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Talking Points for Congressional Review Act Resolution on Final Rule Increasing the Automatic Extension of Employment Authorization Renewals

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Background:

In January 2025, both chambers of Congress introduced separate joint resolutions ([H.J.Res. 23](#) and [S.J.Res. 8](#)) seeking to disapprove a DHS Final Rule, “[Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants](#)” (“Final Rule”). This Final Rule automatically extends timely filed employment authorization renewals up to 540 days. This automatic renewal allows businesses to maintain employees while their renewal is being processed and prevents significant disruption to the labor market due to bureaucratic delays. Under the Congressional Review Act, Congress has the power to overturn rules within a certain time limit. If both chambers pass the resolution, it goes to the president for signature. If Congress terminates this rule, U.S. employers will experience disruptions to their operations and federal tax revenues will suffer as immigrants fall out of the authorized workforce.

Timing:

Each version is currently in the respective judiciary committee. In the Senate, the committee process is privileged, so it can come to the floor with less than 24 hours’ notice.

Why 540 Days?

- [USCIS estimated that as many](#) as **468,000 people** would experience a lapse in employment authorization without the 540 automatic extension.
 - [Even with a 540 extension](#), as many as **58,000 people** could face a lapse in employment authorization.
- This automatic extension allows USCIS to continue to prioritize its workload efficiently given an ongoing backlog of applications, a backlog that will only get longer with the current hiring freeze.
 - These numbers are based on the current staffing levels and processing times, something that cannot be guaranteed– the impact of removing the 540-day auto extension could be much higher than estimates as a result.
- It is important to note that this provision only takes effect if USCIS delays processing of EADs. If a case is decided sooner and work authorization is denied, then employment authorization will cease automatically.

Key Talking Points:

- AILA **opposes** the resolutions to invalidate this Final Rule.

- The Final Rule is a common-sense solution that allows for sufficient time to do a new round of vetting of applicants to ensure their continued eligibility for existing work authorization, while ensuring that American businesses are not harmed by any delays in processing.
- The Final Rule also **helps American businesses** ensure that they have the workers they need and do not experience service interruptions due to bureaucratic delays and inefficiencies.
 - The increase of the automatic extension period from 180 days to 540 days provides an important economic safety valve for businesses to continue employing current employees in case it takes more than 6 months to adjudicate their renewal applications.
 - If an applicant is found to be ineligible before the extension period, their work authorization will end.
 - [Processing times](#) for certain categories of employment authorization applications are near or over 6 months. Given the administration's goal to cut government personnel and increase enforcement operations, processing times will only increase.
- The Final Rule **supports the U.S. economy**. The government [noted](#) in the Final Rule that the work permit extension would prevent at least 800,000 people from falling out of the workforce in the last few years. Despite continued work permit processing backlogs, the final rule has not only allowed hundreds of thousands of immigrants to remain in the workforce, it has also saved U.S. employers [\\$3.5 billion](#) in labor turnover costs and [\\$1.1 billion](#) in federal tax revenue.
- **This is about renewal applications, not recent arrivals.** The Final Rule benefits foreign nationals who have been **legally working in the United States for years**.
 - These are individuals in lawful status, who have previously been vetted and approved for employment authorization and are now seeking to renew that work authorization.
 - This includes nonimmigrants who are statutorily authorized to work, such as spouses of L-1 and E workers, individuals who have applied for lawful permanent residence, as well as those who have been granted asylum or refugee status, [among others](#).
- If this CRA passes, **it will tie the hands of future administrations facing backlogs and other bureaucratic delays** from implementing a similar regulation without Congressional action, further compounding bureaucratic inefficiency within the immigration system.

Request:

We have already witnessed how government processing delays [knocked work-eligible foreign nationals out of the workforce](#) simply due to government inefficiency and bureaucracy. Passing resolution will only hurt your small business constituents and local families who are working hard to support your local economy and to contribute to making a stronger America. It is time to step up to protect your constituents by **voting no** to disapprove the Work Permit Extension Final Rule.