

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 422 – Ought Not to Pass



**An Act to Require the State to Obtain Municipal Approval
Before Placing Noncitizens in the Municipality**

Joint Standing Committee on State and Local Government

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Senator Baldacci, Representative Salisbury, and members of the Joint Standing Committee on State and Local Government, good afternoon. My name is Michael Kebede, and I am Policy Director for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions through advocacy, education, and litigation. On behalf of our members, we urge you to oppose LD 422 because it is unnecessary, vague, and potentially illegal.

If enacted, LD 422 would give municipalities the right to “designate the number of noncitizens the State is allowed to place within that municipality,” and prohibit the state from exceeding “the number of noncitizens designated by the municipality.”

First, it is unclear whether the state “places” or has ever “placed” noncitizens in any municipality in Maine. Legislators might have sponsored this bill because they misunderstood the governor’s intentions regarding immigration. One news outlet, in an article about Maine’s Office of New Americans, incorrectly stated, “Maine Governor Wants to Resettle 75,000 Foreign-Born Migrants in Maine by 2029.”¹ In fact, Maine’s Office of New Americans, which the ACLU supported,² seeks to improve the economic and civic integration of immigrants into Maine’s workforce. Maine is one of 22 states with such an office. These offices do not “place” noncitizens in municipalities. Rather, these offices strive to build workforce pathways and entrepreneurship support for immigrants,

¹ See Steve Robinson, *Maine Governor Wants to Resettle 75,000 Foreign-Born Migrants in Maine by 2029*, Maine Wire, August 3, 2023, <https://www.themainewire.com/2023/08/maine-governor-wants-to-resettle-75000-foreign-born-migrants-in-maine-by-2029/>

² Testimony of Michael Kebede in favor of LD 2167, An Act to Develop Maine’s Economy and Strengthen Its Workforce by Establishing an Office of New Americans, Jan 30, 2024, available at <https://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=180867>.

improve coordination among organizations supporting immigrants, and expand and strengthen English language acquisition opportunities.³

Second, this bill mirrors a presidential policy initiative that courts have struck down. In September of 2019, President Trump signed an executive order titled “Enhancing State and Local Involvement in Refugee Resettlement.”⁴ The order—much like this bill—purported to give states and local governments the power to reject refugee resettlement in their jurisdictions. In 2020, a federal court blocked the enforcement of this executive order and one year later, the Court of Appeals for the Fourth Circuit upheld the trial court’s ruling. *HIAS, Inc. v. Trump*, 415 F. Supp. 3d 669, 686 (D. Md. 2020), *aff’d*, 985 F.3d 309 (4th Cir. 2021).

The Fourth Circuit found that the executive order is inconsistent with the Refugee Act. Passed in 1980, the Refugee Act establishes the refugee resettlement program, “a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.” Pub. L. No. 96-212, § 101(b), 94 Stat. 102. Each year, the President determines the number of refugees that will be accepted for resettlement in the United States. 8 U.S.C. § 1157(a). The program is administered jointly by the Department of State and the Department of Health and Human Services. 8 U.S.C. § 1521.

The Court found that the executive order’s grant of veto power to states and municipalities over resettlement contradicts the Refugee Act’s requirement that the federal government “consult regularly” with states and localities as part of its refugee resettlement process. 8 U.S.C. § 1522 (a)(2)(A). The Refugee Act already gives states and localities a voice in this process, and granting them veto power exceeds the boundaries established by Congress. To be sure, the state’s role in refugee resettlement is extremely limited: refugee resettlement in Maine is conducted by Catholic Charities, HIAS, and Maine Immigration Refugee Services (MERS), each of which are recognized Reception and Placement agencies through the U.S. Department of State, overseen by the Maine Office of Refugee Resettlement. The state participates in a logistical and consultative role both in establishing the agencies’ contracts and in determining the state’s capacity for resettlement on an annual basis. To the extent that a court, or the sponsors of this bill, regard the state’s role in the refugee resettlement program as “placing” noncitizens in municipalities, the bill’s grant of veto power to localities will likely be struck down in court as inconsistent with the Refugee Act, much as president Trump’s executive order was.

In sum, we urge you to reject this bill because it is unnecessary, potentially illegal, and attempts to solve a nonexistent problem.

Thank you for your time and attention.

³ Website, Maine Office of New Americans, Governor's Office of Policy, Innovation, and the Future, maine.gov/future/ona.