

118TH CONGRESS  
1ST SESSION

# S. 3283

To amend the Worker Adjustment and Retraining Notification Act to support workers who are subject to an employment loss, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2023

Mr. BROWN (for himself, Mrs. MURRAY, Mr. SANDERS, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Worker Adjustment and Retraining Notification Act to support workers who are subject to an employment loss, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Warning Act of  
5 2023”.

1 **SEC. 2. DEFINITIONS; PROVISION OF NOTICE OF SITE CLOS-**  
 2 **INGS AND MASS LAYOFFS.**

3 (a) WARN ACT AMENDMENTS.—Sections 2 and 3 of  
 4 the Worker Adjustment and Retraining Notification Act  
 5 (29 U.S.C. 2101; 2102) are amended to read as follows:

6 **“SEC. 2. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF**  
 7 **LOSS OF EMPLOYMENT.**

8 “(a) DEFINITIONS.—As used in this Act:

9 “(1) AFFECTED EMPLOYEE.—The term ‘af-  
 10 fected employee’ means a full-time or part-time em-  
 11 ployee who may reasonably be expected to experience  
 12 an employment loss as a consequence of a proposed  
 13 site closing or mass layoff by the employee’s em-  
 14 ployer.

15 “(2) EMPLOYER.—

16 “(A) IN GENERAL.—The term ‘employer’  
 17 means any business enterprise of one or more  
 18 entities that—

19 “(i) employs 50 or more employees,  
 20 including part-time employees, in the ag-  
 21 gregate; or

22 “(ii) has an annual payroll of at least  
 23 \$2,000,000.

24 “(B) MULTIPLE ENTITIES.—

25 “(i) IN GENERAL.—In the case of a  
 26 business enterprise of more than one enti-

1 ty, the entity subject to the requirements  
2 under this Act as an employer of an af-  
3 fected employee shall be the entity that di-  
4 rectly employs such employee.

5 “(ii) PARENTS, AFFILIATES, AND CON-  
6 TRACTING COMPANIES.—A parent, affil-  
7 iate, or contracting company of the entity  
8 described in clause (i) may also be subject  
9 to the requirements under this Act as an  
10 employer of the affected employee de-  
11 scribed in such clause based on the degree  
12 of control or integration the parent, affil-  
13 iate, or contracting company exercises out-  
14 side of or at the single site of employment  
15 at which the site closing or mass layoff oc-  
16 curred. Such control or integration shall be  
17 indicated by such factors as—

18 “(I) common ownership or finan-  
19 cial control;

20 “(II) common directors or offi-  
21 cers;

22 “(III) de facto exercise of control  
23 over the circumstances relating to  
24 such site closing or mass layoff;

1                   “(IV) unity of personnel policies  
2                   emanating from a common source; or

3                   “(V) dependency of operations.

4                   “(C) ADDITIONAL DEFINITIONS.—For pur-  
5                   poses of subparagraph (B)—

6                   “(i) the term ‘contracting company’  
7                   means an ultimate or intermediate client of  
8                   an independent contractor or a provider of  
9                   financial services that participates directly  
10                  or indirectly in making decisions that af-  
11                  fect the provision of notice required under  
12                  this Act; and

13                  “(ii) the term ‘parent’ means an ulti-  
14                  mate owner or intermediate owner, regard-  
15                  less of amount of ownership interest, that  
16                  participates directly or indirectly in making  
17                  decisions that affect the provision of notice  
18                  required under this Act.

19                  “(D) CONSIDERATION.—In allocating li-  
20                  ability under this Act among multiple entities of  
21                  a business enterprise, substantial weight shall  
22                  be given to any decisionmaking responsibility an  
23                  entity had for the failure to provide notice to  
24                  affected employees as required under this Act.

1           “(3) EMPLOYMENT LOSS.—Subject to sub-  
2           section (b), the term ‘employment loss’ means—

3                   “(A) an employment termination, other  
4                   than a discharge for cause, voluntary departure,  
5                   or retirement;

6                   “(B) a layoff through a mass layoff or site  
7                   closing that is not a temporary mass layoff or  
8                   temporary site closing in compliance with the  
9                   requirements under paragraphs (2) and (3) of  
10                  section 3(d); or

11                  “(C) a reduction in hours of work of more  
12                  than 50 percent during each month of any 90-  
13                  day period that is not part of a short-time com-  
14                  pensation program provided in the case of such  
15                  a temporary mass layoff or temporary site clos-  
16                  ing.

17           “(4) MASS LAYOFF.—

18                   “(A) IN GENERAL.—The term ‘mass lay-  
19                   off’ means a reduction in force that results in  
20                   an employment loss during any 90-day period—

21                           “(i) for 10 or more employees of an  
22                           employer at a single site of employment, as  
23                           calculated under subparagraph (B); or

24                           “(ii) for 250 or more employees of an  
25                           employer, irrespective of employment site.

1           “(B) CALCULATION.—The number of em-  
2           ployees at a single site of employment who suf-  
3           fer an employment loss shall be calculated in a  
4           manner that includes—

5                   “(i) all such employees who work at  
6                   the physical location of the site; and

7                   “(ii) all such employees who work re-  
8                   motely and—

9                           “(I) are assigned to or otherwise  
10                           associated with the site;

11                           “(II) receive assignments or  
12                           training from the site;

13                           “(III) report to a manager asso-  
14                           ciated with the site; or

15                           “(IV) whose job loss was a fore-  
16                           seeable consequence of a reduction in  
17                           force at the site.

18           “(5) REPRESENTATIVE.—The term ‘representa-  
19           tive’ means an exclusive representative of employees  
20           within the meaning of section 8(f) or 9(a) of the Na-  
21           tional Labor Relations Act (29 U.S.C. 158(f);  
22           159(a)) or section 2 of the Railway Labor Act (45  
23           U.S.C. 152).

24           “(6) SECRETARY.—The term ‘Secretary’ means  
25           the Secretary of Labor.

1           “(7) SHORT-TIME COMPENSATION PROGRAM.—

2           The term ‘short-time compensation program’  
3           means—

4                   “(A) a short-time compensation program,  
5                   as defined in section 3306(v) of the Internal  
6                   Revenue Code of 1986, that is operational; or

7                   “(B) a program determined by the Sec-  
8                   retary to be equivalent to a program described  
9                   in subparagraph (A) that provides, in com-  
10                   parable amounts and with comparable restric-  
11                   tions to such a program, employees experi-  
12                   encing a temporary reduction in work hours  
13                   with pro rata pay, unimpaired benefits, and  
14                   supplemental income.

15           “(8) SITE CLOSING.—The term ‘site closing’  
16           means the permanent or temporary shutdown of a  
17           single site of employment, or one or more facilities  
18           or operating units within a single site of employ-  
19           ment, that results in an employment loss at the sin-  
20           gle site of employment during any 30-day period for  
21           5 or more employees, calculated in the same manner  
22           as described in paragraph (4)(B).

23           “(9) UNIT OF LOCAL GOVERNMENT.—The term  
24           ‘unit of local government’ means any general pur-  
25           pose political subdivision of a State which has the

1 power to levy taxes and spend funds, as well as gen-  
 2 eral corporate and police powers.

3 “(b) EXCLUSIONS FROM EMPLOYMENT LOSS DUE  
 4 TO A SITE CLOSING OR MASS LAYOFF.—An employee  
 5 shall not be considered to have experienced an employment  
 6 loss due to a site closing or mass layoff if the site closing  
 7 or mass layoff is the result of the relocation or consolida-  
 8 tion of part or all of the employer’s business and, prior  
 9 to the site closing or mass layoff—

10 “(1) the employer offers to transfer the em-  
 11 ployee to a different site of employment within a  
 12 reasonable commuting distance with no more than a  
 13 90-day break in employment; or

14 “(2) the employer offers to transfer the em-  
 15 ployee to any other site of employment regardless of  
 16 distance with no more than a 90-day break in em-  
 17 ployment, and the employee accepts within 30 days  
 18 of the offer or of the site closing or mass layoff,  
 19 whichever is later.

20 **“SEC. 3. NOTICE REQUIRED BEFORE SITE CLOSINGS AND**  
 21 **MASS LAYOFFS.**

22 “(a) NOTICE TO EMPLOYEES, STATE DISLOCATED  
 23 WORKER UNITS, AND LOCAL GOVERNMENTS.—Except as  
 24 provided in subsection (c), an employer shall not order a  
 25 site closing or mass layoff until 90 calendar days after



1 the date on which the employer has served written notice  
2 of such an order to—

3 “(1)(A) each representative of the affected em-  
4 ployees as of the time of the notice; or

5 “(B) each affected employee;

6 “(2) the Secretary and the Governor of the  
7 State where the site closing or mass layoff is to  
8 occur;

9 “(3) the State or entity designated by the State  
10 to carry out rapid response activities under section  
11 134(a)(2)(A) of the Workforce Innovation and Op-  
12 portunity Act (29 U.S.C. 3174(a)(2)(A)); and

13 “(4) the chief elected official of the unit of local  
14 government within which such closing or layoff is to  
15 occur.

16 “(b) DUTIES UPON RECEIPT OF NOTICE.—A State  
17 or designated entity that receives a notice under sub-  
18 section (a)(3) shall—

19 “(1) make the information in the notice publicly  
20 available within the jurisdiction of the local govern-  
21 ment involved;

22 “(2) transmit a copy of the notice to each af-  
23 fected local area (as defined in section 3 of the  
24 Workforce Innovation and Opportunity Act (29  
25 U.S.C. 3102)), so that the information in the notice

1 can be distributed through activities under section  
2 134(c)(2)(A)(iv)(I)(aa) of that Act (29 U.S.C.  
3 3174(c)(2)(A)(iv)(I)(aa)); and

4 “(3) ensure that—

5 “(A) an appropriate labor-management  
6 committee described in section 3(51)(C) of the  
7 Workforce Innovation and Opportunity Act (29  
8 U.S.C. 3102(51)(C)) has been established or is  
9 established not later than 20 days after receipt  
10 of the notice; and

11 “(B) an individual is designated, by not  
12 later than 20 days after receipt of such notice,  
13 to coordinate rapid response activities described  
14 in section 134(a)(2)(A)(i) of such Act, in con-  
15 sultation with the labor-management com-  
16 mittee.

17 “(c) REDUCTION OF NOTIFICATION PERIOD.—

18 “(1) POTENTIAL NEW BUSINESS OR FINANC-  
19 ING.—An employer may order the site closing of a  
20 single site of employment before the conclusion of  
21 the 90-day period described in subsection (a) if the  
22 employer can demonstrate that—

23 “(A) as of the date that notice would have  
24 been required, and continuing until it was pro-  
25 vided, the employer was being offered, on ac-

1           ceptable terms, new business or financing in an  
2           amount which, if obtained, would have enabled  
3           the employer to avoid the site closing; and

4           “(B) had notice been given as of such date,  
5           the notice would have precluded the new busi-  
6           ness or financing.

7           “(2) UNFORESEEN CIRCUMSTANCES.—

8           “(A) NATURAL DISASTERS.—The 90-day  
9           advance notice under subsection (a) shall not be  
10          required if the site closing or mass layoff is due  
11          directly to any form of natural disaster, such as  
12          a flood, earthquake, or a drought ravaging the  
13          farmlands of the United States.

14          “(B) TERRORIST ATTACKS.—The 90-day  
15          advance notice under subsection (a) shall not be  
16          required if the site closing or mass layoff is due  
17          directly to a terrorist attack that affects the op-  
18          eration of the site.

19          “(C) PUBLIC HEALTH EMERGENCIES.—  
20          The 90-day advance notice under subsection (a)  
21          shall not be required if the site closing or mass  
22          layoff is due directly to a catastrophic infectious  
23          disease outbreak or other public health emer-  
24          gency that affects the operation of the site.

25          “(3) PROVISION OF NOTICE.—

1           “(A) POTENTIAL NEW BUSINESS OR FI-  
2           NANCING.—An employer relying on paragraph  
3           (1) shall be liable under this Act for any por-  
4           tion of the 90-day period described in sub-  
5           section (a) prior to the provision of notice in  
6           which it is unable to meet the requirements of  
7           such paragraph.

8           “(B) OTHER REQUIREMENTS.—

9           “(i) IN GENERAL.—An employer rely-  
10          ing on paragraph (1) or (2) shall give as  
11          much notice as is practicable and at that  
12          time shall give a brief statement of the  
13          basis for reducing the notification period.

14          “(ii) LIABILITY.—An employer that  
15          fails to satisfy the requirements under  
16          clause (i) shall be liable under this Act for  
17          the full 90-day period described in sub-  
18          section (a).

19          “(d) TEMPORARY MASS LAYOFF OR SITE CLOS-  
20          ING.—

21          “(1) IN GENERAL.—A layoff through a tem-  
22          porary mass layoff or temporary site closing shall be  
23          treated as an employment loss under this Act as of  
24          the date of the commencement of the temporary  
25          mass layoff or temporary site closing unless the em-

1        ployer complies with the requirements under para-  
2        graphs (2) and (3).

3            “(2) INITIAL PERIOD OF TEMPORARY MASS  
4        LAYOFF OR SITE CLOSING.—With respect to the pe-  
5        riod of a temporary mass layoff or temporary site  
6        closing that has not been extended as described in  
7        paragraph (3), the employer shall—

8            “(A) at the commencement of such layoff  
9        or closing, provide a written notice as required  
10       under subsection (a) stating—

11            “(i) the date on which the employer  
12        expects to recall the affected employees to  
13        work, which date shall be less than 90 days  
14        after the date of such commencement; and

15            “(ii) that the employer will provide  
16        short-time compensation for the duration  
17        of such layoff or closing through a short-  
18        time compensation program;

19            “(B) as soon as practicable, provide short-  
20        time compensation through such program,  
21        which shall continue to be provided for the du-  
22        ration of the temporary mass layoff or tem-  
23        porary site closing; and

24            “(C) on or before the recall date stated  
25        under subparagraph (A)(i)—

1           “(i) in good faith, recall the affected  
2           employees for at least 90 days of employ-  
3           ment;

4           “(ii) extend the period of the tem-  
5           porary mass layoff or temporary site clos-  
6           ing in accordance with paragraph (3); or

7           “(iii) except as provided in paragraph  
8           (4)(C), terminate the affected employees  
9           with not less than 90 days’ notice.

10           “(3) EXTENSION OF PERIOD OF TEMPORARY  
11           MASS LAYOFF OR SITE CLOSING.—In the case the  
12           employer seeks to extend the period of a temporary  
13           mass layoff or temporary site closing beyond the re-  
14           call date stated under paragraph (2)(A)(i) or a sub-  
15           sequent recall date as provided under this para-  
16           graph, the employer shall—

17           “(A) prior to the pending recall date, pro-  
18           vide to each individual or entity described in  
19           subsection (a) a written notice of such exten-  
20           sion, stating—

21           “(i) that the period of the temporary  
22           mass layoff or temporary site closing will  
23           be extended to a new recall date within 90  
24           days of the pending recall date; and

1           “(ii) that the employer will continue  
2           providing short-time compensation as de-  
3           scribed in paragraph (2)(A)(ii);

4           “(B) continue providing short-time com-  
5           pensation as described in paragraph (2)(B);  
6           and

7           “(C) on or before such new recall date—

8           “(i) in good faith, recall the affected  
9           employees for at least 90 days of employ-  
10          ment;

11          “(ii) further extend the period of the  
12          temporary mass layoff or temporary site  
13          closing in accordance with this paragraph;  
14          or

15          “(iii) except as provided in paragraph  
16          (4)(C), terminate the affected employees  
17          with not less than 90 days’ notice.

18          “(4) TEMPORARY MASS LAYOFFS OR SITE CLOS-  
19          INGS RESULTING IN TERMINATIONS.—

20          “(A) IN GENERAL.—In the case the period  
21          of a temporary mass layoff or temporary site  
22          closing, including any extensions of such layoff  
23          or closing, culminates in the employer termi-  
24          nating an affected employee with less than 90  
25          days’ notice in violation of paragraph (2)(C)(iii)

1 or paragraph (3)(C)(iii), the employer shall, ex-  
2 cept as provided in subparagraph (C), be liable  
3 to such employee for back pay and benefits as  
4 described in section 5 for each day, for up to  
5 a maximum of 90 days, the employer did not  
6 provide notice and short-time compensation as  
7 required under this subsection.

8 “(B) NO REDUCTIONS.—Notwithstanding  
9 section 5(a)(2), no amount for which an em-  
10 ployer is liable under subparagraph (A) shall be  
11 reduced by any payment received by an em-  
12 ployee for short-time compensation during the  
13 period of the violation.

14 “(C) EXCEPTIONS.—An employer may ter-  
15 minate an affected employee under paragraph  
16 (2)(C)(iii) or (3)(C)(iii) with less than 90-days’  
17 notice as described in such paragraph if the em-  
18 ployer can demonstrate the existence of a cir-  
19 cumstance described in paragraph (1) or (2) of  
20 subsection (c). The applicable requirements  
21 under paragraph (3) of such subsection shall  
22 apply with respect to any employer relying on  
23 such a circumstance in providing less than 90-  
24 days’ notice under paragraph (2)(C)(iii) or  
25 (3)(C)(iii).



1       “(e) DETERMINATIONS WITH RESPECT TO EMPLOY-  
2   MENT LOSS.—

3           “(1) MULTIPLE GROUPS.—For purposes of this  
4   section, in determining whether a site closing or  
5   mass layoff at a single site of employment has oc-  
6   curred or will occur, employment losses for 2 or  
7   more groups at the single site of employment, each  
8   of which is less than the minimum number of em-  
9   ployees specified in paragraph (4) or (8) of section  
10   2(a) but which in the aggregate exceed that min-  
11   imum number, and which occur within any 90-day  
12   period, shall be considered to be a site closing or  
13   mass layoff unless the employer demonstrates that  
14   the employment losses are the result of separate and  
15   distinct actions and causes and are not an attempt  
16   by the employer to evade the requirements of this  
17   Act.

18           “(2) TREATMENT OF BUSINESS SALES.—

19           “(A) IN GENERAL.—In the case of a sale  
20   of part or all of an employer’s business, the  
21   seller shall be responsible for providing notice  
22   for any site closing or mass layoff in accordance  
23   with this section up to and including the effec-  
24   tive date of the sale. After the effective date of  
25   the sale of part or all of an employer’s business,

1 the purchaser shall be responsible for providing  
2 notice for any site closing or mass layoff in ac-  
3 cordance with this section.

4 “(B) TRANSFER OF EMPLOYEES.—In the  
5 case of a sale of part or all of an employer’s  
6 business, and notwithstanding any other provi-  
7 sion of this Act, any person who is an employee  
8 of the seller as of the effective date of the sale  
9 shall be considered an employee of the pur-  
10 chaser immediately after the effective date of  
11 the sale.

12 “(f) CONTENT OF NOTICES.—An employer who is re-  
13 quired to provide notice as required under subsection (a)  
14 shall include—

15 “(1) in each notice required under such sub-  
16 section—

17 “(A) a statement of the number of affected  
18 employees;

19 “(B) the reason for the site closing or  
20 mass layoff;

21 “(C) whether the layoff is permanent or  
22 temporary and, if temporary, the date on which  
23 the employer expects to recall the affected em-  
24 ployees to work;

1           “(D) the availability of employment at  
2           other establishments owned by the employer;

3           “(E) a statement of each employee’s rights  
4           with respect to wages and severance and em-  
5           ployee benefits; and

6           “(F) a statement of the available employ-  
7           ment and training services provided by the De-  
8           partment of Labor; and

9           “(2) in each notice required under such sub-  
10          section (except for paragraph (1)(B) of such sub-  
11          section), the names, addresses, and occupations of  
12          the affected employees.

13          “(g) INFORMATION REGARDING BENEFITS AND  
14          SERVICES AVAILABLE TO EMPLOYEES.—Concurrent with  
15          or immediately after providing the notice required under  
16          subsection (a)(1), an employer shall provide affected em-  
17          ployees with information regarding the benefits and serv-  
18          ices available to such employees, as described in the guide  
19          compiled by the Secretary under section 13.

20          “(h) ACCESS OF RAPID RESPONSE TEAMS.—An em-  
21          ployer who is required to provide notice under subsection  
22          (a) shall permit, during work hours, reasonable on-site ac-  
23          cess to any Federal, State, or local rapid response team  
24          under section 134(a)(2)(A) of the Workforce Innovation  
25          and Opportunity Act (29 U.S.C. 3174(a)(2)(A)) respon-

1 sible for providing reemployment, training services, and  
2 related services to affected employees.

3 “(i) DOL NOTICE TO CONGRESS.—As soon as prac-  
4 ticable and not later than 15 days after receiving notice  
5 under subsection (a)(2), the Secretary shall notify the ap-  
6 propriate Senators and Members of the House of Rep-  
7 resentatives who represent the area or areas where the site  
8 closing or mass layoff is to occur.”.

9 (b) WIOA AMENDMENT REGARDING THE PROVISION  
10 OF INFORMATION THROUGH LOCAL EMPLOYMENT AND  
11 TRAINING ACTIVITIES.—Section 134(c)(2)(A)(iv)(I)(aa)  
12 of the Workforce Innovation and Opportunity Act (29  
13 U.S.C. 3174(c)(2)(A)(iv)(I)(aa)) is amended by inserting  
14 before the semicolon the following: “and of information in  
15 notices described in section 3(a), and of access to the data-  
16 base established under section 5(e), of the Worker Adjust-  
17 ment and Retraining Notification Act (29 U.S.C. 2102(a);  
18 2104(e))”.

19 **SEC. 3. EXEMPTION.**

20 Section 4 of the Worker Adjustment and Retraining  
21 Notification Act (29 U.S.C. 2103) is amended to read as  
22 follows:

1 **“SEC. 4. EXEMPTION.**

2 “This Act shall not apply to a site closing or mass  
3 layoff if the closing or layoff is the result of the completion  
4 of a particular project or undertaking for which—

5 “(1) the completion point of the project or un-  
6 dertaking was—

7 “(A) ascertainable; and

8 “(B) when an affected employee was hired,  
9 described to and acknowledged by the employee,  
10 in writing, as limiting the duration of the em-  
11 ployment; and

12 “(2) the approach of the completion point was  
13 reasonably obvious, without any notice other than  
14 under paragraph (1)(B), to any affected employee  
15 not less than 60 days before the occurrence of the  
16 completion point.”.

17 **SEC. 4. ADMINISTRATION AND ENFORCEMENT OF RE-**  
18 **QUIREMENTS.**

19 Section 5 of the Worker Adjustment and Retraining  
20 Notification Act (29 U.S.C. 2104) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (1)—

23 (i) in the matter preceding subpara-  
24 graph (A), by striking “plant” and insert-  
25 ing “site”;

26 (ii) in subparagraph (A)—

1 (I) in the matter preceding clause  
2 (i), by striking “each day” and insert-  
3 ing “each calendar day”; and

4 (II) in clause (ii), by striking  
5 “and” after the semicolon;

6 (iii) in subparagraph (B), by striking  
7 the period at the end and inserting “;  
8 and”;

9 (iv) by inserting after subparagraph  
10 (B) the following:

11 “(C) liquidated damages in an amount equal to  
12 30 days of back pay, at the rate of compensation  
13 calculated under subparagraph (A).”; and

14 (v) in the flush text following sub-  
15 paragraph (C) (as added by clause (iv)), by  
16 striking “a maximum” through “event”  
17 and inserting “90 days, plus a day for  
18 each day that an employee is on parental,  
19 family, or medical leave during the period  
20 of violation and for each day that an em-  
21 ployee has such leave curtailed due to such  
22 employment loss. In no event shall an em-  
23 ployer be liable”;

1 (B) in paragraph (2)(A), by inserting “,  
2 which begins on the date of the employment  
3 loss” after “the violation”;

4 (C) in paragraph (3), by inserting “the  
5 Secretary, a State, or” before “a unit of local  
6 government”;

7 (D) in paragraph (4)—

8 (i) by striking “which has violated  
9 this Act” and inserting “that has violated  
10 the provisions of section 3 with respect to  
11 the Secretary, a State, or a unit of local  
12 government”;

13 (ii) by striking “omission that violated  
14 this Act” and inserting “omission that vio-  
15 lated such provisions”;

16 (iii) by striking “violation of this Act”  
17 and inserting “violation of such provi-  
18 sions”; and

19 (iv) by striking “reduce the amount of  
20 the liability or penalty provided for in this  
21 section” and inserting “reduce the amount  
22 of the penalty under paragraph (3)”;

23 (E) by striking paragraph (5) and insert-  
24 ing the following:

1           “(5)(A) A person (including a representative of  
2 employees, the State where the site closing or mass  
3 layoff is to occur, the entity designated by the State  
4 to carry out rapid response activities under section  
5 134(a)(2)(A) of the Workforce Innovation and Op-  
6 portunity Act (29 U.S.C. 3174(a)(2)(A)), or a unit  
7 of local government aggrieved under paragraph (1)  
8 or (3)) seeking to enforce the liability provided for  
9 in this section may, either for such person, for other  
10 persons similarly situated, or for both, sue in any  
11 district court of the United States for any district in  
12 which the violation is alleged to have occurred or in  
13 which the employer transacts business.

14           “(B) A person’s right to institute (including on  
15 behalf of other persons) or benefit from enforcement  
16 under subparagraph (A) shall not be affected by any  
17 predispute agreement, including any predispute arbi-  
18 tration agreement or predispute joint-action waiver  
19 (as such terms are defined in section 401 of title 9,  
20 United States Code).”;

21           (F) in paragraph (6), by striking “pre-  
22 vailing party” and inserting “prevailing plain-  
23 tiff”; and

24           (G) in paragraph (7), by striking “plant”  
25 and inserting “site”;



1           (2) by redesignating subsection (b) as sub-  
2           section (c);

3           (3) by inserting after subsection (a) the fol-  
4           lowing:

5           “(b) LIMITATIONS.—An action shall be brought  
6           under this section not later than 4 years after the date  
7           of the last event constituting the alleged violation for  
8           which the action is brought.”;

9           (4) in subsection (c), as so redesignated, by  
10          striking “plant” and inserting “site”; and

11          (5) by adding at the end the following:

12          “(d) EXEMPTION FROM LIQUIDATED DAMAGES.—  
13          Notwithstanding subsection (a)(1)(C), an employer is not  
14          liable for the liquidated damages described in such sub-  
15          section if the alleged site closing or mass layoff is caused  
16          by business circumstances (other than a financier’s deci-  
17          sion) that were not contemplated nor should reasonably  
18          have been contemplated as of the 30th day before the site  
19          closing or mass layoff.

20          “(e) DATABASE.—

21                  “(1) TRANSMITTALS.—A State or designated  
22                  entity that receives a notice under section 3(a) shall  
23                  transmit a copy of the notice to the Secretary.

24                  “(2) DATABASE.—The Secretary shall create  
25                  and maintain a publicly available database that pro-

1       vides information from notices transmitted under  
2       paragraph (1).

3               “(3) CONTENTS OF DATABASE.—The database  
4       under paragraph (2) shall include—

5               “(A) for each notice transmitted under  
6       paragraph (1), a copy of the notice, the date of  
7       the notice, the name of the employer involved,  
8       the unit of local government affected by the  
9       closing or layoff involved, the number of em-  
10      ployees so affected, the sector in which the lay-  
11      off occurred (as identified by the North Amer-  
12      ican Industry Classification System code), and  
13      the type of the closing or layoff;

14              “(B) a search function that allows users to  
15      identify the geographic, annual, and sectoral  
16      breakdown of the notices; and

17              “(C) a function that allows the data to be  
18      downloaded in a user-friendly format.

19              “(4) ACCESS THROUGH WEBSITE.—The Sec-  
20      retary shall provide a link to the database through  
21      the internet website of the Department of Labor.”.

22 **SEC. 5. POSTING OF NOTICES.**

23       Section 11 of the Worker Adjustment and Retraining  
24      Notification Act (29 U.S.C. 2101 note) is amended to read  
25      as follows:

1 **“SEC. 11. POSTING OF NOTICES.**

2       “(a) POSTING OF NOTICES.—Each employer shall  
3 post and keep posted, in conspicuous places upon the  
4 premises of the employer where notices to employees are  
5 customarily posted, a notice to be prepared or approved  
6 by the Secretary setting forth excerpts from, or summaries  
7 of, the pertinent provisions of this Act and information  
8 pertinent to the filing of a complaint under this Act.

9       “(b) PENALTIES.—The Secretary may impose a civil  
10 penalty on any person who willfully violates this section  
11 of not more than \$500 for each separate offense.”.

12 **SEC. 6. NON-WAIVER OF RIGHTS AND REMEDIES; INFORMA-**  
13 **TION REGARDING BENEFITS AND SERVICES**  
14 **AVAILABLE TO EMPLOYEES.**

15       The Worker Adjustment and Retraining Notification  
16 Act (29 U.S.C. 2101 et seq.) is further amended by adding  
17 at the end the following:

18 **“SEC. 12. RIGHTS AND REMEDIES NOT SUBJECT TO WAIV-**  
19 **ER.**

20       “(a) IN GENERAL.—The rights and remedies pro-  
21 vided under this Act (including the right to file or partici-  
22 pate in a class action under rule 23 of the Federal Rules  
23 of Civil Procedure in Federal court) are substantive and  
24 may not be waived, deferred, or lost pursuant to any  
25 agreement or settlement other than an agreement or set-  
26 tlement described in subsection (b).

1       “(b) AGREEMENT OR SETTLEMENT.—An agreement  
2 or settlement referred to in subsection (a) is an agreement  
3 or settlement negotiated by—

4               “(1) a private attorney on behalf of affected  
5 employees; or

6               “(2) a designated representative of affected em-  
7 ployees under the National Labor Relations Act (29  
8 U.S.C. 151 et seq.) or the Railway Labor Act (45  
9 U.S.C. 151 et seq.).

10 **“SEC. 13. INFORMATION REGARDING BENEFITS AND SERV-**  
11 **ICES AVAILABLE TO WORKERS.**

12       “(a) IN GENERAL.—The Secretary of Labor shall  
13 maintain a guide of benefits and services that may be  
14 available to affected employees, including unemployment  
15 compensation, trade adjustment assistance, COBRA con-  
16 tinuation coverage, and early access to training services  
17 and other services, including counseling services, available  
18 under title I of the Workforce Innovation and Opportunity  
19 Act (29 U.S.C. 3111 et seq.).

20       “(b) AVAILABILITY OF GUIDE.—The guide main-  
21 tained under subsection (a) shall be available on the inter-  
22 net website of the Department of Labor and shall include  
23 a description of the benefits and services, the eligibility  
24 requirements, and the means of obtaining such benefits  
25 and services.

1       “(c) TRANSMISSION TO EMPLOYERS.—Upon receiv-  
 2 ing notice from an employer under section 3(a)(2), the  
 3 Secretary shall immediately transmit such guide to such  
 4 employer.”.

5 **SEC. 7. CONFORMING AMENDMENTS.**

6       (a) WORKER ADJUSTMENT AND RETRAINING NOTI-  
 7 FICATION ACT.—The Worker Adjustment and Retraining  
 8 Notification Act is amended—

9               (1) in the table of contents in section 1(b) (29  
 10 U.S.C. 2101 note)—

11                       (A) by striking the item relating to section  
 12                       3 and inserting the following:

“Sec. 3. Notice required before site closings and mass layoffs.”;

13                       (B) by striking the item relating to section  
 14                       11 and inserting the following:

“Sec. 11. Posting of notices.”;

15                       and

16                       (C) by adding at the end the following:

“Sec. 12. Rights and remedies not subject to waiver.

“Sec. 13. Information regarding benefits and services available to workers.”;

17                       and

18               (2) in section 7 (29 U.S.C. 2106), by striking  
 19       “plant” and inserting “site”.

20       (b) OTHER LAWS.—Section 3110(a)(5) of the USEC  
 21 Privatization Act (42 U.S.C. 2297h–8(a)(5)) is amended  
 22 by striking “2101(a) (2) and (3) of title 29, United States

1 Code” and inserting “paragraphs (2) and (3) of section  
2 2(a) of the Worker Adjustment and Retraining Notifica-  
3 tion Act (29 U.S.C. 2101(a)), as in effect on the day be-  
4 fore the date of enactment of the Fair Warning Act of  
5 2023”.

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