dividend payments to conserve cash after a string of quarterly losses. Gold's recent nose-dive "made the economics that much more difficult" for the project, says Echo Bay's chief financial officer, Peter Cheesbrough.

While marginal projects and mines fall by the wayside, the price slide is also heating up the competition between mining companies for exceptional, higher-grade gold projects. Lower prices are expected to heighten the gold industry's consolidation. "We'll continue to see merger mania," predicts CPM Group's Mr. Christian.

Placer Dome Inc., a Vancouver, British Columbia, gold miner, is offering \$4.5 billion in stock in a battle against Toronto-based Barrick Gold Corp. The prize: Bre-X Minerals Ltd. of Calgary, Alberta, and its Indonesian Busang gold deposit. Bre-X says Busang could produce as much as four million ounces of gold a year at cash operating costs below \$100 an ounce, compared with Placer Dome's cash costs of about \$240 an ounce.

With Busang, Placer Dome could "rid themselves of their higher-cost, more risky mines," says Marc Cohen, a gold mining analyst at PaineWebber Inc. Indeed, if Placer Dome gets the Indonesian mine, the company says smaller projects in Mexico, Costa Rica or Australia could be shelved, especially if prices stay weak.

The deals have been getting bigger. Homestake Mining Co., San Francisco, and Newmont Mining Corp., Denver, both recently offered more than \$2 billion in stock to acquire Santa Fe Pacific Gold Corp., which analysts say has a solid production and exploration profile.

Meanwhile, low gold prices are hurting most companies' results, especially relatively unhedged producers such as Echo Bay and Homestake, analysts say. Hedging involves using derivatives such as options and futures to lock in future revenue from gold.

Some companies were blind-sided by gold's fall. Montreal-based Cambior Inc. dropped its overall hedge position in 1996 to roughly one year's worth of production from the company's more traditional level of two years, says Henry Roy, Cambior's chief financial officer. Cambior's remaining hedge position leaves about 50% of the 500,000 ounces in annual output hedged at nearly \$440 an ounce.

—Carlos Tejeda
contributed to this article.



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE House Sec
 COMMITTEE NAME
 COMMITTEE ON changes to House Bill 65 DATED 1/27/97
 BILL/SUBJECT

Very often we find experience to be the best teacher. In this respect, I defer my own forty seven years in Alaska to that of the Commissioner of Labor, Tom Cashen. I believe it would be wise, and in the best interests of all workers in the state of Alaska, for the committee to read, once again, the statements that Mr. Cashen put on record before the committee.

Thank you for your time,

SIGNED Rick R Spencer
 TESTIFIER

Alaskan workers
 REPRESENTING (OPTIONAL)

1446 Spencer Lane North Pole, AK 99705 (907) 488-6365
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Page 8

Blow-out: Northwest Pipeline personnel inspect part of the 75-foot of natural gas line that blew up last Saturday in Nugents Corner, Wash. The flames from the explosion shot 300 feet into the air.

Shifting soil is prime suspect

■ Natural-gas pipelines explode in Washington over the weekend

THE SEATTLE TIMES

SEATTLE - Ground movement caused by saturated soil is being investigated as a possible cause of two spectacular natural-gas pipeline explosions in Western Washington over the weekend.

John Nicksich, spokesman for Northwest Pipeline, said it's too early to say conclusively, but that shifting of soggy soil is one type of pressure that can cause an underground pipe to rupture.

Once a pipe ruptures, it takes just a spark to ignite the gas. Sometimes, the force of rocks and dirt thrown against each other is sufficient to cause such a spark, he said.

Though they came just a day apart and caused similar, spectacular explosions, the explosions in Northern and Southwestern Washington appear otherwise unrelated, Nicksich said.

"The breaks are different," he said. "It looks like a fluke."

Sunday evening, part of the 26-inch-diameter pipeline, which runs 4,000 miles from northwestern New Mexico to the U.S.-Canadian border, ruptured in a forested area near Kalama, Cowlitz County, causing an explosion that

sent flames 100 feet into the air.

Less than 24 hours earlier, the steel pipeline exploded in a sparsely populated area outside the farming town of Everson in Whatcom County, about 20 miles northeast of Bellingham. No one was injured in either blast.

The fires ignited in both ruptures could be seen for miles.

"The sky was all lit up," said Myrna Nelson, who lives two miles from the site of the Kalama blast. "The flames were straight up."

The Cowlitz County Sheriff's Office said the fire burned for about two hours, charring two to three acres of forest before the pipeline was shut

Please see Pipelines, Page 8

ON

Sides dig in over 12-hour shifts

■ Miners working on the surface could toil longer hours, get no overtime

By MARK SABBATINI

THE JUNEAU EMPIRE

The Capitol is battling over work hours.

A bill allowing surface miners to work 12-hour shifts without overtime is making its way through the Republican-led Legislature. Supporters say the bill is targeted at one group of employees willing to work the hours, but Democratic Gov. Tony

Knowles and his administration worry it could set a labor trend.

"That's our opposition to it," state Labor Department Commissioner Tom Cashen said today. "What makes surface mining so unique? Then the next guy will come next year and say 'I've got an industry and I'm not doing very good. I can't afford to pay my employees time-and-a-half, so I'd like an exemption,' and then another one and another and how do you turn them down?"

Rep. Gene Therriault, a North Pole Republican who sponsored House Bill 68, said the purpose is simply to allow Fort

Please see Mining, Page 8

Verdict reached

■ Simpson ordered to pay \$25 million in punitive damages

THE ASSOCIATED PRESS

SANTA MONICA, Calif. - A jury today ordered O.J. Simpson to pay \$25 million as punishment for the slayings of his ex-wife and her friend, a final blow that could doom the fallen football great to a lifetime of debt.

The punitive judgment is on top of \$8.5 million in compensatory damages awarded last week when the jury found Simpson liable in the June 12, 1994, slaying deaths of Nicole Brown Simpson and Ronald Goldman. It was a dramatic turnaround from Simpson's murder acquittal 16 months earlier.

It took the panel five hours over two days to arrive at the punishment amount, ignoring the portrayal of Simpson as a tapped-out pariah and siding with a plaintiffs' lawyer who urged jurors to "Send a message."

Please see O.J., Page 8

Stuck in Seattle? Airport food gets high rating from dietitians

By KAREN SCHWARTZ

THE ASSOCIATED PRESS

NEW YORK - When it comes to healthful airport food, Seattle has more going for it than good coffee and Milwaukee might be a little behind the times.

The American Dietetic Association said a survey it conducted found good choices at all 28 of the major airports checked, and said food selections had im-

proved since a similar survey in 1994.

The registered dietitians who conducted the survey in January applauded the variety of food at Chicago O'Hare, Pittsburgh and Seattle/Tacoma International.

However, 15 airports did not have reduced-fat or low-fat muffins on the day they were evaluated, and 11 did not have skim milk readily available.

Please see Seattle, Page 8

MINING NEWS
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Mining hours...

Continued from Page 1

Knox gold mine employees near Fairbanks to work under federally established standards. He said the bill originally allowed any company to establish 12-hour shifts, if employees consented, but he twice narrowed the bill's scope to match his intent.

"The testimony that it was going to impact tens of thousands of people was never my intent," Therriault said.

The mining bill would not apply to major Juneau mines, since the Greens Creek silver, lead and gold mine on Admiralty Island is an un-

derground operation. The Kensington gold mine, which may reopen near Berners Bay, will also extract ore underground.

A bill passed last year allows 10-hour shifts at the face of those mines instead of eight, but overtime is paid for extra hours.

Therriault's bill allows shifts up to 12 hours, but requires overtime pay for employees working more than 40 hours a week. Officials with the Fort Knox mine have testified that 95 percent of its employees support the proposal, but union and other officials have expressed opposition.

Supporters of both mining bills note workers receive additional days off with the longer shifts, often a benefit at remote sites where commuting daily can take several hours. Longer shifts at Greens Creek mean workers can remain at on-site camps during the work week, before going home for extended time off.

Knowles spokeswoman Claire Richardson said Therriault's bill is designed largely to help Fort Knox officials control labor costs. Officials for the mine testified they want to switch workers from eight-hour shifts to 12-hour shifts, but overtime would make the move too expensive.

Seatt

"We were pointed that found in all th ined," said Cathy Kapica routine part lives, we had been available

Milwaukee tional was one did not have s ble, and was not have low-f It also didn' muffins.

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Pipelines explode ...

Continued from Page 1

down and firefighters could get close enough to extinguish the blaze.

The eruption occurred about a half mile from the nearest residence, but a few homes were evacuated as a precaution, said Gary Enbody of Cowlitz County Sheriff's Search and Rescue.

As of Sunday evening, Northwest Pipeline officials had not surveyed the Kalama site.

In the Everson explosion, officials are investigating whether blasting at a rock quarry, timber activity or wet weather could have played a role.

The Department of Natural Resources is leading an investigation into the cause of that rupture, said Neil Clement, deputy director of Whatcom County Emergency Management.

A 70-foot-long section of pipe was dislodged by the Everson explosion. Sunday, in a hilly logging area with smoke rising from still-smoldering stumps, the section lay in three pieces, its edges ripped like tin foil by the fierce force of the escaping fuel.

The pipeline carries pressur-

ized, lighter-than-air methane from the San Juan Basin in New Mexico to the U.S.-Canadian border at Sumas in Whatcom County.

Northwest Pipeline officials said the company has a right of way to run its pipe across land owned by Trillium, a logging company based in Bellingham. Trillium operates a rock quarry about three-quarters of a mile away from the site of the rupture, officials said.

A second pipeline, also buried five feet underground and running parallel to the first pipeline, about 20 feet away, appeared undamaged by the blast, officials said. As a precaution, gas-company officials said they lowered the pressure on the second line, which has

a 30-inch-diameter pipe, to about 40 percent of normal.

Natural-gas service in the Seattle area has not been interrupted because Northwest Pipeline rerouted the flow of gas from the ruptured pipe to the pipe that runs parallel to it.

Saturday's blast jolted houses, rattled windows and shot orange flames hundreds of feet into the air. The fireball could be seen from British Columbia to the San Juan Islands.

Pete Dykstra, a farmer who lives with his wife and two sons about a mile from the blast site, said an acquaintance who was even closer to the explosion reported seeing the ground lift "in a red glow" before a fireball shot skyward.

O.J.

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American Association of Orthodontists



Hugs & Kisses

Hugs And Kisses G

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Judy Shuler

Collen Campbell

For the Week of Februar

Support HB 68

Jan. 31, 1997

To the editor:

My husband is a Fort Knox employee. He is a haul truck driver. We strongly support HB 68.

I understand the value placed on unions, but their opposition to HB 68 is not justified. It is not their place to negotiate for us.

My husband currently works three different shifts: seven days, seven swings, and seven graveyards per month. The effects of this type of schedule has been well documented. Three to four 12-hour shifts per week is in his/our best interest—both physically and emotionally.

The safety issue that has been raised is not a legitimate concern. Cab drivers, construction workers, hospital staff including the ER, ICU, surgical unit and nurses, work 12-hour shifts. They work 36-48 hours per week. They receive overtime pay for work

that exceeds 40 hours. This is the schedule Fort Knox employees want implemented.

My husband worked for construction companies. He worked 10-12 hours a day, six to seven days a week. He was paid overtime for working over 40 hours per week. He didn't have insurance, or a retirement plan. Where were you—you who protest against such horrendous working conditions. You who think you know what is best for our family. You who speak out against HB 68.

When are you going to protest against the hospital, cab companies, construction companies, because you don't care for the hours their employees are required to work.

What if the situation were reversed? What if you wanted a more reasonable work schedule for yourself, your husband or wife? What if this were met with outside opposition? People organizing, creating a situation that could prohibit you from working a schedule that is in the best interest of you and your family.

If you have so much time on your hands—as to concern yourselves with what you think is best for our family and Fort Knox employees—please involve yourselves in some other cause.
Gloria Couch
Fairbanks

3 Feb 1997
Fairbanks Daily News Miner

Mine work day could change

Measure has worker, management support

JUNEAU (AP) — A North Pole lawmaker wants to change Alaska law to allow surface mine employees to work up to 12 hours a day without earning overtime pay.

Rep. Gene Therriault, R-North Pole, said he is introducing legislation at the request of miners at the Fort Knox gold mine near Fairbanks.

The bill would exempt employers from a requirement to pay overtime after eight hours, if employers and employees voluntarily agreed to a state-approved work plan.

Employers would still be required to pay overtime for work beyond 40 hours a week.

Therriault told the Juneau Empire that the bill had broad support from workers and management at Fort Knox. The mine workers want to cut their commutes to the site by working longer hours for less days a week. If the legislation passes, the miners could be scheduled to work 14 long days every four weeks, rather than 21 shorter days in the same time period. That cuts out seven trips to the mine site.

The bill quickly drew criticism from some lawmakers and administration officials who feared it would erode workers' pay in industries other than mining, and that the agreements would not be purely voluntary.

"They're going to be working the same hours and, of course, earning

less," said Senate Minority Leader Jim Duncan, D-Juneau.

Therriault said he is rewriting the bill to make clear it applies only to surface mine workers.

The bill, would not affect workers at Greens Creek mine on Admiralty Island since ore there is extracted under-

ground, not on the surface, Therriault said.

The state Department of Labor did not support the original version of the bill, said Dwight Perkins, department spokesman. Perkins said the agency would take another look at the new version of the bill.

Union members decry Fort Knox's 12-hour shift plan

The Associated Press
FAIRBANKS — Union members from across the state have denounced a legislative attempt to let the Fort Knox gold mine set up a system of 12-hour shifts without overtime pay.

Fort Knox executives would like to switch from three 8-hour shifts to two 12-hour ones, but say overtime costs make the move prohibitively expensive. The mine's employees would voluntarily give up the overtime wages, they say, for the extra time off and more consistent schedule that comes with the 12-hour shift.

But union members, labor leaders, and Department of Labor commissioner Tom Cashen warned that the measure could erode rights and jeopardize wages for thousands of workers across the state.

More than 100 people squeezed into the Fairbanks Legislative Information Office on Monday for a teleconferenced hearing. Most of those in Fairbanks spoke against the measure.

House Bill 68 would allow mines to work employees for 12 hours without paying overtime if the company, its employees and the Labor Department all agreed. Companies would still pay overtime to those working more than 40 hours a week.

As originally introduced by Rep. Gene Therriault, R-North Pole, the bill allowed any company in Alaska to seek the exemption. A House panel quickly limited that Monday to just open-face mines.

Many at the hearing questioned whether workers would voluntarily give up those overtime dollars. Cashen noted that Fort Knox offered employees a Hobson's choice: a "killer schedule" of rotating shifts or help in convincing the Legislature to weaken labor laws. The bill was held in the House Labor and Commerce Committee and will be reconsidered next Wednesday.

LETTERS TO THE EDITOR

Mine's two faces

Jan. 29, 1997

To the editor:

In writing this I would like to clear the air a little in reference to House Bill 68.

In the first place, the rotating shift system which Fort Knox is going to implement is not anything new. Alcoa's magnesium plant in Addy, Wash. has had the same identical rotating shift for the last 20 years. Since I grew up in that area I have friends and relatives that work there. It took a lot of adjusting to that type of work schedule and there have been attempts over the years to change it back to a more modest shift change. The company pays the overtime, which it still prefers, as opposed to hiring additional people which is what it really boils down to. The corporations save a lot of money on reduced insurance premiums by having less workers on the payroll, and yet now in this state they want to skim the gravy of overtime hours away from the very workers that are agreeing to the rotating shift system.

Whether this bill passes or not it is still financially in Fort Knox's best interest to have the rotating shift.

It was quite a ploy for management to make it sound like they are doing their workers a

favor by going to bat for them in backing this outrageous bill, when in fact this is just another way to further erode the rights of the individual worker.

In closing I would also have to question the motive of our politicians that are backing such a bill, since the major backers all received the maximum campaign contributions from the Fort Knox concern.
 Mike Tomsha
 Fairbanks

*Fairbanks Daily
 News Miner
 1 Feb 1997*

HB 68 is a bad deal for Alaskan workers

What if you wanted to be able to make a decent living by working eight hours a day and 40 hours a week? What if you also wanted to be paid overtime for hours worked beyond eight hours a day and 40 hours a week, to compensate you for the wear and tear of extra work and the lost opportunity to spend that time with your family? This is not a novel concept now, but until the Wages and Hours Act was passed in 1938, millions of workers were working a standard 10 to 12 hours a day, six days a week with no overtime pay. The advent of the eight-hour, 40-hour week was probably the most important factor in developing a middle class in the United States and raising the living standards of the American family.

Now we have fewer than 250 workers at the Fort Knox gold mine and the company that they work for trying to subvert the Alaska eight-hour workday law and turn back the hands of time, potentially for all workers in Alaska. I am speaking about House Bill 68.

Currently most employees at Fort Knox work a four-week schedule with only seven days off, switching between days, nights and swing shifts. For instance, in weeks two through four, starting on a Tuesday, they are made to work seven straight swing shifts with only one day off, and then they are switched to seven straight night shifts before seeing another day off. This schedule is so grueling and inconsistent, that anyone

working it would ache for shift relief.

I have been told that it is the employees at Fort Knox seeking this exemption from Alaska law, and HB 68 is simply for the benefit of these employees. If that is true, then is it the employees who went to the expense of employing four contract lobbyists and are paying for numerous and ongoing employee trips to the Legislature to provide testimony and continuing lobbying efforts?

Or is it the Fort Knox employer that foots this bill, so that he can reduce his expenses by not having to pay his employees the overtime compensation that they would be entitled to under current Alaska law? I trust it's the latter.

I believe Fort Knox can and should take care of their employees' shift and commute concerns as a personnel matter within the current Alaska statute. Nothing in the law now stops them from having a 12-hour schedule other than their obvious opposition to their obligation to pay for hours worked, including overtime compensation. I don't really think this should have become a legislative matter. It should have been handled on site.

If HB 68 or a Senate clone, SB 169, passes, the floodgate is open for every other employer wanting exception from Alaska Wage and Hour standards, and those companies will be able to increase their margins of profit by taking just another part of a worker's pay. This is bad economics and bad public policy for the working men and women of Alaska.

Mike Notar

Be wary of flexible workweek

Rep. Gene Therriault has his facts skewed toward the profit margin of big business in his Compass piece (April 16) concerning worker flexibility in scheduling.

I currently am working for a company that uses such a practice in Alaska. Unocal Corp. has practiced what they affectionately call the adjusted workweek and the worker bitterly calls the adjusted rate for more than 20 years. We work a 12-hour day, seven days a week with seven days off. The way this works is that the worker is paid the first eight hours of his/her day at a substantially lower, "adjusted rate" and is paid time-and-a-half at the "base" rate of pay for the final four hours of his shift. When all is said and done, the rate of pay equates to less than straight pay for the entire 12-hour shift. The only overtime actually paid is for the final four hours of the workweek.

Therriault leaves us with the impression that the company is doing this for the good of the worker and out of the goodness of their hearts. Tell that to the 150-plus Unocal workers that went on strike a year ago trying to get rid of the "adjusted workweek" and failed. Just like a bad tax, once this type of pay system is in place, it is nearly impossible to get rid of. We were even willing to revert back to the 40-hour workweek. The company did not see this as an option because they realized this would cost them in additional overtime and the problems with scheduling that would no doubt arise, not to mention lost production.

Our fathers and fathers' fathers fought to get the workers a fair and equitable workweek. Many of them died to get us this benefit. Are we now prepared to just throw it away? What will the companies want next? I sympathize with Fort Knox workers' desire for more free time with their families. But if it's flexibility the company wants, let them be more flexible! For the past 20 years the working sector has bent to big business. This time let big business bend to the worker. To the workers at the Fort Knox mine, I urge you to look at what impact this type of legislation would hold for the generations that will follow you. I hope you gain more free time with your families, but don't allow big business to make you pay for it.

— Mark Schams
Kenai

Glean Empire 25 Apr 1997

Anchorage Daily News Apr 25, 1997

Fairbanks Daily News Mirror Feb 1997

Knowles opposes mining hours bill

Measure moves to full House

By DOUGLAS FISCHER
Staff Writer

Gov. Tony Knowles opposes a controversial mining hours bill allowing Fort Knox employees to give up some overtime pay.

The bill, advanced Wednesday to the full House, allows workers at surface metal mines to work a 12-hour shift without earning overtime pay. They would still receive time-and-half wages for working more than 40 hours in a week.

Fort Knox employees and managers requested the legislation, sponsored by Rep. Gene Therriault, R-North Pole. Without the exemption, mine officials say they cannot afford to pay overtime and must cycle employees through a grueling schedule of rotating eight-hour shifts.

Knowles calls that a labor-management problem and does not see the need to involve the Legislature. "Don't look to a state law that affects an individual mine," he said.

"I've been in the restaurant business 28 years," Knowles added. "You pay overtime costs. That's just what it takes to do business."

As originally introduced, House Bill 68 allowed workers in any industry, not just mining, to voluntarily give up overtime pay when working up to 12 hours a day. The House Labor and Commerce Committee quickly narrowed that to affect just two mines in Alaska—Fort Knox and the Red Dog zinc mine near Kotzebue.

The exemption would come only if workers and management voluntarily agreed and the state Department of Labor concurred.

Miners, Knowles said, should solve the problem using existing laws. He suggested they use a 10-hour overtime exemption already on the books.

Therriault said current laws do not suffice.

The waiver allows employers to pay straight time for a 10-hour shift but prevents employees from working additional hours—even on overtime, he said.

"Statutes do not allow miners and managers to work this out by themselves," Therriault said. "The governor needs to take a little time and see the restrictions in the current statute."

Union members and officials protested heavily during teleconferenced hearings on HB 68. The bill, they said, eroded worker rights and smacked of specialized legislation.

See MINING, Page B-2

doctor at Fairbanks Memorial Hospital during her arrest. She is in custody. Bail is set at \$5,000.
—By Karen Aho

MINING

Continued from Page B-1

"People in this town, and this town especially, have afforded houses, afforded cars because when they go to work, they make overtime," said David Guttenberg, a member of Laborers Local 942 and a former Democratic state Senate candidate.

If the state grants Fort Knox an exemption, Guttenberg added, next year other contractors will line up for theirs. "This is something all working people should be against."

Therriault, however, does not understand why organized labor opposes the measure, which would benefit 243 workers—albeit non-unionized ones—at Fort Knox. Union workers are exempt from state overtime laws.

"If you're union, you have all the flexibility in the world," Therriault said. "If you're non-union, you don't have any flexibility."

"I don't see why it's good to have flexibility for them but why it's not good to have flexibility for anybody else."

Yunik mask



Daily News-Miner

The Voice of Interior Alaska

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FAIRBANKS, ALASKA, THURSDAY, JANUARY 30, 1997

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Overtime bill would affect two mines

Opponents continue attack at teleconference

By PATRICIA JONES
Staff Writer

A proposed exemption to the state's mandatory overtime law was altered Wednesday to affect only two mines in Alaska—the Fort Knox gold mine and the Red Dog zinc mine in northwest Alaska—but opponents continued to lambaste the measure.

Many union members objecting to the proposal, which would allow gold miners at Fort Knox to work 12 hours without receiving overtime pay, say the exemption would open the door for other industries to make the same request.

"It's a bad precedent to change state law to benefit a few people," said John Ward, the first of nearly 70 people testifying via teleconference Wednesday before the House Labor and Commerce committee.

State law requires overtime pay for employees working more than eight hours a day, unless those workers have voluntarily signed a flexible work hour plan. Currently, employees can work 10 hours a day and waive overtime until their weekly schedule exceeds 40 hours.

Fort Knox miners and managers want to change that to 12 hours a day, so employees can work the same number of hours but double the days off of work. The measure would also eliminate a schedule that rotates weekly between three different eight-

See OVERTIME Page A-7



Mike Mathers/News-Miner

TELECONFERENCE—Fort Knox truck drivers (from left) Howard Alloway, Penny Schwegel and Fred Smith were among the several dozen workers from the mine who were on hand Wednesday for another legislative teleconference at the Legislative Information Office in the Denali State Bank building. All three want to see House Bill 68 pass letting them work 12-hour shifts without receiving overtime pay up to a 40-hour workweek.

OVERTIME: Mines

Continued from Page A-1
hour shifts.

Only four committee members were present Wednesday. The full panel will vote on the bill at a later date.

Before public testimony began, House Bill 68's sponsor Gene Therriault, R-North Pole, changed it so only year-round surface metal mining operations can apply for the exemption. He said the bill would apply only to two Alaska mines—Fort Knox and Red Dog.

Although narrowed in focus, Therriault's bill was attacked by Rep. Tom Brice, D-Fairbanks, a member of the House Labor and Commerce committee.

"Why is it necessary for the Legislature to act as a negotiator between the management and labor at Fort Knox mine?" Brice asked Therriault.

Therriault noted that current labor law allows collective bargaining units to waive overtime but that Fort Knox workers, who are not unionized, cannot negotiate such changes.

During public testimony, one of the bill's opponents strongly suggested that the 240-member work force at Fort Knox organize and seek union representation. That brought laughter from several dozen mine employees gathered in the Fairbanks Legislative Information Office.

Legislative discussion also outlined several industries where employees are already exempted from the mandatory overtime law. Therriault said hospital employees, agriculture workers and mines with low employment numbers do not receive overtime after eight hours of work each day.

State statutes already include 16 exemptions regarding overtime pay, according to Randy Carr, chief of state labor standards. "Some clearly echo their federal counterpart," he added.

Ed Flanagan, assistant commissioner of labor, also spoke against the bill.

"It's ill-advised to be adding more exemptions willy-nilly," he said. "If one exemption is added one year, two more will be asked for the next year and where do you stop?"

Those remarks were criticized by one Fort Knox employee testifying from Sitka, where he and several other workers were forced to stop while en route to Juneau.

"It sounds like (Labor Commissioner) Tom Cashen is echoing the labor unions, but he needs to come look at our working conditions," said Dennis Alexander. "His job description is to promote the welfare and improve the working conditions... this bill improves the quality of life for workers."

Steve Lang, Fort Knox's general manager, also testified from Sitka, refuting allegations that the mine's management set up the eight-hour work schedule to coerce workers into requesting 12-hour shifts.

"With all respect to that allegation, it's a lie," Lang said. "Just check the feasibility study, which indicates that with our low-grade deposit, the only way to afford operations was with eight-hour shifts."

Employees approached management about the possibility of working 12-hour shifts, he said.

employers and their workers more flexibility and enhance the economic competitiveness of the state. The 40-hour work week was maintained, however.

Labor and Democrats began a political retaliation this week. Wilson's appointees to the IWC may see their confirmations rejected by the Democrat-controlled Senate and Democrats in both houses vowed to place legislation maintaining the eight-hour day on Wilson's desk. And if he vetoes the measure, they said, it will lead to another ballot measure in 1998.

"We will put this on the ballot just like the minimum wage," Assembly Labor Committee chairman Dick Floyd said at a Capitol news conference Tuesday.

A similar struggle is developing, meanwhile, over a Wilson administration decree that changes the application of the state's "prevailing wage" law on public works contracts to lessen the impact of construction union wages. That's touched off a campaign by the state's construction unions to overturn the decision by Wilson's Department of Industrial Relations.

It's entirely possible that both the eight-hour day and prevailing wage issues will wind up on the 1998 ballot, along with another union-backed measure that would thwart Wilson's drive to privatize state government services.

Despite the current rhetoric, many Democratic Party leaders would like nothing better than having a slew of such issues placed before voters in 1998. They believe that last year's minimum wage measure was not only popular with voters but was a major generator of votes from low-income and ethnic minority groups which often fail to turn out on election day. And having three or even more labor issues on the ballot in 1998 and Wilson as an unpopular political target would enhance their chances of retaining control of the Legislature and recapturing the governorship.

Thus, Wilson, the most openly anti-union governor of recent decades, could become a galvanizing figure for a union movement that's been lacking popular appeal of late.

Dan Walters is a columnist for the Sacramento Bee in California.

Work-day argument intensifies

By DAN WALTERS
Scripps-McClatchy

SACRAMENTO—The 19th century shift in the American economy from agriculture to industrial production gave birth to the labor union movement. And in the often violent clashes between capital and labor, no issue loomed larger than the length of the working day.

The infamous Haymarket Square Riot in 1886 was the bloody climax to a nationwide demonstration over the eight-hour working day.

The early 20th century saw widespread enactment of eight-hour day laws by state and federal governments, including one in California during the progressive Republican governorship of Hiram Johnson requiring any work beyond the eight-hour limit to carry premium pay.

Now, more than 80 years later, the eight-hour working day has erupted anew as a contentious political issue and the centerpiece of a broader struggle over labor laws pitting unions and their allies in the Democratic Party against Republican Gov. Pete Wilson and business executives.

The first salvos of the new labor war were fired over the minimum wage. Wilson, backed by Republican legislators and employers, repeatedly blocked efforts to raise the state's minimum wage, both in the Legislature and the Industrial Welfare Commission (IWC), a little-known body, controlled by the governor's appointees, charged with deciding such issues.

California unions and their allies scored a big victory last year when voters approved a ballot measure raising the state's minimum wage from \$4.25 per hour to \$5.

Republican efforts to modify the eight-hour day, meanwhile, were blocked by Democrats in the Legislature, leading to another end run, this time in the IWC. The commission voted 3-2 last week to abolish the eight-hour day, saying it was needed to give



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Mine worker dies

Dozer driver crashes into Fort Knox pond

By KAREN AHO
Staff Writer

A Fort Knox Mine worker was killed Sunday afternoon when the bulldozer he was driving went off an embankment and crashed through the thin ice of a tailing pond about 150 feet below.

Edward Paul Irby, 46, could not be found in the cold, murky water Sunday by Alaska State Trooper divers, who made two separate sweeps along the edge of the 30-foot-deep pond. They were to try again today.

Divers did find the D-10N Caterpillar, under water about 50 feet off shore.

No one saw the accident, Fort Knox General Manager Steve Lang said.

Workers had been leveling dirt to heighten the tailing dam when Irby's dozer mysteriously vanished. The two other people working in the area had left for about 10 minutes. When they returned, at about 3:50 p.m., they wondered where the D-10 had gone.

"Looking around the work area, they determined it had backed down into the pond," Lang said.

Wide tracks led from the dam straight down the

See FORT KNOX, Page A-7

Fort Knox News-Miner 4/14/97



Karen Aho/News-Miner

FATAL ACCIDENT—Rescue workers walk on the embankment near an inflatable raft along the settling pond at Fort Knox gold mine after a Caterpillar D-10N bulldozer and its driver, Edward Irby, 46, went into the pond around 4 p.m. Sunday. Searchers had not recovered the body as of late Sunday night. They will resume the search today.

FORT KNOX: Bulldozer driver lost in pond

Continued from Page A-1
embankment to a fresh hole in the ice. Two hours later, bubbles still were rising from the spot where divers found the piece of heavy equipment.

Trooper divers Chuck Lovejoy and Sue Acquistapace said the left door of the cab was open under the water. They also found one red glove believed worn by Irby. Visibility in the tailing pond was zero, they said. The water was 42 degrees.

Irby had been working at the mine since July. Lang said he didn't know how long he had been operating the bulldozer. He was a direct employee of Fort Knox.

Lang sent those working with Irby off site shortly after the accident and temporarily ceased outdoor mining operations later Sunday.

"I think it's just better to send

the mine crew home," Lang said. "People are very concerned, and (we want) to make sure that when they are working that their minds are on their jobs."

Fort Knox, about 25 miles northeast of Fairbanks and the largest operating gold mine in North America, has run 24 hours a day 365 days a year since it geared into full operation last year. The mine employs 253 people.

Sunday's accident was the second fatality at the mine. In September 1995, a 27-year-old man was killed his first day on the job. Loren J. McCorkindale had been at work two hours when the water truck he was driving went off the edge of an embankment into a ditch.

Kiewit Pacific Co., the subcontractor that had hired him, was issued four citations from the federal Mine Safety and Health Ad-

ministration. Two were related to the design of the road. Neither the mine's operator, Fairbanks Gold' Co., nor the general contractor were cited.

Inspectors from the Mine Safety and Health Administration were expected to arrive at the mine today or Tuesday, Lang said.

The tailing dam is constantly being built up with dirt as the level of the tailing pond rises. The pond contains the gravel and water left over from the milling

process. The water is pumped out and reused in the mill. But as more and more gravel sinks to the bottom, the pond's elevation rises. The pond is now about 2,000 feet in width. It is expected to grow to 1,200 acres during the 12-year production of the mine.

The Steese Volunteer Fire Department responded to Sunday's accident and called the University Fire Department for a boat. Steese Assistant Chief Edie Curry said Fort Knox had a boat on order.

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Mine rules better but still flawed

The latest agreement between placer miners, government agencies and environmental groups brings water quality regulations, if not down to Earth, then at least into a low-level orbit.

This agreement was about a year in the making. It grew from a proposed out-of-court settlement between the federal Environmental Protection Agency and environmental groups. That settlement, announced in February of 1996, was so foul that Alaska's Department of Environmental Conservation publicly challenged the EPA.

The resulting compromise, discussed at a workshop Tuesday in Fairbanks, brought some reason to the rules, but left plenty to criticize. Environmental groups, represented primarily by the Sierra Club Legal Defense Fund, have agreed not to challenge the EPA's general permits for placer mining if the state finds those permits acceptable. That removes some uncertainty for miners. The environmental groups also agreed to drop a demand that the EPA enforce stream discharge limits for most metals until EPA finishes a 2-year study of whether such limits are even needed in Alaska. That makes sense as well.

But the most bizarre aspect of the EPA's permit—the arsenic standard—still remains. The standard says no one may dump water into "freshwater" rivers and lakes if the dumped water contains more than .18 parts per billion of arsenic. This number has little basis in science; it was developed through a highly questionable extrapolation process. In fact, the EPA, Alaska's DEC, and other state agencies in the United States allow "drinking water" from a well to contain up to 50 ppb of arsenic.

The EPA did make one concession with regard to arsenic rules. The original general permits did not allow consideration of natural arsenic levels in the water that placer miners use. If it came out of a placer mine, the standard applied. In the compromise, background levels can be considered. Also, since arsenic can't be reliably detected below 3 ppb, the EPA won't go after any miners unless the arsenic added to discharge water exceeds that figure.

Unfortunately, the EPA's general permits won't be available to anyone operating in federal conservation areas and on the "wild" parts of wild and scenic rivers. Miners with legitimate claims in these areas need individual permits, requiring more expensive data and detail.

That's overkill. Placer miners today do not muck up the Interior's clearwater streams like they did during the early 1980s. Strict regulations have forced virtually all operations to recycle 100 percent of their water. Only during heavy rainfall do their muddy ponds overflow. So, for all intents and purposes, such intermittent overflows are the only discharge to which these regulations will apply. And if those overflows conform to the general permit rules, they will still threaten our wild rivers no more than the average eroding mud bank.

Anchorage Daily News

Saturday, February 8, 1997

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Knowles opposes Fort Knox overtime bill

The Associated Press

FAIRBANKS — Gov. Tony Knowles says owners of the Fort Knox gold mine should not look to the Legislature to pass a special law that exempts the operation from some overtime rules.

A bill which is headed for a vote in the House allows workers at surface mines to work a 12-hour shift without earning overtime pay. Workers would still receive over-



time pay when they work more than 40 hours a week. I've been in the restaurant business 28 years," Knowles told the Fairbanks Daily News-Miner. "You pay overtime costs. That's just

what it takes to do business." Fort Knox employees and managers requested the legislation, sponsored by Rep. Gene Therriault, R-North Pole. Without the exemption, mine officials say, they cannot afford to pay overtime and must cycle employees through a grueling schedule of rotating eight-hour shifts. The bill originally would have allowed workers in any industry, not

just mining, to voluntarily work a 12-hour day without overtime. That was changed by a House panel to apply just to the Fort Knox mine near Fairbanks and the Red Dog zinc mine near Kotzebue. The exemption would come only if workers and management voluntarily agreed and the state Department of Labor concurred. Knowles said existing laws allowing a 10-hour overtime exemption

could likely solve the problem. But Therriault said current laws do not suffice. "Statutes do not allow miners and managers to work this out by themselves," Therriault said. "The governor needs to take a little time and see the restrictions in the current statute." Union members protested heavily during hearings on Therriault's bill, saying it eroded worker rights.

Fort Knox miners seek OT exemption

Union leaders oppose change

By PATRICIA JONES
Staff Writer

Fort Knox gold miners want the Legislature to change state labor law so employees can work 12 hours a day without extra compensation, much to the chagrin of local labor leaders.

Employees dissatisfied with a schedule that rotates weekly between three different eight-hour shifts are clamoring for change. Mine managers say the only alternative, a 12-hour dual shift, is too costly due to overtime pay.

"It would cost us \$1.5 million a year in extra pay, and I don't think we can afford it," said Steve Lang, Fort Knox's general manager. "Our emphasis now is to control costs—we've got some big loans to pay back."

At the request of employees, Fort Knox managers say they've asked Interior legislators to propose changes in state labor law that would allow gold miners to work 12 hours a day without earning overtime, until employees log more than 40 hours of

work a week.

But rolling back state laws regarding mandatory overtime pay is "a real slap to working men and working women's faces," said Jay Quackenbush, business representative for the International Brotherhood of Electrical Workers Local 1547 in Fairbanks.

"We see it as an erosion of worker's rights," said Dan Simien, president of the Laborers Local 942. "They're weakening the working system that a man is able to earn a decent wage for a fair day of work."

As introduced by Rep. Gene Therriault, R-North Pole, House Bill 68 would allow workers in any industry, not just miners, to voluntarily give up overtime pay when working up to 12 hours a day. Overtime would continue to be paid for work exceeding 40 hours a week.

"I did not intend for it to be so sweeping," said Therriault, who wanted to make the labor law modification for only surface miners. "It was not my intent to impact current employees in mining operations or other operations that get overtime pay."

He pledged to include more re-

strictive language, making industry-specific changes to the bill, a one-page document that amends the state's law regarding voluntary flexible work hour plans.

That change will occur sometime after Monday's first committee hearing on the bill, Therriault said. A local teleconference site for testimony will be offered at the Legislative Information Office on north Cushman Street, in the Denali Bank building. The hearing is slated to begin at 3 p.m.

Current state law requires overtime pay for more than eight hours of work each day, unless a flexible work plan is in place. Employees may request longer work schedules, up to 10 hours a day, and waive overtime pay until exceeding 40 hours a week, said Randy Carr, chief of state labor standards.

"The employee signs up to participate in a flexible program—not to be a condition of employment," he pointed out.

Therriault's proposal would also require approval from the state commissioner of labor for any schedules that include 12-hour shifts without overtime pay.

See FORT KNOX, Page B-2

Legislative solution supported by workers

By PATRICIA JONES
Staff Writer

Lorne Chase can make only about half the games his basketball team plays, because of conflicts with his ever-changing schedule as a shovel operator at Fort Knox gold mine.

Larry Kalk, a control room operator in the mine's huge mill, is thankful his once-a-month weekend off of work in January fell Saturday and Sunday so he could watch the Superbowl, a long-standing tradition for the former Wisconsin football fan.

And Dean Newmeyer, who just got a millwright position at the mine last fall after losing his job at the Ketchikan Pulp Co., would like to cut his commuting costs to the mine, located off the Steese Highway about 25 road miles northeast

of Fairbanks.

Those are just a few reasons why these three employees are willing to waive their right to daily overtime pay when switching to a 12-hour per day work schedule.

Spending more time with family and away from work is the main attraction, Chase said. "There are a lot of things to do in Alaska (than) to be at work all the time."

Employees at the mine have been requesting a shift change "since day one," he added. "Changing the schedule is the biggest gripe at every meeting."

Most of the mine's 243-person work force now spends eight hours a day at the mine, five days a week. But unlike the typical 9 a.m. to 5 p.m. business day, Fort Knox runs

See MINERS, Page B-2

Chilling out

Kauvar will

FORT KNOX: Workers push for 12-hour days at mine

Continued from Page B-1

Although Tom Cashen, the state labor commissioner, did not return phone calls to the News-Miner last week, an assistant said the department will oppose Therriault's bill as it is written.

Union leaders in Fairbanks who met with mine managers a few weeks ago to talk about the proposed change don't support any modifications to the state's labor law.

"If it happens for surface

mining, every other industry will want it too, and there we go again," Quackenbush said. "It's a snowball coming off the Fort Knox mountain."

IBEW union leaders have put together a three-page position paper, outlining the organization's opposition to the labor bill. "To adopt this proposed change would return the Alaskan worker to a pre-twentieth century standard, effectively undoing 100 years of progressive reform," they wrote.

Furthermore, the union pointed out that underground miners were given an exemption from the overtime minimums by legislative action last year, a change that increased shift hours at the Greens Creek mine near Juneau.

"We are concerned that incremental assaults on wage and hour and safety legislation will continue to erode the protections for Alaskan workers that have been built into the law," the IBEW document said.

Simien, at the Laborers's union, also said the proposed law change would likely have a "rippling effect ... we're really disappointed that the Interior representatives would sponsor

this bill and put it forward."

"Many people have made sacrifices throughout the history of labor to get these things for employees," he added. "I really don't think the employees at the mine have a very clear picture of the impact ... they don't understand the ramifications of signing an agreement like that."

Both Lang and Therriault say employees are driving the request for the change.

"If the employees did not want this, I would not be asking for it. I can't remember a meeting when it was not brought up," said Lang, during an interview at the mine.

"Without notifying the management, I called some of the employees to make sure there has been no coercion in this decision," Therriault said. "They're very desirous of this change."

The Legislature should encourage Fort Knox and other mining projects, Therriault added. "We have a number of potential properties that may come on line, a little further out in the district than Fort Knox, and we want the work force in Fairbanks."

The mine's constantly changing work schedule and a long commute to Fort Knox, located about 25 road miles from Fairbanks, were reasons Therriault cited for his support.

But mine managers, who will continue to work more traditional weekday hours, point out the 12-hour shifts give hourly employees 91 more days off of work in a 12-month period.

"That's an additional three months away from the job," Lang said. "They'll still work 168 hours a pay period, but now they'll work it in 14 days instead of 21 days, so they double the

days off of work."

That argument doesn't wash with labor unions.

"I fail to see their logic. People are not working to have time off, they're working to have an income," Simien said. "The mine is getting their services for a reduced rate."

Switching to a 12-hour work day will cost Fort Knox about \$250,000 a year in extra overtime pay, Lang said. That's because each employee will work 48 hours one week, and 36 hours the next, creating an extra eight hours of overtime pay.

The schedule change would not alter employment numbers at the mine, Lang said, but operations would likely see some increase in production and recovery with the elimination of one shift. "The \$250,000 is a cost I believe we can recover."

"In the long life of the mine, we'll see ups and downs and I have to make sure we're in a position to survive the down periods," Lang added.

With gold prices falling below \$350 per ounce last week, Fort Knox is struggling through one of those down periods. Cash costs to produce gold at Fort Knox are estimated to be about \$215 per ounce for the first five years of the mine's life, according to a company news release from Amax Gold, the mid-sized mining company that owns Fort Knox.

That doesn't include capital costs to buy and build the Fairbanks area mine, which racked up nearly a half billion dollar price tag during the five year permitting and construction process.

Commercial production of 1,000 ounces of gold per day has yet to be reached, although the first gold bars were poured last December.

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CITY OF FAIRBANKS ALASKA PUBLIC NOTICE
 A meeting of the City of Fairbanks Code Review Commission is scheduled for January 28, 1997 at Noon in the Engineering Conference Room, first floor of City Hall, 800

A Special Wish

Continued from Page B-1

24 hours a day.

To keep the mine and mill running constantly, Fort Knox employees work seven days straight and rotate between day, swing and graveyard shifts, changing each week.

Day shifts which begin at 7 a.m. and end at 3 p.m., are the favorite of Fort Knox employees. Getting there is the problem. There's less than 48 hours from the end of the last graveyard shift, which starts at 11 p.m. and ends at 7 a.m. the next morning, to the stretch of daytime work hours.

"The first day I'm back on days, I feel like a zombie," Kalk said.

Another troubling result of the rotating schedule, hourly employees only have one full weekend off each month, making it "...tough to have any kind of life outside the mine," Chase said.

He began working for the Fort Knox mine in August, 1995, clearing trees off the hillside site for the mine and mill, and now operates the biggest piece of equipment at the mine—a 23-yard shovel that can pick up nearly 35 tons of rock and material with one bite.

Working with new equipment is a bonus, Chase pointed out, but the current, ever-changing schedule might make him seek other employment in the future. "Definitely, if there's an open door, I'm going to walk through it. This is hard on the family, hard on your life."

He thinks a 12-hour shift will lead to safer work conditions in the mine, because equipment operators will hand off their machines to the same person at each shift change. "It's safer because you don't have that middle person in there."

Mine managers also cite increases in safety statistics at other mines. Outside that changed to 12-hour work shifts. Steve Lang, Fort Knox's general manager who was hired by Amax Gold to run the Fairbanks-based project late last year, came from the Twin Creeks Mine in Nevada, a considerably larger gold mine.

There, workers went to 12-hour shifts in 1994, a change allowable by Nevada state labor law. Mine managers saw the number of accidents causing an employee to stop work drop fairly dramatically, Lang said.

National safety averages are based on the number of accidents occurring during every 200,000 employee hours logged at a mine. Twin Creeks dropped from 1.6 lost time accidents before working 12-hour shifts to .58 accidents in the first year, Lang said. "And last year, we had one million consecutive hours without reaching a lost time accident."

He attributes that to focus. "People have more time off of work to go fishing and snowmobiling and spending time with family ... when they do come back to work, they're ready to work and not trying to crowd several activities into one day."

Fairbanks News-Miner 1/27/97

Issues

mediator Jan Sunoo said he has been working with his colleagues who have been working with those interested in the issue, including the school board's ethnic committee, education unions, school district administration and other community organizations.

Sunoo said a recurring theme is a concern about being able to participate in the decision-making processes.

Board member Bill Burrows said many of the concerns with the process of hiring interim principals could be a result of poor communication. "I think it's a lack of understanding and communication about what we're doing and why."

Burrows said the hiring of interim principals allows the district to do a more comprehensive search for a permanent principal, possibly reach more ethnically diverse candidates.

Some board members agreed that better communication between the board and the community would help the different groups work together on the diversity issues within the district.

Burrows said the end result of the process is to be determined. See SCHOOL, Page B-2



Nora Gruner/News-Miner

NO MORE TESTIMONY—Gary Niese, member of the Operating Engineers Local No. 302, wears a gag, while filling out a Public Opinion Message form at the Legislative Information Office. He wore the gag after being told that lawmakers decided to limit public testimony during the discussion of Senate Bill 169 Tuesday afternoon.

Resolution Use panel



for this October.

- No federal court oversight of state subsistence programs.
- Allow the state to define "rural user" and "traditional and customary use."

Resolution 1 clearly specifies how the bill should be amended to address subsistence management (needs)," said HJR 21 author Dick Bishop, executive director of the Alaska Outdoor Council. The resolution "does not attack the rural subsistence priority. (Instead) it leaves federal law but allows the state to define rural subsistence

residents saw the measure attempt to erode subsistence rights. Federal law gives preference to hunting and preference over urban areas. State law does not. "The measure asks the Native community to give up established subsistence protection," testified April of Nome during the telecast hearing. "In this (political) climate that we live in, it would not only be a failure but outright fool-

It remains stuck in committee now. James has "no idea" if it will reach the floor. But even if it does. See HOUSE, Page B-2

Senate offers own version of overtime exemption bill

By DOUGLAS FISCHER
Staff Writer

JUNEAU—With a controversial mining hours bill stuck in the House, a Senate panel launched its own version Tuesday, debating a measure that lets Fort Knox gold miners work 12-hour shifts without overtime pay.

Mine officials would like to switch from three eight-hour shifts to two 12-hour ones but say overtime costs make the move prohibitively expensive. Mine employees agreed to forfeit overtime wages for the easier schedule, but state law prevents such a deal.

House Bill 68 would exempt workers at year-round surface metal mines from the overtime law. Introduced by Rep. Gene Therriault, R-North Pole, the bill attracted a swarm of controversy from union and labor leaders who denounce it as an erosion of state labor laws.

The same uproar greeted Senate Bill 169, HB 68's twin.

Sen. Loron Loman, R-Anchorage and chairman of the Senate Labor and Commerce Committee, limited testimony

on SB 169 to about 10 minutes per side,



noting the House heard more than five hours of testimony on the matter.

That move prompted a spontaneous outburst at the Fairbanks Legislative Information Office, where about 30 people hoping to sway the lawmakers wore gags in protest.

Loman said his panel will accept written comments until Thursday, when the bill is expected to pass from committee.

During the hour-long hearing, the seven who did testify largely rehashed the same arguments for and against the exemption aired during House hearings.

"We shouldn't lose sight that the state is trying to change state labor laws enacted to protect employees," said Carol DesNoyers of Healy. She said that although the bill affects only two mines, "it will

have repercussions."

Dan Seaton of Kodiak, representing Teamsters Local 959, said other industries are lining up for their exemptions—to the detriment of the state's seasonal workers.

"Once it's granted to one group, it's not going to be able to be denied to other groups," he said. "Without overtime rates through the summer months for the canning industry, trucking industry and construction industry, a lot of folks are not going to be able to make it."

But Tom Irvin, Fort Knox's operations manager, said 98 percent of the mine's 243 workers would voluntarily trade overtime for a 12-hour shift.

"What it really comes down to is fairness," he said, noting unions enjoy the exemption denied unorganized Fort Knox workers. "It allows our employees to work a much more reasonable work schedule."

Fort Knox miners work a grueling shift of rotating eight-hour days. Switching to the 12-hour shift. See OVERTIME, Page B-2

Fairbanks News-Miner 4/16/97

printed. Obituaries
 be dropped off in the
 N. Cushman, mailed
 Fairbanks Daily News-
 10710, Fairbanks, AK
 452-7917.

State Trooper Roger Ellis said.

above.

OVERTIME: Bill

Continued from Page B-1
 hour shift would cost the mine
 \$1.5 million with current laws—a
 cost Irwin said the over-budget
 mine cannot absorb.

Should either bill become law,

the 12-hour shift would cost just
 \$250,000 in increased overtime
 while giving miners an extra 91
 days off annually, he said.

Opponents of the bill have
 floated a number of alternatives
 to changing state law, from
 working 10-hour shifts to lo-
 wering base wages to hold o-
 vertime costs level. Irwin said none
 would work and noted that
 Alaska overtime law is among the
 most restrictive in the nation.

Ed Flanagan, assistant com-
 missioner at the Department of
 Labor, said that is no reason to
 change the law. "The state
 should be proud if we have excep-
 tional laws to protect workers,"
 he said. The department opposes
 the bill.

Alaska requires companies to
 pay time-and-a-half wages for
 anyone working more than eight
 hours a day. More than a dozen
 exemptions exist on the books,
 including one for unions and
 another that allows employees to
 voluntarily work four 10-hour
 days in a week.

SB 169 and HB 68 would allow
 miners to work a 12-hour shift at
 straight pay. Employees would
 still earn overtime on any hours
 worked in excess of 40 per week.

The two bills affect only two
 mines in the state, but labor
 leaders look at the Interior's
 mining boom and predict that
 number will balloon.

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Alaska Legislative Digest

An Inside View of Alaska Policy

PUBLISHERS: Mike Bradner

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Anchorage, AK 99507
Fax: (907) 522-1761

January 31, 1997
No.4 /97

Fort Knox Mine worker schedule bill has organized labor in an uproar

Fairbanks Gold's effort to get legislation allowing for voluntary workforce agreements has unions in an uproar. State Labor Commissioner Tom Cashen also isn't enthused about the idea, which should be no surprise. Hearings were held in House Labor and Commerce Committee Jan. 27 on Rep. Gene Therriault's HB-68 Jan. 27 and 29, which would allow 12 hour workshifts without overtime within a 40-hour week. Fairbanks Gold, the AMAX Gold subsidiary operating the big new Fort Knox gold mine near Fairbanks, says it can't afford to run two 12-hour shifts and pay four hours overtime past eight hours a day, which would be required under current law. The company now works three eight-hour shifts, and lost productivity during shift changes and morale effects on workers from shift changes has become a concern. HB-68 would allow workers to voluntarily agree to flexible schedules. Fort Knox employees want to work 12-hour

Continued on Page 8

The tobacco tax is now considered likely

Republican legislative leaders need a way to fulfill their commitment for \$80 million in "new revenues" in FY '98 (part of their fiscal plan) and the tobacco tax is looking more and more like a candidate to fill at least half of the requirement. House Republicans see a good political "cover" for passing the tax in Rep. Jeanette James' HB-52, which dedicates the money to school construction via the old school tax fund that still exists from pre-statehood days. Hearings were held Jan. 28 and 30 in House State Affairs on HB-1, by Rep. Con Bunde, and James' HB-52. James' bill duplicates Bunde's except that revenue goes to the school fund.

Continued on Page 8

In this issue:

Boarding schools? Speaker Gail Phillips gives more details on the House Majority's education package... Page 2

Welfare reform: Administration briefs Senate Finance on its complex implementation. Page 2

Natural gas: Pipeline spur to Anchorage may be on the table. Page 3

Status of Bills..... Pages 4-5

Road to Rampart: Hickel-era new road is resurrected in DOT planning studies, agency says Page 6

Fish tax incentive: Sen. Mackie's bill reinstates 1985-91 tax incentive for shore-based plant investment.... Page 6

Labor opposes HB-68, Fort Knox mine bill

Continued from Page 1

shifts for four days and have three days off. Hours over 40 a week would still be overtime. Under the proposal, employees would actually get more overtime than now. At 12 hours daily four days a week, they would work 152 hours at straight time and 16 hours overtime. They now work 160 hours straight time and eight hours overtime. This would cost Fairbanks Gold \$250,000 more per year, but there would be greater productivity gains because mining operations wouldn't have to slow during the current three shift-changes. If the law isn't changed and the company were to work 12-hour shifts and pay overtime past eight hours the added cost would be \$1.5 million per year, which the company says it can't afford.

Concern is over precedent the change would create

What worries the unions, and Commissioner Cashen, is that the change in HB-68 can't be isolated to one employer. It now applies to "surface mine" operators but that would cover gravel mining, which could cover a lot of gravel pits on construction jobs. Unions complain construction contractors have abused current provisions in laws that offer flexibility, and the fear is that the HB-68 change would be similarly abused. At the Labor and Commerce hearing, Alaska AFL-CIO boss Mano Frey had a suggestion: Why doesn't the company shave the hourly earnings a bit and then pay straight overtime? His math indicates they would achieve the same goals without cracking the 8-hour day.

Strong union opposition is having effects even within the Republican Majority. The more the bill is characterized as "special interest" essentially benefiting one employer, the more uncomfortable many Republicans will be, particularly if the company and its employees have other options, such as Mano Frey's idea.

James' support increases chance that tobacco tax will go (Cont.)

Continued from Page 1

Because it existed at statehood (and 'grandfathered' in, escaping the prohibition on dedicated funds) legislative attorneys feel there's a fighting chance the dedication will survive court scrutiny. The Attorney General seems more doubtful. A 1960 AG's opinion casts doubt on whether the dedication would stand up, and current AG Bruce Botelho said he stands by it. But James has written her bill so that if the dedication fails court scrutiny the tax would survive, with the money going instead to the General Fund (as would be the case with Bunde's bill.)

Arguments against tax show counterattack shaping up?

Passage by the House isn't guaranteed, though. A counterattack within the Majority is shaping up over arguments that a new cigarette black market would be created. Another line of argument can be seen voiced by Rep. Al Vezey, a member of State Affairs, in concerns that tribal groups in Alaska could circumvent the new state tax with tax-free enclaves. The Senate, however, will take a dim view of the dedication. One scenario: (1) James' bill becomes the vehicle to get the issue out of the House; (2) the Senate strips the dedication; (3) at session's end, enough pro-tobacco tax House majority members, led by Rep. Bunde, side with Democrats to adopt the Senate version of the bill. Meanwhile, House State Affairs will have the bill up for committee discussion Tuesday, Feb. 4.



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Union members turn out against 'no overtime' bill

By DOUGLAS FISCHER
Staff Writer

Union members from across the state lined up Monday to denounce a legislative attempt to let Fort Knox gold miners work 12-hour shifts without overtime pay.

Fort Knox officials would like to switch from three 8-hour shifts to two 12-hour ones, but say overtime costs make the move prohibitively expensive. The mine's employees would voluntarily give up the overtime wages, they say, for the extra time off and more consistent schedule that comes with the 12-hour shift.

But union members, labor leaders and Department of Labor Commissioner Tom Cashen warned that the measure eroded rights and jeopardized wages for thousands of workers across the state. Alaska law mandates that anyone working more than eight hours in a day or 40 hours a week be paid time-and-a-half overtime wages, an exception allows employees to voluntarily work four 10-hour days without overtime.

Over 100 people, wearing Carhartts, company caps, work boots and union

rings, squeezed into the local Legislative Information Office for a teleconferenced hearing, packing the office's two conference rooms and spilling into its main room. Most in Fairbanks spoke against the measure.

House Bill 68 would allow mines to work employees for 12 hours per day without paying overtime provided the company, its employees and the labor department all voluntarily agree. Companies would still pay overtime to employees working more than 40 hours a week.

As originally introduced by Rep. Gene Therriault, R-North Pole, the bill allowed any company in Alaska to seek the exemption. A House panel quickly limited that Monday to just open-face mines.

Many at the hearing questioned whether workers would voluntarily give up those overtime dollars. "It's like asking if you want to be shot or hung," said Labor Commissioner Tom Cashen, noting that Fort Knox offered employees a Hobson's choice: a 'killer schedule' of rotating
See OVERTIME, Page A-7



Miko Mathers/News-Miner

LABOR HEARING—From left, Terry Benzo, Steve Morgan, Shawn Lowry and Don Swarner fill out written testimony in the Fairbanks Legislative Information Office in the Denali State Bank building Monday. More than 100 people packed Monday's House hearing teleconference on House Bill 68, dealing with state labor laws and a proposal to adopt a 12-hour workday for the open-face mining industry.

OVERTIME: Union members speak out

Continued from Page A-1
shifts, or help in convincing the Legislature that weakened labor laws benefited workers best.

"When you hire on, you voluntarily agree to it or you don't get hired," Cashen said. "It's hard to hire people in the future when you've got this schedule set up."

Mike Fair, who signed up with 51 others in Fairbanks to testify via teleconference, also wondered how many Fort Knox miners really want to lose that overtime.

"I don't even think you could get 95 percent of the kids in a class to vote for pizza," he said. "And you have here 95 percent of the employees at Fort Knox voting for straight time for 12 hours."

Rep. Gene Kubina, D-Valdez

and a member of the House Labor and Commerce Committee, was particularly amazed that miners at Fort Knox often toggled between day and night shifts with just two days to adjust. "No wonder these guys want to change," he said.

Sveve Lang, Fort Knox general manager, told committee members that 241 out of 243 mine workers support the measure. "The benefits to the employees are very obvious," he said, noting that under the new plan they would earn 2.3 percent more while working 91 less days per year.

With a \$1.5 million price tag, a regular 12-hour shift is too expensive for a mining operation facing low gold prices and cost overruns, Lang added.

Cashen countered that even during oil's nadir in the mid-1980s, industry officials never tried to dismantle state labor laws.

Also criticized at the hearing was the bill's specialized nature. Many suggested the problem was one that Fort Knox and its employees should work out. "Don't change the rules for the sake of 240 workers working an absolutely terrible, terrible shift," urged Mano Frey, president of Alaska's AFL-CIO chapter. Instead, he suggested the company reduce wages so employees could work 12 hours with overtime yet earn the same as a 12-hour shift at regular pay.

Union rank and file cautioned that other, unionized employers would be quick to ask for the exemption. Fort Knox miners are not unionized.

But Theriault noted that current state law lets employers work organized employees over eight hours without overtime if their contract allows.

"We wouldn't be taking away any statutory protection you have," he said to Dan Claspill, an electrician at unionized Usibelli Coal Mine Inc. who testified against the bill because he feared losing overtime pay. "You're already exempt from that statute anyway."

The bill was held in the House Labor and Commerce Committee and will be reconsidered next Wednesday.

12/19/97
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Other options at Fort Knox?

Amax and its employees at Fort Knox should keep trying for an in-house solution to the unpleasant shifts at the mine. Changing the state law, which requires overtime pay after eight hours, raises troubling, divisive issues. We should let the idea simmer a little longer to see if other solutions might work.

Employees at Fort Knox have a bad deal, without question. Their schedule starts with seven eight-hour shifts in a row during the day. Then they get a four-day break. When they return, they work seven swing shifts in a row. Then they get one day off. And when they come back, it's seven night shifts in a row. That's followed by two days off and then the day shift starts again.

At first glance, this might seem like some kind of a masochistic plan guaranteed to backfire on the management with a quick union takeover. However, the rapidly rotating shifts have real merit. No one gets stuck for months or years on swing and night shifts where they might become cut off from friends, family and fun. The factor that makes this rotation at Fort Knox most unpleasant, though, is the long commute from Fairbanks. It adds a good 45 minutes or more to each end of the day. So employees want to make fewer commutes and work 12-hour shifts, a reasonable request.

Under current state law, that would require four hours of overtime for each employee on each shift. Between the severe cost overruns during mine construction and the falling price of gold, Amax is probably already walking a fine line with this project. Boosting the payroll by such a huge percentage might endanger the operation.

So why not change the state law to allow a 12-hour, no-overtime pay day for a "surface metal mining operation that operates year round"? There are a number of facts supporting that suggestion. For one thing, Alaska is one of only three states that requires overtime after eight hours. The rest mostly follow the federal standard, which doesn't require overtime until more than 40 hours are worked in a week. (Actually, the state of Alaska itself permits non-overtime shifts of greater than eight hours in no less than 16 different circumstances. Most of Alaska's exemptions are aimed at small businesses, but hospitals, farms and fishing boats are included. And, of course, unionized work forces are exempt because it's a matter of contract negotiation.)

The employees obviously want the change. If the law passed, their proposed schedule would start with four 12-hour shifts in a row during the day. Then they'd get seven full days off. That would be followed by four shifts at night and three full days off. Then they'd have three shifts back on days and one full day off. When they came back, they'd have three night shifts, followed by another three days off. That would bring them back to the start of the schedule. That plan isn't any cake-walk either, but at least the employees would spend less time driving and they'd have longer to adjust between shift rotations.

Nevertheless, this law proposes a major change in Alaska's mine labor law. An eight-hour day is an important, hard-won standard. It's one way we communicate to companies, particularly large multi-nationals such as Cyprus Amax, that we expect a certain quality of life in exchange for our natural resources. Admittedly, the benefits can be zeroed out when shifts are rotated radically, but that's something companies must weigh carefully.

There are a few other ideas that should be discussed more thoroughly. Would employees at the mine agree to cut their base wage rate so that, even if they worked 12-hour shifts with overtime pay, their weekly earnings wouldn't fall? The mine's costs would remain the same and the employees would get their preferred schedule. Or what about changing shifts every few months? People would still have a long daily drive but at least they wouldn't be making huge adjustments every week and they would avoid being trapped forever in a schedule opposite the rest of the community.

No doubt these options have been discussed thoroughly at the mine, but to people on the outside they look like reasonable solutions that could avoid a nasty fight.



Newspaper policy a detail in sex crime r

Few things changed my view of the world so much as when I learned several years ago that a close friend of mine was a survivor of incest and sexual abuse as a child and teen-ager.

It took a lot of understanding by those close to her. We tended to want to weave a safety net around her and protect her as she went through months of counseling. But what we found was she just needed people to listen and support her. She didn't need to be coddled. She wanted to talk it out, regain her self-confidence and get on with life.

We all came to know, in some detail, what she survived and the memories she carried. We came to appreciate just how tough she was, and we respected her survival instinct.

This experience has come back to me time and again in the past year, when the News-Miner's reporting of details of these types of crimes has proved to be the most contentious issue I have faced as managing editor.

In an Aug. 11 column, I announced the News-Miner would create a policy regarding the handling of story and photographic content that may be offensive to readers.

After discussion with staff members, a counselor to survivors of crime, the survivor I mentioned earlier, researching cases at a few other papers, and just "letting it soak" for awhile, I have settled on a final policy.

The guidelines are not revolutionary, but I believe the policy will serve to maintain the newsroom's attention to what I have come to call "potentially upsetting news detail."

During creation of this policy, concerned readers have come to my office to plead with me to hold some details out of respect for the victims, the families and to protect children who read the newspaper.

We do hold back a great deal of detail already—information available to anyone who can find the courthouse.

I told the survivor I know about the detail that we do print and asked for her opinion.

Kelly
Bostian



"It's hard to read, but Kelly, people have to know," she said. "It's too easy to turn away otherwise."

"When I was hurt the school had to know, the neighbors had to know, but they turned away."

The bottom line is that terms like "sexual assault" or even "rape" just don't tell the story.

It was hard to read about a Fairbanks toddler who was killed while being forced to perform oral sex. But it would have been too easy to read that the child died during a "sexual assault." That legal terminology dehumanizes the incident. It also is not completely accurate. "Sexual assault" covers a wide variety of acts.

Some who came to me complained that children who are 10 or 12 years old aren't ready to know about these things and shouldn't be subjected to them in the newspaper.

My response: How can we say our children are not ready to hear about something today that they could be victims of tomorrow?

That said, I must point out that the News-Miner is and will continue to be relatively conservative in what it will print. The majority of sordid detail about crimes that is available to reporters is not relayed to the public, or is sanitized for a wider audience.

On the lighter side, Chicago Tribune columnist Mika Rayko sometimes is a little too crude for our tastes, so he doesn't make print. Editorial cartoons have come to us depicting people giving others "the finger." Those didn't fly with us.

Dave Barry has crossed the line once or twice and been chopped. Even Ann Landers got a little too specific for our tastes



LETTERS TO THE EDITOR

It, my husband fell in love with Alaska from the things I have

Well, we aren't leaving, we are here to stay. The difference will

and pop cans at the mother and call. The movie was short and

ALASKA DEPARTMENT OF CORRECTIONS

DIVISION OF ADMINISTRATIVE SERVICES



JOSEPH REEVES
ASSISTANT DIRECTOR

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TO: Casey Sullivan

COMPANY: Rep Crowley

FAX #: 2069

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COMMENTS

Specific 24 hr. agreement language for CO's.

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**ARTICLE 26
CORRECTIONAL OFFICERS**

It is agreed and understood between the parties that the following shall be the terms and conditions of employment for employees working in Correctional Officer classifications:

26.01 General Conditions.

- A. Except as specifically modified by this Article, all other provisions of the 1996 - 1999 Agreement shall remain in full force and effect.
- B. Hours of operation shall be established by the Employer. Scheduling of employees and assignment to shifts shall be determined by the Employer. Shift and post bidding procedures may be established for a particular institution by letter of agreement between the Employer and the Union.
- C. Correctional Officers who are subject to AS 23.40.200(a)(1) shall be compensated according to the following schedule effective July 1, 1996:

40 Hour Schedule

Range	Step A	Step B	Step C	Step D	Step E	Step F	Longevity Increments			
							Step J	Step K	Step L	Step M
7	1,003.00	1,030.50	1,061.00	1,095.00	1,128.50	1,161.00	1,197.00	1,236.00	1,270.50	1,310.50
8	1,061.00	1,095.00	1,128.50	1,161.00	1,197.00	1,236.00	1,270.50	1,310.50	1,350.00	1,395.00
9	1,128.50	1,161.00	1,197.00	1,236.00	1,270.50	1,310.50	1,350.00	1,395.00	1,438.50	1,488.00
10	1,197.00	1,236.00	1,270.50	1,310.50	1,350.00	1,395.00	1,438.50	1,488.00	1,538.50	1,592.50
11	1,270.50	1,310.50	1,350.00	1,395.00	1,438.50	1,488.00	1,538.50	1,592.50	1,651.00	1,708.50
12	1,350.00	1,395.00	1,438.50	1,488.00	1,538.50	1,592.50	1,651.00	1,708.50	1,773.50	1,831.00
13	1,438.50	1,488.00	1,538.50	1,592.50	1,651.00	1,708.50	1,773.50	1,831.00	1,899.00	1,969.50
14	1,538.50	1,592.50	1,651.00	1,708.50	1,773.50	1,831.00	1,899.00	1,969.50	2,040.00	2,110.00
15	1,651.00	1,708.50	1,773.50	1,831.00	1,899.00	1,969.50	2,040.00	2,110.00	2,183.00	2,253.50
16	1,773.50	1,831.00	1,899.00	1,969.50	2,040.00	2,110.00	2,183.00	2,253.50	2,330.00	2,411.00
17	1,899.00	1,969.50	2,040.00	2,110.00	2,183.00	2,253.50	2,330.00	2,411.00	2,501.00	2,576.50
18	2,040.00	2,110.00	2,183.00	2,253.50	2,330.00	2,411.00	2,501.00	2,576.50	2,671.00	2,755.50

84 Hour Schedule

Range	Step A	Step B	Step C	Step D	Step E	Step F	Longevity Increments			
							Step J	Step K	Step L	Step M
7	1,052.50	1,082.50	1,114.00	1,160.00	1,186.00	1,219.50	1,257.00	1,296.00	1,334.00	1,376.00
8	1,114.50	1,153.00	1,185.00	1,219.00	1,257.00	1,298.00	1,334.00	1,376.00	1,417.50	1,464.50
9	1,185.00	1,219.50	1,257.00	1,298.00	1,334.00	1,376.00	1,417.50	1,464.50	1,511.00	1,562.50
10	1,257.00	1,298.00	1,334.00	1,376.00	1,417.50	1,464.50	1,511.00	1,562.50	1,615.50	1,672.50
11	1,334.00	1,376.00	1,417.50	1,464.50	1,511.00	1,562.50	1,615.50	1,672.50	1,733.50	1,794.50
12	1,417.50	1,464.50	1,511.00	1,562.50	1,615.50	1,672.50	1,733.50	1,794.50	1,862.00	1,922.50
13	1,511.00	1,562.50	1,615.50	1,672.50	1,733.50	1,794.50	1,862.00	1,922.50	1,995.00	2,067.50
14	1,615.50	1,672.50	1,733.50	1,794.50	1,862.00	1,922.50	1,995.00	2,067.50	2,142.00	2,215.50
15	1,733.50	1,794.50	1,862.00	1,922.50	1,995.00	2,067.50	2,142.00	2,215.50	2,292.00	2,366.50
16	1,862.00	1,922.50	1,995.00	2,067.50	2,142.00	2,215.50	2,292.00	2,366.50	2,436.00	2,532.00
17	1,995.00	2,067.50	2,142.00	2,215.50	2,292.00	2,366.50	2,436.00	2,532.00	2,626.50	2,705.00
18	2,142.00	2,215.50	2,292.00	2,366.50	2,436.00	2,532.00	2,626.50	2,705.00	2,804.50	2,892.50

Correctional Officers who are not subject to AS 23.40.200(a)(1) shall be compensated according to the following schedule effective July 1, 1996: