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COMMISSIONER

To: The Honorable Senator Michael Tipping  
The Honorable Representative Amy Roeder  
Members of the Joint Standing Committee on Labor and Housing

From: Laura A. Fortman, Commissioner of Labor

Date: March 21, 2023

Re: Neither For Nor Against to LD 1050, Resolve, Directing the Department of Labor to Request a Federal Waiver to Allow Presumptive Work Eligibility for Asylum Seekers

Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing, I am writing to provide technical assistance regarding LD 1050, A Resolve Directing the Department of Labor to Request a Federal Waiver to Allow Presumptive Work Eligibility for Asylum Seekers.

This Resolve would direct the Department to request a waiver from the U.S. Department of Homeland Security, USCIS, to allow asylum seekers to work in the State. The waiver must request that any asylum seeker in the State who has applied for asylum and who has not been denied asylum is eligible to work in the State:

1. For the 6-month period immediately after the asylum seeker has applied for asylum and is awaiting a decision on a pending asylum application; and
2. For any period of time following the expiration of the asylum seeker's existing asylum work permit while the asylum seeker's application is pending renewal by the Federal Government.

I will address each provision in the bullets below.

1. Asylum applicants cannot receive employment authorization through Department of Homeland Security until a minimum of 180 days have passed after they filed their asylum application. This requirement is codified at 8 U.S.C. 1158(d)(2). There is no waiver for this provision. [Please note that some asylum applicants may have an independent basis to receive employment authorization, such as in cases where they were paroled into the United States by DHS and qualify on the basis of that parole.]
2. Under certain conditions, asylum applicants who already received an Employment Authorization Document (EAD) on the basis of their pending asylum application and who file to renew their employment authorization have the validity of their prior EAD automatically extended for 540 days under a temporary final rule that USCIS that went into effect on May 4, 2022. Once the temporary final rule expires on October 15, 2025, the automatic extension period will revert to its prior duration of 180 days.

More information is available on the U.S. Citizenship and Immigration Services website, which can be found at: <https://www.uscis.gov/eadautoextend>