HOUSE FINANCE COMMITTEE
THIRD SPECIAL SESSION
November 2, 2015
2:06 p.m.

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CALL TO ORDER

Co-Chair Neuman called the House Finance Committee meeting to order at 2:06 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Marty Rutherford, Deputy Commissioner, Department of Natural Resources; Martin Schultz, Attorney General, Department of Law; Craig Richards, Attorney General, Department of Law; Mark Myers, Commissioner, Department of Natural Resources; Representative Dave Talerico, Representative Liz Vazquez, Representative Lora Reinbold, Representative Shelley Hughes, Representative Geran Tarr, Representative Cathy Tilton, Representative Andy Josephson, Representative Sam Kito III, Speaker Mike Chenault, Representative Paul Seaton

SUMMARY

HB 3001 APPROP: LNG PROJECT & FUND/AGDC/SUPP.

HB 3001 was HEARD and HELD in committee for further consideration.

^PRESENTATION: SENATE BILL 138 AND AKLNG PROJECT OVERVIEW

Co-Chair Neuman reviewed the agenda for the day. The presentation would review SB 138 [legislation that passed in September of 2014 - Short Title: Gas Pipeline; AGDC; Oil & Gas Prod. Tax]. Senate Bill 138, the heads of agreement (HOA) between the project partners, and the memorandum of understanding (MOU) with TransCanada defined the Alaska Liquefied Natural Gas (AKLNG) Project. He reported asking the administration to outline the roles and responsibilities of the different state entities as outlined in SB 138 and to recall the responsibilities of each state entity in the path going forward. Along with the presentation there was a document from the SB 138 committee record in 2004 which showed the expected timeline for certain preliminary agreements to be negotiated. He asked that the sheet be updated showing the status of the agreements and any future agreements. He relayed that it compared the charts from 3 years previous in SB 138. It was the same chart but updated.

2:07:25 PM

#hb3001
HOUSE BILL NO. 3001

An Act making supplemental appropriations; making appropriations to capitalize funds; making appropriations to the general fund from the budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) in accordance with sec. 12(c), ch. 1, SSSLA 2015; and providing for an effective date.

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MARTY RUTHERFORD, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, introduced herself and turned the presentation over to Mr. Schultz.

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MARTIN SCHULTZ, ATTORNEY GENERAL, DEPARTMENT OF LAW, relayed that he worked extensively on gas pipeline matters. He was would be providing information on the roles and responsibilities of the different state entities that were working on the gas line project. He introduced the PowerPoint Presentation: "Senate Bill 138 and AKLNG Project Overview." He explained SB 138 laid out the blueprint for the state's involvement in the project. He noted a detailed sectional of SB 138 handed out to committee members that provided significant detail about each section in SB 138 and the current status of work relating to each section. He noted a table included that had a list of agreements to be negotiated related to the gas line project: some by Alaska Gasline Development Corporation (AGDC), the Department of Natural Resources (DNR), and the Department of Revenue (DOR). The PowerPoint in front of the committee was meant to hit key provisions of SB 138.

2:10:13 PM

Mr. Schultz turned to slide 2: "SENATE BILL 138":

Passed April 2014
- Provides Authority for the AKLNG Project
    - AGDC: Infrastructure
    - DNR & DOR: Gas
    - Legislature: Contract Approval
- Provides New Provisions for Tax as Gas (TAG)
- Amends Oil & Gas Production Tax Statutes
- Created Municipal Advisory Gas Project Review Board
- Requires Reports to Legislature

Mr. Schultz recalled that SB 138 was heard during the regular session [in 2014] by a number of committees, had extensive committee hearings with many experts presenting on various facets, and passed during the session. It provided authority for the state to participate in the AKLNG Project. Alaska Gasline Development Corporation had primary responsibility for the infrastructure in the project. As it was contemplated then, AGDC would own the state's 25 percent interest in the liquefied natural gas (LNG) plant. TransCanada would have the state's interest in the gas treatment plant (GTP) and the pipeline. The administration was asking the legislature to fund an amount to pay TransCanada and for AGDC to assume TransCanada's role in the GTP and pipeline.

Mr. Schultz explained that DNR and DOR were the gas owners under SB 138. The Department of Natural Resources, on behalf of the state, owned the state's royalty gas. He reported a significant change related to production taxes. If DNR decided to take its royalty as gas instead of as money, then producers could elect to pay their production taxes as gas. The Department of Natural Resources would be paid in gas instead of in money and the two shares (the royalty and production tax amounts) would be the state's gas share.

Mr. Schultz communicated that the legislature had a continuing and very important role with regard to SB 138 and the gasline project. Contracts in length of more than 2 years entered into by DNR had to be reviewed and approved by the legislature.

Mr. Schultz relayed that SB 138 amended some other provisions relating to production tax and corporate income tax statues. The legislation also created a municipal advisory gas project review board, a group of municipalities impacted by the project either because the infrastructure would be in their localities or because construction activities would impact their localities. It provided for a municipal group to meet with DNR to design a property tax mechanism for the gas pipeline project. He added that SB 138 required reports to the legislature.

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Mr. Schultz slide 3: "Provides Authority for AKLNG Project: AGDC." He explained that the slide concerned Alaska Gasline Development Corporation (AGDC) and some of the sections in the bill relating to AGDC. The Department of Natural Resources and AGDC worked together on many facets of the project including expansion of the AKLNG infrastructure if additional gas was available and third party access for other producers on the North Slope and elsewhere to get their gas into the project. The Department of Natural Resources and AGDC were working together to determine the appropriate size of the pipe. Alaska Gasline Development Corporation was primarily responsible for the infrastructure, which was to be distinguished from DNR and DOR's role as the gas owners.

Mr. Schultz continued that AGDC had authority under SB 138 to own all components of the project, clear under enabling statute. In other words, AGDC could own the LNG plant, the GTP, and pipeline.

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Mr. Schultz pointed to slide 4: "Provides Authority for AKLNG Project: DNR." He indicated that the slide related to the responsibilities of DNR for the AKLNG project. He noted the key provision listed relating to DNR's enabling statutes. It gave the DNR commissioner the authority to enter into key project-enabling agreements of less than 2 years and if it was a contract for more than 2 years, which the vast majority of the contracts would be, it gave the DNR commissioner the authority to negotiate those contracts and bring them back to the legislature for review and authority to enter into them. It also gave DNR the authority to do lease modifications to take either royalty-in-kind (RIK) or royalty-in-value (RIV) for the initial project term, which was expected to be 20 or 25 years. It also gave DNR authority to convert net profit share and sliding scale royalties to fixed royalty rate leases.

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Mr. Schultz turned to slide 5: "Provides Authority for AKLNG Project: DOR." He pointed out that the slide repeated some of the provisions from the previous slide relating to DNR just to note that DNR and DOR worked together in consultation on the agreements relating to gas supply, gas balancing, marketing, and upstream agreements. It also affirmed that DOR commissioner directed the revenues received from production taxes taken as gas.

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Mr. Schultz continued to slide 6: "Provides Authority for AKLNG Project: LEGISLATURE." He noted that the legislature had an important role in reviewing contracts over 2 years in length that the state entered into and in giving the governor authority to execute them. He explained that Section 77 of the bill noted that the legislature would receive quarterly project briefings, which it had.

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Mr. Schultz advanced to slide 7: "Tax Provisions: TAG and Taxes." He indicated that the slide related to tax as gas

(TAG). He clarified that he was referring to production tax as gas. The state had received production taxes in the form of money, but the producers could choose to pay production taxes in the form of gas.

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Mr. Schultz highlighted slide 8: "Municipal Advisory Gas Project Review Board: MAGPR Board." He informed the committee that SB 138 directed the governor to establish a Municipal Advisory Gas Project Review Board, which he had done. The board was chaired by the commissioner of DOR. The board was tasked with coming up with a property tax for the gas project. Both impact payments during construction and a floor related property tax after gas started flowing through the project. He announced that the next MAGPR board meeting would be held following the ending of the current session in December [2015].

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Mr. Schultz discussed slide 9: "Requires Reports to Legislature: Required." He detailed that the slide listed reports required under Section 73 and 76. The important reports related to a report that DNR submitted in consultation with AGDC about in-state gas and the cost benefits and risks associated with a pipeline larger than 42 inches (the 48 inch study). The report was being drafted and would be submitted during the regular session in 2016.

He continued that Section 76 of SB 138 required DOR to submit a report about financing options and also investment opportunities for residents of the state, municipalities, and regional corporations to invest in the gas line project. He referred to an interim report that was distributed to legislators and indicated that the final report would be released in the following year.

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Mr. Schultz explained slide 10: "Heads of Agreement (HOA)." He included the slide to remind members that the HOA was signed by all the AKLNG participants including the producers, TransCanada, AGDC and the state. It was signed before the regular session in January 2014. It laid out a roadmap for the parties and what they hoped to achieve. It describe enabling legislation in the HOA which later became

SB 138 authorizing the state entities to do what was currently being discussed in the meeting.

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Ms. Rutherford turned to the chart on slide 11: "AKLNG Project Status: Provided to Legislature in 2014." She indicated that the schematic was provided in 2014 and defined a schedule going forward. Co-Chair Neuman asked that the timeline be updated to reflect any changes.

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Ms. Rutherford pointed out the new timeline on slide 12: AKLNG Project Status." She indicated that overall the project was where AGDC had projected it would be. The pre-front end engineering and design (pre-FEED) phase on the first schematic from 2014 showed that it would be completed by December 2015. However, December was only a target date. The underpinning HOA and joint venture agreement (JVA) suggested that pre-FEED might take longer and carry over into 2016 as seen on the updated schedule. She reported that another difference between the two timelines was that the FEED dates in the original schematic showed that FEED went from 2016 through 2018. Whereas, the updated timeline went from 2017 through 2019. It was not a slippage but rather a current reflection of the dates provided for in the original documents which was not fully captured in the original schematic. She highlighted that the construction start date remained the same in both schematics; 2019. The end date shown in the old schematic was 2023 versus the 2025 end date in the new schematic. Again, the underpinning documents stipulated an end date of between 2024 and 2025. She highlighted that the overall costs had not changed. The estimates remained the same and the project was moving forward. She noted, however, that the commercial agreements were not progressing as quickly. The delay in commercial agreements could be costly if they were not executed on schedule. The timeline would begin to slip significantly.

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Ms. Rutherford scrolled to slide 13: "AKLNG Commercial Status." She reported that the state was in active negotiations with all of the parties. Although the list was not comprehensive, some of the larger agreements were listed at the bottom of the slide. The document handed out separately to the committee was a much more comprehensive list (Title: "Preliminary Agreements to be Negotiated Should Enabling Legislation Pass") (copy on file). Some of the agreements were controlled by DNR and some by AGDC. For instance, the governance agreement and the expansion and third party access agreements were lead by AGDC but the state was very involved because it had a vested interest in its future lease sales and the ability of third parties outside of the project to get gas into the project to monetize it. No one had ever explored for gas on the North Slope, they had always been looking for oil and found gas. If there was a reasonable way to deliver gas to market under reasonable terms, then potentially there would gas exploration occurring alongside oil exploration. She reiterated that as a sovereign the state cared significantly about third party access and expansion. The state was also negotiating fiscal and withdraw agreements. She added that the state hoped there would be the ability to have the withdrawing parties commit their gas to the project should they no longer be interested in being equity owners. Some of the more important negotiations had to do with the state's ability to get to a RIK finding, specific byproduct handlings (CO_2). Since the state was not a working interest owner, it had to pay close attention to the upstream cost agreements; what cost the state paid to each unit. As the state took its gas it would have to ensure that there was a regular supply of gas to meet its sales and supply contracts with the Asian market. She relayed that the lease modifications the state was involved with were specifically about flattening net profit share leases and how the state would deal with its current prerogatives to switch between RIK and RIV (RIV would not work in an LNG project), long-term sales, and contract environments. She indicated she was only talking about those commercial negotiations happening currently.

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Ms. Rutherford reviewed the project timeline on slide 14: "State AKLNG Timeline: Key steps to FEED":

KEY STEPS TO FEED

1. Withdrawal Agreement, Gas Balancing, Gas Sales Agreement by December
2. Lease Modifications
3. RIK relevant Commercial Agreements

4. RIK/RIV Decision
5. Finalize Other Agreements
6. Executable Agreements to Legislature for Approval
7. Constitutional Amendment to Legislature for Inclusion on Ballot
8. Governor Executes Approved Agreements
9. November 8, 2016 Public Vote on Amendment
10. FEED

Ms. Rutherford the slide listed the steps necessary to allow the parties to enter into a FEED agreement, which the state was hoping to do by the end of 2016. She explained that the constitutional amendment on the list would allow the State of Alaska to freeze its gas taxing prerogatives for a period of 20 to 25 years. It was the intention of the department to bring the legislature a set of executable commercial agreements by the end of the following regular session.

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Ms. Rutherford revealed slide 15: "State AKLNG Timeline." She explained that the slide reflected the state's perspective on the necessary timeline to get a constitutional amendment change on the general election ballot for a vote on November 8, 2016. She admitted that the timeline was tight and aggressive. The state had been in negotiations for a significant amount of time. She believed that the timeline was feasible but added that every commercial negotiation only occurred as fast as the slowest party. If the legislature appropriated the money for the TransCanada precedent agreement termination, the state would have one less party with which to negotiate. Negotiations would be limited to the three producer companies and the sovereign.

Ms. Rutherford continued that by the end of December 2015 DNR would have to have the gas balancing agreement in place. She noted that the State of Alaska was not a party to the gas balancing agreement but needed to be familiar with it because it was the underpinning or threshold document upon which several other documents relied. It was something the producers would have to agree on in order to move the rest of the upstream commercial agreements forward. The department hoped to have the gas balancing agreement between the producer parties in place and would like withdrawal and gas sales agreements in place to allow the project to continue should a party decide to withdraw from participation. If and when one of the gas lease owners decided to withdraw the state would need to have the gas volume to maintain viable economics for the project.

Ms. Rutherford discussed that by the end of the first quarter in 2016 the state needed to have DNR lease modifications completed. She noted that the department was making forward progress on the modifications and she did not foresee any problems reaching those agreements. She furthered that it was necessary to have the RIK commercial agreements completed in order to base the RIK decision on actual data. She continued that the differences associated with the field costs and the disposal costs could have a significant impact to the state's economics. Certain data sets were necessary for the legislature to make informed decisions about whether to take RIK or RIV.

Ms. Rutherford informed the committee that after the commercial agreements were in place the state would take approximately 60 days to complete the RIK decision. Therefore, by the end of the first quarter the state would have to the commercial agreement in place to trigger the final analysis for the royalty for the finding.

Ms. Rutherford advised that by the second quarter of 2016 the state needed to complete the RIK and RIV findings, and submit the commercial agreements to the legislature for review. It was DNR's opinion that the state would have to have an agreed set of commercial agreements and an agreed upon constitutional amendment ready by no later than June 20, 2016 allowing the state to meet the deadline for the constitutional amendment vote to appear on the November 2016 general election ballot. The state would also be closing out the pre-FEED deliverables from the project.

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Ms. Rutherford conveyed that the information on slide 16: "State AKLNG Timeline: October - December 15," provided more detail of what she just spoke of previously. Between the present time and the end of December [2015] gas balancing and gas supply had to be completed. The state would continue its work with the producers on marketing, governance, expansion, and access. It was the department's intention to have the TransCanada termination completed including the transference of assets to AGDC prior to

December 4th. Alaska Gasline Development Corporation would then be able to participate in the work plan and budget vote on December 4, 2015.

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Ms. Rutherford advanced to slide 17: "State AKLNG Timeline: January - March 16." she remarked that the timeline of the first quarter in 2016 would be incredibly intense. Between January and March the state would have to complete the ongoing commercial negotiations and would need to have completed all of the royalty upstream negotiations to make a RIK finding. The agreements needed to be completed in executable form by the attorneys for the legislature to review. She noted that by April [2016] if the state did not have a good sense that things were progressing towards closure, the state would know whether it would meet its deadlines.

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Ms. Rutherford turned to slide 18: "State AKLNG Timeline: April - June 16." She explained that April through June 2016 the state would finalize the RIK determination. The Department of Natural Resources had been putting the structure together for the previous several months. The structure, background, and modeling were completed and all that remained was to plug in the numbers reflected in the final commercial agreements. In turn, the department would provide the legislature with a list of implications of the commercial agreements to the state for the long-term. The Department of Natural Resources would also submit the commercial agreements to the legislature for review and approval or denial. The constitutional amendment would be in front of the legislature as well. The amendment had to be submitted to the Division of Elections by June 20, 2016. If the state could not meet the deadlines outlined in the timeline, she opined that the project would begin to slip. She relayed that DNR had been asked many times what the legislature could do to assist. She thought it was important for all of the parties of the AKLNG project to embrace being on a very tight timeline. She opined that Alaskans, the Alaska State Legislature, and the executive branch did not want the project to slip. The current timeline to bring Alaska's gas to market was critical, 2024 or 2025. Falling behind in any of the components such as the agreements and the constitutional amendment placed the project in jeopardy. She emphasized the need to work diligently to find a middle ground to move agreements forward.

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Ms. Rutherford continued to slide 19: "State AKLNG Timeline: July - December 16." She reported that in July through December 2016 the state would be in the final review of the pre-FEED deliverables and would be making recommendations on a full FEED decision. One of the most important and significant dates was the general election date of November 8, 2016 where the state would be casting its ballot on a constitutional amendment.

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Ms. Rutherford concluded with slide 20: "Conclusion." She indicated that the administration believed it was in full compliance with SB 138. The administration had no recommendations for changes to SB 138 and hoped to provide the legislature with the executable agreements by March or April of 2016.

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Co-Chair Neuman thought she had just said she did not anticipate suggesting any changes to SB 138. Ms. Rutherford responded affirmatively.

Co-Chair Neuman referred to slide 14. He asked if there was anything in SB 138 that talked about withdrawal agreements.

Ms. Rutherford responded, "Not specifically."

Co-Chair Neuman asked if she responded in the negative.

Ms. Rutherford confirmed her response was no. She explained that SB 138 was a process. She furthered that it did not go into great detail on any of the issues and that only provided some of the commercial agreements that were necessary to protect the state's interest. She agreed that it did not directly discuss withdrawal agreements but made provisions for it.

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Co-Chair Neuman referred to slide 15. He asked if the gas withdrawal, gas balancing, and withdrawing agreements needed to be in place by the end of December 2015. He asked if he was accurate.

Ms. Rutherford responded that it was DNR's hope. She added that 2 of the 3 producer companies had indicated to the governor that they were working towards that outcome.

Co-Chair Neuman remarked, "If gas is commercially viable."

Ms. Rutherford responded that should one of the parties withdrawal their gas would be made available to the project either through a gas sales agreement or a tolling agreement through the project.

Co-Chair Neuman suggested having the attorney general answer the question.

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CRAIG RICHARDS, ATTORNEY GENERAL, DEPARTMENT OF LAW introduced himself.

Co-Chair Neuman asked Attorney General Richards if he would advise Governor Walker to reject the TransCanada vacancy proposal if the withdrawal agreements were not completed by December 31, 2015.

Attorney General Richards stated that he would not advise the governor what action to take. He would advise him of what legal actions he could take and would advise him of the options the executive branch had based upon his understanding of the agreements.

Co-Chair Neuman believed the Alaska Constitution stated DNR was in charge of marketing Alaska's resources. He wondered if that was accurate.

Ms. Rutherford responded affirmatively. She added that it was also in statute.

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Co-Chair Neuman asked whether DNR would be in charge of the contracts for selling gas and the associated commercial agreements.

Ms. Rutherford responded positively.

Co-Chair Neuman asked if DNR would take the lead.

Ms. Rutherford responded in the affirmative.

Co-Chair Neuman asked Attorney General Richards about the role of his office. He wondered if it was to assist DNR in answering legal questions.

Attorney General Richards Thought his assessment was fair. The job of his office was to provide the legal resources needed to answer a series of questions.

Co-Chair Neuman asked whether it was the job of the Department of Law to negotiate commercial contracts.

Attorney General Richards confirmed that part of the job of the Department of Law was to negotiate commercial contracts on behalf of DNR and numerous other state agencies.

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Co-Chair Neuman believed they had a disagreement. He relayed that SB 138 specifically stated that DNR was to take the lead in commercial negotiations. The committee had just heard from the deputy commissioner confirming DNR's role. He was hearing two things.

Attorney General Richards did not mean to suggest there was an inconsistency between what he had said and what the deputy commissioner had said. The Department of Law provided legal support for the documents. It did not make the substantive decisions related to the contents of the documents. The Department of Law along with outside counsel were responsible for the actual pinning of the documents and parts of negotiations, the standard role that lawyers took in any complex commercial negotiation.

Co-Chair Neuman stated that legislators had asked enalytica and several other advisors about the jobs of the particular attorneys involved in the project and the job of DNR. The committee had been told that the standard policy was that the Department of Law was available to advise and write laws rather than negotiating. They did not generally take the lead in negotiations.

Attorney General Richards agreed with Co-Chair Neuman that he was mostly correct. He mentioned some instances in which some of the attorneys, particularly some of the outside attorneys would take the lead in certain negotiating sessions related to the documents. However, they were always subject to reporting to and taking direction from their client (DNR, DOR, or AGDC).

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Representative Guttenberg commented that the overview had been expansive. In reviewing the 35-year history of Trans-Alaska Pipeline System (TAPS) and related issues, he did not think the state had been adequately represented. He was concerned about the inability for the parties to speak to each other because of confidentiality restrictions. There were several pieces to the project including AGDC managing the governance of the project and DOR doing the commercialization of the project. He did not want the state to be at a disadvantage by not having access to certain information due to confidentiality agreements. He also expressed concern about a constitutional amendment because once it was locked in it would be difficult to overturn later time. He also asked how there could be a constitutional challenge when no one had paid any taxes to date.

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Attorney General Richards responded that in answer to Representative Guttenberg's second question he thought the governor had been clear that his expectation was that the legislature would have the fully termed agreements to review prior to taking a vote. It was the expectation that although the negotiations were largely confidential under the existing confidentiality agreements the agreements themselves would come before the legislature for review as laid out in the timeline. He did not believe it would be necessary to have a judicial challenge by the producers if the constitutional amendment was voted on by the legislature and went to the people of Alaska for a vote and passed. He had heard talk about there being a potential court test about whether the deal was legal. He thought it was related to a concern without an amendment to the constitution as to whether it could still be done. Because there would be a constitutional amendment it would not be necessary. That was his understanding and added that the producers could have a different point of view.

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Co-Chair Neuman mentioned the information enalytica provided regarding withdrawal agreements [HB 3001 enalytica additional slides (copy on file)]. He recounted that enalytica emphasized the major risks for the state in entering certain withdrawal and sales agreements at present.

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Representative Guttenberg asked about the effects of the potential constitutional amendment. He wondered about obligating other legislatures.

Attorney General Richards answered that the constitutional amendment would primarily grant the legislature the power to surrender the power of taxation. Currently the constitution provided that one legislature could not bind another legislature in terms of current tax policy. Many states had similar provisions, some with exceptions and some without. He explained that the constitutional amendment, as formulated, would allow the surrendering of the power of tax for purposes of the AKLNG project and gas delivery.

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Ms. Rutherford commented that Representative Guttenberg had pointed out the toll on the Trans Alaska Pipeline system. She stated that one of the advantages of becoming an equity owner in the AKLNG project was that the state would be setting its own tolling structure. The legislation specified a cost-of-service toll, a lower tolling structure than what a third party might provide the state for its gas. She highlighted that if TransCanada's precedent agreement was terminated and its interest was purchased by the state, the state would not be entering into a firm transportation service agreement (FTSA) with TransCanada. However, the state would be entering into a FTSA with AGDC. She reported that the FTSA was one of the documents that would be brought to the legislature along with a list of others for approval. She elaborated that each of the agreements had to be fully termed and completely available in order for the legislature to be able to make an informed decision whether the agreements were in the state's interest.

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Representative Guttenberg asked if the state would be able to compare the state's relationship with each one of the producers.

Ms. Rutherford explained that there were a few distinctions. Some of the agreements that were specifically between AGDC and the other project parties might not be available but all of the commercial agreements that had to be signed by the State of Alaska providing long-term commitments for the state would be transparent and available to the public and to the legislature.

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Representative Gara wanted to see the project move forward as quickly as possible. The timeline that she was reviewing was not strict such that it was defined in statute. He suggested that if Exxon were to say that it was not selling any gas to the state because it wanted to make more money on the project and things took longer, the statute did not say the project was dead but rather delayed.

Ms. Rutherford stated that he was correct.

Representative Gara commented that although it would be ideal for all parties to negotiate reasonably, the state had a constitutional obligation to maximize the benefit for the public while the three companies (BP, Exxon Mobile, and Conoco Phillips) had a legal obligation to maximize their profits for their shareholders. He believed that there was a chance that one of the major oil companies would decide not to sell their gas without better terms. They could also use leverage against the state and in turn the governor might have to use leverage slowing down the process.

Ms. Rutherford responded affirmatively and expanded that it was critical for Alaska to protect its long-term interests in the commercial negotiations. The state was taking on a new level of risk, and an entirely different model. It was important that the state fully understood what it was giving up and what it was getting in exchange. The risk scenarios needed to be fully developed for the public and the legislature. She asserted that the administration would not enter into agreements that were not in the state's interest. She opined that it was difficult to reach an agreement where all parties were comfortable progressing with a project of its magnitude.

Representative Gara pointed out the timeline was great and that the state wanted the project to move as quickly as possible. However, if one of the oil producers wanted to leverage the state it would likely slow things down, moving the timeline backwards. He wanted people to be aware that the timeline was not in statute.

Co-Chair Neuman asked if it was his opinion.

Representative Gara noted that it was not a statutory timeline. He did hope the project moved quickly.

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Representative Wilson referred to gas in Cook Inlet. She wondered if the state took payment in RIK or RIV.

Ms. Rutherford believed it would be a mix subject to negotiated contracts. Any contracts lasting over a year would be brought to the legislature for approval.

Representative Wilson asked for a response in writing. She had heard that the state was not taking any royalty in Cook Inlet.

Co-Chair Neuman believed they had 30 days to decide.

Representative Wilson was unclear about the confidentiality agreement. She was concerned with the state putting someone at the table with only partial access to information.

Attorney General Richards did not fully understand her question. He relayed that the people doing the negotiations and the decision makers had access to the information they needed to make the decisions.

Representative Wilson clarified that in the previous day's conversation the committee was told specific confidential agreements had to be executed in order to participate. She was aware that AGDC representatives had been asked to leave the room on numerous occasions because of not having the right agreements in place. She furthered that regulations under consideration would not allow them (the state) to enter into the agreements that the producers wanted signed. Members of AGDC would continue to be asked to leave during certain discussions sometimes slowing the project down. She wondered why the state would want to put itself in such a situation rather than a partner such as TransCanada who would sign the agreements.

Attorney General Richards was not aware of the factual circumstances she was talking about in terms of anyone form AGDC having to leave the room during negotiations. He added that his understanding was that the parties had access to all necessary information to make decisions.

Representative Wilson encouraged Attorney General Richards to listen to the audio of the previous day's meeting. She wanted the project to move forward. However, it was clear to her that the state was not able to stay in the room for the entire negotiation discussions.

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Representative Wilson expressed concerns about the proposed salary of $840 thousand for a new position. She summarized that the base pay was about $400 thousand to $500 thousand accompanied by a bonus which made up the difference to total a salary of $840 thousand. There was also a 20 percent stipend for moving expenses and the cost of a benefit package. She was confused as she read that the state did not provide bonuses. She asked how the state would give out a bonus before an employee did anything. She wondered if there were things that a government entity could not do but was required in the private sector.

Ms. Rutherford agreed that in the private sector a marketing lead would have a base salary of $400 thousand to $500 thousand and based on performance they would receive a bonus, a practice not allowed within the State of Alaska. The Department of Natural Resources proposed building the bonus into the base salary. Obviously, the state would always have the option to terminate employment if the person hired did not fulfill their job. However, it was a difficult issue for DNR because the state was entering into a new environment as an equity partner and taking gas in-kind. The inherent risk associated with it was tremendous.

She suggested that while it would be better to provide someone with a base salary of $400 thousand to $500 thousand and then provide a bonus for doing a good job, it was more risky not to have a good lead marketer representing the states interest. It was imperative to have a representative when the state was either competing or joint-venture marketing with some of the best marketers in the world.

Ms. Rutherford anticipated that one of the more difficult issues the State of Alaska would face was negotiating gas sales agreements. She explained that typically the purchasers did not want the terms of the contract to become public information. Other risks included gas prices plummeting which would lead to a payout to participate in the project. The marketing lead would be a crucial position to the success of the project. The state of Alaska would be one of the largest marketers of LNG in the world when the project was in operation.

3:03:52 PM

Representative Wilson asked about how the bonus would be incorporated into the salary and whether goal setting would be involved.

Ms. Rutherford explained that DNR had not looked at how to incorporate the bonus. There was one alternative the department had considered. In discussing compensation with potential applicants, DNR would indicate that the state was paying a higher base salary rather than a bonus.

3:04:43 PM

Representative Munoz returned to the topic of withdraw agreements and the information committee members had received from enalytica prior to the meeting. She relayed that the information specified that withdrawal agreements in the current stage of the process carried significant risk for the State of Alaska. The right to purchase at the current point could result in an obligation to buy in the future and could result in billions of dollars in additional costs. On the list of agreements to be negotiated and the reason the withdrawal agreement on page 2 was not an agreement required to be approved by the legislature.

Ms. Rutherford asked if Representative Munoz was referring to the second page of the handout.

Representative Munoz stated that committee members had a list of agreements to be negotiated. Many of the agreements that obligate the state for more than 2 years would require legislative authority.

Ms. Rutherford responded that since the agreements were being negotiated currently DNR thought that they would not in and by themselves commit the state to anything long-term. Instead, they would provide a structure by which parties agreed about how withdrawals would be handled. A gas sales agreement required legislative approval. Unless things changed the withdrawal agreement did not bind the state to anything. The state currently had showed as a "No." If the withdrawal agreement evolved or changed and began to bind the state to something, it would then require legislative approval.

Representative Munoz opined that committing the state to any price currently would not be in the best interest of the state. She advised that the committee had an opportunity to review and approve the agreements.

Ms. Rutherford added that there were two withdrawal agreements. The first agreement associated with withdrawing from the governance structure would be submitted to the legislature. There was also a withdrawal agreement for a party that decided to remove themselves but continued to supply gas through a tolling agreement or a gas sales agreement. She furthered that the document was an evolving commercial agreement.

3:08:22 PM

Representative Munoz stated that her response further affirmed her belief that the state needed to take a second look at the agreements when they came before the legislature.

Co-Chair Neuman remarked that it was part of the structured process he was looking at.

3:08:34 PM

Vice-Chair Saddler referred to the handout, "Agreements to be Negotiated: Current Understanding - November 2, 1015." He noted the withdrawal agreement listed on page 2. He wondered where the other agreement was that Ms. Rutherford had referred to.

3:08:58 PM

Attorney General Richards responded that the withdraw agreement itself would likely be an agreement signed by AGDC because it governed the structure of the relationship between the parties. It was the government's document which was why it stated, "No."

Ms. Rutherford referred to the gas supply agreement on line 4, page 2 of the handout [Agreements to be Negotiated: Current Understanding - November 2, 1015.] which did require legislative approval. Anything that committed the state to arrangements associated with the supply of gas by a withdrawing party would have to be approved by the state. The withdrawal agreement the third from the bottom on page 2 was part of the governance agreement with AGDC.

3:10:21 PM

Vice-Chair Saddler clarified that the intention was to execute each of the agreements by the fourth quarter 2015, approximately 5 weeks from the present day. He wondered if she had confidence that the documents could be completed by December 4, 2015.

Ms. Rutherford answered that it would be very challenging to get the job done within the required timeframe.

Vice-Chair Saddler had developing concerns that the focus on protecting the exit ramp would lead the state to failure and not progress to success. He wondered if the administration would support going forward with the process with a vote "Yes" on the work programming and budget on December 4th if either or both of the withdrawal agreements were not signed before December 4th.

3:11:30 PM

Attorney General Richards suggested asking AGDC or the governor because they were ultimately the policy makers.

Vice-Chair Saddler asked for his answer.

Attorney General Richards responded that he did not know the answer. He commented that obviously the governor had created an expectation of the documents being completed by December 4th. Two of the partner committees had committed to the same date. He believed everyone agreed that all parties should work towards the goals. The consequences of not meeting them would be faced at the time.

3:12:08 PM

Vice-Chair Saddler asked if the governor could make the decision to withhold administrative support of the work plan and budget absent approval of either or both of the withdrawal agreements

Attorney General Richards responded that AGDC could make the decision if the approval of TransCanada went through. If TransCanada remained in the deal the governor would have the authority through DNR to make the decision.

Vice-Chair Saddler asked for clarification.

Attorney General Richards explained that currently the way it was structured the State of Alaska could direct TransCanada's vote for the work plan and budget. If TransCanada was not in the deal then the vote would be directed by AGDC. It would ultimately be AGDC's vote and the vote of its board.

Vice-Chair Saddler asked the Attorney General Richards, as the general council for AGDC, if he would recommend to the board that they should reject the work plan and budget absent a withdrawal agreement.

Attorney General Richards replied that it would not be his advice to his client to reject it or not reject it.

Vice-Chair Saddler asked if Attorney General Richards' answer was no.

Attorney General Richards stated that it was a "No."

Vice-Chair Saddler stated that the attorney general's advice to AGDC would be that they should reject it absent the withdrawal agreements.

Attorney General Richards clarified that he was not going to give advice to his client either way what they should or should not do in relation to what strategic decisions the board made. Instead, what he would do was tell them they had the option if they chose legally not to go forward with the work plan and budget, just like all of the producer companies had the option not to approve the work plan and budget.

3:13:59 PM

Vice-Chair Saddler acknowledged he could not require Attorney General Richards to give his advice on the matter. He was concerned that the withdrawal agreement would be a sticking point such that it would prompt a decision not to proceed with the project. He was not getting assurance from the attorney general that it would not happen. He was offering Attorney General Richards to persuade him otherwise.

Attorney General Richards responded that he could not provide a guarantee that a decision would be made by his client. However, he asserted that everyone was working diligently and in good faith to move the project forward and to complete the very aggressive agreement schedule in time to get the constitutional amendment approved. He offered that he personally believed BP and Conoco Phillips thought the agreements could be completed.

3:14:54 PM

Vice-Chair Saddler asked what message it would send to him as a large player in the project if one of the producers decided not to commit to it.

Attorney General Richards responded that it would send the message that one or more of the producer partners was maintaining an option not to have North Slope gas developed.

Vice-Chair Saddler asked what would happen if two producers decided not to commit.

Attorney General Richards thought it would send the message that two of the state's partners maintained options not to have North Slope gas developed.

Vice-Chair Saddler asked if there were other conditions that the administration might place on approval of the work plan and program going forward at the December 4th meeting.

Attorney General Richards was unaware of any statements by AGDC, the governor's office, DNR, or any of the major decision makers in the project that had conditions like Vice-Chair Saddler was suggesting.

3:16:08 PM

Vice-Chair Saddler asked if Attorney General Richards was in a position to know of any.

Attorney General Richards stated he was not aware of any.

Vice-Chair Saddler asked if anybody else in AGDC was aware of any.

Attorney General Richards was not any which meant that no one had told him of any. He was unaware of any other conditions.

3:16:31 PM

Representative Edgmon remarked that it was very possible that the state's timeline would slip due to external factors out of the state's control. The state would have to do it's best to go forward. He commented on getting well informed about a very complicated issue with many moving parts. He believed that the following session would be historic by many proportions. The state would be addressing large state deficits, exploring a sovereign wealth fund concept, and potentially having a special session on a constitutional amendment to name a few. He wondered what the overall strategy for keeping the legislature on point on some of the issues. The legislature would be grappling with many different things including talking with constituents at home about paying a consultant $840 thousand and entering into a 20-year or 25-year binding agreements for the freezing of certain tax rates. He felt there were some fundamental turns the legislature would be taking in the following few months. He asked how the state would be strategically moving forward.

Ms. Rutherford agreed that there were significant issues that would be coming before the legislature during the upcoming six months. Her expectation was for the legislature to deal with more of the fiscal issues during the regular session with a subsequent special session to follow. She asserted that the department was working very diligently to bring closure to the agreements as quickly as possible. One of the things the department would do was to provide very clear and concise analysis for each of the agreements. Experts would also be made available to walk through the documents to help law makers understand the relationship between the various documents. There would be analytics available to better understand the financial implications of the agreements. The Department of Natural Resources would do everything in its power to provide as much clarity as possible, similar to the exercise done with the Alaska Gasline Inducement Act (AGIA) where the department provided continuing forms with the experts being made available to legislators.

3:20:47 PM

Representative Edgmon committed to working diligently with his constituents to understand why the state had to pay market rates to get the top level talent. In terms of marketing leads or whoever else was needed on the project. He spoke of his private sector experience in recruiting. It would be invaluable having good working relationships between producers and the state. He opined that without such relationships the state would not be able to move the project forward. He emphasized having to work together for the project to be successful.

3:21:54 PM

Representative Pruitt suggested that when the preliminary withdrawal agreement was in front of the committee in SB 138 it was not presented as an essential agreement. Currently, it appeared to be a necessity. He wondered what had changed such that it was on the project timeline as a requirement to get to a constitutional amendment.

Ms. Rutherford thought that everyone brought their own perspective of risk when assessing a project of great magnitude. The administration believed that a project progressed by settling commercial agreements and fixing fiscal certainty for a duration of 25 years. If 2 years into the future a party decided to withdrawal from the project and to refrain from providing gas, the economics of the project would significantly change. Volume was a driver in the cost of the gas. If the project lost all of one party's gas or all of one unit the question of the viability of the project would have to be reexamined. She concluded that the administration felt that, in the best interest of the state, it was important to bring a level of certainty that gas would be available. She believed that the two parties that had sent letters to the administration saying that they were committed to trying to negotiate the agreements recognized the state's risk. They had indicated their willingness to provide some certainty around the issue. The details of the agreement would be critically important. She thought it was premature at the current juncture to presume the state would do only one thing because of being in the process of the negotiations. She concluded that the more gas, the lower the tariff, and the more money the state could potentially make at the wellhead.

3:25:12 PM

Representative Pruitt suggested that if either Conoco Phillips or BP were comfortable with withdrawing, the project would not be in the state's best interest. It would mean that both partners would be selling to achieve the best value for their shareholders, in turn making it a struggle for the state to make the project economical. He was uncomfortable with the other parties being willing to work on a withdrawal agreement. He wondered whether the companies were going to try to get the most for their gas.

Attorney General Richards responded that the gas sales agreement would be an option for the state. The state would not be committing to purchase gas under on specific terms with 100 percent certainty if at some point a party withdrew. Instead, at a withdrawal event the state or other producer parties would have the option to purchase gas under pre-agreed terms. He did not completely agree with enalytica's assessment about an option was being created rather that a commitment.

Representative Pruitt asked how far along the state was in the discussions relating to the agreements.

Attorney General Richards responded about six months.

Representative Pruitt asked if the state would make its timeline.

Attorney General Richards responded that it was his hope that the state could reach agreements with all three companies. He could not guarantee that the timeline would be met because every party negotiating had the power not to advance every single agreement.

3:27:28 PM

Representative Pruitt stated that hope was not a method. He believed the state was hoping things would come together. It was a timeline that was very close on a few items with only 8 weeks to get them completed. He wondered if there was a contingency plan. He wanted to know if the state would be able to continue on the road to the constitutional amendment if certain things did not fall into place.

Ms. Rutherford responded that the attorney general could not speak for the governor, nor could she. The timeline recognized slippage and increased pressures on the subsequent quarters. She commented that many of the agreements had progressed very far. She thought that if a couple of elements fell into place they would free up the opportunity to close on many other agreements. Gas balancing was one of the elements, which once in place, many other items would begin to be clear. Not all [agreements] were at a starting point. The majority of them [agreements] had progressed quite far. She opined that it was not impossible [to meet the timeline] if every party was motivated to find a middle ground. She added that it was also challenging.

3:29:54 PM

Representative Pruitt asked if the state was organized such that it would not hinder the items moving forward.

Ms. Rutherford stated that the state had very qualified team members and that the state was structured well enough to close. The department had added another law firm to the project. She believed with the firm's help the state would be able to craft the documents quickly and with expertise. She thought the state could reach closure.

3:31:05 PM

Representative Pruitt wanted to clarify if her response was affirmative.

Ms. Rutherford replied that the State of Alaska would not be a barrier to reaching the agreements except to the degree that the department was protecting the state's interest in not allowing a poor commercial agreement going forward.

3:31:33 PM

Representative Pruitt asked if there was anyone that could speak for the governor. He explained that he was asking because there had been several people representing the governor that stated that they would not speak for the governor. He emphasized that the legislature was trying to find some answers to better understand what the direction would be going forward. He contended that the discussion was not only about $157 million as reflected in the bill, but the project moving forward. He wanted additional clarity.

Ms. Rutherford confirmed that the administration was fully committed to getting the appropriate agreements in place to further the progress of the project. She commented that many things could derail it but the state was willing to abide by a very compressed timeline as long as the state's interest remained protected.

3:32:53 PM

Co-Chair Neuman referred to slide 15. He commented that when the legislature created SB 138 several different advisory groups were consulted to help with the structure of the bill because of its specificity. The legislature had been told that the greatest risk for the producers was to engage in such a project with a government rather than a business. He opined that SB 138 was specifically designed to set up a very specific program in a stage-gated process which the state was in currently. Once approved, the process in SB 138 would be the law. There was nothing in the legislation about gas withdrawals on the December 15th date. The timeline was set up for a specific reason. One of the reasons was the fact that the state would not have a certain level of information necessary to enter into complicated and complex contracts with the producers on withdrawal agreements.

Co-Chair Neuman continued that one of the questions he posed in the day to the experts from enalytica was whether they would purchase gas from Exxon. They answered that they would not advise the state to do so because there would be a better deal available elsewhere. In entering into a gas sales agreement there would be things to have to be aware of such as transportation costs, costs associated with carbon dioxide, costs for reinjection, and costs for gas treatment for gas liquefaction before moving forward with a project. He asked if he was correct. He wondered when in the process would associated contracts have to be negotiated.

Ms. Rutherford indicated that the sales agreement would be submitted to the legislature for approval. The attorney general clarified that the state saw it as an option: If a withdrawing party decided to step away from the project and an agreement was in place defining the terms under which the party would sell its gas, the state could consider the option. Prior to exercising the option the specifics of the terms would be provided. The legislature could determine whether having the option was in the state's best interest. She agreed that the State of Alaska needed to know the terms for dealing with the disposal of its CO_2, the gas supply terms, the terms of the firm transportation service agreement with AGDC, and other terms. All of the terms were critical to understanding the risk and reward for the State of Alaska. Part of the package will hopefully include sale agreement offers from the companies that provided the state an option should one of the producers opted to step away from the project.

3:38:31 PM

Co-Chair Neuman asked if a right to purchase had the same meaning as an obligation to buy.

Attorney General Richards responded in the negative.

Co-Chair Neuman restated his question.

Attorney General Richards stated that it was the current understanding of the status of the negotiations from the state's perspective.

Co-Chair Neuman asked if they had an obligation if an entity had the right to purchase their gas and entered into a purchase agreement.

Attorney General Richards responded that the current expectation under the negotiations was that there would not be an obligation to buy at present. He suggested that it was possible in the future and if the state decided to exercise its options it would then create binding commitments. It would only be in the future when the option was exercised.

Co-Chair Neuman asked about the price of gas in the futures.

Attorney General Richards responded, "No, Ms. Rutherford. Chairman."

Co-Chair Neuman asked if the state knew the volume of gas.

Attorney General Richards did not know the exact volume but the administration had an idea of volume. There were parameters of understanding. He supposed there was less understanding about the volume in Point Thomson versus the volume in Prudhoe Bay.

Co-Chair Neuman asked about a legal title if gas had an option attached to it.

Attorney General Richards responded that legal title would not transfer until such time as the state took the physical possession of any particular molecule. The title rested with the molecule.

3:40:29 PM

Co-Chair Neuman was trying to figure out how the state could enter a withdrawal agreement without having the information. There were certain things a party would have to know in order to enter into an agreement.

Attorney General Richards suggested that it was standard in gas sales agreements that some things were not absolutely certain, volume being one of them. Typically, what was done was to include a funneling mechanism over time such that the closer to capital commitments in the field and within the project with infrastructure the more clarity would be apparent around the volumes. He specified that it would be rare for the gas sales agreements were absolutely firm as to volumes until the end of the funneling stage at the point of construction.

3:41:28 PM

Co-Chair Neuman asked if Attorney General Richards had personally examined any of the gas contracts on any other gas pipelines in the world.

Attorney General Richards had not examined them for the purposes of the exercise at hand. However, he had certainly reviewed them in the past for other reasons.

Co-Chair Neuman explained that he was asking because Attorney General Richards had stated it was a standard.

Attorney General Richards conveyed that he had been told by one of the state's counsel, one of the Millbank attorneys working on the project.

Co-Chair Neuman remarked that he had asked every one of the producers and enalytica advisors if they had ever heard of a withdrawal agreement such as the state of Alaska's, and was told no. He wondered how the attorney general could see it as standard policy.

Attorney General Richards was referring to the funneling mechanism to get to certainty around the volumes and the gas sales agreements.

Co-Chair Neuman wondered about a contract where the withdrawing party, at the current point of the stage-gated process, agreed to drop out as a partner forgoing their investment. He asked Attorney General Richards if he had seen similar language in any other gas pipeline proposals.

Attorney General Richards responded that he had not but added that he had not personally been privy to the commercial arrangements around other LNG projects.

3:43:11 PM

Co-Chair Neuman commented that he was surprised that Attorney General Richards had not asked to see copies of other withdrawal agreements to use as a boiler plate. He asked if he had seen any contracts/

Attorney General Richards responded that he had not asked because the circumstances were particular to Alaska in terms of progressing the project and the dynamic. He thought the withdrawal agreement would be fairly simple. The complexity would be in the gas sales arrangements and the option being discussed. There would certainly be discussion among the lawyers of the commercial parties as to the customary practices around the world.

3:44:17 PM

Co-Chair Neuman asked for Attorney General Richards's vision of a standard withdrawal agreement.

Attorney General Richards responded that the main elements had been identified. He suggested that if a party left the AKLNG project or was unwilling to progress it gas sales would be made available. The core of the agreement would provide an option to have the gas available for a project.

3:44:49 PM

Co-Chair Neuman remarked that the point was when it happened. He relayed that the commissioner indicated that the gas withdrawal agreements were high on the administration's priority list and had to be executed by December 15, 2015. He stated that such an agreement was not standard in the industry and it was not standard for any gas pipelines. He was told there were no known withdrawal agreements fashioned similar to the one the state was considering anywhere else in the world. He was advised that a withdrawal agreement was possible but the state would have to know the price and volume of the gas in order to negotiate properly. He opined that the state was a long way from having that information to meet the December 15th deadline. He asked if the attorney general agreed.

Attorney General Richards responded that it would be nice to have additional information soon. He added that the gas sales agreement as an option for the state in the future created substantially less risk than some of the other decisions being made, particularly whether or not the state took gas RIK versus RIV and modified the state's leases for the net profit interests. He opined that those were decisions being made within a couple of months after potentially the withdrawal agreements. The state was committing to things that were not options. They were things that were massive economic commitments at the front end of the project. He suggested that everyone wanted to hold off making decisions for as long as possible to better understand risk. the process the state was in had it making some key decision over the following 4 to 6 months including whether and to what extent the state would bind its tax framework for the following 25 years. More clarity around things like pricing, volumes, and tariff levels would be great to have prior to negotiating a gas purchase option. They would also be wonderful to have before committing to modify the state's leases or alter its constitution to lock in taxes. The state was on the timeline it was on.

3:47:41 PM

Co-Chair Neuman specified that although he was aware of the AKLNG timeline he had not heard from representatives from the AKLNG project management team about the timeline. He wanted additional information and called into question the timing for certain things to occur. He shifted his focus to risk. He had been told that because of the gas withdrawal agreements and the tight timeline risk was higher. He asked if the attorney general agreed.

Attorney General Richards asserted that when something new was introduced to the negotiation process it added risk in the form of additional complexity. He thought the point of the agreements was to reduce overall risk by crating clarity for the state and for the other producer parties. For instance, if any one party withdrew in the future the project could continue. He concluded that he agreed that it enhanced some negotiating risk, but believed it reduced more risk than it created.

3:49:19 PM

Co-Chair Neuman expressed his concerns about increased costs associated with addition risks. He recounted that cost certainty was key to a successful gas pipeline. The ability to keep costs low would better ensure the project going forward. He explained that SB138 [Legislation passed in 2014: Short Title: Gas Pipeline; AGDC; Oil & Gas Prod. Tax] created the structure for negotiations for a gas pipeline and was law. Currently, the specific structure did not include withdrawal agreements by the end of 2015. He opined that indiscriminately adding items into a timeline increased risk and costs making the project less viable. He reiterated his concern about other entities in the industry never having seen a withdrawal agreement such as the one the state was considering. He claimed that he had not been provided an appropriate answer as to the advantages of the associated risks and costs.

Attorney General Richards responded that the state's risk profile would be substantially reduced if it knew all of Prudhoe Bay and Pt. Tomson volumes would be available for the project as designed in the future. It meant that if a party withdrew three years from now the state would not have to change the design basis, make a smaller project, or start over on permitting. The gas sales agreements would provide an avenue for more certainty for the project to go forward as designed.

Co-Chair Neuman believed a gas sales agreement would provide certainty, which was why he believed a gas sales agreement had to be in place prior to having a withdrawal agreement.

Attorney General Richards stated that the thought process was that the agreements would be done simultaneously.

Co-Chair Neuman responded, "It certainly is."

3:52:21 PM

Co-Chair Thompson reminded members that the committee would be taking public testimony on HB 3001 at 4:00pm. He reported that the finance committee had asked the administration about the state's vote on December 4th if there was no withdrawal agreement between the state and ExxonMobil prior to that date. He felt that the committee had not been able to get an answer to his question. He was concerned because of the importance of the vote on December 4, 2015. If any of the parties voted "no" the project would halt completely. He opined that if the state voted "no" the failure of the project would lie in the hands of the administration. The legislature would have given all of the tools they needed to move forward on a successful project. He emphasized his concern about the current position of the state and why the state was spending the majority of its time planning for failure instead of being positive.

Ms. Rutherford emphasized the administration's commitment to the success of the project. She relayed that all of the AKLNG parties were involved in the withdrawal discussions, committed to moving the project forward, and dedicated to ensuring that, if a party decided not to be an asset owner, the project could progress. The administration was doing everything it could to abide by the timeframe laid out. She believed the partners were trying to do the same. She referred to letters from two of the partners indicating their commitment to making the project work and to providing an option for the state to exercise if something changed in the future where a partner had to withdrawal. She thought the following quarters would be difficult, but hoped to bring to the legislature contracts that it could support by spring 2016.

3:56:11 PM

Co-Chair Neuman echoed what Co-Chair Thompson said about focusing on success. He reemphasized the structure defined in SB 138. Currently, a different component had been introduced, withdrawal agreements, with the requirement to execute the documents by the end of December 2015. The attorney general relayed to the governor that the only available options were to either continue with the project if the withdrawal agreements were not in place, or to terminate the entire project. Co-Chair Neuman was greatly concerned.

3:57:47 PM
AT EASE

5:15:22 PM
RECONVENED

Co-Chair Neuman called the meeting back to order.

5:15:49 PM

Vice-Chair Saddler asked if there were any other conditions that the administration would insist on having in place as a condition of advancing the work program and budget.

Ms. Rutherford was not aware of anything beyond the discussion that had already occurred about withdrawal.

MARK MYERS, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, reported that the real conditions sat with AGDC assuming the buyout happened. The work plan and budget would be controlled by AGDC. The administration would strongly encourage AGDC to vote "Yes" particularly since DNR would be shipping on their capacity. The decision would ultimately be made by the board of AGDC.

Vice-Chair Saddler wondered if it would be the legislature's prerogative to approve or disapprove of the commercial agreements or would it have the opportunity to amend them.

5:17:42 PM

Ms. Rutherford, after conferring with the state's assistant attorneys general, responded that the state would have an up or down vote because the documents would already be executed by the other three parties.

5:18:00 PM

Vice-Chair Saddler asked if there was any room in the timeline for legal challenges and whether any legal challenges were anticipated at the current stage of the process that would inhibit making the commercial agreements to bring back to the legislature.

Mr. Schultz anticipated that if the legislature passed a joint resolution placing a constitutional amendment on the ballot and the people of Alaska voted in favor of it, the fiscal agreement would be on extremely solid footing. It was always possible for someone to challenge anything and file a lawsuit.

5:19:19 PM

Vice-Chair Saddler wanted to keep an eye out for any challenges the state might encounter in advance of the larger decision. He wanted to know whether there was an accommodation for any time lost to litigation.

Commissioner Myers wanted the finding to be very solid and clear when making the decision about RIK. He furthered that the reason for discussing the structure and the modeling effort was to demonstrate the standards defined in 138 [SB 138] and that the standards were clearly being met. The state wanted to avoid legal challenges by doing the best homework possible to make the decision transparent and the analytics very convincing; one of the reasons to lock in the agreements prior to doing the finding. The state had built the structure to write a very compelling decision but still needed very effective negotiation to make the arguments in order to meet the standards in the law.

Vice-Chair Saddler commented that it was never a guarantee against vexatious litigation. In looking at the bill in front of the committee CSHB 3001 provided most of the important elements of what the administration's team had been looking for in order to buyout TransCanada, terminate, reimburse, or fund a work plan going forward to the end of Pre-FEED. He wondered if there was anything else the administration wanted to have in legislation but did not have.

Commissioner Myers responded that he was familiar with the other body's committee substitute but was unsure of the House's version.

Co-Chair Neuman confirmed that the versions from both the House and the Senate were identical.

Commissioner Myers was appreciative of the committee substitute because it provided with the funding tools needed to be successful in negotiations.

Vice-Chair Saddler asked if the committee substitute was lacking anything.

Commissioner Myers did not believe so.

Vice-Chair Saddler asked if the commissioner wanted to comment on the committee substitute.

5:21:39 PM

Co-Chair Neuman asked if there were any comments from the testifiers regarding the Committee Substitute.

Ms. Rutherford believed the Senate committee substitute satisfied the administration's needs.

Mr. Schultz had reviewed the Senate committee substitute, Version I, and concluded that it was a good appropriations bill. He mentioned that funds for the legal services that were requested would provide council to DNR, DOR, AGDC, and any other state agencies that needed legal counsel for the project.

5:22:37 PM

He asked if it was a sign that if the timeline did not make sense to the other partners they were not interested.

Ms. Rutherford responded that the schedules had been evolving for all parties. She had seen approximately seven versions of the schedules. She furthered that since she had joined the discussion not one schedule had been approved by all parties. Although a schedule was important, no one was using it to dictate how the parties approached their discussions.

Co-Chair Neuman interrupted to clarify that the current timeline was the once Ms. Rutherford suggested.

Ms. Rutherford responded affirmatively. It was the timeline the administration thought was necessary to accomplish what it hoped; to provide the legislature with executable agreements and to get the constitutional amendment on the general election ballot. The timeline was not something the state had had an agreement on with the producers, it was just the most recent version.

Co-Chair Neuman mentioned that the language for future constitutional amendments was previously covered in committee.

5:25:16 PM

Co-Chair Neuman directed his question to Attorney General Richards and Ms. Rutherford. He asked if either were aware of any of the project partners being concerned about or interested in withdrawing or exiting the project.

Ms. Rutherford asked for Co-Chair Neuman to restate his question.

Co-Chair Neuman asked if Ms. Rutherford had become aware of any deep concerns or inkling that any other project was interested in any way in withdrawing or exiting the AKLNG project.

Ms. Rutherford answered in the negative. The partners had always indicated they were committed to the project. There had been differences of opinion on the schedule of the project.

Co-Chair Neuman wondered if there had been any discussion within the administration to have a gas line or the AKLNG project go to Valdez.

5:26:28 PM

Ms. Rutherford responded that the partners had agreed with the terminus being in Nikiski. The administration had asked many questions about the project including design construction to how the prior decisions had been made. She furthered that it was in the process of due diligence of a new administration coming into an unfamiliar process. She added that she had never heard discussion about re-routing the project from Nikiski to Valdez.

5:27:26 PM

Co-Chair Neuman asked whether AGDC was going to be a bully government or a partner in the project.
Ms. Rutherford asked Co-Chair Neuman to restate his question.

He wondered how aggressive the state should be in its negotiations with the partners.

Ms. Rutherford indicated that, in her previous experience negotiating with the major oil companies, the negotiation process was very serious. She emphasized that there was a tremendous level of risk and reward at stake. The state had been engaging very aggressively for several weeks prior. She reconfirmed that all parties were very serious about reaching an agreement.

Co-Chair Neuman relayed that when he had spoken with Mr. Steve Butt, he had indicated that if one of the partners had a problem the project management team representing all four partners worked together to resolve it. He asked if that was the typical process that would be used.

Commissioner Myers thought it was important to distinguish that the project, as complex as it was, had many different parts and the partners were broken into subsets. In looking at the members of the project team, their job was to engineer, permit, design, and manage construction and initial production from the project; they were the builders. The second group consisted of the gas owners, who wanted the builders to construct a very efficient, low-cost, high quality system; one optimized for delivering gas to the markets in a way that maximizes their well-head value. Assuming the legislation passed, AGDC would be part of the management team building the system. The team's efforts would be in problem solving around how to build the project. They would be looking at the best technology, approach, and contractors to use. They would also be working on the federal environmental impact study (EIS) process, doing engineering design studies that looked at how to cross Cook Inlet, working with all of the federal agencies to mitigate issues, and working with and educating communities on the project. The project team would also be handling local hire, employment, and the logistics of the project. The team would also be working with the Department of Transportation and Public Facilities (DOT) to look at roads and crossings and the related effects on them. He suggested that project work included problem solving which was fairly easy.

He reasoned that when looking to maximize the wellhead value, all of the companies and the state had different equities in the fields and they were all negotiating for a common goal of maximizing value of their resource. He continued that because each party's equity was different it created tension. He explained that DNR, DOL, and DOR were working together to protect the state's interest. The state was unique in that it did not have wells or the ability to produce. Whereas, in the field the unit operators for the producers could drill additional wells, for example. The state could claim that 25 percent would come from new wells, but it had to ensure its supply. The state was commercially different in that it did not own any of Prudhoe Bay infrastructure. If the Prudhoe Bay infrastructure charged a fee to their downstream company, it stayed within the corporation. The state pays the fee to the corporation; Therefore the state's value decreased and the corporation's increased. The challenge was minimizing the cost leakages to the state in a way that was still fair to the producers. The state was going work through the differences through a series of negotiations. The state had an integrated team to work with each one of the categories listed on the organizational chart. The negotiations needed to occur at the front end to resolve any issues in order to fund and build the project. The Department of Natural Resources' job was front-end-loaded for the following 6 months until the commercial agreements were executed. Once the agreements were reached the state's teams could disassemble. The state would subsequently move into a monitoring phase. The construction build team would last through the entire project until gas began to flow. He reemphasized that there was commercial tension with reasonable framework provided by SB 138 to negotiate.

5:33:16 PM

Representative Wilson relayed that she had been told of confidentiality forms that parties might be asked to sign. She wondered if there would ever be a reason a person would be denied the opportunity to sign one.

Attorney General Richards did not believe that there were confidentiality agreements relating to any particular meeting that he was aware of. There were confidentiality agreements between the parties with vendors, for example. He assured the committee that the administration was committed to an open and translucent process to allow as much sunshine in as was practical. He recognized the need to keep proprietary information confidential; to have negotiations that protect people's ability to negotiate behind closed doors in order to reach agreements. He suggested that within the process there was room for more sunshine. The governor had made it part of his objective to bring the legislative body into knowing as much as possible, hence letting the people of the state of Alaska know as much as possible. He agreed that there was give and take on different confidentiality agreements and what the terms should be. He believed that the state was making progress and opening up the process over time which the partners were beginning to see the importance of transparency. He added that from his perspective things were progressing and working fairly well. He thought more openness was better, and the state was working that as an objective.

5:35:12 PM

Representative Wilson stated she was in favor of transparency and understood that the state was playing in a different arena. Mr. Fauske had told her that at a meeting he had been asked to leave the room because he had not signed a confidentiality agreement and that it had slowed the process down. She was looking for assurance that the state would be in the room to hear the full discussions in order to make its decision.

Attorney General Richards compared it to a chicken and the egg problem. In other word, a specific issue could not be addressed because it was all confidential. He told of one small contract in which there was a hiccup. The state was currently working on the issue and had great confidence that the state would find a way to resolve it.

5:36:58 PM

Co-Chair Neuman indicated he had requested that Mr. Fauske be available to address the Finance Committee.

Representative Wilson stated the committee had heard that the governor was in charge of AGDC but was not in charge of the railroad. She opined that Mr. Fauske had been providing accurate information about what was going on. She asked if there was any situation that would cause the state's representative sitting at the meeting on December 4th not be able to sit through the entire meeting to make a decision.

Ms. Rutherford responded that she believed that the AGDC work plan and budget decision, to be voted on no later than December 4th, would be made by the board with input from the AGDC staff. She thought the governor would be making decisions about progressing the project on a commercial front based on how well the discussions about withdrawal were going and how the entire project negotiations were progressing. She believed they were two different things.

5:38:52 PM

Representative Wilson specified that she was not talking about withdrawals. She was concerned that Mr. Dubler would be sitting in the December 4th and asked to leave the room.

She asked the attorney general if he could think of any reason why he would be asked to leave the room. W there was anything that would cause Mr. Dubler to have to leave the room. She wondered if the state could do anything to cause that to happen.

Attorney General Richards stated that the board members had the right, as did every company, to approve the work plan and budget. The decision they make would be their decision at the time. He expected that they would approve the work plan and budget. However, he could not guarantee that it would be approved.

Representative Wilson clarified that she was no talking about who approved it, she was taking about other discussions that might occur in the December 4th meeting. She wondered if he could think of any reason why he would be asked to leave during the meeting. In other words could Mr. Dubler be privy to all of the discussion at the meeting.

Attorney General Richards was unaware of any reason he would have to leave the meeting.

5:41:11 PM

Representative Wilson asked if Attorney General Richards knew of any other meetings where he had been asked to leave.

Attorney General Richards was unaware until someone summarized testimony from the previous day that it might have happened in one meeting regarding one small matter. He reiterated that the administration was attempting to work through such issues and to bring greater transparency into the process bringing more knowledge to Alaskans. He admitted that at times there were bumps in the road but he thought the state was on the right path to bringing more sunshine while respecting proprietary information.

5:41:50 PM

Representative Wilson stated that we all want sunshine. She had 17,500 people that she had to answer to. She wanted the public to know that she wanted transparency and that in certain circumstances in the arena which the state was entering there would be things that might not come out. She suggested that changes might be necessary in the following session.

5:42:50 PM

Representative Munoz asked Attorney General Richards if he had seen the public hearing testimony on the regulations.

Attorney General Richards responded in the negative.

Representative Munoz wanted to place on record brief excerpts from statements made by the other AKLNG partners. She wanted to be clear that the partners did not support the proposed regulations as they were written. She read comments from October 15, 20155 having to do with the AGDC proposed regulations on confidentiality:

David Van Tuyl, BP:

> "Confidentiality agreements are an essential part of doing business in a technically and commercially competitive world."

Patrick Flood, Conoco Phillips:

"For AGDC to participate as the representative of the State as a fully effective participant in AKLNG, AGDC will need to continue to be able to enter into confidentiality agreements."

Bill MacMahon, ExxonMobil:

"If enacted, we believe these regulations would prohibit continued AGDC participation in AKLNG."

Representative Munoz emphasized that legislators wanted the project to continue uninterrupted. The legislature wanted to give the project the best chance of success and avoid inserting impediments in to the process which might slow it down and add cost.

Co-Chair Neuman furthered that he had had discussions concerning proprietary information, particularly with the state's contractors and the ability for them to work in Alaska. Many of them he hoped were Alaskan contractors that had experience in the Arctic.

5:45:04 PM

Representative Guttenberg thought it was a unique experience for ExxonMobil, BP, or Conoco Phillips to be able to lobby in the state capital but the state could not reciprocate in their board rooms. He emphasized that the majors were currently in the committee room negotiating with the state. He was concerned with AGDC signing a blanket confidentiality agreement which could never be discussed with the legislature. He provided a hypothetical scenario where unfair labor practices were taking placed and AGDC could not come to the legislature to report it as a disadvantage to the state. He wondered if it was a concern for the administration.

Attorney General Richards stated that it was a concern. It was clearly in the best interest of the State of Alaska to have more sunshine and transparency in the process. He thought it was true from the governor's perspective and was how the administration had been working. He opined that it was not in the producers' interest to have more transparency and sunshine in the process. The more information that they controlled and limited providing to the people of Alaska the more they would have control of the process. He parroted Representative Guttenberg's concern. He suggested to keep in mind whenever dealing with the three individuals Representative Munoz quoted, that they were world-class negotiators which he dealt with frequently. They were negotiating to convince the legislature to keep the process as secret as possible. The administration was attempting to bring in a little sunshine. He suggested it would better inform the Alaska people and increase the state's negotiating leverage. He admitted he was surprised at the level of secrecy the three companies wanted. He did not believe it was in the state's best interest to have everything secret, but realized that certain things were proprietary. The state had to find a balance. He opined that the scale was tipped too far on the confidentiality side and that the governor would like to see that change towards more openness. The administration was working towards that end. He genuinely believed that the state could continue in the process with the producer partners and that they recognized that the stance of the administration would mean more information would be publically available and would not hurt the project.

Co-Chair Neuman remarked that everybody had an opinion.

5:47:53 PM

Representative Guttenberg had asked Mr. Butt a question had appeared before the committee in the prior few days and could not answer a question that he had stated that he had asked Mr. Butt a question about the confidentiality agreement. He did not understand why an unopposed pipeline would need to be confidential.

Attorney General Richards agreed that there was a significant amount about the process that was confidential that he felt did not need to be. The administration had inherited confidentiality systems that had been in place governing the project that were very difficult to change. The state was trying to introduce more sunlight and make the process more open over time. He furthered that until the state could affect change, which was happening slowly, the process was designed to be secret. He agreed with Representative Guttenberg that some of the things that were secret likely did not need to be and some of them were. He provided some examples of classic proprietary information; engineering data, upstream resource assessments, a company's financial information, and cost estimates. He claimed that in his career the entities he had been associated with on the public side had not operated using the current model.

Co-Chair Neuman suggested that it had been a concern of the legislature when SB 138 was being discussed. He thought that a requirement was in place to do reports at the legislature on the work as it proceeded. He had asked AGDC to provide quarterly updates of which AGDC was amenable.

Attorney General Richards stated that he wanted to be clear that confidentiality requirements were not a result of SB 138. The bill authorized confidentiality agreements as necessary and appropriate. It allowed the commissioner to enter into them. It was the terms of the particular confidentiality agreements that the administration inherited that were setting the confidentiality stage. At the direction of the governor the administration was trying to open up information that was not genuinely and legitimately confidential could be shared with the people of Alaska.

Co-Chair Neuman offered that the legislature decided what it wanted to see for confidentiality. The confidentiality details were outlined in SB 138. He mentioned having received some change proposals that had originated from Attorney General Richards' office.

5:52:13 PM

Representative Gara referenced a response to Representative Edgmon's question concerning the proposed constitutional amendment if the administration decided one was needed regarding locking in a gas tax. The response was that the issue might be part of the agenda for a special session. He suggested that there was no need to wait to discuss it in a special session if it was ready to be discussed during the regular session. It would save costs.

5:53:56 PM

Co-Chair Neuman agreed with Representative Gara.

Representative Gara was sending the message and hoped the administration would be open to discussing the issue during the regular session if it was ready.

Ms. Rutherford admitted she had been the one that had mentioned a special session. She clarified that DNR would bring the package of materials to the legislature as quickly as possible and acknowledged his preference for a regular session.

Co-Chair Neuman asked Ms. Rutherford to provide any information she had for members as soon as possible so the discussion could begin.

5:55:07 PM

Vice-Chair Saddler spoke about the issue of transparency. He was concerned with setting up a process through draft regulations for AGDC's confidentiality that commercial partners wishing to protect their commercial trade secrets were being asked to prove why they should be kept confidential as opposed to being open and transparent. He expressed concerns about having to stop, like going down a highway and having to stop every two miles at a check point, to prove permission to proceed which caused delays. He believed delay was the enemy of the state's progress. He asked how long the attorney general had known about the regulations.

Attorney General Richards responded that he had known about them since the previous March.

Vice-Chair Saddler thought he had a heard Attorney General Richards on the previous day he had not seen them. He wondered if he had played any role in their development.

Attorney General Richards stated that he had testified before the Senate Finance Committee that the role in the advice he gave was confidential. He indicated he had played a role in the early stages of providing advice through the governor's office to AGDC and their council in discussing them.

Vice-Chair Saddler commented that it was a matter of asking the right question.

5:56:56 PM

Vice-Chair Saddler asked Attorney General Richards to provide his understanding of the mechanism necessary in the standard of proof necessary to demonstrate why something a commercial partner brought forward should be kept confidential. He wondered about the level of proof and the mechanism for proving it.

Attorney General Richards did not know. He had not read the draft regulations nor had he looked at them in the previous 6 months. He did not recall the specifics and had not seen what the board adopted versus the first early stage draft.

Vice-Chair Saddler asked who would be able to answer his question.

Attorney General Richards answered that Assistant Attorney General Jerry Juday had worked with the board and the executive team at AGDC.

Vice-Chair Saddler asked if Mr. Juday would be barred from answering the question regarding the mechanism.

Attorney General Richards responded in the negative.

5:57:58 PM

Co-Chair Neuman wonder how much time would be needed to resolve any issues regarding proprietary information. He expressed his concerns around delays and asked about a possible list of items subject to confidentiality.

Attorney General Richards responded that there were was a standard way in which the state dealt with confidential information. He used the example of DNR's statutory framework which basically listed the type of information that was confidential. The Department of Natural Resources had applied for many decades.

5:59:16 PM

Co-Chair Neuman noted that the state was dealing with private parties on a business deal which differed from the states' standard regulations. The departments worked through a basic public process that was spelled out in statute. The state was currently in a private partnership with private industry on a construction project, which he thought was significantly different.

Attorney General Richards responded that there was a difference which he understood. However, it was the same process state agencies used when dealing with private construction projects with private entities. It was the same system used by Alaska Industrial Development and Export Authority (AIDEA).

Co-Chair Neuman asked the attorney general to provide the committee with some examples of what he was talking about.

6:00:13 PM

Representative Gattis asked about AIDEA. She wondered if AIDEA had experienced as much push back as the legislature had talked about in the prior few days regarding the confidentiality agreements.

Attorney General Richards could not speak to the actual factual circumstances of AIDEA's interaction with companies it was investing with. He was aware that AIDEA's system had been in place for a long time and was statutory, created by the legislature. Alaska Industrial Development and Export Authority had functions presumably well under the system for a number of years.

Representative Gattis mentioned the "push me, pull me" dynamic in the state's negotiations with the producer partners. She suggested the dynamic could be because of the vendors working for the producers rather than the producers themselves. She supposed that if she were negotiating or having a contract with a vendor and the sunshine concept entered into the picture she might feel some resistance from a vendor about confidentiality. She wondered if the attorney general understood the dynamic and whether he agreed with her.

Attorney General Richards understood that there was always the possibility the entities dealing with the government might want to keep things confidential. He also recognized that it was a dynamic. At one end of the spectrum might be complete secrecy and the other end of the spectrum being no secrecy. Somewhere in the middle would be where the state would land in the type of situation being discussed. For instance, no one was suggesting that proprietary information should be public whether dealing with producers or vendors. He thought it was important for vendors and producers to recognize the legitimacy of confidentiality and the need to attract outside vendors to do work. Using the other extreme where the mere existence of a contract the state had signed with a vendor, he wondered if the contract should be confidential. He noted that the state was at a balancing level.

Representative Gattis commented that if in regards to the state acting like a business she thought it should be confidential exactly like what the businesses did in the state. She thought that what Attorney General Richards was trying to say was that contracts should not be confidential when acting as government and putting out contracts as government versus a gas line project where the state was acting as a business.

6:04:11 PM

Representative Edgmon suggested having Mr. Fauske come before the committee to provide specific examples of standard, non-proprietary, business and decisions where the board might want to go into executive session to discuss things that should not be exposed for public consumption. He appreciated the Walker administration wanting to bring some additional transparency to the project process. He mentioned hearing repeatedly answers to questions that confirmed there was a fine line that needed to be observed. He thought some real world of examples would be helpful in moving the discussion along.

6:05:32 PM

Representative Pruitt asked to whom the state would most likely be selling its gas.

Attorney General Richards asked to be excused, as he had another meeting to attend.

Ms. Rutherford responded that the state would most likely sell to Asia; Korea, Japan and China.

Representative Pruitt asked if the state was the only entity competing in the Asian market.

She responded in the negative. She added that British Columbia would definitely be competing for it and perhaps some of the Gulf Coast.

Representative Pruitt asked if there was competition for the state.

Ms. Rutherford responded positively.

Representative Pruitt suggested that there were opportunities where the state could lose its edge due to too much transparency. He asked if it was possible.

6:06:52 PM

Ms. Rutherford stated that the only issue where she thought it might be possible was in the area of gas sales agreements. It was possible that some of the purchasers might want to keep sales arrangements with the State of Alaska private while the State of Alaska might want a public review.

6:07:29 PM

Representative Pruitt asked Attorney General Richards whether state legislators would be able to talk to board members once they signed confidentiality agreements. He also asked if legislator could sign confidentiality agreements which would give them an opportunity to talk to board members or members of AGDC who also have signed agreements.

Attorney General Richards stated that a legislative CA was required to talk to a board member about confidential information. He furthered that there was a process that anyone in the administration had to go through, and that process was confidential.

Representative Pruitt mentioned hearing about attorney-client privilege related to the attorney general, members of the DOL, the governor, or other members of the administration. He wondered asked who a person would have to talk to prove that it fell underneath attorney-client privilege.

Attorney General Richards stated that the boundaries of the attorney-client privilege were well understood by most lawyers and the rules were fairly clear. Exceptional circumstances could be created where they were a little less clear. By and large any communication an attorney had with their client that involved any kind of legal advice was privileged.

6:09:30 PM

Representative Pruitt asked if it had to be proved to anyone.

Attorney General Richards relayed that if someone challenged the privilege it would have to be proved. A judge would review in camera the nature of the communications and make a determination whether the communication was privileged.

Representative Pruitt stated that it came afterwards. In order to claim that a person had attorney-client privilege a person did not have to go to someone first, obtain their approval, and subsequently claim the privilege. He asked if he was accurate.

Attorney General Richards responded affirmatively. The privilege existed automatically.

Representative Pruitt wondered why the state would not hold itself to the same standard or requirement that it expected from its partners in terms of confidential information.

Attorney General Richards suggested differentiating between a privilege that existed automatically and confidentiality which was an agreement between the parties. In his experience, it was the way it worked within the State of Alaska and with most governments. The law would always lay out the rules of privilege and whether they apply, the standard way in which the state operated. He furthered that the way in which the state was doing it currently, under the confidentiality agreements in place in the AKLNG project, deviated from the norm.

6:11:30 PM

Representative Pruitt asked for an example of something the partners would want to keep secret from the State of Alaska and away from sunshine.

Attorney General Richards provided the example of the partners' position on fiscal certainty on oil. He would be very curious what their public statements were about whether they expected the process to lead to fiscal certainty in oil.

Representative Pruitt commented that when there was too much sun people get burned causing pain like no other.

6:12:23 PM

Vice-Chair Saddler asked about a couple of agreements that were yet to be negotiated under the equity. He referred to the chart containing the agreements yet to be negotiated. He pointed to the equity option agreement under the equity category. He wondered if it contained a 40 percent buy back.

Ms. Rutherford responded affirmative.

Vice-Chair Saddler asked for a brief sentence or two about the last three equity agreements listed, the member agreement, the contract operator services agreement, and the member administrator services agreement.

Ms. Rutherford explained that the members' agreement would be an AGDC arrangement between the other equity holders of the project itself; the GDP, the pipeline, and the liquefaction plant. It would not be made available for legislative approval.

6:13:46 PM

Vice-Chair Saddler asked her to further define the members' agreement, as her explanation was fairly broad.

Mr. Schultz pointed, first, to the Joint Venture Agreement (JVA) which was a cost-sharing agreement between the participants in the project. The members' agreement was the limited liability company agreement that would set out the governance terms for the AKLNG project parties and establish their rights and obligations as members of the project company. The agreement would define capital contributions, voting rights, distribution rights, and other things relating to governance of the company. The contract operators service agreement (COSA). It would be an agreement between the AKLNG Limited Liability Company and ExxonMobil as the contract operator for the project. It would set the parameters by which ExxonMobil could spend funds and act on behalf of the AKLNG project. It would be entered into between the AKLNG Company and ExxonMobil. It would continue through the FEED phase and perhaps into the construction and execution phase of the project.

Mr. Schultz continued to explain the Member Administrator Services Agreement, referred to as (MASA). It established Conoco Phillips as the member administrator for the AKLNG project running functions such as accounting for the company during the FEED phase. The agreement would be between the AKLNG Limited Liability Company of which AGDC was a member and Conoco Phillips as the member administrator providing those services.

Vice-Chair Saddler asked if the LLC was referred to as the Alaska LNG Project Company.

Mr. Schultz responded affirmatively that it was the limited liability company.

HB 3001 was HEARD and HELD in committee for further consideration.

Co-Chair Neuman reviewed the agenda for the following day.

#
ADJOURNMENT

6:17:24 PM

The meeting was adjourned at 6:17 p.m.