

Part A: Text of Amendment to be Considered as Adopted

~~Revised~~

Revised #4

**AMENDMENT TO H.R. 3920, AS REPORTED
OFFERED BY MR. RANGEL OF NEW YORK**

Page 6, strike line 17 and all that follows through page 7, line 2, and insert the following:

- 1 (A) in the matter preceding subparagraph
- 2 (A)—
- 3 (i) by striking “Secretary” and insert-
- 4 ing “Secretary of Labor”; and
- 5 (ii) by striking “or subdivision” and
- 6 inserting “or public agency, or subdivision
- 7 of a firm or public agency,”; and
- 8 (B) in subparagraph (A), by striking
- 9 “firm)” and inserting “firm, and workers in a
- 10 service sector firm or subdivision of a service
- 11 sector firm, or of a public agency or subdivision
- 12 thereof”); and

Page 8, lines 1 and 2, strike “that are”.

Page 13, line 9, insert a comma before “has been”.

Page 14, strike lines 10 through 13 and insert the following:

- 13 (3) in subsection (d)—

1 (A) by striking “subdivision of the firm”
2 and all that follows through “he shall” and in-
3 serting “subdivision of the firm, or of a public
4 agency or subdivision of a public agency, that
5 total or partial separations from such firm (or
6 subdivision) or public agency (or subdivision)
7 are no longer attributable to the conditions
8 specified in section 222, the Secretary shall”;
9 and

10 (B) by striking “together with his reasons”
11 and inserting “and on the Website of the De-
12 partment of Labor, together with the Sec-
13 retary’s reasons”.

Page 17, strike lines 1 through 19 and insert the
following:

14 “(b) DETERMINATION REGARDING INDUSTRY-WIDE
15 CERTIFICATION.—The Secretary shall, not later than 60
16 days after receiving a request or resolution described in
17 subsection (a) with respect to a domestic industry, or mak-
18 ing the third certification of workers in a domestic indus-
19 try described in subsection (a), as the case may be—

20 “(1) determine whether all adversely affected
21 workers in that domestic industry are eligible to
22 apply for assistance under this subchapter, in ac-

1 cordance with the criteria established under sub-
2 section (e); or

3 “(2) determine whether all adversely affected
4 workers in that domestic industry in a specific geo-
5 graphic region are eligible to apply for assistance
6 under this subchapter, in accordance with the cri-
7 teria established under subsection (e).”.

Page 18, line 3, strike “or” and insert “of”.

Page 19, strike lines 9 through 16 and insert the
following:

8 “(iii) TRAINING BEFORE SEPARA-
9 TION.—Any worker covered by a certifi-
10 cation under subparagraph (A)(ii) shall be
11 deemed to be an adversely affected worker
12 for purposes of receiving services under
13 section 235 and training under section
14 236, without regard to whether the worker
15 has been totally or partially separated from
16 employment. In the case of a worker not
17 totally or partially separated from employ-
18 ment, the reference in section 236(a)(1)(A)
19 to ‘suitable employment’ shall be deemed
20 not to refer to such employment.”.

Page 20, line 13, add after the period the following:
“In the case of a worker described in paragraph (1)(B)(iii), no services described in section 235 or training described in section 236 may be initiated after such termination date.”.

Move section 114 to the beginning of subtitle F of title I, redesignate such section as section 161, and redesignate succeeding sections accordingly.

Page 29, line 10, strike “foreign”.

Page 34, line 6, insert after “section)” the following:
“, and the periods specified in section 231(a)(5)(A)”.

Page 34, beginning on line 9, strike “delays in certification due to administrative reconsideration or judicial review,”.

Page 44, line 7, strike “101(a)” and insert “102”.

Page 45, line 14, strike “to enter” and insert “in order to receive”.

Page 45, strike lines 19 through 23 and insert the following:

1 “(2) because of the application to any such
2 week in training of the provisions of State law or
3 Federal unemployment insurance law relating to

1 availability for work, active search for work, or re-
2 fusal to accept work.”.

Page 68, beginning on line 9, strike “does not re-
turn to the employment from which the worker was sepa-
rated” and insert “is not employed at the firm from
which the worker was separated”.

Page 69, strike lines 4 through 6 and insert the fol-
lowing:

3 “(D) TRAINING AND OTHER SERVICES.—A
4 worker described in subparagraph (B) shall be
5 eligible to receive training approved under sec-
6 tion 236 and services under section 235.”.

Insert after section 141 the following:

7 **SEC. 142. EXTENSION OF COBRA BENEFITS FOR CERTAIN**
8 **TAA-ELIGIBLE INDIVIDUALS AND PBGC RE-**
9 **CIPIENTS.**

10 (a) ERISA AMENDMENTS.—Section 602(2)(A) of the
11 Employee Retirement Income Security Act of 1974 (29
12 U.S.C. 1162(2)(A)) is amended—

13 (1) by moving clause (v) to after clause (iv) and
14 before the flush left sentence beginning with “In the
15 case of a qualified beneficiary”;

16 (2) by striking “In the case of a qualified bene-
17 fiary” and inserting the following:

1 “(vi) SPECIAL RULE FOR DIS-
2 ABILITY.—In the case of a qualified bene-
3 ficiary”; and

4 (3) by redesignating clauses (v) and (vi), as
5 amended by paragraphs (1) and (2), as clauses (viii)
6 and (ix) and by inserting after clause (iv) the fol-
7 lowing new clauses:

8 “(v) SPECIAL RULE FOR PBGC RECIPI-
9 ENTS.—In the case of a qualifying event
10 described in section 603(2) with respect to
11 a covered employee who (as of such quali-
12 fying event) has a nonforeitable right to a
13 benefit any portion of which is to be paid
14 by the Pension Benefit Guaranty Corpora-
15 tion under title IV, notwithstanding clause
16 (i) or (ii), the date of the death of the cov-
17 ered employee, or in the case of the sur-
18 viving spouse or dependent children of the
19 covered employee, 36 months after the
20 date of the death of the covered employee.

21 “(vi) SPECIAL RULE FOR TAA-ELIGI-
22 BLE INDIVIDUALS.—In the case of a quali-
23 fying event described in section 603(2)
24 with respect to a covered employee who is
25 (as of the date that the period of coverage

1 would, but for this clause or clause (vii),
2 otherwise terminate under clause (i) or
3 (ii) a TAA-eligible individual (as defined
4 in section 605(b)(4)(B)), the period of cov-
5 erage shall not terminate by reason of
6 clause (i) or (ii), as the case may be, be-
7 fore the later of the date specified in such
8 clause or the date on which such individual
9 ceases to be such a TAA-eligible individual.

10 “(vii) SPECIAL RULE FOR CERTAIN
11 TAA-ELIGIBLE INDIVIDUALS.—In the case
12 of a qualifying event described in section
13 603(2) with respect to a covered employee
14 who is (as of the date that the period of
15 coverage would, but for this clause or
16 clause (vi), otherwise terminate under
17 clause (i) or (ii)) a TAA-eligible individual
18 (as defined in section 605(b)(4)(B)) and
19 who (as of such qualifying event) has
20 attained age 55 or has completed 10 or
21 more years of service with the employer,
22 clauses (i) and (ii) shall not apply.”

23 (b) IRC AMENDMENTS.—Clause (i) of section
24 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is
25 amended—

1 (1) by striking “In the case of a qualified bene-
2 ficiary” and inserting the following:

3 “(VI) SPECIAL RULE FOR DIS-
4 ABILITY.—In the case of a qualified
5 beneficiary”, and

6 (2) by redesignating subclauses (V) and (VI),
7 as amended by paragraph (1), as subclauses (VIII)
8 and (IX) and by inserting after clause (IV) the fol-
9 lowing new subclauses:

10 “(V) SPECIAL RULE FOR PBGC
11 RECIPIENTS.—In the case of a quali-
12 fying event described in paragraph
13 (3)(B) with respect to a covered em-
14 ployee who (as of such qualifying
15 event) has a nonforeitable right to a
16 benefit any portion of which is to be
17 paid by the Pension Benefit Guaranty
18 Corporation under title IV of the Em-
19 ployee Retirement Income Security
20 Act of 1974, notwithstanding sub-
21 clause (I) or (II), the date of the
22 death of the covered employee, or in
23 the case of the surviving spouse or de-
24 pendent children of the covered em-

1 ployee, 36 months after the date of
2 the death of the covered employee.

3 “(VI) SPECIAL RULE FOR TAA-
4 ELIGIBLE INDIVIDUALS.—In the case
5 of a qualifying event described in
6 paragraph (3)(B) with respect to a
7 covered employee who is (as of the
8 date that the period of coverage
9 would, but for this subclause or sub-
10 clause (VII), otherwise terminate
11 under subclause (I) or (II)) a TAA-el-
12 ible individual (as defined in para-
13 graph (5)(C)(iv)(II)), the period of
14 coverage shall not terminate by reason
15 of subclause (I) or (II), as the case
16 may be, before the later of the date
17 specified in such subclause or the date
18 on which such individual ceases to be
19 such a TAA-eligible individual.

20 “(VII) SPECIAL RULE FOR CER-
21 TAIN TAA-ELIGIBLE INDIVIDUALS.—In
22 the case of a qualifying event de-
23 scribed in paragraph (3)(B) with re-
24 spect to a covered employee who is (as
25 of the date that the period of coverage

1 would, but for this subclause or sub-
2 clause (VI), otherwise terminate under
3 subclause (I) or (II)) a TAA-eligible
4 individual (as defined in paragraph
5 (5)(C)(iv)(II)) and who (as of such
6 qualifying event) has attained age 55
7 or has completed 10 or more years of
8 service with the employer, subclauses
9 (I) and (II) shall not apply.”.

10 (c) PHSA AMENDMENTS.—Section 2202(2)(A) of
11 the Public Health Service Act (42 U.S.C. 300bb-2(2)(A))
12 is amended—

13 (1) by striking “In the case of a qualified bene-
14 ficiary” and inserting the following:

15 “(v) SPECIAL RULE FOR DIS-
16 ABILITY.—In the case of a qualified bene-
17 ficiary”; and

18 (2) by redesignating clauses (iv) and (v), as
19 amended by paragraph (1), as clauses (vi) and (vii)
20 and by inserting after clause (iii) the following new
21 clauses:

22 “(iv) SPECIAL RULE FOR TAA-ELIGI-
23 BLE INDIVIDUALS.—In the case of a quali-
24 fying event described in section 2203(2)
25 with respect to a covered employee who is

1 (as of the date that the period of coverage
2 would, but for this clause or clause (v),
3 otherwise terminate under clause (i) or
4 (ii)) a TAA-eligible individual (as defined
5 in section 2205(b)(4)(B)), the period of
6 coverage shall not terminate by reason of
7 clause (i) or (ii), as the case may be, be-
8 fore the later of the date specified in such
9 clause or the date on which such individual
10 ceases to be such a TAA-eligible individual.

11 “(v) SPECIAL RULE FOR CERTAIN
12 TAA-ELIGIBLE INDIVIDUALS.—In the case
13 of a qualifying event described in section
14 2203(2) with respect to a covered employee
15 who is (as of the date that the period of
16 coverage would, but for this clause or
17 clause (iv), otherwise terminate under
18 clause (i) or (ii)) a TAA-eligible individual
19 (as defined in section 2205(b)(4)(B)) and
20 who (as of such qualifying event) has
21 attained age 55 or has completed 10 or
22 more years of service with the employer,
23 clauses (i) and (ii) shall not apply.”.

24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to periods of coverage which would

- 1 (without regard to the amendments made by this section)
2 end on or after January 1, 2008.

Insert after title II the following and redesignate accordingly:

3 **TITLE III—TRADE ADJUSTMENT**
4 **ASSISTANCE FOR FARMERS**

5 **SEC. 301. ELIGIBILITY OF CERTAIN OTHER PRODUCERS.**

6 Section 292 of the Trade Act of 1974 (19 U.S.C.
7 2401a) is amended—

8 (1) in subsection (a), by inserting “and on the
9 Website of the Department of Agriculture” after
10 “Federal Register”; and

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

12 “(f) **ELIGIBILITY OF CERTAIN OTHER PRO-**
13 **DUCERS.**—An agricultural commodity producer or group
14 of producers that resides outside of the State or region
15 identified in a petition filed under subsection (a) may file
16 a request to become a party to that petition not later than
17 30 days after the date notice is published in the Federal
18 Register and on the Website of the Department of Agri-
19 culture with respect to that petition.”.

Page 76, after line 18, insert the following (and redesignate subsequent subsections accordingly):

1 “(c) COLLECTION OF DATA FROM STATES.—The
2 Secretary is authorized to collect such data from the
3 States as is necessary to carry out this section.”.

Add at the end the following:

4 **TITLE VI—WORKER ADJUST-**
5 **MENT AND RETRAINING NO-**
6 **TIFICATION**

7 **SEC. 601. SHORT TITLE.**

8 This title may be cited as the “Early Warning and
9 Health Care for Workers Affected by Globalization Act”.

10 **SEC. 602. AMENDMENTS TO THE WARN ACT.**

11 (a) DEFINITIONS.—

12 (1) EMPLOYER, PLANT CLOSING, AND MASS
13 LAYOFF.—Paragraphs (1) through (3) of section
14 2(a) of the Worker Adjustment and Retraining Noti-
15 fication Act (29 U.S.C. 2101(a)(1)–(3)) are amend-
16 ed to read as follows:

17 “(1) the term ‘employer’ means any business
18 enterprise that employs 100 or more employees;

19 “(2) the term ‘plant closing’ means the perma-
20 nent or temporary shutdown of a single site of em-
21 ployment, or of one or more facilities or operating
22 units within a single site of employment, which re-
23 sults in an employment loss at such site, during any
24 30-day period, for 50 or more employees;

1 “(3) the term ‘mass layoff’ means a reduction
2 in force at a single site of employment which results
3 in an employment loss at such site, during any 30-
4 day period, for 50 or more employees.”.

5 (2) SECRETARY OF LABOR.—

6 (A) DEFINITION.—Paragraph (8) of such
7 section is amended to read as follows:

8 “(8) the term ‘Secretary’ means the Secretary
9 of Labor or a representative of the Secretary of
10 Labor.”.

11 (B) REGULATIONS.—Section 8(a) of such
12 Act (29 U.S.C. 2107(a)) is amended by striking
13 “of Labor”.

14 (3) CONFORMING AMENDMENTS.—

15 (A) NOTICE.—Section 3(d) of such Act (29
16 U.S.C. 2102(d)) is amended by striking out “,
17 each of which is less than the minimum number
18 of employees specified in section 2(a)(2) or (3)
19 but which in the aggregate exceed that min-
20 imum number,” and inserting “which in the ag-
21 gregate exceed the minimum number of employ-
22 ees specified in section 2(a)(2) or (3)”.

23 (B) DEFINITIONS.—Section 2(b)(1) of
24 such Act (29 U.S.C. 2101(b)(1)) is amended by
25 striking “(other than a part-time employee)”.

1 (b) NOTICE.—

2 (1) NOTICE PERIOD.—

3 (A) IN GENERAL.—Section 3 of the Work-
4 er Adjustment and Retraining Notification Act
5 (29 U.S.C. 2102) is amended by striking “60-
6 day period” and inserting “90-day period” each
7 place it appears.

8 (B) CONFORMING AMENDMENT.—Section
9 5(a)(1) of such Act (29 U.S.C. 2104(a)(1)) is
10 amended in the matter following subparagraph
11 (B), by striking “60 days” and inserting “90
12 days”.

13 (2) RECIPIENTS.—Section 3(a) of such Act (29
14 U.S.C. 2102(a)) is amended—

15 (A) in paragraph (1), by striking “or, if
16 there is no such representative at that time, to
17 each affected employee; and” and inserting
18 “and to each affected employee;”; and

19 (B) by redesignating paragraph (2) as
20 paragraph (3) and inserting after paragraph
21 (1) the following:

22 “(2) to the Secretary; and”.

23 (3) INFORMATION REGARDING BENEFITS AND
24 SERVICES AVAILABLE TO WORKERS AND DOL NO-
25 TICE TO CONGRESS.—Section 3 of such Act (29

1 U.S.C. 2102) is further amended by adding at the
2 end the following:

3 “(e) INFORMATION REGARDING BENEFITS AND
4 SERVICES AVAILABLE TO EMPLOYEES.—Concurrent with
5 or immediately after providing the notice required under
6 subsection (a)(1), an employer shall provide affected em-
7 ployees with information regarding the benefits and serv-
8 ices available to such employees, as described in the guide
9 compiled by the Secretary under section 12.

10 “(f) DOL NOTICE TO CONGRESS.—As soon as prac-
11 ticable and not later than 15 days after receiving notifica-
12 tion under subsection (a)(2), the Secretary of Labor shall
13 notify the appropriate Senators and Members of the
14 House of Representatives who represent the area or areas
15 where the plant closing or mass layoff is to occur.”.

16 (c) ENFORCEMENT.—

17 (1) AMOUNT.—Section 5(a)(1) of the Worker
18 Adjustment and Retraining Notification Act (29
19 U.S.C. 2104(a)(1)) is amended—

20 (A) in subparagraph (A)—

21 (i) by striking “back pay for each day
22 of violation” and inserting “two days’ pay
23 multiplied by the number of calendar days
24 short of 90 that the employer provided no-
25 tice before such closing or layoff”

1 (ii) in clause (ii), by striking “and” at
2 the end thereof;

3 (B) by redesignating subparagraph (B) as
4 subparagraph (C);

5 (C) by inserting after subparagraph (A)
6 the following:

7 “(B) interest on the amount described in sub-
8 paragraph (A) calculated at the prevailing rate;
9 and”;

10 (D) by striking the matter following sub-
11 paragraph (C) (as so redesignated).

12 (2) EXEMPTION.—Section 5(a)(4) of such Act
13 (29 U.S.C. 2104(a)(4)) is amended by striking “re-
14 duce the amount of the liability or penalty provided
15 for in this section” and inserting “reduce the
16 amount of the liability under subparagraph (C) of
17 paragraph (1) and reduce the amount of the penalty
18 provided for in paragraph (3)”.

19 (3) ADMINISTRATIVE COMPLAINT.—Section
20 5(a)(5) of such Act (29 U.S.C. 2104(a)(5)) is
21 amended—

22 (A) by striking “may sue” and inserting
23 “may,”;

24 (B) by inserting after “both,” the fol-
25 lowing: “(A) file a complaint with the Secretary

1 alleging a violation of section 3, or (B) bring
2 suit”; and

3 (C) by adding at the end thereof the fol-
4 lowing new sentence: “A person seeking to en-
5 force such liability may use one or both of the
6 enforcement mechanisms described in subpara-
7 graphs (A) and (B).”.

8 (4) ACTION BY THE SECRETARY.—Section 5 of
9 such Act (29 U.S.C. 2104) is amended—

10 (A) by redesignating subsection (b) as sub-
11 section (d); and

12 (B) by inserting after subsection (a) the
13 following new subsections:

14 “(b) ACTION BY THE SECRETARY.—

15 “(1) ADMINISTRATIVE ACTION.—The Secretary
16 shall receive, investigate, and attempt to resolve
17 complaints of violations of section 3 by an employer
18 in the same manner that the Secretary receives, in-
19 vestigates, and attempts to resolve complaints of vio-
20 lations of sections 6 and 7 of the Fair Labor Stand-
21 ards Act of 1938 (29 U.S.C. 206 and 207).

22 “(2) SUBPOENA POWERS.—For the purposes of
23 any investigation provided for in this section, the
24 Secretary shall have the subpoena authority provided

1 for under section 9 of the Fair Labor Standards Act
2 of 1938 (29 U.S.C. 209).

3 “(3) SUMS RECOVERED.—Any sums recovered
4 by the Secretary on behalf of an employee under
5 subparagraphs (A), (B), and (D) of section 5(a)(1)
6 shall be held in a special deposit account and shall
7 be paid, on order of the Secretary, directly to each
8 employee affected. Any such sums not paid to an
9 employee because of inability to do so within a pe-
10 riod of 3 years, and any sums recovered by the Sec-
11 retary under subparagraph (C) of section 5(a)(1),
12 shall be credited as an offsetting collection to the ap-
13 propriations account of the Secretary of Labor for
14 expenses for the administration of this Act and shall
15 remain available to the Secretary until expended.

16 “(c) LIMITATIONS.—

17 “(1) LIMITATIONS PERIOD.—An action may be
18 brought under this section not later than 2 years
19 after the date of the last event constituting the al-
20 leged violation for which the action is brought.

21 “(2) COMMENCEMENT.—In determining when
22 an action is commenced under this section for the
23 purposes of paragraph (1), it shall be considered to
24 be commenced on the date on which the complaint
25 is filed.”.

1 (d) POSTING OF NOTICES; PENALTIES.—Section 11
2 of the Worker Adjustment and Retraining Notification Act
3 (29 U.S.C. 2101 note) is amended to read as follows:

4 **“SEC. 11. POSTING OF NOTICES; PENALTIES.**

5 “(a) POSTING OF NOTICES.—Each employer shall
6 post and keep posted in conspicuous places upon its prem-
7 ises where notices to employees are customarily posted a
8 notice to be prepared or approved by the Secretary setting
9 forth excerpts from, or summaries of, the pertinent provi-
10 sions of this chapter and information pertinent to the fil-
11 ing of a complaint.

12 “(b) PENALTIES.—A willful violation of this section
13 shall be punishable by a fine of not more than \$500 for
14 each separate offense.”.

15 (e) NON-WAIVER OF RIGHTS AND REMEDIES; INFOR-
16 MATION REGARDING BENEFITS AND SERVICES AVAIL-
17 ABLE TO EMPLOYEES.—Such Act is further amended by
18 adding at the end the following:

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

21 “(a) IN GENERAL.—The rights and remedies pro-
22 vided under this Act (including the right to maintain a
23 civil action) may not be waived, deferred, or lost pursuant
24 to any agreement or settlement other than an agreement
25 or settlement 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 the Secretary, an attorney
4 general of any State, or a private attorney on behalf of
5 affected employees.

6 **“SEC. 13. INFORMATION REGARDING BENEFITS AND SERV-**
7 **ICES AVAILABLE TO WORKERS.**

8 “The Secretary of Labor shall maintain a guide of
9 benefits and services which may be available to affected
10 employees, including unemployment compensation, trade
11 adjustment assistance, COBRA benefits, and early access
12 to training and other services, including counseling serv-
13 ices, available under the Workforce Investment Act of
14 1998. Such guide shall be available on the Internet website
15 of the Department of Labor and shall include a descrip-
16 tion of the benefits and services, the eligibility require-
17 ments, and the means of obtaining such benefits and serv-
18 ices. Upon receiving notice from an employer under sec-
19 tion 3(a)(2), the Secretary shall immediately transmit
20 such guide to such employer.”.

21 (f) NOTICE EXCUSED WHERE CAUSED BY TER-
22 RORIST ATTACK.—Section 3(b)(2) of the Worker Adjust-
23 ment and Retraining Notification Act (29 U.S.C.
24 2102(b)(2)) is amended by adding at the end the following
25 new subparagraph:

1 “(C) No notice under this Act shall be required if
2 the plant closing or mass layoff is due directly or indirectly
3 to a terrorist attack on the United States.”.

4 **SEC. 603. EFFECTIVE DATE.**

5 Except as otherwise provided in this Act, the provi-
6 sions of this Act, and the amendments made by this Act,
7 shall take effect on the date of the enactment of this Act.