

Maine Department of Administrative and Financial Services
Bi-Annual Report on Implementation of the Tribal-State Collaboration Act
January 10, 2023

This report is submitted pursuant to 5 M.R.S. 11055(2), which requires the Department of Administrative and Financial Services (DAFS) to file biennial reports with this Committee describing our implementation of the Tribal-State Collaboration Act.

Background:

In 2022, representatives of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation, and the Governor's Office negotiated the terms of legislation intended to expand economic opportunities for, and improve the welfare of, the Wabanaki Nations and their citizens, and to make structural changes in certain state agency decision-making to promote government-to-government dialogue with the Wabanaki Nations. That legislation, enacted as Public Law 2021, c. 681, contains three parts. First, it amends Maine's tax laws both to provide financial benefits to Tribal citizens residing on Tribal lands, and to encourage economic development on Tribal lands. Second, it provides each of the four Wabanaki Nations located in Maine the exclusive opportunity to conduct mobile sports wagering operations within the state. Third, it establishes in law a Tribal-State collaboration process designed to promote meaningful communication on issues of particular significance to the Tribes and their citizens.

Maine Revenue Services, a bureau of DAFS, was significantly involved in the discussions between Tribal Representatives and the Governor's Office that specifically pertained to the tax provisions in PL 2021, c. 681.

The Tribal-State Collaboration Act:

The Tribal-State Collaboration Act, 5 M.R.S. 11051 *et seq.*, requires 15 agencies identified in the statute to engage in a Tribal collaboration process regarding contemplated programs, rules, or services that substantially and uniquely affect Maine's four federally recognized Tribes or their citizens. It is intended to be a user-friendly process free from unnecessary bureaucracy that will be implemented within existing resources.

Title 5 M.R.S. 11053(1) requires each agency covered by the statute to adopt a collaboration policy. The Department of Administrative and Financial Services adopted its collaboration policy, which is appended to this report, on December 15, 2022. The Department's Tribal liaison, as required by 5 M.R.S. 11053(3), is Chief of Legislative Affairs and Strategic Operations Anya Trundy, who can be reached via email at anya.trundy@maine.gov or phone at (207) 624-7832. On December 6, 2022, the Governor's Office provided training on how to implement the statute in a manner that promotes effective communication and positive government-to-government relations with the Tribes. The Governor's Office has also requested that the Maine Indian Tribal State Commission (MITSC) help to facilitate training of state agency Tribal liaisons on issues of cultural competency, and MITSC has agreed to do so. DAFS looks forward to that training as soon as it can be arranged in 2023.

The Tribal-State Collaboration Act became law on August 8, 2022. Between the law's passage and becoming effective, Maine Revenue Services remained in communication with Tribal Representatives and an initial meeting regarding the implementation of the tax provisions in PL 2021, c. 681 was held on July 20, 2022. Subsequent meetings were held on August 17, October 3, and October 27, 2022. MRS staff have solicited information and feedback from the Tribes and continue to collaboratively work with Tribal Representatives to resolve arising administrative issues.

In addition, MRS informed the Tribal Representatives of the inclusion in DAFS' 2022-2023 Regulatory Agenda of anticipated rulemaking stemming from P.L. 2021, c. 681 and identifying the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, and the Penobscot Nation, members and entities of such tribes, and retailers and resellers of tangible personal property and taxable services who make sales to such parties or make sales on tribal land as affected parties.

Outside of MRS, DAFS has not yet had occasion to engage in Tribal collaboration under the statute but will be vigilant in looking for opportunities to do so in the coming biennium. We have no recommendations for changes to the statute at this time.