

employees, it is recommended that a copy also be given to the local union official(s).

(b) **AFFECTED EMPLOYEES.**—Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§ 639.7 What must the notice contain?

(a) **NOTICE MUST BE SPECIFIC.**—(1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in § 639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) **DEFINITION.**—As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) **NOTICE.**—Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) **EMPLOYEES NOT REPRESENTED.**—Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§ 639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under § 639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§ 639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in § 639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is prac-

ticable, containing as much of the information required in § 639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

§ 639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in § 639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§ 639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

§ 639.11 [Reserved]

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1966

**GRAMM (AND OTHERS)
AMENDMENT NO. 3948**

Mr. SIMPSON (for Mr. GRAMM for himself, Mrs. HUTCHISON, and Mr. DOMENICI) proposed an amendment to amendment No. 3743 proposed by Mr. SIMPSON to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

At the end, insert the following:

"SEC. . FINDINGS RELATED TO THE ROLE OF INTERIOR BORDER PATROL STATIONS.

The Congress makes the following findings:

(1) The Immigration and Naturalization Service has drafted a preliminary plan for the removal of 200 Border Patrol agents from interior stations and the transfer of these agents to the Southwest border.

(2) The INS has stated that it intends to carry out this transfer without disrupting service and support to the communities in which interior stations are located.

(3) Briefings conducted by INS personnel in communities with interior Border Patrol

stations have revealed that Border Patrol agents at interior stations, particularly those located in Southwest border States, perform valuable law enforcement functions that cannot be performed by other INS personnel.

(4) The transfer of 200 Border Patrol agents from interior stations to the Southwest border, which would not increase the total number of law enforcement personnel at INS, would cost the federal government approximately \$12,000,000.

(5) The cost to the federal government of hiring new criminal investigators and other personnel for interior stations is likely to be greater than the cost of retaining Border Patrol agents at interior stations.

(6) The first recommendations of the report by the National Task Force on Immigration was to increase the number of Border Patrol agents at the interior stations.

(7) Therefore, it is the sense of the Congress that—

(A) the U.S. Border Patrol plays a key role in apprehending and deporting undocumented aliens throughout the United States;

(B) interior Border Patrol stations play a unique and critical role in the agency's enforcement mission and serve as an invaluable second line of defense in controlling illegal immigration and its penetration to the interior of our country;

(C) a permanent redeployment of Border Patrol agents from interior stations is not the most cost-effective way to meet enforcement needs along the Southwest border, and should only be done where new Border Patrol agents cannot practically be assigned to meet enforcement needs along the Southwest border; and

(D) the INS should hire, train and assign new staff based on a strong Border Patrol presence both on the Southwest border and in interior stations that support border enforcement.

BRYAN AMENDMENT NO. 3949

Mr. KENNEDY (for Mr. BRYAN) proposed an amendment to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, *supra*; as follows:

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following:

SEC. . EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNITY PROGRAM.

Section 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended to read as follows:

“(e) EXCEPTION FOR CERTAIN ALIENS.—An alien is not eligible for a new grant or extension of benefits of this section if the Attorney General finds that the alien—

“(1) has been convicted of a felony or 3 or more misdemeanors in the United States,

“(2) is described in section 243(h)(2) of the Immigration and Nationality Act, or

“(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

“(A) a felony crime of violence that has an element the use or attempted use of physical force against the person of another; or

“(B) a felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.”.

HUTCHISON AMENDMENT NO. 3950

Mr. KENNEDY (for Mrs. HUTCHISON) proposed an amendment to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, *supra*; as follows:

At the appropriate place, insert the following new section:

SEC. .—The Immigration and Naturalization Service shall, when redeploying Border Patrol personnel from interior stations, coordinate with and act in conjunction with State and local law enforcement agencies to ensure that such deployment does not degrade or compromise the law enforcement capabilities and functions currently performed at interior Border Patrol stations.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing on “Small Business Investment Company Reform Legislation” on Tuesday, May 7, 1996, at 10:00 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey 224-5175.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, May 8, 1996, at 9:30 a.m., to hold a hearing on Campaign Finance Reform.

For further information concerning this hearing, please contact Bruce Kasold of the Committee staff on 224-3448.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on the recent increases in gasoline prices.

The hearing will take place Thursday, May 9, 1996 at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Howard Useem at (202) 224-7556.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Armed Services and the associated subcommittees be authorized to meet at the following time Wednesday May 1, 1996 for markup of the fiscal year 1997 Defense Authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, May 1, 1996 session of the Senate for the purpose of con-

ducting a hearing on Airport Revenue Diversion.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 1, 1996, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 1, 1996, at 10:00 a.m. to hold a hearing on “Review of the National Drug Control Strategy.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, May 1, 1996, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for two hearings on Wednesday, May 1, 1996, in room 428A of the Russell Senate Office Building. The first is a hearing regarding “President Clinton's Nomination of Ginger Ehn Lew to be Deputy Administrator of the United States Small Business Administration” which will begin at 9:30 a.m., with the second hearing focusing on “The United States Small Business Administration's Fiscal Year 1997 Budget” to immediately follow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE TO INVESTIGATE WHITE-WATER DEVELOPMENT AND RELATED MATTERS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the special committee to investigate Whitewater development and related matters be authorized to meet during the session of the Senate on Wednesday, May 1, 1996 to conduct hearings pursuant to Senate Resolution 120.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 1, at 2:00 p.m. to hold hearing.