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MEMORANDUM

To: Vermont House Committee on Commerce and Economic Development
From: Commissioner Michael Harrington, Vermont Department of Labor
Date: April 3, 2025
Subject: S.117: Overview of WARN Act and Notice of Potential Layoff Act

Section 8 of S.117, *an act relating to rulemaking on safety and health standards and technical corrections on employment practices and unemployment compensation*, concerns the required notice of potential layoffs by employers to the Department. This requirement exists under federal law and has a higher threshold for notification in Vermont and other states. The Department of Labor (the “Department”) appreciates the opportunity to share testimony on this proposed change.

Federal Standards

The Worker Adjustment and Retraining Notification (WARN) Act of 1988 requires businesses to report expected mass layoffs, closures, and shutdowns.¹ This allows the State Rapid Response Dislocated Worker Unit to act and provide education, connection to unemployment services, and re-employment services and training as quickly as possible.²

Situations that require a WARN notice under federal statute include:

If an employer with at least 100 full-time employees:

- Closes a facility or ends an operating unit affecting at least 50 employees
- Lays off 500+ employees from a single site
- Lays off 50-499 employees if the number of employees affected is at least 33% of all employees
- Announces a temporary layoff of less than 6 months that affects at least 50 employees and extends that to over 6 months
- Reduces the hours of at least 50 employees by 50% or more in any 6-month period

Under this statute, “mass layoff” refers to an event of the facility not shutting down but leading to the loss of employment by at least 33% of employees, including at least 50 employees, or affecting at least 500 employees within a 30-day period. “Plant closing” refers to the permanent or temporary shutting of a facility affecting at least 50 employees in a 30-day period. Thirty-nine states have a layoff notification threshold that follows this federal law and do not have their own additional protections or standards in place.

¹ Employment and Training Administration. (2003). *Employer’s Guide to Advance Notice of Closing and Layoffs*. US Department of Labor. <https://www.dol.gov/agencies/eta/layoffs/warn>

² Department of Labor. (2019, July 25). *Rapid Response*. State of Vermont. <https://labor.vermont.gov/src/document/rapid-response>

States with Additional Provisions

Eleven states have separate, state-level provisions that expand upon the federal WARN Act. These states include California, Hawaii, Illinois, Iowa, Maryland, New Jersey, New York, Tennessee, Vermont, and Wisconsin.

The following outlines the variations in these laws.

State	Size of Qualifying Employer	Number of employees that must be affected	Notes
California ³	75	50	The size of the employer includes both full-time and part-time employees
Hawaii ⁴	50	1	This statute only covers shutdowns and closures, not mass layoffs
Illinois ⁵	75	At least 25 employees constituting at least 33% of employees	
Iowa ⁶	25	25	
Maryland ⁷	50	15 employees or 25% of total employees, whichever is greater	
New Jersey ⁸	N/A	50	Federal law applies to employers with 100+ employees.
New York ⁹	50	At least 25 employees constituting at least 33% of employees	
Tennessee ¹⁰	50-99	50	This provision governs smaller employers while employers with 100+ employees follow federal law.
Vermont (current) ¹¹	50	50	Both categories include part time workers as employees
Vermont (proposed) ¹²	50	20	Both categories include part time workers as employees
Wisconsin ¹³	50	At least 25 individuals or 25% of employees, whichever is greater	

³ Employment Development Department. *Worker Adjustment and Retraining Notification (WARN)*. State of California. https://edd.ca.gov/en/jobs_and_training/Layoff_Services_WARN

⁴ Workforce Development Council. *The WARN Act*. State of Hawai'i. <https://labor.hawaii.gov/wdc/the-warn-act/>

⁵ Department of Labor. *Worker Adjustment and Retraining Notification Act (WARN)*. State of Illinois. <https://labor.illinois.gov/laws-rules/conmed/warn.html>

⁶ IA Code § 84C.2 (2024)

⁷ MD Labor and Employment Code § 11-301 (2024)

⁸ NJ Rev Stat § 34:21-1 (2024)

⁹ 12 NYCRR § 921-1.1

¹⁰ Department of Labor & Workforce Development. *WARN Notices*. State of Tennessee. <https://www.tn.gov/workforce/employers/staffing-redirect/layoffs---unemployment/warn-notices.html>

¹¹ 21 V.S.A. § 411

¹² S.117, VT Leg. (2025)

¹³ Department of Workforce Development. *Overview of Wisconsin's Business Closing and Mass Layoff Law*. State of Wisconsin. <https://dwd.wisconsin.gov/dislocatedworker/employer/tools/notice/wbcml-overview.html>

Proposed Changes

Under 21 V. S. A. § 411, situations that require a WARN notice include:

- A mass layoff resulting in 50 or more employees becoming permanently unemployed at one or more worksites over a 90-day period; or
- The closure of a facility by a covered employer (one with 50 or more employees); or
- The ending of operations at one or more worksites resulting in the layoff of 50 or more employees, either permanently or for greater than 90 days.

S.117 would reduce the threshold for affected employees from 50 to 20 or more, full-time or part-time. The Department originally requested 25 employees, and in discussions with the Senate Economic Development Committee, 20 or more was agreed upon.

Additionally, the definition of “employer” is modified to refer to employers with 50 or more employees that exist in aggregate locally, nationally, or internationally. This language would put Vermont among the highest standards. However, it would not necessarily be the strictest law. The Department doesn’t see this expanded and clarified language as putting an undue burden on business if adopted. This proposed standard is in line with the thresholds present in many of the states listed above. This added language will help the Department in better serving Vermont workers and businesses facing mass layoffs and plant closures as this language is tailored to the scope and scale of Vermont’s workforce.