

CLINE WILLIAMS

WRIGHT JOHNSON & OLDFATHER

THE NEBRASKA WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

On July 18, 2026, the Nebraska Worker Adjustment and Retraining Notification Act (“Nebraska WARN Act” or “Act”) will become effective. The Act was signed into law on April 14, 2026, and will heighten the requirements for notifying employees of layoffs or closures beyond what federal law requires. Employers should be aware of the increased requirements created by the Nebraska WARN Act.

In short, the Act requires that employers give at least ninety days’ notice before a business closing or mass layoff. The Act specifies which employers are covered by this Act, which closures or layoffs trigger the notice requirement, who must be sent notice, how notice must be sent, and what employers must include in the notice.

This article provides a general overview of the Nebraska WARN Act, including when it applies, what it requires, and what employers should know moving forward.

What is the Nebraska WARN Act?

The Nebraska WARN Act is a new law that supplements a federal statute called the Worker Adjustment and Retraining Notification Act (“federal WARN Act”). The federal WARN Act generally requires that employers with one hundred or more employees give sixty days’ notice before a “plant closing” or “mass layoff.”

The Nebraska WARN Act, like other state supplements to the federal WARN Act, requires *even more* of employers. The Nebraska WARN Act requires an additional thirty days of notice, increasing the required notice period for covered employers to ninety days. The Act also has additional requirements to include in the notice. After the Nebraska WARN Act goes into effect, compliance with the federal WARN Act alone will not be enough for Nebraska employers.

How does the Nebraska WARN Act differ from its federal counterpart?

There are many differences between the federal WARN Act and the Nebraska WARN Act, including changed terminology and different consequences for violations. However, there are two key differences between the laws: (1) the notice period, and (2) the notice requirements.

With regard to the required notice period, under the federal WARN Act, a covered employer is required to give notice of a closing or layoff at least sixty days before the closing or layoff occurs. In comparison, under the Nebraska WARN Act, a covered employer is required to give notice at least ninety days before the closing or layoff.

With regard to notice requirements, the Nebraska WARN Act requires that employers include a copy of, or an internet location for, all employee handbooks, personnel policies,

and employment-related policies that apply to affected employees. In addition, the notice must be provided in each and every language that is spoken by at least 5% of the workforce. No such requirements exist in the federal WARN Act.

Who is a covered employer under the Nebraska WARN Act?

The Nebraska WARN Act applies to *any person* who employs one hundred or more employees. This is broader than the federal WARN Act, which only applies to business entities.

When calculating if an entity has one hundred or more employees, the Act specifies that “part-time employees” are not included. Part-time employees include those who work an average of less than twenty hours a week, as well as employees who work forty hours a week but who have been employed for less than six months. This definition does not apply where a collective bargaining agreement has a different definition for part-time employees. In that case, the definition in the collective bargaining agreement supersedes the statute’s definition.

When is advance notice required under the Nebraska WARN Act?

The Nebraska WARN Act requires ninety days’ notice in advance of a “business closing” or “mass layoff.”

Both a business closing and a mass layoff are events where “**employment loss**” occurs. Employment loss happens when an employee is terminated, but does not include discharges for cause, voluntary separations, or retirement. Employment loss also occurs when an employee is laid off for more than six months or an employee’s hours are reduced by more than 50% during each month of a six-month period.

The Nebraska WARN Act makes clear that employment loss “does not include instances when a business closing or mass layoff is the result of relocation or consolidation of part or all of the employer’s business and, before the business closing or mass layoff, the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a six-month break in employment.”

“**Business closing**” under the Nebraska WARN Act means a shutdown of a single site of employment that results in employment loss for one hundred or more employees, excluding part-time employees. A single site of employment does not simply mean one building, but also includes a group of neighboring buildings, like a campus, business park, or even buildings across the street from one another.

“**Mass layoff**” means any employment loss of one hundred or more employees, excluding part-time employees, at a single site during any thirty-day period.

Like the federal WARN Act, the Nebraska WARN Act may require notice even if no single event qualifies as a “business closing” or “mass layoff.” Under the Nebraska WARN Act, if employment losses across multiple events within a ninety day period, added together, qualify as a “business closing” or “mass layoff,” notice must be given in accordance with the Act. This requirement can only be disregarded if the employer can prove to the

Nebraska Department of Labor that the losses “are the result of separate and distinct actions and causes.”

Updated or new notices are required where delays of layoffs or closings extend beyond the initial notice period.

What kind of notice does the Nebraska WARN Act require?

Ninety days before a business closing or mass layoff, the Nebraska WARN Act requires that the employer give notice that complies with the requirements of the Act. These requirements concern (1) who notice must be sent to, (2) how notice must be sent, and (3) what information must be included in the notice.

The Nebraska WARN Act requires that the employer send notice to the Nebraska Department of Labor. In addition, the employer must send notice to either the affected employees or, if they have a union representative, the employee’s representative. Similarly, the federal WARN Act requires notice be sent to the chief elected official of local government.

The notice must be made in writing and must be sent by a method that is reasonably designed to ensure the recipient gets the notice at least ninety days before the event. This mirrors the requirements under the federal WARN Act.

Employers must also post the notice in a conspicuous location. The notice must be provided in every language which at least 5% of the workforce speaks.

For the content of the notice, the Nebraska WARN Act requires the following information be included in the notice:

- a. The name and address of the site affected,
- b. The name and telephone number of a company official to contact for further information,
- c. The expected date of the first employment loss and the anticipated schedule of further employment losses,
- d. The job titles of affected positions and names of the employees currently holding those jobs, and
- e. All of the employee handbooks, personnel policies, and other employment-related policies that apply to affected employees, or the online location of that information which can be accessed without restriction.

For notices for business closings, the Act requires that the employer include whether the closing is temporary or permanent, and, if the entire business is closing, a statement expressing that information.

Finally, for notices sent to the Nebraska Department of Labor, the notice must also include the names and addresses of affected employees. The Department of Labor is required to maintain confidentiality of this information. Employers are permitted to include other helpful information for employees in the notice, including available assistance for displaced employees.

What does enforcement of the Nebraska WARN Act look like?

The Nebraska Department of Labor is responsible for enforcing the Nebraska WARN Act.

If an employer fails to comply with the requirements of the Act, they may be subject to a civil penalty, with a maximum penalty of \$100 per day of violation. A civil penalty is the only remedy for a violation under the Act, meaning no employee can sue their employer for a violation of the Nebraska WARN Act.

This is in stark contrast to the federal WARN Act, which allows such a suit by an aggrieved employee as well as civil penalties of \$500 per day. However, if an employer violates both the federal and Nebraska WARN Acts, they are at risk of facing federal civil penalties, state civil penalties, *and* lawsuits under the federal WARN Act.

Are there exceptions to the Nebraska WARN Act?

Yes, there are exceptions to the Nebraska WARN Act, which generally mirror federal exceptions. However, these exceptions are narrow, making it best practice to give notice whenever possible.

The Nebraska WARN Act does not apply to employment loss occurring during strikes, including replacing striking workers or dismissing temporary workers. However, employers may not use this exception simply to evade compliance with the requirements of the Act.

In addition, the Act provides for an exception to the ninety-day notice period for business closings only when the employment loss comes from a failure to acquire capital. This exception has several exacting requirements, all of which are interpreted narrowly.

The Act also permits less than ninety-day notice when the business closing or mass layoff is the result of circumstances which were “not reasonably foreseeable” when the ninety-day notice would have been required. These circumstances must generally be “caused by some sudden, dramatic, and unexpected action outside of the employer’s control.” Under this exception, the employer must give notice as soon as possible and must a statement in the notice explaining why they have given less than ninety days’ notice.

The Act also permits less than ninety days’ notice in the case of natural disasters, but only if a natural disaster *directly causes* the business closing or mass layoff.

The Nebraska WARN Act states that employers are required to “exercise commercially reasonable business judgment” to predict market conditions, and endeavor to provide the full ninety-day notice whenever possible. If this is not possible, the employer should attempt to give notice as soon as possible and meet the conditions of one of the exceptions.

Even if none of the exceptions apply, an employer may reduce the ninety-day notice period required by the Act if they pay employees severance or wages in lieu of notice. The notice period will be reduced by the number of days for which an employee is paid an amount of at least the employee’s regular pay rate.

What are some considerations for employers to keep in mind moving forward?

The Nebraska WARN Act adds many new requirements for employers, as discussed in detail in this article, which largely mirror the federal WARN Act, but each have their own specific requirements. If an employer is anticipating a business closure or layoff, they must look to *both* the federal and Nebraska WARN Acts to ensure compliance.

Additional discussion on the impact of the Nebraska WARN Act will take place at our upcoming webinar on Wednesday, June 24, 2026: “Reductions in Force, WARN Act Compliance, and Severance Agreements: A Practical Guide for Employment Terminations. To register, please click here: https://us02web.zoom.us/webinar/register/WN_FmUB1ardRcu_11ZFFJ3Ejw.

For more information on the Nebraska WARN Act, please reach out to [Tara A. Stingley](#), [Maddie C. Hasley](#), or another member of Cline Williams’ Labor and Employment Law Section at www.clinewilliams.com.

The information included in this document is for general informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem. Use of and reference to this document or any website it may appear on does not create an attorney-client relationship between Cline Williams and the user or browser.