

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 19, 2009

1:35 p.m.

MEMBERS PRESENT

Senator Joe Paskvan, Chair
Senator Joe Thomas, Vice Chair
Senator Bettye Davis
Senator Kevin Meyer
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 138

"An Act relating to a corporation income tax credit for contributions by a person owning or operating a commercial passenger vessel to a qualified trade association that was awarded a contract by the Department of Commerce, Community, and Economic Development, and used for planning and executing a destination tourism marketing campaign."

MOVED CSSB 138(L&C) OUT OF COMMITTEE

SENATE BILL NO. 97

"An Act relating to the licensing of crane operators; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 149

"An Act relating to the regulation of residential real property mortgage lending, including the licensing of mortgage lenders, mortgage brokers, and mortgage loan originators and compliance with certain federal laws relating to residential mortgage lending; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 138

SHORT TITLE: TAX CREDIT FOR STATE TOURISM PROGRAM

SPONSOR(S): SENATOR(S) MEYER

03/09/09 (S) READ THE FIRST TIME - REFERRALS
03/09/09 (S) L&C, FIN
03/19/09 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 97

SHORT TITLE: CRANE OPERATOR LICENSES
SPONSOR(S): LABOR & COMMERCE

02/04/09 (S) READ THE FIRST TIME - REFERRALS
02/04/09 (S) L&C, FIN
03/19/09 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 149

SHORT TITLE: MORTGAGE LENDING
SPONSOR(S): SENATOR(S) PASKVAN

03/13/09 (S) READ THE FIRST TIME - REFERRALS
03/13/09 (S) L&C, FIN
03/19/09 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

SENATOR KEVIN MEYER
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 138.

CHRISTINE R. MARASIGAN
Staff to Senator Meyer
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 138 for the sponsor.

BRETT CARLSON, Chair
Tourism Marketing Association

POSITION STATEMENT: Supported CSSB 138(L&C).

RON PECK, President
Alaska Travel Industry Association (ATIA)

POSITION STATEMENT: Supported CSSB 138(L&C).

JOHANNA BALES, Deputy Director
Tax Division
Department of Revenue (DOR)

POSITION STATEMENT: Answered questions about CSSB 138(L&C).

DEBORAH KAY, representing herself

POSITION STATEMENT: Supported SB 138.

ETHAN TYLER

CIRI Alaska Tourism Corporation

POSITION STATEMENT: Supported SB 138.

DAVID KASSER, Vice President of Tourism
Anchorage Convention and Visitor Bureau

POSITION STATEMENT: Supported SB 138.

DEB HICKOK, President and CEO

Fairbanks Convention and Visitors Bureau

POSITION STATEMENT: Supported SB 138.

MARY RICHARDS, President

State Bed and Breakfast Association

POSITION STATEMENT: Supported SB 138.

GRAY MITCHELL, Director

Division of Labor Standards and Safety

Department of Labor and Workforce Development (DOLWD)

POSITION STATEMENT: Supported SB 97.

JERRY ANDREWS, Apprenticeship Coordinator

Department of Labor and Workforce Development (DOLWD)

POSITION STATEMENT: Had some concerns with the definitions and applications in SB 97.

ALLEN WILSON

Alaska State Homebuilding Association

POSITION STATEMENT: Opposed SB 97.

RALPH KIBBY, owner

Chatham Electric and member

National Electrical Contractors Association (NECA)

POSITION STATEMENT: Offered to help work on SB 97.

JARED HAMLIN

International Union of Operating Engineers Local 203

POSITION STATEMENT: Supported SB 97.

LORI HOVANEC, Director

Division of Banking and Securities

Department of Commerce, Community & Economic Development,

POSITION STATEMENT: Supported SB 149.

ACTION NARRATIVE

[1:35:07 PM](#)

CHAIR JOE PASKVAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:35 p.m. All members were present at the call to order.

SB 138-TAX CREDIT FOR STATE TOURISM PROGRAM

[1:35:37 PM](#)

CHAIR PASKVAN announced the consideration of SB 138.

SENATOR MEYER, sponsor of SB 138, moved to adopt CS for SB 138, labeled 26-LS0626\P, as the working document. There were no objections and it was so ordered.

CHRISTINE R. MARASIGAN, staff to Senator Meyer, sponsor of SB 138, explained that each year the Alaska Travel Industry Association, which is the non-profit, member-based visitor industry trade association that conducts marketing on behalf of the State of Alaska, makes a request for funds to promote an Alaska tourism marketing program. Last year the legislature applied a three-year sunset clause to the match requirement, which currently has a 70/30 split with the State of Alaska and private industry. Currently the state-wide car rental tax brings in about \$9 million and is combined with \$2.7 million of private industry match to make a total tourism marketing budget of \$11.7 million for FY09.

Last year the legislature requested the travel industry come back to the table with a long-term tourism marketing funding growth plan. So, the committee substitute (CS) would establish a tourism marketing tax credit towards the recently approved water's edge corporate cruise income tax. This tax is one portion of the state's estimated tourism revenues and language on page 2, line 2, makes sure that any other contributions can not be included in this tax credit. This also does not allow the credits to carry over from year to year.

MS. MARASIGAN said this tax is a very specific and would be reinvested to promote the State of Alaska as a tourism destination.

SENATOR BUNDE asked if the fiscal note for the original bill applied to the CS.

MS. MARASIGAN answered yes.

SENATOR BUNDE asked if the maximum potential liability would be something under \$16 million.

MS. MARASIGAN answered yes.

SENATOR MEYER said in his previous life as co-chair of Finance he worked with the Alaska Tourism Association (ATA) to find a long-term funding mechanism for the tourism industry, and this is a good match. The dollar amount may go up as more tourists come in; so he suggested looking at establishing a cap.

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BRETT CARLSON, Northern Alaska Tour Company, said he is the volunteer chair for the Tourism Marketing Association, and supported CSSB 138(L&C). Tourism plays a big part in Alaskan economy and has a record of proven economic development as indicated in the pie chart. Last year it brought in \$122 million. He said the travel industry provides amazing opportunities for small businesses to participate at the ownership level. Research shows that the tourism marketing program works in Alaska as well as around the world.

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Chart 12 shows what in 1990 inflation-adjusted dollars, the state's contribution to the tourism marketing program was just over \$24 million. Over time, it went into decline and small businesses were hurt the most. They engaged with the legislature on ways to come up with a long-term tourism marketing funding model and the legislature adamantly said if they come up with a model, those dollars need to come from travel industry generated revenues.

The first step was reinvestment of the vehicle rental tax. That is essentially a flow of revenue coming into the state from independent travel and the legislature. This tax credit is the second part of the solution - that also comes from travel industry generated taxes.

MR. CARLSON said the economic crisis is affecting the travel industry, and this plan will help the state's ability to balance the budget. Travel intention studies indicate a decline of 30-60 percent in bookings for Alaskan businesses. As you get further away from the water those numbers become "most scary." This tax credit is one more tool that will help small businesses help themselves.

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SENATOR BUNDE remarked that the maximum project amount if all taxes were claimed as credit would be \$15 million and he has heard anecdotally that cruises are seriously discounted now. How low could this go?

MR. CARLSON replied that the tax credit could go up and down year to year. "Next year we may be able to determine what the floor on this tax credit is going to be....One thing about it is that tax credit is not going to grow unless tourism marketing works."

1:50:05 PM

RON PECK, President, Alaska Travel Industry Association (ATIA), explained that the most recent information indicates that cruise bookings are increasing, but the yields for Alaska are still down by 20-30 percent.

SENATOR THOMAS said the only concern he has heard is the concept that when the cruise ship head tax was put in place that it was charged back to the customer as an actual charge of \$50 on their ticket. Prior to that, the cruise ship industry had been contributing a couple million dollars to the tourism marketing effort on an annual basis. So, now they would be getting a credit for the couple million they had been contributing on their own prior to the implementation of the cruise ship tax.

MR. CARLSON responded that any time you increase taxes on businesses in Alaska, whether it's shown to the customer above the line or below the line, it has to be passed on to them because there is no other place to get it from. Last year the legislature moved away from that model to a new one based on reinvestment of a portion of travel industry revenues. It seems to make sense that both independent and cruise travel have a revenue stream.

MR. PECK added if this bill is passed, it would generate \$10 million to \$12 million, and the cruise industry still buys into ATIA programs in the amount of \$500,000 to \$600,000 annually. Prior to this new plan, their maximum annual contribution from a donation standpoint was \$1.9 million to \$2 million. Their contribution could grow substantially.

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JOHANNA BALES, Deputy Director, Tax Division, Department of Revenue (DOR), added that the commercial passenger vessel excise tax is charged above the line to passengers. This particular tax credit doesn't offset that tax, but rather it offsets the

corporate income tax that the cruise ships are required to pay. Normally those types of taxes get passed on below the line to the customers in the industry.

SENATOR THOMAS said that information helps.

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SENATOR BUNDE said a few years ago he asked the Department of Revenue to give the legislature a report on the net return to the state by various industries. He asked if her shop did that report.

MS. BALES said she remembered a report about uncollected corporate income tax, but didn't recall doing this particular report.

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DEBORAH KAY, representing herself, said she made her living in tourism for the last 20 years, and this bill will help to continue the growth of the state's tourism industry because of the marketing dollars it will have. It will allow her to continue to support herself and her family.

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ETHAN TYLER, CIRI Alaska Tourism Corporation, said with a shrinking world-wide economy, it's more important than ever for Alaskans to have a strong and competitive presence in the market place. He supported SB 138.

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DAVID KASSER, Vice President of Tourism, Anchorage Convention and Visitor Bureau, said he is also a small business owner and supported SB 138. He sees a lot of alarm and concern in just about every industry. He knows that Alaska could work to be more welcoming to this industry, especially the cruise industry which is being "wooded" globally.

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DEB HICKOK, President and CEO, Fairbanks Convention and Visitors Bureau, supported SB 138. She said that entrepreneurialism is one of the hallmarks of the Alaska visitors' industry. Tourism has a ripple effect throughout the communities in terms of construction, transportation, and countless other life benefits to our communities.

She reminded them that winter tourism is promoted by ATIA and she listed some of the businesses that could benefit. The beauty

of a state destination campaign is that it reaches a depth and breadth of potential customers that is far beyond the reach of most small businesses.

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MARY RICHARDS, President, State Bed and Breakfast Association, Fairbanks, said the Association has 211 members, and they are all small business owners that depend on the help that they receive through ATIA for destination marketing. There is no way they, as small business owners, can market independently to the domestic, European or Asian markets. Passing this bill would help each of them to reach a market and be able to continue to sustain the living they make. "If tourism ended tomorrow, a lot of us would be in a world of hurt."

[2:07:12 PM](#)

CHAIR PASKVAN closed public testimony.

SENATOR BUNDE pointed out that there could possibly be unintended consequences and said there is no such thing as a free lunch. Businesses have to worry about their bottom line and he wants them to succeed, but the legislature's job is to worry about the state's bottom line. The bottom line for the state is that tourism generates \$25 million for the general fund, but with this bill that will decrease to about \$15 million. Everyone needs to be aware of that, because in two or three years the state would be hurting for money. He was hoping they weren't robbing Peter to pay Paul. This model is sustainable only as long as the cruise industry stays in Alaska.

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SENATOR THOMAS moved to report CS for SB 138, version P, from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

CHAIR PASKVAN announced an at ease from 2:10 p.m. to 2:11 p.m.

SB 97-CRANE OPERATOR LICENSES

[2:11:38 PM](#)

CHAIR PASKVAN announced the consideration of SB 97. He pointed out that in the past few years crane accidents around the nation have caused numerous workplace deaths and millions of dollars in property damages. Although Alaska has not experienced a major crane accident for several years, a chart in their packets documents 10 fatalities in the state as a result of crane

accidents. Although some of the accidents were the result of circumstances beyond the operator's control, a majority resulted from operator error. SB 97 is a proactive step to avoid more crane-related catastrophes in Alaska by establishing minimum licensing standards to insure that operators are adequately qualified.

The State of Alaska currently requires licensing for numerous occupations from barbers and hairdressers to veterinarians. Licensing requirements are designed to protect the public by insuring that individuals are properly qualified to engage in a particular field of enterprise. Currently 16 states and 6 municipalities have passed legislation to require crane operator licensing, and legislation is pending in 6 more states.

The majority of these licensing requirements establish a requirement for certification through the National Commission for the Certification of Crane Operators (NCCCO) or an equivalent nationally-accredited training provider. This legislation will not create a burden on state revenues as licensing fees will pay for enforcement costs, subject to legislative appropriation. He said Dave Latch, Chief Operating Officer of BC Contractors, submitted a letter of support.

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GRAY MITCHELL, Director, Division of Labor Standards and Safety, Department of Labor and Workforce Development (DOLWD), stated support for Chair Paskvan's comments on SB 97. He reminded the committee of some of the recent crane accidents across the U.S. to highlight some of the dangers associated with crane operation, and mentioned that an Anchorage worker was killed a few days ago while operating a fork lift. This worker hadn't been properly trained and certified for that piece of equipment and it cost him his life.

Numerous occupations have licensing requirements including truck drivers, realtors and hair cutters, but not crane operators. Current OSHA regulations aren't adequate; the regulations in the construction standard require that crane operators are qualified based on a standard that is more than 40 years old. It is not detailed and leaves it up to the employer's judgment to decide what training is required.

Further, Mr. Mitchell said, it might take till 2016 for OSHA standards to be in place on the federal level. Even OSHA regulations don't necessarily apply to public safety provisions, and the crane licensing requirement would cover the public as

well. By establishing a licensing provision that requires applicants to be certified by a nationally accredited crane training and certification provider, Alaska would be taking a positive step toward minimizing the chances for a catastrophic crane accident.

He said that Canadians have been doing this for several years; Ontario passed a requirement in 1978. They did a study and saw a 75 percent reduction in deaths related to crane accidents in more than double that period after the certification requirement was started.

In California, Mr. Mitchell said, they compared the three years prior to their certification requirement to the three years after and saw an 80 percent reduction in deaths and a 56 percent reduction in injuries related to crane accidents. "So this really works."

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Just because Alaska has not seen a major accident for several years, isn't a good reason to not address this problem. From 1987-1997, Alaska experienced 15 crane accidents under the state and federal OSHA jurisdictions, and those accidents caused the deaths of 10 employees and serious injuries to 11 more. With the stimulus projects hitting the streets and potential natural gas pipeline on the horizon, Alaska can expect to see a lot more crane use coming.

MR. MITCHELL said last summer the DOLWD mailed a survey to 569 companies likely to operate cranes and got 128 responses on this issue. Several were opposed to licensing, but 82 percent indicated that certification would reduce accidents, and 70 percent of those indicated that crane operators should be licensed to work in Alaska.

He explained that this bill does not apply to cranes used for general industrial purposes, transportation, commercial fishing, logging, mining, oil and gas exploration or for manufacturing. The overwhelming number of accidents in the construction industry has pressed the department to focus on that industry first and that's the thrust of this legislation.

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SENATOR BUNDE asked if all the crane operators he talked about having accidents were uncertified.

MR. MITCHELL said he didn't have that information; he said that crane certification hasn't been around that long.

SENATOR BUNDE said his point is that even certified operators can have accidents. He asked him to walk through the process a young Alaskan who decides he wants to be a crane operator would have to do to get the training and certification. He was concerned about gate keeping and if you want to be a pipeline welder and your great granddad wasn't a member of the union, you wouldn't have a chance.

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MR. MITCHELL replied that right now training for crane operators is minimal. Beside the Equipment Operators' Union, the only other approved operation to provide the training and the examinations in Alaska is Alaska Crane Consultants in Kenai. The written exam costs \$265 and the practical exam where the person actually operates the crane is \$410, a total of \$675 to get licensed as a crane operator. Typically these individuals would have worked as a trainee under the supervision of a licensed crane operator for several years and gained some experience in the seat, although that is not a requirement at this point. The real question is when you have a young worker who shows skills in operating a crane, typically the employer is invested in that worker.

He explained that the fee of \$50 is one of the lowest occupational licensing fees he has seen and with this a person could go to work for an employer and learn the skills they would need to sit for this exam. More than likely the employer who already invested in the worker would be footing the \$675. So, cost is not a tremendous barrier.

CHAIR PASKVAN asked him to comment on the 17.5 ton issue.

JERRY ANDREWS, Apprenticeship Coordinator, Department of Labor and Workforce Development (DOLWD), said he used to be an instructor of crane training, a crane operator tester and a certified crane operator. He explained that 17.5 tons was chosen by industry as a size that doesn't allow for the operator to swing with the load. If the hydraulic crane is greater than 17.5 tons, the classification generally has a swinging cab. The National Commission for the Certification of Crane Operators (NCCCO) has broken the certification into four categories: small hydraulics under 17.5 tons, large hydraulics over 17.5 tons, lattice boom trucks and lattice boom crawlers.

SENATOR MEYER asked if most cranes in Alaska are under 17.5 tons.

MR. ANDREWS answered that most of the cranes are larger than 17.5 tons and are used in commercial applications. For the most part the boom trucks setting trusses are over 17.5 tons, but many of those are used in the electrical trade might be less than that.

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ALLEN WILSON, Alaska State Homebuilding Association, opposed SB 97. He said there is a substantial difference in boom trucks and cranes. Typically boom trucks are used for setting trusses and large beams. They may be on the job site 1-4 hours and then they are gone. It's quite common for the general contractor to go to the rental yard, pick up the truck, go back and set the beams and it's over in just a few hours. Boom trucks are also used a lot in panelized construction.

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His concern is that there is only one instructor in the state. He understands Juneau has one operator who is licensed by the NCCCO, and if this bill passes, when he needs his trusses set, the licensed operator might be working full time on a "big crane," not a boom truck. This would be an obstacle for getting his work done during a limited building season, as well as add to the cost. He suggested limiting the bill's effectiveness to 20 tons in the exemption section on page 6. Another option would be to add "cranes used in the residential construction of one and two family homes" on line 4, page 6. They could also add a definition of boom truck under (c) on line 17.

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Does this apply to guy who is actually pulling the levers and pushing the buttons or the guy who is on the ground directing him or both? Many times when they are setting trusses, for example, the operator can't see the project; so someone needs to give directions.

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MR. ANDREWS also pointed out that 24 of the 26 accidents nationwide were commercial. So he didn't see the need to regulate boom trucks on residential construction sites.

SENATOR MEYER remarked that most of the accidents happened on high-rise buildings instead of residential buildings. It's also not up to the rental store to know if the renter is certified.

MR. WILSON replied that is correct, and for instance, the local rental company doesn't require any licensing for its 17.5 ton boom truck.

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MR. ANDREWS said he agreed with Mr. Wilson that the controls and design are similar between 15, 17.5, 20 ton boom trucks, but industry and the Specialized Carriers and Riggers Association have recognized it at 17.5 tons.

SENATOR BUNDE asked if there is another category of guy sitting in a cab versus the guy sitting on back of a boom truck. He asked if either of those were used to differentiate licensing.

MR. ANDREWS replied that 20 tons can be a fixed cab, a boom truck or a swinging cab. He can appreciate the argument for the 17.5 tons versus 20.

SENATOR BUNDE commented that they could consider differentiating between a swinging cab and a boom truck.

CHAIR PASKVAN asked Mr. Andrews to comment as matter of public safety on a boom truck up to 20 tons.

MR. ANDREWS replied that as a matter of public safety the highest risk for any of the projects that have a lifting device is not for the operator, it's for the folks working around him and the bystanders. That being the case, he didn't think the division between 17.5 tons and 20 tons would make or break that argument. The issues are electrocution, ground stability and things like that. As the size and capacity of the crane are increased, those risks are also increased.

CHAIR PASKVAN said someone suggested including within the definition of "crane" on page 6 that it does not include a knuckle boom, stacker, lift truck, power shovel for a 20-ton or less boom truck. Would he support that?

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MR. ANDREWS replied that he would like to refer that back to Gray Mitchell to explore further.

MR. WILSON said if he understood Mr. Mitchell's testimony, it sounds like OSHA will have requirements for these types of equipment soon.

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RALPH KIBBY, owner, Chatham Electric, said he is a statewide electrical contractor and a member of the National Electrical Contractors Association (NECA) and that the bill needs much more work. He met with the sponsor of this legislation and identified some of the problems industry has with the current language, and he apologized that it has been a month and he hadn't gotten back to him with recommendations.

NECA members were polled, but they hadn't enough time to respond. The response he did get was that it needs much more work. He believes, as a business owner, that all accidents are preventable, and the people who worked on this bill believe the same thing. He said he would work with committee and department on providing data that would help with any amendments to insure the resulting law would not severely impact companies across Alaska.

MR. KIBBY said that Chatham Electric has several boom trucks and 20 tons isn't enough. He could give him a picture of a 30-ton that wouldn't look any different. He also said unless you have a CDL license and were capable of running something 26,000 pounds and over, you couldn't do it. Incidentally, he said, you have to be licensed for the tonnage of the crane, not what it can pick.

He has up to 30 employees who currently operate his cranes, and he assured them that as an owner he didn't allow anyone to operate a crane who had not been trained to do so. Someone mentioned exempting electricians and line work, but Chatham Electric performs three disciplines: line, telecommunications, and wiring; they work with transmission distribution, lighting in intersections, residential, industrial and commercial. Everyone at Chatham Electric has to be capable of operating the crane.

The way this legislation is written will have a huge financial impact on his business. He said this industry is already heavily regulated. Everyone at Chatham has certificates of fitness and the crane, itself, has to get annual certification. He asked them to look further at the exemptions language.

SENATOR BUNDE asked if all of his equipment is called a "boom truck," because he hears that used interchangeably with "crane."

[2:52:48 PM](#)

MR. KIBBY replied in his opinion it's a moving target. Some days it's a boom truck; others it's a truck crane. He has no known

definition. He currently has a 24 ton boom truck/crane that doesn't swing. Again, he asked for more time to work on wording; he did not want to leave it at the 20-tons, because he operates in excess of 50 tons.

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JARED HAMLIN, International Union of Operating Engineers Local 203, supported SB 97. He has talked with a lot of his contractors and the general consensus is they would like to see some type of crane operation licensing put in place for many reasons. On the business aspect, in looking at other areas where this has been enacted they have noticed lower comp and insurance rates and things like that.

CHAIR PASKVAN asked him to comment upon the distinction between a 17.5 ton boom truck and a 20 ton.

MR. HAMLIN replied that the 17.5 ton number comes from the NCCCO that had to pick a standard in which they could properly certify crane operators in multiple areas across the United States.

CHAIR PASKVAN asked if he thought that was the standard that was most appropriate for safety.

MR. HAMLIN replied that the people who make up the NCCCO are the manufacturers of the cranes, their users, their insurers and anybody who has anything to do with it. This is what they came up with.

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CHAIR PASKVAN closed public testimony and held SB 97 for further input.

SB 149-MORTGAGE LENDING

CHAIR PASKVAN announced the consideration of SB 149.

[2:57:19 PM](#)

LORI HOVANEK, Director, Division of Banking and Securities, Department of Commerce, Community & Economic Development, supported SB 149. The purpose of it is to bring the state's current mortgage lending statute into compliance with new federal requirements. Congress decided it was important to have a national component to the licensing of mortgage loan originators. So last year they passed the Secure and Fair Enforcement from Mortgage Licensing Act of 2008 (SAFE Act). It requires all states to implement mortgage law that conforms to

it by the deadline of July 30, 2009, and to join a national mortgage licensing system for licensing mortgage loan originators. She said the division is on schedule to join the national mortgage licensing system on August 1, 2009 and they need statutory authority to do so as well as the ability to pay the fee to join it. Her main concern today is meeting the deadline. The result of non-compliance is that HUD would take over mortgage licensing in Alaska as required in the SAFE Act.

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CHAIR PASKVAN held SB 149 for further work and adjourned the meeting at 3:04 p.m.