

BUSINESS WORKING GROUP

THE EMPLOY AMERICA ACT

Senators Sanders (I-VT) and Grassley (R-IA) have introduced the *Employ America Act*. The bill would prohibit the Department of Homeland Security from approving *any* employment visa filed by an employer who has, within the preceding twelve months, provided a mass layoff notice pursuant to the Worker Adjustment and Retraining Notification Act (WARN Act). The bill would also require the employer to terminate any existing foreign workers who obtained work visas during the preceding twelve months.

Specifically, the bill would:

- Prohibit the Secretary of Homeland Security from approving any visa authorizing employment in the United States unless the employer certifies to the Secretary of Labor that it has not (i) provided notice of a mass layoff pursuant to the WARN Act within the last twelve months, and (ii) does not intend to provide notice pursuant to the WARN Act. The provisions would not be triggered by a WARN plant closing notice.
- Require the Secretary of Homeland Security to terminate the employment visas of any existing employees approved during the prior year. The visas would terminate 60 days after the WARN notice.
- Exempt employers from the requirements of the bill if the employer certifies in writing that the total number of workers who are U.S. citizens and are working in the United States has not been, and will not be, reduced as a result of the layoff.

The WARN Act is a federal law that requires businesses with at least 100 employees to give 60 days advance notice of any mass layoff or plant closing to affected employees, unions, local and state governments. To determine the size of a company for the purposes of the WARN Act, the employer must count all employees at every location, not just the location where employees are being laid off. A mass layoff happens where there will be an employment loss at the employment site during any 30-day period for 500 or more employees, or for 50-499 employees if they make up at least 33 percent of the employer's active workforce.