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Committee on Education and Workforce
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Walberg and Members of the Committee,

The Committee's Request for Information (RFI) regarding potential reforms to the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) presents an important opportunity to reflect on the Act's effectiveness in safeguarding union democracy and financial integrity. As LaborLab, a nonpartisan watchdog organization dedicated to transparency and accountability in labor-management relations, we appreciate the Committee's stated commitment to protecting union members' rights. However, our analysis of the LMRDA, informed by decades of monitoring and recent governmental reports, suggests that many of the concerns raised in the RFI are based on assumptions lacking concrete justification.

Our primary recommendation is that any comprehensive review of the LMRDA must be grounded in an accurate assessment of the current regulatory landscape and a balanced understanding of existing statutory frameworks. We urge the Committee to prioritize addressing documented and persistent issues of non-compliance by employers and labor relations consultants, an area where enforcement has historically been deficient, rather than solely focusing on union oversight without demonstrated need.

I. Strengthening Member Governance and Voting Rights

The Committee's questions in this section largely presuppose deficiencies within union member governance and voting rights without offering concrete evidence to support these concerns. The LMRDA already guarantees significant rights to union members, including free speech and assembly.

- **Existing Framework and Member Engagement:** The notion that members lack a "meaningful voice" often overlooks the reality that member engagement is crucial. For instance, the primary barrier to members introducing motions or resolutions at

meetings is frequently simply member attendance. Given the extensive diversity in organizational structures, geographical dispersion, and operational realities, each union should retain the prerogative to determine its specific procedures for contract ratification and strike authorization votes. A "one-size-fits-all" approach would likely result in undue burdens without clear advantages.

- **Election Notices and Member Responsibility:** Regarding timely notice of union official nominations and elections, a significant challenge unions encounter is members failing to update their mailing addresses. Unions meticulously maintain records of returned mail as evidence of non-delivery, thereby substantiating compliance with notification requirements.
- **Direct Elections and Cost:** Mandating direct elections for national union officers, while seemingly aligned with democratic principles, could entail substantial financial expenditures and considerable logistical complexities for many unions, especially those with geographically dispersed memberships. Furthermore, the Office of Labor-Management Standards (OLMS) has established stringent guidelines concerning electronic voting, which often prove exceptionally challenging for unions to satisfy.
- **Officer Term Limits:** There is no widespread concern or criticism regarding the current three-year maximum interval between local union officer elections; indeed, many unions, exercising their prerogative under current law, already adopt shorter term limits where deemed appropriate.
- **Lack of Justification for Proposed Changes:** The Committee's letter provides no concrete justification or data to support the need for many of these proposed reforms, such as clarifying Title I rights, mandating specific voting procedures, or implementing recall elections. The underlying premise appears to be a "fishing expedition" rather than a response to demonstrated problems.

II. Fiscal Transparency and Fiduciary Duty

The existing framework, coupled with readily available information, largely addresses concerns about fiscal transparency.

- **Publicly Available LM Forms:** Forms LM-2, LM-3, and LM-4 already provide a substantial degree of fiscal transparency and are readily and publicly accessible via the OLMS Public Disclosure website. Requiring additional postings on individual union websites or in union publications would be largely superfluous and redundant.
- **Reporting Thresholds and Categories:** The current LM-2 form is generally sufficient for members to understand how dues are allocated. Conversely, an increase in the reporting threshold for functional activity reporting might be considered to mitigate

administrative burdens without compromising transparency, a measure OLMS is reportedly already considering.

- **Real-Time Disclosure is Unprecedented:** The proposition for "near real-time disclosure of large union expenditures" (e.g., posting transactions above a $5,000 threshold within 30 days) represents an unprecedented demand not currently imposed upon other regulated entities. Such a requirement would be both impractical and unduly burdensome for labor organizations.
- **Fiduciary Duties and Existing Case Law:** A substantial body of case law exists that clearly delineates the nature and scope of the fiduciary duties of union officials. It is LaborLab's position that Congress should refrain from attempting to define specific union positions encompassed by LMRDA fiduciary duties. The extensive diversity in titles and roles across various unions suggests that any endeavor to enumerate covered positions would inevitably lead to inadvertent exclusions or the creation of new ambiguities. Moreover, pension or benefit funds not subject to the Employee Retirement Income Security Act (ERISA) should be addressed under that specific statute, rather than through amendments to the LMRDA. The LMRDA already explicitly stipulates that upon becoming aware of a breach of fiduciary duty, a union is obligated to undertake prompt corrective action and secure restitution where appropriate.

III. Political Expenditures and Member Consent & IV. Digital Disclosure and Data Accessibility

Existing mechanisms and ongoing technological advancements already address many of the concerns raised in these sections.

- **Electronic Filing and OLMS Guidance:** OLMS already requires all unions to file electronically, and its Electronic Filing System (EFS) software incorporates robust checks and balances to ensure the completeness and accuracy of submitted information. OLMS further provides comprehensive "Common Reporting Errors" guidance for both LM-2 and LM-3 filers. Consequently, we believe no further legislative action is necessary in these domains concerning union filings.
- **Employer and Consultant Non-Compliance:** While the Committee's RFI focuses heavily on unions, there is a significant and often overlooked issue with employer and labor relations consultant non-compliance regarding their own LMRDA filings. The Department of Labor's Office of Inspector General (OIG) Report 09-24-002-16-001 (May 3, 2024) highlights substantial deficiencies, including delinquent and deficient filings of Forms LM-10, LM-20, and LM-21 by employers and consultants. For instance, the OIG report found that as of November 2023, OLMS had 1,257 delinquent employer and labor

relations consultant filings, some dating back to 2013. This suggests a critical need to focus enforcement efforts more broadly, rather than solely on unions.
- **Sensitive Personal Information:** The LM-2 and LM-3 forms already include explicit instructions regarding the handling of confidential information, mitigating concerns about sensitive personal data being published online.

V. Enforcement, Compliance Assistance, and Whistleblower Protections

Enforcement concerns should be directed towards areas where genuine issues of non-compliance exist and where existing mechanisms may not be fully utilized.

- **Declining Enforcement Against Union Officials for Fraud:** While the RFI implies widespread misconduct, statistics show a significant decline in the number of indictments and convictions for union officials concerning fraud and embezzlement. This suggests that current criminal and civil penalties, when applied, are sufficient deterrents, and that the perceived problem may not be as pervasive as suggested.
- **Whistleblower Protections and Existing Complaint Process:** There is no empirical evidence to suggest a need for a new whistleblower protection program when union members already possess the right to file complaints directly with OLMS. There is no indication that this existing process is ineffective or insufficient for members reporting wrongdoing.
- **Disparity in Enforcement:** A critical point to raise is the lack of civil or criminal enforcement of Sections 209 and 210 for false reporting by employers or consultants, despite the OIG report highlighting their significant non-compliance. This disparity in enforcement focus is concerning and warrants immediate attention.

VI. Additional Issues: Prioritizing Underserved Enforcement Areas

Rather than advocating for additional oversight of union leadership, which often lacks a basis in widespread documented issues, LaborLab respectfully urges the Committee to critically examine and address the documented and persistent issues of non-compliance by employers and labor relations consultants under the LMRDA. This represents a significant, often overlooked, and deeply problematic gap in current LMRDA enforcement.

A Clear Disparity in Enforcement

For decades, a glaring disparity has existed in the enforcement of LMRDA reporting requirements. While the Office of Labor-Management Standards (OLMS) has made commendable and successful strides in reducing union annual report (Forms LM-2, -3, and -4)

delinquencies – achieving an 83% on-time filing rate for unions in FY 2023 and a near 40% drop in total union delinquent filings over five years, including a 92% drop in filings over a year late (GAO-25-107297, June 17, 2025) – the same cannot be said for employer and consultant filings. This success with union compliance highlights OLMS's capacity when resources and focus are appropriately directed.

Decades of Employer and Consultant Non-Compliance

- **1984 Congressional Findings:** As far back as 1984, the U.S. House of Representatives Education and Labor Subcommittee noted a "failure to cross-check employer and consultant reports received" and "inadequate efforts to require filers to cure serious deficiencies." Their random sample found that 31% of consultants identified in employer LM-10s failed to file required LM-20s, and only 62% of consultants who filed an LM-20 bothered to file the corresponding LM-21. The Subcommittee concluded that the "Department of Labor has abdicated its responsibility to enforce the employer and consultant reporting law," leading to "widespread" non-compliance and frustrating Congress's intent for transparency in labor-management relations. They sharply contrasted this lax enforcement with the computerized review and rigorous follow-up applied to union reports.
- **2024 Inspector General Report Confirms Persistent Failures:** Forty years later, the Department of Labor's Office of Inspector General (OIG) Report 09-24-002-16-001 (May 3, 2024) echoed these findings, highlighting that OLMS "did not effectively enforce persuader activity requirements to protect workers' rights to unionize."
    - **Massive Underreporting:** The OIG found that from January 2021 to August 2023, only 428 employers and 211 consultants reported persuader activities, despite the National Labor Relations Board reporting approximately 1,100 organizing campaigns in 2021, with research indicating employers hired persuader consultants in about 825 of those campaigns. This suggests "significant underreporting" of persuader activities.
    - **Pervasive Delinquency and Missing Reports:** The OIG explicitly stated that of the reports filed, 49% of employer LM-10 reports and 47% of consultant LM-21 financial reports were filed after their required due dates. This starkly contrasts with the 83% on-time filing rate for unions. Furthermore, the OIG identified widespread instances where employers failed to file an LM-10 despite being named in a consultant's report (605 cases), or consultants failed to file an LM-21 despite being named in an employer's report (1,478 cases).
    - **Systemic Deficiencies:** The OIG attributed these issues to OLMS having "limited enforcement authority," lacking "sufficient policies, procedures, and systems for

monitoring reports and tips," and failing to effectively coordinate with the NLRB.

- **LaborLab's Ongoing Monitoring Reveals Continued Problems:** LaborLab'This real-time data further underscores the ongoing and severe non-compliance in this critical area. The difficulty in cross-matching reports due to the lack of a required unique identifier (like the EIN) for employers, consultants, and subcontractors further exacerbates the problem, despite new OLMS requirements.

Impact on Workers' Rights

This widespread non-compliance by employers and consultants directly undermines the intent of the LMRDA to foster transparency in labor-management relations. As the 2024 OIG report concluded, "missing, untimely, and inaccurate reports may have negatively impacted workers from making informed decisions about unionization." This deprives workers of crucial information about who is influencing their workplaces and often under what financial terms, directly impacting their fundamental right to organize and bargain collectively.

Recommendation

Rather than expanding the scope of union oversight without demonstrated need, Congress should demand that the Department of Labor and OLMS immediately prioritize and significantly increase enforcement efforts aimed at employer and consultant compliance with Forms LM-10, LM-20, and LM-21. This includes:

- Implementing a systematic approach to reducing employer and consultant delinquencies mirroring the successful methods applied to unions, including a "Voluntary Compliance Partnership Program" for employers and consultants.
- Ensuring robust cross-matching of LM-10s, LM-20s, and LM-21s, fully utilizing tools like the Employer Identification Number (EIN) as now required.
- Investigating and prosecuting instances of non-compliance with the same rigor applied to unions.
- Addressing the "erosion of Section 203 enforcement" and the historical "abdication" of responsibility by the Department of Labor in this area.

Addressing these long-standing, documented issues of employer and consultant non-compliance would truly "re-empower America’s workers" by ensuring they have the transparency Congress intended when enacting the LMRDA.

While the Committee's stated goal of improving accountability is commendable, many of the proposed areas of reform appear to be based on an unsubstantiated premise of widespread

union misconduct or democratic deficit. A more balanced and evidence-based approach would acknowledge the robust existing LMRDA framework and direct attention to documented areas of alarming non-compliance, particularly among employers and consultants, as highlighted by the OIG.

We appreciate the opportunity to provide these comments and stand ready to engage in further constructive dialogue based on empirical evidence and a balanced understanding of the LMRDA's impact.

Sincerely,

Bob Funk
Executive Director