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L.D. 1050, "Resolve, Directing the Department of Labor to Request a Federal Waiver to Allow Presumptive Work Eligibility for Asylum Seekers"

Before the Maine Legislature's Joint Standing Committee on Labor and Housing

Tuesday, March 21, 2023

Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing, I am Senator Eric Brakey, representing the people of Auburn, New Gloucester, Poland, and Durham. I appreciate your attention today as I present L.D. 1050, "Resolve, Directing the Department of Labor to Request a Federal Waiver to Allow Presumptive Work Eligibility for Asylum Seekers."

The facts are straightforward.

We have a workforce shortage. We also have many asylum seekers in Maine who would love to work available jobs. What's standing in the way? Federal law.

"Asylum seeker" is the term used to describe a non-citizen who has requested to remain in America on the grounds that they have been forcibly displaced from their home country, due to war or other factors harming them or their family. Evaluating that request can take many years. If granted asylum, they are authorized to work, apply for a social security card, request permission to travel overseas, petition to bring family members, and qualify for federal welfare benefits. If denied, they are not allowed to remain in the country.

In the space between applying and receiving a determination, asylum seekers are caught in a legal limbo that can stretch on for years. They are allowed to remain in the country, but they are not eligible for federal welfare benefits, they are prohibited from working for six months, and they must renew a work permit annually afterward. (Additionally, even when filing to renew a work permit on time, federal offices are often backed up with renewal requests. Delayed renewals regularly require asylum seekers to leave jobs they are already established in.)

Here in Maine, we are one of a handful of states that has responded to this situation by making asylum seekers eligible for state taxpayer-funded welfare benefits, primarily through the General Assistance program. Throughout the second term of the LePage Administration, this was a hotly contested policy, which stands today due to a botched pocket veto. During those years, I chaired the Health and Human Services alongside Representative Drew Gattine and later Representative Patty Hymanson. Republican and Democratic caucuses were hotly divided on the issue of welfare for asylum seekers, but we could all agree on one thing — the federal prohibition on work is making everything worse.

Whatever your individual view on broader questions of immigration and welfare eligibility, it is clearly better for society as a whole when people who are allowed to be in this country are collecting paychecks instead of welfare checks. Any policy that would prohibit a man from

earning an honest day's wage to care for his family, and reduce him instead to total dependence on taxpayer-funded welfare benefits, is an insult to the work ethic America was built upon.

In those years on Health and Human Services, we discussed several potential solutions, including the possibility of state nullification — just as Maine nullified federal cannabis prohibition — by establishing in state statute that asylum seekers can work in the state of Maine. The flaw in this idea, however, was that the asylum seeker's ultimate immigration status hangs on a determination from the federal government. No matter what state law says, violations of federal work prohibitions can result in the denial of an asylum application. We left those conversations with no clear resolution, other than a unanimous decision to send a letter to our federal delegation asking them to work on this issue.

Half a decade later, they are still working on the issue.

In collaboration with other members of this Legislature, including Speaker Talbot Ross, Senator Trey Stewart, and Representative Billy Bob Faulkingham, I have brought L.D. 1050 to this committee today because we need to give Washington, D.C. another push and a suggested pathway for granting presumptive work eligibility for asylum seekers in the State of Maine.

This bill would do exactly what the title says — direct the Department of Labor to request a federal waiver to allow presumptive work eligibility for asylum seekers. If that waiver were granted, it would mean asylum seekers in Maine, instead of being sent to the state welfare office the moment they apply, can go instead to a job fair, contribute to the community they are joining, and earn an honest living in the American way.

Some have questioned whether the federal government will even accept requests for waivers on the work prohibition. I say, send the request anyway. Conversation on this legislation in Maine has sparked desire for waivers in other states. The more states demonstrate demand for waivers, the more it raises the issue in Congress.

Further, passing this legislation would present directly to Washington a federalist solution, more politically viable than a one-size-fits all change affecting all fifty states. As I understand it, these prohibitions are driven — at least in part — by concerns in southern states about immediate work eligibility incentivizing illegal border crossings and false asylum applications. From up here in New England, I am not qualified to tell Arizona or Texas what makes sense in their unique position on the Mexican border. At the same time, a one-size-fits-all policy based on the situations of southern states is contributing to economic chaos in Maine.

A vote for this legislation tells Washington, D.C., “Maine wants a waiver to let people work!”

Thank you for your consideration. I will gladly answer any questions to the best of my ability.