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COMMITTEE REPORT
SENATE

2/7/83

FURTHER: Judiciary

Date: 3/15/83

Mr. President:

The Committee on State Affairs has had SB 111

An Act relating to the use of teleconferencing under the Administrative Procedure Act.

under consideration and a majority of the committee) (the committee) reports it back with the following recommendations:

do pass [] do not pass

[] do pass with attached amendments(s)

replace with CS for SB111 [] same title [] new title

and recommends do pass

[] ANL attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tim Kelly

V. Fischer do pass

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

217

FISCAL NOTE

I. REQUEST
Bill/Resolution No. _____
Title "An act relating to the use of teleconferencing under the Administrative
Requested by Procedure Act" Date 1/31/83
By the Rules Committee by request of the Governor

II. FISCAL DETAIL
Agency Affected Potentially, all _____
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-
item amounts and funding for each component in the analysis
section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 1/31/83 PREPARED BY Sioux Plummer, Director *slp*
AGENCY Division of Telecommunications Services
PHONE 465-2041
Original: Legislative Finance
cc: Budget and Management *RIS*
Prime Sponsor (First Legislator Named)

/FORMS/1203-3

OMB Reviewed by: Liz Blecker

RECEIVED

FEB 10 1983

LEGISLATIVE FINANCE

Introduced: 2/7/83
Referred: State Affairs and
Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 111

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the use of teleconferencing under
7 the Administrative Procedure Act."

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

9 * Section 1. INTENT. The amendments in this Act are intended to allow
10 state agencies and the public to employ advances in teleconferencing tech-
11 nology that can increase the efficiency and convenience of transacting
12 business with or by a state agency. Nothing in this Act is intended to
13 diminish the constitutional or statutory rights of the parties, or existing
14 procedural safeguards.

15 * Sec. 2. AS 44.62.210(a) is amended to read:

16 (a) On the date and at the time and place designated in the
17 notice the agency shall give each interested person or his authorized
18 representative, or both, the opportunity to present statements, argu-
19 ments, or contentions in writing, with or without opportunity to
20 present them orally. The state agency may accept material presented
21 by any form of communication authorized by this chapter, unless other-
22 wise designated in the notice, and shall consider all relevant matter
23 so presented to it before adopting, amending or repealing a regula-
24 tion.

25 * Sec. 3. AS 44.62.310(a) is amended to read:

26 (a) All meetings of a legislative body, of a board of regents,
27 or of an administrative body, board, commission, committee, subcommit-
28 tee, authority, council, agency, or other organization, including
29 subordinate units of the above groups, of the state or any of its

universities

1 political subdivisions, including but not limited to municipalities,
2 boroughs, school boards, and all other boards, agencies, assemblies,
3 councils, departments, divisions, bureaus, commissions or organiza-
4 tions, advisory or otherwise, of the state or local government sup-
5 ported in whole or in part by public money or authorized to spend
6 public money, are open to the public except as otherwise provided by
7 this section. Attendance and participation at meetings by the public
8 or members of a body may be by teleconferencing according to reason-
9 able ground rules established by the body conducting the meeting. The
10 ground rules must include guidelines for making agency materials, or
11 summaries of them, which are to be considered at the meeting, avail-
12 able at teleconference locations. The ground rules must also include
13 guidelines for suspending or rescheduling a teleconference meeting if
14 a teleconferencing system failure occurs during the meeting. The
15 ground rules are not considered regulations and need not be adopted
16 under AS 44.62.040 -- 44.62.290. All participants must be afforded
17 the opportunity to hear ^{and/or see} everything transpiring at the meeting and to
18 speak on any issue upon which oral testimony is accepted. Except when
19 voice votes are authorized, the vote shall be conducted in such a
20 manner that the public may know the vote of each person entitled to
21 vote. This section does not apply to any votes required to be taken
22 to organize the afore-mentioned bodies.

23 * Sec. 4. AS 44.62.310(e) is amended to read:

24 (e) Reasonable public notice shall be given for all meetings
25 required to be open under this section. The notice must include the
26 date, time, and place of the meeting, general topics to be discussed
27 or considered, and the location of any teleconferencing facilities
28 which will be used.

29 * Sec. 5. AS 44.62.312(a) is amended by adding a new paragraph to read

1 (6) the use of teleconferencing under this chapter is for
2 the convenience of the parties, the public, and the governmental units
3 conducting the meetings and is to provide the broadest input and
4 dissemination of information practicable.

5 * Sec. 6. AS 44.62.410 is amended by adding a new subsection to read:

6 (b) Upon the mutual agreement of the parties, the agency may in
7 its discretion use teleconferencing in the conduct of a hearing under
8 this section.

9 * Sec. 7. AS 44.62.600 is amended to read:

10 Sec. 44.62.600. VOTING PROCEDURE [MAIL VOTE]. When normal,
11 in-person voting is not reasonably possible, a [A] member of an agency
12 qualified to vote on a question may vote by mail or by teleconferenc-
13 ing. A vote by teleconferencing must be ~~recorded~~ ^{entered into record} in a manner that
14 identifies each person who has voted and on which side of the question
15 the person voted.

16 * Sec. 8. AS 44.62 is amended by adding a new section in Article 9 to
17 read:

18 Sec. 44.62.635. TELECONFERENCING. (a) In addition to the spe-
19 cific authorizations in this chapter of the use of teleconferencing,
20 an agency may use teleconferencing for the benefit or convenience of
21 the parties, the public, or the agency, in connection with any pro-
22 ceeding or act authorized under this chapter, so long as all statutory
23 and constitutional rights of the parties are either waived or ade-
24 quately protected.

25 (b) If teleconferencing is used for consideration of an issue
26 during a meeting or hearing, then it must be used for the entire time
27 that that issue is being considered.

28 (c) Teleconferencing may be used to establish quorums, receive
29 public input, and, if all voting individuals have a substantially

1 equal opportunity to evaluate all testimony and evidence, to vote on
2 actions.

3 * Sec. 9. AS 44.62.640 is amended by adding a new subsection to read:

4 (c) In this chapter "teleconferencing" means information ex-
5 change by audio, ^{and/or} video, ~~or computerized~~ electronic media.
A

SENATE AMENDMENT

By STATE AFFAIRS COMMITTEE

To: _____ SENATE BILL No. 111

To: _____ HOUSE BILL No. _____

PAGE: 2 LINE: 1

After the phrase "limited to" add "universities,"

FISCAL NOTE

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 By the Rules Committee by request of the Governor

II. FISCAL DETAIL
 Agency Affected Potentially, all
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-
 item amounts and funding for each component in the analysis
 section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	_____	_____	_____	_____	_____	_____
200 TRAVEL	_____	_____	_____	_____	_____	_____
300 CONTRACTUAL	_____	_____	_____	_____	_____	_____
400 COMMODITIES	_____	_____	_____	_____	_____	_____
500 EQUIPMENT	_____	_____	_____	_____	_____	_____
600 LAND & STRUCTURES	_____	_____	_____	_____	_____	_____
700 GRANTS, CLAIMS, ETC.	_____	_____	_____	_____	_____	_____
TOTAL	-0-	-0-	-0-	_____	_____	_____

FUNDING (Thousands of Dollars)

GENERAL FUND	_____	_____	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____	_____	_____
OTHER (Specify Source)	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

POSITIONS

FULL TIME	_____	_____	_____	_____	_____	_____
PART TIME	_____	_____	_____	_____	_____	_____
TEMPORARY	_____	_____	_____	_____	_____	_____

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section ...)

IV. DATE 1/31/83 PREPARED BY Sioux Plummer, Director
 AGENCY Division of Telecommunications Services
 PHONE 465-2041

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) *RB*

/FORMS/1203-3

OMB Reviewed by: Liz Blecker

RECEIVED

FEB 10 1983

LEGISLATIVE FINANCE

TO: WENDY REDMAN
FROM: ASTRID DE PARRY
RE: SB111

AT YOUR REQUEST, I ATTEMPTED TO CONTACT DAVID DYE IN SENATOR FISCHER'S OFFICE. DAVID WAS OUT SICK TODAY, SO, INSTEAD, I LEFT A MESSAGE WITH SUZANNE TRYCK. IN PARTICULAR, I REFERRED HER TO A LETTER DATED APRIL 19, 1982, WHICH I WROTE TO SENATOR PAT RODEY REGARDING THE OPEN MEETINGS LAW, WHICH READ, IN RELEVANT PART, AS FOLLOWS:

"THE SECOND ENCLOSURE RELATES TO THE STATE ADMINISTRATIVE PROCEDURE ACT, INCLUDING THE PUBLIC MEETINGS LAW. AS YOU CAN WELL IMAGINE, A UNIVERSITY COMMUNITY IS ABSOLUTELY UNIQUE IN AFFORDING ITS MEMBERS UNPARALLELED OPPORTUNITIES TO PARTICIPATE IN THE DECISION-MAKING PROCESSES OF THE UNIVERSITY. WE HAVE LITERALLY HUNDREDS OF COMMITTEES, COUNCILS, TASK FORCES, AND OTHER SUCH BODIES WHICH ASSIST THE UNIVERSITY ADMINISTRATION IN THE DAY-TO-DAY OPERATION OF THE UNIVERSITY. IF ALL OF THOSE GROUPS WERE REQUIRED TO HOLD DULY PUBLICLY-NOTICED OPEN MEETINGS, EITHER THE UNIVERSITY WOULD COME TO A STANDSTILL OR WE WOULD HAVE TO OPERATE BY ADMINISTRATIVE FIAT ALONE. NEITHER ALTERNATIVE WOULD APPEAR TO BE BENEFICIAL TO THE UNIVERSITY ITSELF, MEMBERS OF THE UNIVERSITY COMMUNITY, OR THE PUBLIC IN GENERAL. THE REASON I AM SEEKING TO CLARIFY THE SCOPE OF

CONTINUED ON NEXT MAIL MESSAGE

#16 SYJPEMMERT MON MAR 14 14:21 (5) U

ATTN: ALL UAITC STATEWIDE COMMITTEE MEMBERS:
THE AUDIO CONFERENCE WAS REFERRED FOR MONDAY, MARCH 21
FROM 8:30-10:30 AM. BRIDGE #562-2580. PLEASE BE SURE
TO CALL IN 10 - 15 MINUTES EARLY SO WE CAN GET STARTED
ON TIME. THANKS. JANE POLLARD PEMMERT/BY JAC

#17 SYCOUNSEL MON MAR 14 14:28 (35) U REG. - ACKNOWLEDGEMENT SENT.

CONTINUATION OF MESSAGE RE SB111:

THE OPEN MEETINGS LAW PROVISION IS THAT I AM CURRENTLY DEFENDING A LAWSUIT BROUGHT BY A FORMER PROFESSOR WHO WAS REFUSED TENURE AND IS SEEKING TO VOID THAT DECISION ON THE BASIS THAT AN ELECTED FACULTY COMMITTEE FAILED TO DELIBERATE IN A DULY PUBLICLY-NOTICED OPEN MEETING. I BELIEVE I CAN FAIRLY STATE THAT THE INDIVIDUAL IN QUESTION HAS NO REAL DESIRE TO HAVE HIS TENURE APPLICATION DISCUSSED IN PUBLIC. RATHER, HE OR HIS ATTORNEY SEIZED UPON THE OPEN MEETINGS STATUTE AS A CONVENIENT VEHICLE TO AVOID THE NEGATIVE TENURE DECISION SO THAT HE COULD GET ANOTHER REVIEW. THEREFORE, THE PROPOSED STATUTORY AMENDMENT CLEARLY LIMITS THE APPLICATION OF THE OPEN MEETINGS LAW TO THE BOARD OF REGENTS, AND EXPLICITLY EXCLUDES THE UNIVERSITY OF ALASKA AND ITS MYRIAD COMMITTEES FROM THE ACT.

I WOULD AGAIN ENCOURAGE THE STATE OF ALASKA LEGISLATURE TO AMEND AS 44.62.310 BY ADDING A NEW SUBSECTION (D) (6) TO READ:

"THE UNIVERSITY OF ALASKA OR ANY SUBORDINATE UNITS THEREOF; PROVIDED, HOWEVER, THAT THE BOARD OF REGENTS IS NOT DEEMED TO BE A SUBORDINATE UNIT OF THE UNIVERSITY OF ALASKA."

PLEASE BE ADVISED THAT I SHARED THE SUGGESTED STATUTORY AMENDMENT WITH MS. TRYCK IN DAVID DYE'S ABSENCE, NOTING THAT I WOULD BE AVAILABLE FOR THE REMAINDER OF TODAY TO DISCUSS THIS MATTER IN GREATER DETAIL. AS FOR TOMORROW MORNING, UNFORTUNATELY, I HAVE A PRIOR COMMITMENT WHICH WILL KEEP ME TIED UP FROM 8:30 THROUGH NOON. OTHERWISE, I AM AT YOUR SERVICE. SO LET ME KNOW IF THERE IS ANYTHING MORE THAT YOU MAY NEED OR DESIRE REGARDING THIS BILL.

ADP/LSD

Sectional Analysis SB 111

Sec 1 Intent expand the use of teleconferencing under Administrative Procedures Act.

Sec 2 Allows state agencies to accept material presented by any form of communication (eg. by teleconference) at a public hearing for the purpose of adopting, amending or repealing a regulation

Sec 3 Allows the use of teleconferences at public agency meetings (including municipalities, boards and commissions, etc). Agencies are to establish reasonable ground rules, including those for submission of materials, suspension or rescheduling of meetings, assurance that all participants have an opportunity to hear everything transpiring at the meeting, and the opportunity to speak on any issue upon which oral testimony is accepted.

Sec 4 Sets out requirements for the content of public notices

Sec 5 States a policy that the use of teleconferences is for convenience and to provide broad input and dissemination of information.

Sec 6 Allows the use of teleconferences in administrative adjudications by mutual agreement of the parties

Sec 7 Allows a member of an agency to vote by teleconference in an administrative adjudication

Sec 8 Adds a new section under "general provisions" which allows teleconferencing under the Administrative Procedures Act so long as: 1) all statutory and constitutional rights of the parties are either waived or adequately protected, and 2) a teleconference is used for the entire time an issue is considered.

Also allow teleconferencing to establish quorums, receive public input and for voting.

Sec 9 Defines "teleconferencing" to mean information exchange by audio, video, or computerized electronic media.

P.O. Box 80662
Fairbanks, AK 99708

Senator Vic Fischer
Chairman
Senate State Affairs Committee
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

I'd like to call a matter to your attention that might perhaps be solved by an amendment to SB 111 which relates to teleconferencing under the Administrative Procedure Act.

As you may or may not be aware, the University of Alaska, in responding to a suit by George A. Geistauts, is contending that the Board of Regents and only the Board of Regents is covered by AS 44.62.310--the open meetings statute. The question may or may not be resolved in the resolution of the law suit over Prof. Geistauts' tenure case. I think it can and should be resolved by the Legislature.

Other bodies operate within the University that should be covered by the open meetings law. Obvious examples are the various campus and statewide assemblies, the student government organizations and their various committees. Perhaps less obvious examples are the various administrative and executive councils where important decisions are made governing the local campuses and other operations of the university.

Among other contentions in his suit, Prof. Geistauts contends that the meeting of the Tenure Committee in his case should have been open to him under the statute. In response the university contends that the statute covers only the Board of Regents and its committees.

This situation could be clarified greatly with an amendment in SB 111 that would include the University of Alaska--and not just the board of regents--in the definition of agencies covered by the open meetings act.

I urge you and your committee to make such an amendment to SB 111 and work for its passage in the full Senate.

In advance, thank you very much for your consideration and assistance. If there are any further questions I can answer, please don't hesitate to contact me.

Sincerely yours,



Dean M. Gottehrer

SB 111

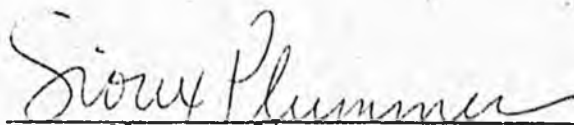
POSITION PAPER

The Division of Telecommunications Services, Department of Administration strongly supports the passage of SB 111, because it will clarify past and present ambiguities relating to the use of teleconferencing at public meetings. Specifically, it will clarify the legality regarding voting and quorum establishment.

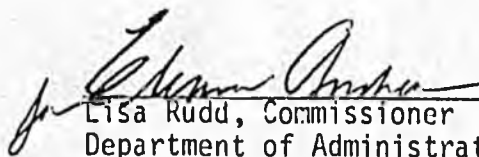
Teleconferencing has proven to be an effective communications medium when used to disseminate information or gather public opinion. Over the years many successful public hearing, staff meeting and training sessions have been held.

It is only when teleconferencing has been used for voting that questions regarding quorums and other legal requirements for meeting have arisen. Past users have dealt with these problems in one of three ways: 1) They have ignored the "gray areas" of the existing statutes and considered the meeting legal; 2) they discontinued the use of teleconferencing; or 3) they addressed the subject in their own ad hoc rules or bylaws.

The intent to legally clarify teleconferencing has no direct fiscal impact. However, it should be noted that if this legislation becomes law, there are potential fiscal side effects for all teleconference users. It may be assumed that by clearing up legal questions, teleconferenced meetings will become more popular and occur more frequently. This has the potential for reducing travel costs and for increasing equipment and telephone long distance costs. Equipment costs could be for purchase of various types of teleconference apparatus such as audio, video and computer equipment, as well as facsimile and photocopy machines. In the final analysis, the use of teleconferencing to replace most travel would save money for the State because it is cheaper to call than to travel.



Sioux Plummer, Director
Division of Telecommunications Services
Department of Administration



Lisa Rudd, Commissioner
Department of Administration

3/15/83

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



March 15, 1983
3:00pm

Butrovich Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Pat Rodey
Senator Tim Kelly
Senator Arliss Sturgulewski

CSSB 27--Toll free telephone calls to state agencies

The committee discussed the committee substitute, a letter of intent and the fiscal note. The latter was delivered only minutes prior to the meeting. Several members questioned the congruence of the fiscal note with the CS and the letter of intent.

Ralph Walp of General Communications, Inc. spoke in favor of the bill and the letter of intent. He felt that the committee should consider enhancing toll-free service with a central information operator who would direct callers to the right agency. He also stressed the need to publicize the program.

The bill was held over.

SB 83--Court leave for non-permanent employees of the state.

Terry Cramer, Executive Director of the Blue Ribbon Commission on State Personnel explained that the bill allows statutory court leave for "non-permanent" employees who are not part of a bargaining unit covered by the collective bargaining agreement. All forms of leave, including court leave, are bargainable items. However no collective bargaining agreement currently covers this type of leave.

Mike McMullen, Deputy Director of Personnel explained certain technical drafting considerations. He also explained the difference between "non-permanent" and "temporary" employees. He stated that this bill would affect about 35-40 employees.

Senator Sturgulewski moved and asked unanimous consent to move the bill from committee with individual recommendations. There was no objection.

CSSB 111--Use of teleconferences under the Administrative Procedures Act.

David Dye, Aide to the committee explained the CS to the committee. Changes from the original bill were in the nature of clarification rather than changes in substance and had been suggested by a representative of the Department of Administration at the first hearing on the bill.

Senator Kelly moved and asked unanimous consent that the bill move from committee with individual recommendations. There was no objection.

Senator Fischer adjourned the meeting at 3:45pm.

by
David Dye
Committee Aide

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



March 10, 1983
3:00pm

Butrovich Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Tim Kelly
Senator Bill Ray
Senator Arlis Sturgulewski

Senate Bill 106 -- Prison overcrowding

Roger Endell, Director, Division of Corrections spoke in favor of the bill. There are approximately 1700 prisoners in the state prison system but only about 1100 bed spaces. This is due to an increasing influx of felons. If present rates continue, the state will have to build a new 200 bed prison every year. This is very expensive.

Under this bill, prisoners who have 90 days or less to complete on a sentence for a non-violent crime would be automatically released when an overcrowding emergency was certified. Approximately 45 felons would be released.

Michael Stark, Assistant Attorney General for Corrections, joined Mr. Endell to testify. He stated that under this bill only misdemeanants with sentences longer than 45 days would be eligible for release.

Senator Ray was of the opinion that misdemeanants should be the first ones to be released since they had committed the least serious offenses. He also wanted to know how many prisoners were held for DWI. Mr. Endell stated that there were approximately 30-40 on any given day.

Mr. Endell said that several things could be done to help ease overcrowding. Persons convicted of low level crimes should not be placed in our most expensive bed spaces. He suggested initiating "community resource centers" which could provide several less restrictive alternatives to incarceration for certain classes of offenders. He described how Finland deals with drunk drivers. However, the real problem lies with the increasing number of felons. There is no way out of building new bedspace. There will be substantial increases in both operational and capital costs for corrections. The division expects a net gain of 24 prisoners per month for the foreseeable future.

Senator Ray was concerned that the public perception of this bill will be that the state is turning murderers and rapists loose on the public even though that would not be true in fact.

Senator Sturgulewski observed that the prison system would likely be in a continual state of emergency and that this legislation is actually a sentence shortening bill.

Senator Vic Fischer stated that the bill would be held over and asked Mr. Stark to work with committee staff to draft a committee substitute.

Senate Bill 116 -- Placing emergency guards in the Department of Public Safety in the exempt service

Terry Cramer, Executive Director of the Blue Ribbon Commission on State Personnel, proposed a committee substitute which would place emergency guards in the partially exempt service rather than the exempt service.

Frank Ray, Director of the Division of Personnel concurred with the committee substitute.

Senator Ray moved to adopt the committee substitute. There was no objection.

Senator Ray moved and asked unanimous consent to move the committee substitute from the committee with individual recommendations. There was no objection.

Senate Bill 111 -- Use of teleconferencing under the Administrative Procedures Act

Sioux Plummer, Director of the Division of Telecommunications spoke in support of the bill. The bill would probably save the state money in the long run. She suggested several minor changes relating to video and computer teleconferences.

Senator Vic Fischer stated that the bill would be held over pending incorporation of these changes in a committee substitute.

Senator Vic Fischer adjourned the meeting at 4:10pm.

by David D. [Signature]
Committee Aide

Sen SA Affairs

3-10-83

Sectional Analysis SB 111

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