

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
ONE HUNDRED AND SEVENTH LEGISLATURE  
COMMITTEE ON STATE GOVERNMENT

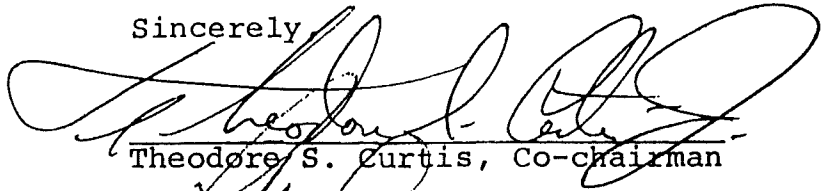
December 1976

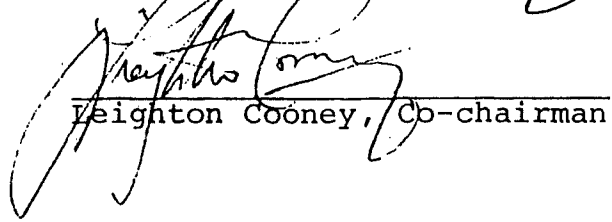
Legislative Council  
107th Legislature  
State House  
Augusta, Maine 04333

Members of the Council:

In accordance with S.P. 511, an Order directing the Committee on State Government to study aspects of a State Administrative Procedures Law, we enclose the final report of the Committee.

Sincerely,

  
Theodore S. Curtis, Co-chairman

  
Leighton Cooney, Co-chairman

REPORT OF  
THE COMMITTEE ON STATE GOVERNMENT  
ON  
A STATE ADMINISTRATIVE PROCEDURES LAW

December 1976

Senate

Theodore S. Curtis, Chairman  
J. Hollis Wyman  
David L. Graham

House

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## I. BACKGROUND

S.P. 511, which authorizes this study, directs the Committee on State Government to:

... coordinate ... [a] ... study with the Department of the Attorney General and the Maine Bar Association to develop an Administrative Procedures Act ... and ... [to] ... report its findings together with any proposed legislation to ... the Legislature ... [see Appendix A for the text of the Order].

In response to the Order, the Committee has:

1. Worked with a drafting subcommittee of the Administrative Law Section of the Maine Bar Association working in cooperation with the Attorney General's Office in the development of several draft administrative procedures acts (APA);
2. Held 4 public hearings on the Order and drafts during 1975 and 1976; and
3. Participated in the drafting, review, and enactment of legislation which revised the existing administrative court by clarifying the duties of the administrative court judge; providing for an associate administrative court judge; and revising parts of the administrative court law, including appeals procedures [Chapter 780, Public Laws of 1976].

The State Government Committee has been advised by the Bar Association - Attorney General's Office drafting subcommittee that the current version of the draft APA may not be in final, perfect form. Further, the Committee is aware that, if the current version were enacted by the Legislature, a fair amount of work would remain in repealing and amending certain

sections of the Law to resolve conflicts between the draft and the current Law.

Despite these potential problems, the Committee recommends the introduction and consideration of the current draft APA as an LD by the 1st Regular Session of the 108th Legislature, for several reasons:

1. A considerable amount of work has been expended and progress made to produce the current draft, which the Committee believes to be a useful working document;
2. Introduction as an LD will favor more widespread attention and serious consideration of the draft than would the less formal procedures of the drafting subcommittee or a continuation of the Committee's Study; and
3. The problem of reconciling the draft with current law can be resolved by allowing sufficient time to perform the reconciliation between enactment of the draft and its effective date.

## II. RECOMMENDATIONS

Recommendation 1. The Committee recommends that the current version of the drafting subcommittee of the Maine Bar Association and the Attorney General's Office be introduced and considered by the 1st Regular Session of the 108th Legislature.

Although the Committee recommends neither for nor against the details of the current version, it does recommend its introduction and consideration, for the reasons set out above. It will be introduced in the 1st Session of the 108th Legislature as a Committee Bill resulting from this study (the draft is lengthy--over 40 typed pages--and is not appended to this

Report in order to avoid its simultaneous reproduction in this Report, at a cost of about \$175, and as an LD).

APPENDIX A

SP 511



5  
D O E R

# STATE OF MAINE

In Senate May 5, 1975

~~Ordered,~~

Whereas, the public interest requires that effective and uniform procedures be established to regulate the manner in which administrative agencies conduct their business; and

Whereas, the Department of the Attorney General, in cooperation with the Maine Bar Association, is currently involved in a project to develop a uniform administrative code to apply to all administrative agencies; and

Whereas, the Committee on State Government has considered several bills concerning the procedures of administrative agencies; and

Whereas, the Department of the Attorney General and the Maine Bar Association have offered their report and related research to the committee to assist it in developing a comprehensive Administrative Procedures Act; now, therefore, be it

Ordered, the House concurring, that the Legislative Council direct the Joint Standing Committee on State Government to study the subject matter of L.D. 910, "AN ACT to Require that Magnetic Tape Recordings be Made of all Public Deliberations of Appointive Boards and Commissions;" L.D. 1022, "AN ACT to Make Administrative Regulations Available to the Public;" L.D. 1082, "AN ACT to Require Review of Proposed State Regulations by Local Units of Government;" L.D. 1775, "AN ACT to Insure Citizen Participation in the Promulgation, Amendment and Repeal of Agency Rules;" and L.D. 1784, "AN ACT to Insure Citizen Participation in the Promulgation, Amendment and Repeal of Agency Rules;" and be it further

Ordered, that the Joint Standing Committee on State Government coordinate its study with the Department of the Attorney General and the Maine Bar Association to develop a comprehensive Administrative Procedures Act; and be it further

Ordered, that such agencies or departments as may be determined by the Joint Standing Committee on State Government be authorized and respectfully directed to provide the Committee with such information, technical advice and assistance as the Committee deems necessary to carry out the purposes of this Order; and be it further

Ordered, that the Joint Standing Committee on State Government report its findings together with any proposed legislation to the next special or regular session of the Legislature; and be it further

Ordered, that upon passage of this Order, in concurrence, that copies of this Order be transmitted forthwith to the Department of the Attorney General and the Maine Bar Association as notice of the pending study.

(Curtis)  
NAME: *Stephen P. Curtis*  
COUNTY: Penobscot

SP 511

IN SENATE CHAMBER  
TABLED BY *[Signature]*  
OF *[Signature]*

MAY 5 1975

PENDING *[Signature]*  
HARRY H. STARRBRANCH, Secretary