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Resolve, To Require the State To Bring Suit against the Federal Government for Failure To Comply with the Federal Refugee Act of 1980

Whereas, the Federal Government is actively placing refugees in the State; and

Whereas, the State is required to provide certain benefits and services to eligible refugees, including Medicaid services pursuant to 8 United States Code, Section 1612 or risk losing Medicaid funding; and

Whereas, under the United States Constitution, Amendment X as construed by the United States Supreme Court in *National Federation of Independent Business et al. v. Sebelius*, 132 S. Ct. 2566 (2012), the Federal Government cannot lawfully coerce the State to provide funding with no real option but to acquiesce; and

Whereas, by conditioning all Medicaid funding on the requirement that the State provide Medicaid services to refugees absent other input or control by the State, the State is being coerced in violation of both the United States Constitution and the Constitution of Maine; and

Whereas, each member of the Legislature has taken an oath to uphold the Constitution of Maine and the United States Constitution; and

Whereas, if it is constitutionally permissible for the Federal Government to compel a state legislative body to perform its most important function, the appropriation of state tax dollars, as well as expend its limited resources, personnel and services, the United States Constitution, Amendment X has no meaning and the powers of the Federal Government are unfettered and boundless; and

Whereas, the right of Mainers to appropriate tax dollars in a manner determined by representatives elected by Maine citizens is fundamental and cannot be usurped; and

Whereas, if the Federal Government intends to overreach its authority to the point that it assumes the traditional role of a state legislative body, it is only fitting and proper that the very existence as well as the depth and breadth of this federal power be clarified and declared in a court of law; and

Whereas, the federal Refugee Act of 1980 establishes a framework for collaboration and cooperation between the Federal Government and the states in resettling refugees. The federal Refugee Act of 1980 requires that the Federal Government "shall consult regularly (not less often than quarterly) with State and local governments and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees among the States and localities before their placement in those States and localities." 8 United States Code, Section 1522(a)(2)(A); and

Whereas, the Refugee Act of 1980 requires the Federal Government to consult with the State regarding the placement of refugees before those refugees are placed within its borders, and that consultation has not occurred; now, therefore, be it

Sec. 1 The Attorney General to initiate or intervene in one or more civil actions on behalf of the State or seek appropriate relief in a federal court of competent jurisdiction. Resolved:

That the Attorney General shall initiate or intervene in one or more civil actions on behalf of the State or seek appropriate relief in a federal court of competent jurisdiction regarding the failure of the Federal Government to comply with the federal Refugee Act of 1980, as amended, and any actions taken by the Federal Government, including the President of the United States, the head of any department or agency or any other employee of the executive branch of the Federal Government, in violation of federal law or as prohibited by the United States Constitution, Amendment X, or any statutory or constitutional provisions of the United States or the State, with respect to the operation or implementation in this State of any provision of the Federal Government's refugee resettlement program, including any revision or amendment by regulation or otherwise pertaining to the program. The civil action under this section must seek to prohibit the appropriation of state funds without the specific authorization of the Legislature in connection with the federal Refugee Act of 1980. The Attorney General, in conjunction with the President of the Senate and the Speaker of the House of Representatives, may employ the services of outside counsel to assist in and consult on the civil action under this section; and be it further

Sec. 2 Notice from Attorney General. Resolved: That the Attorney General shall file written notice with the Secretary of the Senate and the Clerk of the House of Representatives if the Attorney General chooses not to initiate or intervene in a civil action under section 1. Upon receipt of notice from the Attorney General declining the initiation of or intervention in a civil action in section 1, the President of the Senate and the Speaker of the House of Representatives are authorized to employ outside counsel to commence a civil action in section 1.

SUMMARY

This resolve directs the Attorney General to initiate or intervene in a civil action against the Federal Government in opposition to the federal Refugee Act of 1980 and the imposition of financial mandates on the State. If the Attorney General sends notice to the Senate and the House of Representatives declining to initiate or intervene in a civil action required by this resolve, this resolve authorizes the President of the Senate and the Speaker of the House of Representatives to employ outside counsel to commence the civil action.