Conquering the Enemy Within: The Case for Reform of the Landrum-Griffin Act

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The Labor Management Reporting and Disclosure Act (LMRDA) requires unions to file financial reports with the Department of Labor (DOL) and make these reports available to members to provide them information necessary to govern their unions. For most of the time since the LMRDA's enactment, LM-2 reports were poorly designed and inaccessible to members and the public. However, in 2002 DOL made LM-2 forms available online and proposed rulemaking to substantially reform union reporting requirements. I identify major problems with the law's current reporting requirements, briefly critique DOL's proposed rulemaking, and suggest additional steps to improve LMRDA financial reporting.

I. *Introduction*

Title II of the Landrum-Griffin Act requires unions to report and file financial information with the Department of Labor and make these reports available to members.[1] These financial reports are intended to allow rank-and-file union members to hold union officials accountable by letting members know how the union leadership spends their dues — and thus act as a safeguard against waste, graft, and unlawful funding of political candidates and causes. However, LM-2s have not been readily accessible to policymakers, union members, and the general public for most of the time since Landrum-Griffin's enactment.

In the summer of 2002 the Labor Department, under the leadership of Secretary of Labor Elaine Chao, began addressing the problems with union financial reporting by making LM-2 forms available online. However, as recent scandals involving Union Labor Life Insurance Company (Ullico), the union accounting firm Thomas Havey LLP, and the Washington (D.C.) Teachers' Union illustrate, the LM-2 form itself is overdue for a major overhaul. On December 27, 2002 the Department of Labor proposed rulemaking to substantially reform union reporting requirements under the LMRDA.[2] This represents the first significant change to the regulations enforcing Landrum-Griffin in over 40 years.[3]

I identify major problems with the law's current reporting requirements, briefly critique the Department of Labor's proposed rulemaking, and suggest additional steps needed to correct financial reporting by unions.

II. *History of the LMRDA*

The LMRDA was enacted in response to growing concern about the corruption and other abuses of power by both companies and unions. Its stated purpose was to "eliminate or prevent improper practices on the part of labor organizations, employers, labor relations consultants and their officers and representatives."[4]

For two-and-a-half years during 1957 and 1959 the Senate Select Committee on Improper Activities in the Labor or Management Field — popularly known as the McClellan Committee after its chair, Senator John L. McClellan (D-AR), investigated alleged misconduct and corruption within the labor movement.[5] Over the course of two-and-a-half years, Senate investigators uncovered the extent of "labor racketeering" in a number of unions including the Teamsters, Hotel and Restaurant Employees, and Longshoremen unions. As a result of the McClellan investigation, President Eisenhower proposed before Congress a "20-point" program to eliminate irregular and improper conduct in labor-management relations identified during the hearings.[6] Eventually the bill was accepted and overwhelmingly approved by Congress.[7]

McClellan committee chief counsel Robert F. Kennedy in 1960 published a famous account of the hearings, *The Enemy Within: The McClellan Committee's Crusade against Jimmy Hoffa and Corrupt Labor Unions*. Kennedy — who later as attorney general doggedly pursued Teamsters President Jimmy Hoffa — alluded to what remains a major problem with the financial disclosure rules when he wrote, "the federal government was not functioning efficiently if thousands of reports, filed each year, were never looked at — much less examined — and served only to take up space in government buildings."[8] Title II of the LMRDA was drafted to overcome these problems with financial disclosure.

The LMRDA, premised on the belief that responsibility for reform in the labor movement rested predominately with union members, relied on openness and democratic processes to ensure fairness and accountability. Supporters hoped that disclosures under the reporting requirements of Title II would deter improper activities and eliminate the need for further federal regulation of unions and management. Congressional regulators, having faith in union members, argued, "Given the maintenance of minimum democratic safeguards and detailed essential information about the unions the individual members are fully competent to regulate union affairs."[9]

Even AFL-CIO President Meany testified before the House Labor Committee in June 1959 that, "We have been criticized for supporting these provisions. We recognize that they are far reaching and perhaps subject to abuse, nevertheless, we think that they are necessary and that if the powers conferred are vigorously and properly used, the reporting requirements will make a major contribution towards the elimination of corruption and questionable practices."[10]

Unfortunately, Landrum-Griffin has failed to live up to Meany's stated expectations. It has done little to prevent union corruption, as three recent cases illustrate. In the unfolding Union Labor Life Insurance Company (Ullico) scandal, several union presidents who served as directors on Ullico's board allegedly profited from insider

stock deals at the expense of union pension funds they were supposed to be managing.[11] And on August 22, 2002, a partner at Thomas Havey LLP, an accounting firm "proud of its long and rewarding association with the organized labor movement," entered a guilty plea admitting to helping Iron Workers union officials in a $1.5 million fraud.[12]

Most recently, in October of 2002 several officials from the Washington (D.C.) Teachers' Union (WTU) resigned amid allegations that they embezzled millions in dues for personal use. The FBI alleges that three former officers (president Barbara Bullock, her assistant Gwendolyn M. Hemphill, and treasurer James O. Baxter II), spent more than $2 million in union money on luxury items such as furs, art, jewelry, silver, and custom-made clothes.[13] A subsequent audit by the American Federation of Teachers (AFT) found that the amount misappropriated is at least $5 million, and likely to be much more.[14]

III. *Problems with Current Reporting Requirements*

There are two aspects to an effective reporting and disclosure regime. First, the information must be disseminated to union members so that they have the opportunity to use it. Second, the information disclosed must be useful and understandable to members. The typical union member should be able to read, understand, and use the disclosed information to hold his or her leadership democratically accountable. Today's reporting regime falls far short of the mark. Ironically, the reports filed in the decades since the passage of the Landrum-Griffin have, by and large, also served "only to take up space in government buildings."

Since the enactment of the Landrum-Griffin Act there has been limited critical attention paid to union reporting requirements under Title II. Nevertheless, several commentators have reviewed Title II's effectiveness and suggested possible changes.[15] The basic criticisms of the Act fall into the following three categories:

- *Compliance.* Many unions fail to comply with the Act's reporting requirements and the Department of Labor does not aggressively enforce compliance.

- *Accessibility of Information.* Information collected under the Act is not distributed to union members, is difficult to obtain independently, and is rarely audited. While the posting of reports on the Internet significantly increases their availability, few union members are aware that the information is available. Since many unions fail to file, their information is obviously not available online.

- *Disaggregation of Data.* Data collected under the Act are reported in such broad categories that union members and researchers have difficulty evaluating whether a union is meeting its fiduciary duties.

Efforts are being made to respond to each of the three areas of criticism. Congress is considering legislation that will enhance the Department's enforcement capabili-

ties. DOL has dramatically improved the dissemination of financial disclosures by making those available over the Internet. Finally, its proposed rulemaking directly confronts the current deficiencies in the financial disclosures made under Title II.

IV. *Unions Fail to Comply with Reporting Requirements*

Labor unions have no responsibility more important than openly and honestly communicating with members about how they are fulfilling their fiduciary obligations. But many unions consistently fail to file their required financial reports on time, and some do not file reports at all. According to the DOL, in fiscal year 1998 28 percent of unions filed their required Labor Department reports late — almost 3 percent did not file at all. In fiscal year 1999 the noncompliance rate was just under 29 percent, with about 4 percent of unions failing to file at all. In fiscal year 2000, the latest year that figures are available, the noncompliance rate was 34 percent.[16]

Table 1 shows the compliance record for all filers of LM and Simplified forms during fiscal years 1998 to 2000. Organizations filing the LM-3 (filed by unions with annual receipts between $10,000 and $200,000) and LM-4 (filed by unions with annual receipts under $10,000) appear to have a significantly worse record of compliance than those filing the LM-2 form (receipts over $200,000 annually). This may be attributable to the fact there are many more small unions. In addition, these organizations have fewer resources than the larger organizations, which may affect their ability to file in a timely manner (if at all). Finally the data for 2000 were generated in August of 2001 (the DOL has not updated this information) about five months after the end of most unions' fiscal years. Therefore (as one would expect) the number of reports "not received to date" is significantly higher than in the other fiscal years. This may or may not indicate of a worsening record of compliance. (See Table 1.)

The DOL's Office of Labor-Management Standards (OLMS) provides compliance assistance to union officials and audits union reports to identify mismanagement and embezzlement. OLMS periodically uncovers union corruption, but it has left many stones unturned. That's because compliance audits are rare and becoming more so. In 1984 OLMS conducted 1,583 audits — roughly 5 percent of the auditable report universe — while in 2001 it conducted only 238 audits — about 0.8 percent of the auditable report universe, or roughly one out of every 128 filing organizations. As of April of 2002, ten of the largest U.S. unions had never been audited in the 43 years since LMRDA's passage.[17] Is embezzlement or financial mismanagement in unions rare or frequent? We may never know because most union financial reports are not audited.

V. *Reforming the LM-2 Form*

It is beyond the scope of this article to examine the 75 itemized questions in the LM-2 form and its 15 attached schedules. Based on a review of the LM-2 filings for FY 2000 of the ten largest private sector union filers and the AFL-CIO International Union, Table 2 shows major deficiencies and inconsistencies in reporting requirements, and

Table 1

Compliance Records for All LM Filers, FY 2000, 1999, and 1998

Form	On Time	6-14 Days Late	15-59 Days Late	60 + Days Late	Not Received to Date	Total Filers	Percent Received Late or Never
Report Year 2000							
LM-2	3,891	378	544	332	272	5,417	28.17%
LM-3	8,278	534	1,363	956	1,613	12,744	35.04%
LM-4	5,803	423	845	869	1,962	9,902	41.40%
Simplified	2,105	74	0	16	178	2,373	11.29%
Total	20,077	1,409	2,752	2,173	4,025	30,436	34.04%
Report Year 1999							
LM-2	4,722	—	469	222	20	5,433	13.09%
LM-3	10,146	—	1,553	977	186	12,862	21.12%
LM-4	7,079	—	1,847	460	830	10,216	30.71%
Simplified	50	—	2,246	0	137	2,433	97.94%
Total	21,997	—	6,115	1,659	1,173	30,944	28.91%
Report Year 1998							
LM-2	4,320	—	856	239	22	5,437	20.54%
LM-3	9,863	—	1,921	1,241	130	13,155	25.02%
LM-4	7,368	—	2,171	739	544	10,822	31.92%
Simplified	633	—	1,716	3	95	2,447	74.13%
Total	22,184	—	6,664	2,222	791	31,861	30.37%

Table 3 reveals some major deficiencies in schedule attachments.[18] Both Tables 2 and 3 contain recommended improvements to the LM-2 form or its instructions.

Most of the schedules attached to the current LM-2 form are even less detailed than the form itself and of little or no practical use to union members. Because unions are allowed to report large aggregate amounts they can easily conceal spending for specific items or disbursements to particular vendors. Under the current reporting system, union members have no way to evaluate whether a union is meeting its fiduciary obligations. Many of these problems are addressed in the DOL's proposed rulemaking, as outlined below.

VI. *New Requirements or Schedules in Proposed Rulemaking*

The DOL has created several new requirements and schedules in its proposed rulemaking that are not outlined in Table 1. These apply only to the LM-2 forms, filed by unions with annual receipts in excess of $200,000.[19] The key changes are briefly outlined below, along with some suggested improvements.

E-Filing Requirement (e.LORS System). Labor Organizations with annual receipts in excess of $200,000 (that are required to file the more comprehensive LM-2 Form)

Table 2

Summary of Deficiencies and Recommended Changes to LM-2 Reporting Requirements

Item Number and Summary	Deficiencies in Report Requirements	Recommended Change to Reporting Requirement
15 Has Any Loss or Shortage of Union Funds Been Discovered?	It is difficult to identify the underreporting of losses and shortages. Only two unions (UAW, IBT) reported any misappropriation during the reporting period. But their reports lack the explanatory information required by the Secretary's instructions. For instance, the UAW failed to disclose the amount lost, how it was lost, or any efforts to recover the loss, as the instructions require.	There need to be more audits to make sure unions are complying with LM-2 instructions. The Office of Labor Management Standards should compare LM-2 disclosures to publicly available information on misappropriation cases. The law should be changed to allow the Labor Secretary to investigate all filings for possible underreporting of any misappropriation.
16 Has Any Official of the Union Received Payments from Another Union?	The instructions for this item do not follow the statute. The instructions tell unions to exclude reimbursed expenses when determining whether someone has reached the $10,000 threshold. However, the statute requires unions to report the salary, allowances, *and other expenses* of any employee receiving income from two or more union sources.	The LM-2 should require detailed income reporting by all individuals receiving $10,000 or more from union sources. Aggregate payments from all sources should be listed, including reimbursed travel expenses, to determine whether the $10,000 threshold is met.
18 Enter the Number of Dues-Paying Members.	Because union members are counted only in the aggregate, there is no way to count members in terms of membership category or industry.	Union members should be counted by membership category. This is proposed by the DOL in its rulemaking.[a] In addition each category should list fee amount paid.
21, 39, and 40 Rates of Dues and Fees, Dues and Per Capita Tax Receipts	Only one union (IBT) discloses per capita tax amount; all others list dues amounts in Item 21, all but USWA collect only per capita taxes. There is no way to audit the disclosure.	Include per capita tax amounts in Item 21.
24 Does the Union Have "Contingent Liabilities" (i.e. Co-signed Loans or Pending Lawsuits)?	Only one of the ten surveyed unions (IBT) appears to conform to instructions. Four other unions report contingent liabilities, but do not list claimants as instructed. Others appear to underreport: they report no contingent liabilities, yet disclose amounts elsewhere indicating legal settlements.	LM-2 should require the listing of all lawsuits that name the union or its officers as a defendant during the fiscal year (whether or not the suit is still pending at the close of the year). It should briefly describe the facts, the requested remedies and likely outcome. List any settlement or compromise reached.
41-44 Enter "Receipts from Fees, Fines, Assessments and Work Permits."	LM-2 instructions do not require any description or cost breakdown of fees, fines, or assessments collected during the reporting period.	Require detailed reporting of all fees, fines, and assessments collected during reporting year. Adopt a schedule for reporting them.
59 Fees, Fines and	Instructions do not require any breakdown or description of fees, fines, or assessments	Require detailed reporting. Adopt a schedule for reporting.

Table 2 (*continued*)

Item Number and Summary	Deficiencies in Report Requirements	Recommended Change to Reporting Requirement
Assessments Paid	paid during the reporting period.	
62 Professional Fees Paid	Instructions do not require any breakdown or description of professional fees paid during the reporting period.	Require detailed reporting. This is significantly improved in the DOL's proposed rulemaking.
72 Amounts Paid On Behalf of Individual Member Union Members.	Three unions (IBEW, AFL-CIO, and UAW) report disbursements on behalf of union members, with no description of what these disbursements were for. None of the amounts listed correspond directly with line Item 53 (amounts collected for disbursement on behalf of individual members). There is no accounting for any discrepancy in these amounts, as required by the instructions.	Require detailed reporting, including the name of the member and the amount of the payment. Audit any organization claiming to have paid out more to individual members than collected on their behalf in Item 53.

Note: [a]The DOL's proposed rulemaking breaks out membership by category (active members, inactive members, associate members, apprentice members, retired members, other members, and agency fee payers) on a new Schedule 13. See Labor Organization Annual Financial Reports, 67 Fed.Reg. at 79,315. In order to give union members the best possible information, I also recommend that the DOL revise the proposed Schedule 13 to include a column disclosing the fee amount paid by each category of member. Membership information is a leading indicator of a union's future health.

Table 3

Summary of Deficiencies and Recommended Changes to LM-2 Reporting Requirements

Schedule Number and Description	Reporting Deficiencies	Recommendation
1 Report Loans Receivable	Two labor organizations (AFL-CIO, CWA) reported loans repaid in a manner "other than cash" without an explanation in Item 75.	Forms should be audited to ensure the proper disclosure of items repaid in a manner "other than cash."
11 Report Benefits	Unions are only asked to report benefits in aggregate amounts for each "type" of benefit. Unions do not list the designated plan number for benefit plans that are reported on this schedule.	Require unions to list the Employer Identification Number or ERISA plan number for each benefit plan to which they contribute during the fiscal year. Break out amounts paid to each benefit plan. The DOL proposed rulemaking further improves upon this recommendation by requiring a T-1 form disclosure.
Schedules 12, 13, and 15 Gifts, Grants, and Contributions; Office Expenses; Other Reimbursements	Unions disclose only aggregate with little detail.	Require unions to provide a detailed amounts listing of expenditures. This is also addressed in the proposed rulemaking

will now have to e-file their financial information.[20] This requirement ensures the accuracy of data reported to the DOL, significantly reduces the manpower associated with scanning and preparing the reports for distribution over the Internet, and eases the reporting burden on unions (that will be able to merge data from their accounting software into the program).

The vast majority of unions already utilize computerized accounting information systems. For this reason the Department should consider requiring electronic filing for all unions, even those with annual receipts of under $200,000.[21] Over 21,000 unions that file either the LM-3 or LM-4 Annual Report. While the LM-2 filings are typically longer than either LM-3 or LM-4 filings, each LM-3 or 4 filing still represents a significant paperwork burden on DOL. Assuming each union files only the minimum number of pages possible (most LM forms have several additional pages of schedules attached to the document, sometimes hundreds of pages for larger unions) the DOL will still be required to hand process 82,666 pages per year.[22]

Electronic filing is nothing new; companies have been required to electronically file financial information with the SEC for nearly a decade. Beginning in 1993 publicly traded companies began reporting their Form 10-K and other financial information to the Securities and Exchange Commission under Regulation S-T.[23] By 1997 all publicly traded companies (other than those receiving a hardship exemption) were required to electronically file their disclosures to the SEC.24 Even small companies are required to meet the SEC electronic filing requirements.[25]

Trust Financial Reporting and Form T-1. Perhaps the most significant regulatory change is the Trust Annual Report or form T-1 which is designed to ensure that funds transferred by unions to outside entities (like strike funds, building funds, training funds, credit unions, and other trust funds) are disclosed to union members.[26] Without this regulation unions are able to hide financial transactions from public disclosure through non-reported, "off-the-books" entities.

Current regulations only require LM reports on subsidiary organizations that are "wholly-owned, wholly-controlled, and wholly-financed by the reporting union." Requiring the T-1 form for all entities to which the union contributes $10,000 or more during the reporting year eliminates this problem. However, the DOL proposes to allow unions to avoid filing the T-1 report if the entity in question is already required to file reports pursuant under other statues (like ERISA or a PAC under the federal election laws). This exception is inappropriate.

Unions should file either the form T-1 or similar compliant document as part of its LM-2 filing. This gives union members one-stop access to all relevant fiduciary documents; any other rule impairs their ability to monitor their unions. This is comparable to the SEC requirement that companies file, as exhibits to their form 10-K, certain material contracts and management compensation plan documents entered into during the reporting period.[27]

The DOL should also consider a threshold requirement accounting for cases where a union contributes substantially to (but less than $10,000) the yearly receipts of a

reporting entity. For example, a union might instead be required to file the T-1 report in any year it contributes $10,000 *or* more or contributes 10 per cent or more of the total receipts received by the entity in question.[28] In this way *deminimus* contributions do not create a reporting obligation, but large contributions by some of the smaller LM-3 or LM-4 organizations will be disclosed. Under the current and proposed regulations these transactions remain hidden from union members.

The DOL considers, as an alternative threshold, using a "single entity" test to determine when an entity's assets should be included in a union's own. The bright line threshold is superior to the case-by-case "single entity" test. Union members infrequently exercise their rights under the LMRDA today. With this knowledge many unions will simply fail or refuse to disclose information on an entity, arguing that the entity does not meet the legal definition of "single entity" under the proposed rule. Union members should not be required to engage in protracted litigation to identify whether or not a particular trust fund should be considered a "single entity" with a labor organization, assuming they can identify these off-the-books entities in the first place. Ultimately the bright-line test is less costly to enforce and more effective.

Hardship Exemptions. The DOL includes in its proposed rulemaking a provision allowing unions to claim a hardship exemption from the electronic filing requirements. The Department of Labor has documented that a substantial number of unions file their required financial reports late; many unions fail to file at all.[29] Under the new regulation, unions filing for a hardship exemption from electronically filing their financial disclosures are still required to file the paper form. This should improve compliance.

Furthermore, today it is unclear when an extension of time for filing the LM disclosures has in fact been granted to a labor organization. The DOL should create a form for requesting an extension, available for public review. In this way members who are unable to find their union's information will know whether an extension request was made or granted.

Schedules 1 & 8 – Receivables and Payables Aging. The new Schedule 1 (accounts receivable aging) and Schedule 8 (accounts payable aging) are excellent additions to the reporting requirements. An outstanding receivable (especially one that is later written off) is akin to an unsecured loan that is used to make an in-kind transfer to another party that would never show up under the current reporting regime. Inability to pay outstanding payables is obvious evidence of cash-flow problems and can be a symptom of deeper financial issues.

As noted in the DOL supplementary information, the receivables and payables aging information can be a valuable early warning sign of potential illegal or criminal activity within a labor organization. Even if the information does not detect embezzlement, it certainly indicates mismanagement or malfeasance by current leadership. Such information would clearly be useful to union members in evaluating their current leadership.

Schedules 11 & 12 – Disbursements to Officers and Employees. The proposed regulations include a requirement that unions report the percent of time spent per-

forming duties by officers and employees of the union. The revised Form LM-2 requires unions to estimate, rounding to the nearest 10 percent of the actual time, the amount of time spent by union officers and employees on various activities, including contract negotiation and administration; organizing; political activities; lobbying; contributions, gifts and grants; benefits; general overhead; and other disbursements.

This information will be most valuable to agency-fee payers. In conjunction with the disclosures in schedules 15 through 22, agency-fee payers will be able to quickly identify the percentage of receipts used for nonrepresentational matters and therefore determine whether their agency fee is calculated properly.

The reporting of time expended in two categories (contributions, gifts, and grants — reported in schedule 19; and benefits — reported in schedule 20) should be removed from schedules 11 and 12. It is unclear under what circumstance an officer or employee would report time expended in either of these categories; their inclusion is probably an oversight. If they remain in the final schedule their presence might lead to confusion and inaccurate reporting. Additionally, unions should be required to describe specifically the activities expended in the category of "other disbursements" and reported on schedule 22.

VII. *Proposed Reforms*

I recommend a number of changes to reform the current reporting regime. Four proposals can improve the quality of financial disclosures, increase the transparency and accountability of labor organizations, and increase union democracy:

1. Reinstate Section 9(f) of the National Labor Relations Act to require that unions file and distribute LM-2 financial information to union members as a prerequisite for allowing union to litigate before the National Labor Relations Board (NLRB).

2. Require unions to report itemized expenditures, not broad spending categories.

3. Expand the enforcement authority of the Secretary of Labor and give the Secretary the authority to impose civil monetary penalties.

4. Require that unions report receipts and disbursements by at least the following functional areas: bargaining unit representation, organizing, external affairs (political activity, including lobbying, political action committee (PAC) activity, political education, and any other political campaign assistance), and general administration.

Provide Financial Information to Union Members. As Robert F. Kennedy noted in *The Enemy Within*, union financial information has no value without access to it. My most fundamental recommendations are related to ensuring that financial information is publicly available and distributed to union members.

In 2001 the DOL took a major step to improve dissemination of financial information related to labor organizations. Now LM reporting forms are available to union members and the general public, at no charge, over the Internet.[30] Anyone with access to the Internet can review a labor organization's most recent financial report. This is a huge improvement.

However, one important hurdle to wide dissemination of these financial data is not addressed by the DOL in either its website or in the proposed rulemaking; few union members even know that these reports exist, much less that they are accessible on the Internet. There are only 14 reported decisions regarding disclosure requests by union members since 1959. Reviewing this admittedly small sampling of available case law leads one to conclude that unions appear to use any legal maneuver possible to prevent disclosure. Although Section 105 of the LMRDA requires unions to notify their members of the existence of the Act and their rights under it, many unions fail to comply with this requirement.[31]

Requiring labor organizations to disseminate financial information to members is consistent with requirements on employers. Company filings have been available since the early 1990's on the SEC's EDGAR database.[32] After passage of the Sarbanes-Oxley Act of 2002 the SEC adopted final rules requiring the majority of all publicly traded companies (and strongly encouraging all other companies) to either post required financial disclosures on their own company website or explain why they could not do so.[33] Additionally, all publicly traded companies are required to disclose to the SEC whether they send their financial disclosures to shareholders or, if not, provide a description of reports that may be requested by shareholders.[34]

The DOL should adopt similar rules requiring unions to distribute LM information or promote the DOL website to all union members. Most union members are unaware that their labor organization's financial forms are available over the Internet. Given the tremendous time and money commitment expended to get these reports on the Internet, DOL should certainly promote their accessibility to almost anyone in real time. The new system is a tremendous improvement over the old, which required either a personal visit to the DOL or a FOIA request (and a fee). Union members need to know about it.

Additionally, I propose that a union be required to file and distribute its LM financial report, constitution, and bylaws as a condition to access the NLRB. Landrum-Griffin repealed Section 9(f) of the National Labor Relations Act[35] that required unions to file (and distribute to members) copies of their constitution, bylaws, and most recent financial statement before they were permitted to litigate their grievances before the NLRB. This may have been a compromise to increase Democratic support for the Landrum-Griffin version of the labor reform legislation, although very little is written about this issue, even in the legislative history. Those who supported repeal of 9(f), including then Senator John F. Kennedy, argued that it penalized union members for the failures of their leadership. They said access to the NLRB is a public good; it should be granted to all, not held out as a source of punishment.[36]

Supporters of Section 9(f) argued that the pre-1959 penalty provisions of 9(f) in no way impaired the rights of *individual union members* from utilizing the NLRB process. In other words, an individual could have access to the NLRB process even when his or her union was disqualified under 9(f). Additionally, the Landrum-Griffin Act, supported overwhelmingly by the opponents to 9(f), does the same thing — it penalizes union members (by fining their union and thereby taking some of their dues contributions) for the acts of their leaders. Both penalty schemes impose costs on union members who fail to police their own unions. This creates an incentive for reform by encouraging a member who believes that his union has engaged in unlawful or corrupt actions to pursue a private right of action or to notify the DOL about the conduct. Section 9(f) provides the additional (and in my opinion superior) penalty of taking away an important tool of the union (the NLRB process).

There are a number of reasons why Congress should reinstitute the requirements of Section 9(f). First, enforcement opportunities increase dramatically with no additional funding needed. The NLRB handles cases each year involving thousands of different international and local unions. Under 9(f) the union's financial reports could be investigated in each case. Thus, labor law enforcement will increase dramatically without costing taxpayers more. Furthermore, since the issue could result in the dismissal of NLRB cases against companies, they will have an incentive to invest their own time and resources in checking on whether a union has met its filing requirements.

The Internet makes administration of 9(f) simple and inexpensive. Most unions can meet the publication requirement by posting their constitution, bylaws, and LM-2 on their websites. The Department of Labor should also make all the documents available on its website — LM-2 forms are already there — giving union members, researchers, and the general public access to critical information. This is a minimal burden on unions and furthers the purposes of the Act by disseminating the information more widely and providing a "backup" in case the union or DOL websites are ever inaccessible.

Reinstating Section 9(f) is a simple, low-cost, and effective way to improve union financial reporting and empower individual union members with the ability to monitor union finances. This takes the bulk of the enforcement burden off the DOL that has limited enforcement resources for general auditing functions and understandably focuses most of its attention on prosecuting embezzlement and pension fraud. Instead, Section 9(f) gives some enforcement responsibility to companies (through the jurisdictional arguments at the NLRB) who have both the resources and the motivation to see that the requirements are met. This is the ideal enforcement solution.

Itemized Reporting of Expenditures. Under the current reporting requirements, unions aggregate large expenditures in broad categories. The amounts listed give the typical union member little information to determine how much the union spends and on what. Schedules 15 through 22 are revised in the proposed rulemaking to require detailed reporting of receipts or disbursements of the labor organization during the reporting year, broken out by functional category. Under the new schedules aggregate

amounts by category are further broken down by "major" receipts or disbursements within each category.

Under the current reporting requirements, broad revenue and expense categories can keep even an extreme departure from a union's fiduciary duty from showing up on a technically accurate LM-2 report. A recent Iron Workers embezzlement case illustrates how bad the problem can get. Francis Massey, a partner in the accounting firm Thomas Havey LLP, pleaded guilty to helping Iron Workers union officials hide $1.5 million in food and entertainment expenses by reporting them as "office and administrative" and "educational and political" expenses.[37]

The new Schedules 15 through 22 itemize "major" disbursements in several important categories: contract negotiation administration; organizing; political activities; lobbying; contributions, gifts and grants; benefits; general overhead; and other disbursements. The Department suggests a "major" disbursement is an expenditure in the range of $2,000 to $5,000 (DOL requests comment on the threshold amount).

DOL should define a "major" disbursement as low as it feels is administratively feasible, preferably in the range of $200 to $500. The vast majority of embezzlement cases prosecuted by the Department do not find embezzlement in large transactions, but instead find numerous small thefts.[38] The current Schedule 1 on loans requires unions to report every loan in an amount greater than $250.[39] Unions are also required to report PAC expenses in excess of $200 to the Federal Election Commission.[40] A similar reporting threshold should be in place for other disbursements from labor organizations.

DOL also suggests exempting expenses on organizing from detailed or itemized reporting (particularly the name of the employer or specific bargaining unit). Unions feel that the disclosure of the amounts spent on particular campaigns could hurt in future campaigns. This concern is misplaced, and it is unclear why unions should be provided protection when companies have reported similar expenditures since the inception of the Act.[41] One option the Department may wish to consider is allowing unions to file requests for confidential treatment of certain organizing information. This is similar to the system used by the SEC in corporate filings.[42]

Reports so vague that they cannot capture evidence of inappropriate expenditures are practically useless. By carefully itemizing transactions on LM-2 reports unions can show their members exactly how they spend their members' dues. Shifts in spending on matters unrelated to organizing and collective bargaining will be readily apparent. And hiding expenditures within false categories will be clearly illegal. Finally, union members who don't want to their dues to pay for political advocacy will have access to valuable information that can assist their efforts to control the use of their dues.

Give the Secretary of Labor Enforcement Authority and Authority to Impose Civil Monetary Penalties. The DOL should have the authority to investigate and prosecute unions for failure to meet their fiduciary duty, including their duty to file accurate financial reports in a timely manner. The LMRDA today has no civil money penalties, rely-

ing exclusively on criminal enforcement; failure to file without other criminal activity, therefore, normally goes unpunished.[43] The lack of administratively enforceable civil money penalties in a regulatory statute with criminal penalties is very unusual. In fact no other statute, employment or otherwise, appears to share a similar enforcement structure.[44]

Congress should amend the LMRDA to provide civil penalties for these violations, giving the Labor Department an additional incentive to bring suits on behalf of union members. The Department should be able to impose monetary penalties after an administrative hearing that takes into account the nature of the violation and prior violations by the defendant. One piece of legislation proposed during the 107th session of Congress (it was not acted on during that session and must be re-introduced) addressed this criticism, providing civil money damages for unions that fail to comply with the LMRDA reporting requirements.[45]

Congress passed the LMRDA not for the convenience of the reporting organization, but for the good of union members. In fact, a civil penalty is more likely to have a deterrent effect on malfeasance in a small organization whose members can better pressure their leaders to perform their legal obligations. Adding civil money penalties to the LMRDA will dramatically improve enforcement of the Title II reporting requirements and create a more direct system to receive and resolve complaints. The availability of civil penalties allows union members to file administrative complaints with the Department of Labor at no charge. This enforcement mechanism is less costly than litigation, the current option for union members. Furthermore, the costs of the program will be offset by the penalties collected from fines.

Report by Functional Areas. Schedules 14 through 22 are revised in the proposed rulemaking to require detailed reporting of receipts or disbursements of the labor organization during the reporting year, broken out by functional category.[46] The current LM-2 form requires unions to report expenditures by category, i.e., salaries, travel expenses, office and administrative expenses, and political contributions. Requiring reporting by function allows union members determine how much of their dues money goes for representational versus nonrepresentational issues.

This reform will improve enforcement of the Supreme Court's 1988 decision in *Communications Workers of America v. Beck.* The Beck decision, which allows members to receive a refund of the portion of their dues spent on purposes unrelated to collective bargaining, will be less open to interpretation if union spending is reported by function.[47]

VIII. *Will Reforms Work? The WTU Embezzlement Case*

The Washington (D.C.) Teacher's Union case is an excellent example of how the new DOL regulations can help members catch and prevent embezzlement. The new regulations, which require unions to list their outstanding payables on schedule 8, would have provided WTU members early warning of the financial mismanagement of their

union. The WTU had a history of being unable to pay its bills over the last several years and the first public sign that something was wrong came in August 2002 when the WTU overcharged members about $144 each for their dues.[48] For months only a third of the members were repaid. Subsequent audits have discovered that WTU also failed to pay a number of other creditors, including: premiums for retiree vision and dental care; back taxes to the IRS; rent, electric and telephone bills; and about a quarter-million in back per capita taxes owed to the American Federation of Teachers (AFT). These unpaid payables would be reported on the revised LM-2, schedule 8, giving WTU members an early sign that something was wrong with the union's finances.

Under the proposed regulations unions are also required to specifically list disbursements over a certain dollar threshold. If the new reporting regime had covered the WTU it is likely that many questionable transactions would have been caught years earlier. For example, many of the questionable transactions occurred at local retailers (including a furrier, Nordstrom's, Gucci, Tiffany, and local art dealers). Under the new regulations these vendors would have shown up on the WTU's LM-2 form. WTU members would surely have questioned big expenditures on the union credit cards at up-scale retail clothing and art stores, if only they knew.

Additionally, the new T-1 form could provide valuable information to WTU members. Audits identified that much of the money stolen from the WTU ultimately came from the retiree pension plan; one report stated that there was nothing left in the fund.[49] If WTU was required to file a T-1 under the proposed rulemaking union members would then see the large expenditures out of the pension fund. Perhaps the embezzlers of WTU would be deterred from raiding the pension fund in the first place, knowing their transactions would be reported on the T-1. Under the current reporting regime these activities are hidden from view.

How could the WTU union leaders steal this much money without detection? One must only look at their 2000 LM-2 for a clue.[50] The WTU reported in fiscal year 2000 that it spent $850,566 (20 percent of its annual receipts) on "office and administrative expense."[51] It spent $228,155 on "professional fees" (none for an audit). Another $268,398 was spent on "other disbursements." The WTU reported that it spent $876,756 (21 percent of annual receipts) on "member services, negotiations, legal plan." It is important to note, however, that these expenditures on "member services" and "negotiations" are in addition to whatever money was paid to officers and employees of the union or what was paid for professional fees. Barbara Bullock and her co-conspirators apparently found many places to hide their unauthorized purchases.

The proposed LM-2 reforms clearly would have raised red flags for WTU members several years before the house of cards came tumbling down. It is even possible that the revised form would make hiding embezzlement so much more difficult that Bullock and her co-conspirators would decide against stealing from the union in the first place. In either event, the amount stolen from members would be greatly reduced, if not eliminated. This is exactly what the LMRDA's supporters hoped that financial disclosure might accomplish.

IX. *Conclusion*

Congress enacted the Landrum-Griffin Act in 1959 to stop continuing financial abuses like those ones uncovered by the McClellan committee. The Act's sponsors also hoped to disclose union financial information to give union members control of their unions and their union dues. Now, over 40 years later, it is time to reassess the Act's impact.

Too many unions arrogantly ignore or negligently fail to comply with Landrum-Griffin's reporting provisions. Even when accurately reported information fully complies with the law it still can be hard to obtain, too complicated to understand, and difficult for members to use. The Act places the enforcement burden too heavily on union members, who are rarely informed of their rights by union leadership and often do not have the resources to compel their union to follow the Act. President Truman once remarked, "One of the chief virtues of a democracy ... is that its defects are always visible — and under democratic process can be pointed out and corrected."[52]

Unfortunately the current LM reporting forms undermine this chief virtue of democracy in unions — many defects are hidden from view of members and remain uncorrected. In the face of scandals like the $5 million embezzlement from the Washington Teacher's Union, the $1.5 million fraud of the Iron Workers and the unfolding Ullico scandal, union members need effective legal safeguards to ensure that those they entrust with their money will use it wisely on their behalf. Adoption of the DOL's proposed rulemaking and other changes outlined in this article will go a long way toward giving union members the power to monitor, and control, the use of their dues. Senator McClellan said on the floor of the Senate: "If you would give to the individual members of the unions the tools with which to do it, they would pretty well clean house themselves." It is time to make McClellan's sentiment, and the LMRDA's original goal, a reality.

NOTES

*This article is based on testimony delivered to the House Committee on Education and the Workforce in 2002.

[1]The Labor Management Reporting and Disclosure Act of 1959 (hereinafter "LMRDA" or "Landrum-Griffin"), §§ 201–211, 29 U.S.C. §§ 431–441 (1994), is also known as the Landrum-Griffin Act after its sponsors Rep. Phil Landrum (D-GA) and Sen. Robert Griffin (R-MI).

[2]*See* Labor Organization Annual Financial Reports, 67 Fed. Reg. 79,282–79, 412 (proposed December 27, 2002) (to be codified at 29 C.F.R. pt. 403, 408).

[3]The most recent efforts to reform LM reporting requirements came in 1992. That year the DOL proposed rulemaking similar to the present proposed rulemaking. *See* 57 Fed. Reg. 49,282 (proposed October 30, 1992). It was rescinded at 58 Fed. Reg. 67,594 (December 21, 1993).

[4]LMRDA § 2(c), 29 U.S.C. §401(c) (1994).

[5]For a discussion of the legislative investigations and debates leading up to the passage of the LMRDA, see Leroy S. Merrifield, Theodore J. St. Antoine, & Charles B. Craver, Labor Relations Law Cases and Materials 37–38 (8th ed., 1989); R. A. Lee, Eisenhower & Landrum-Griffin: A Study in Labor-Management Politics (1990).

[6]*See* S.Doc. No. 86–10 (1959) *reprinted in* 1 NLRB, Legislative History of the Labor-Management Reporting and Disclosure Act of 1959, at 80–83 (1985).

[7]The bill was approved in what is believed to be the most lopsided bipartisan votes ever on any major labor law legislation; a vote of 95 to 2 in the Senate and a vote of 352 to 52 in the House. *See Record-Keeping Under The Labor-Management Reporting and Disclosure Act (LMRDA): Do DOL Reporting Systems Benefit the Rank and File?: Hearing Before The House Subcomm. on Employer-Employee Relations & Subcomm. on Workforce Protections – House Comm. on Education and the Workforce*, 107th Cong. 60 (2002) (statement of D. Cameron Findlay, Deputy Secretary of Labor)(hereafter Statement of D. Cameron Findlay).

[8]Robert F. Kennedy, *The Enemy Within: The McClellan Committee's Crusade against Jimmy Hoffa and Corrupt Labor Unions* 30–31(1960).

[9]S. Rep. No. 86–187 at 7 (1959), *reprinted in* NLRB, Legislative History of the Labor-Management Reporting and Disclosure Act of 1959, at 403 (1985).

[10]Solly Robbins, *Union Reporting Requirements Under Title II, in* Symposium on the Labor Management Reporting and Disclosure Act of 1959, at 382 (Ralph Slovenko, ed. 1961).

[11]A grand jury is investigating claims that ULLICO board members (many current or former union officials, including AFL-CIO President John J. Sweeney — who has subsequently resigned from the Board) to profit from the purchase and sale of its shares. *See e.g.* Aaron Bernstein, Global Crossing: Labor's Questionable Windfall, Business Week Online at http://www.businessweek.com/bwdaily/dnflash/mar2002/nf20020314_4624.htm (March 14, 2002) (on file with author); Tom Hamburger and John Harwood, Grand Jury Studies Stock Trades By Labor-Owned Insurance Firm, Wall Street Journal Online at http://online.wsj.com/article_print/0,4287,SB1016158472163981960,00.html (March 15, 2002) (on file with author).

[12]On June 4, 2002, Alfred S. Garrappolo, a partner in the accounting firm Thomas Havey LLP, pled guilty to assisting a bookkeeper with embezzling from the Iron Workers National Training Fund and knowingly concealing a scheme to underreport and conceal the true nature and amount of the union's disbursements for its officers on the union's Form LM–2 annual financial report. On August 20, 2002, a second Thomas Havey LLP pled guilty to assisting in the same embezzlement scheme, implicating the Iron Workers' General Counsel Victor Van Bourg and its International President Jake West. *See* Paul Sheldon Foote, International Labor Union Governance, Audit Committee, Financial Disclosure, External Auditing, and Regulatory Reform: Thomas Havey LLP's External Auditing Role in the Iron Workers Union Embezzlement Case (2002)(unpublished manuscript)(on file with author).

[13]*See* Justin Blum, *Audit Says Union Lost $5 Million To Theft*, Wash. Post, January 17, 2003 at A01.

[14]Ibid.

[15]*See e.g.* Michael S. Gordon, *Title II of the Landrum-Griffin Act – Some Reflections on the Limits of Reporting and Disclosure*, 5 Ga.L.Rev. 692 n. 16 (1971); Michael J. Nelson, *Slowing Union Corruption: Reforming the Landrum-Griffin Act to Better Combat Union Embezzlement*, 8 George Mason L. Rev., 527–586 (2000); Emery C. Turner, *What Has Landrum-Griffin Accomplished?*, 20 Lab.L.J. 391, 399, 402 (1969); Phillip B. Wilson, *The Case for Reform of Union Reporting Laws: How Financial Transparency Could Have Prevented ULLICO and Other Abuses*, 2002.

[16]These compliance data are from the Department of Labor. *See Record-Keeping Under The Labor-Management Reporting and Disclosure Act (LMRDA): Do DOL Reporting Systems Benefit the Rank and File?: Hearing Before The House Subcomm. on Employer-Employee Relations & Subcomm. on Workforce Protections – House Comm. on Education and the Workforce*, 107th Cong. 130–31 (2002) (letter of Don Todd, Deputy Assistant Secretary of Labor, Employment Standards Administration to House Committee on Education and the Workforce, August 15, 2001) (hereinafter Letter of Don Todd).

[17]These compliance data come from the Department of Labor. *See* Statement of D. Cameron Findlay, supra note 7 at 60.

[18]The other international unions analyzed are the Communications Workers of America (CWA); International Brotherhood of Electrical Workers (IBEW); International Brotherhood of Teamsters (IBT); United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW); United Steelworkers of America (USWA); American Federation of State, County & Municipal Employees (AFSCME); Service Employees International Union (SEIU); Laborers International Union of North America (LIUNA); United Food & Commercial Workers (UFCW); United Brotherhood of Carpenters & Joiners (UBC).

[19]DOL considered but then declined to increase the jurisdiction amount for the LM–2 form to $250,000. Raising the jurisdiction level to $250,000 would relieve over 650 unions from reporting in the functional categories (the LM–3 and LM–4 reports retain only aggregate reporting). These 654 unions have more than 950,000 members. See Labor Organization Annual Financial Reports, 67 Fed. Reg. at 79,281. If one assumes that the average union member in these 654 unions pays $25.00 per month in dues, raising the threshold to $250,000 shields almost $3 billion of annual receipts from the more detailed functional accounting in the proposed regulations. For this reason I recommend retaining the $200,000 limit.

[20]*See* Id. at 79,281, 79,284, 79,292, 79,294 & 79,319.

[21]DOL compliance personnel note that many smaller unions use computerized accounting and forty percent of all filers, including those who file LM–3 and LM–4 forms, filled out their forms by computer using the Department of Labor's software in the first year that it was available. *See* Labor Organization Annual Financial Reports, 67 Fed. Reg. at 79,294, 79,282. Small unions that encounter difficulty may request relief from the electronic filing requirement under DOL's proposed hardship provision. Id at 79,294.

[22]The DOL estimates that in each of the first three years that its proposed rules are in effect 21,398 unions will file either the LM–3 (13,290 filers) or LM–4 (8,108 filers) form. *See* Id. at 79,297. Each LM–3 filing is at least 5 pages long, plus any additional pages for other items. *See* Labor Organization Annual Financial Reports, 67 Fed. Reg. 79,376–80. Each LM–4 is at least 2 pages long, plus any additional pages for other items. See Id. at 79,402–03.

[23]*See* Rulemaking for the EDGAR System, 62 Fed. Reg. 36,451 (July 8, 1997); 17 C.F.R. 232.100, 232.101.

[24]Id.

[25]Section 12(g)(1) of the Securities Exchange Act of 1934, ch. 404, 48 Stat. 881 (codified as amended at 15 U.S.C. §78a et seq.), requires SEC registration and filing by any company with revenues over $1,000,000 and 500 shareholders.

[26]For a copy of the new T–1 form *see* Labor Organization Annual Financial Reports, 67 Fed. Reg at 79,357–61.

[27]See Regulation S-K, Item 601(b)(10), 17 C.F.R. 292.601(b)(10).

[28]This is comparable to the current requirements on publicly traded companies. The Securities Exchange Act of 1934 requires certain "current report" disclosures of acquisitions involving a significant amount of assets, defined as an amount exceeding 10 percent of the acquired organization's assets. These disclosures are required within 15 days of the transaction in question. *See* Securities Exchange Commission. Form 8-K, Item 2 (2002); *see also* 61 Fed. Reg. 54,512 (October 18, 1996).

[29]See Letter of Don Todd, supra note 16 at 130–31.

[30]These reports are at: http://www.dol-unionreports.Gov/olmsWeb/docs/formspg.html.

[31]29 U.S.C. § 105 (1994) provides as follows: "Every labor organization shall inform its members concerning the provisions of this Act." However, recently the Fourth Circuit ordered the International Association of Machinists to notify its members of their rights under the LMRDA, rejecting the union's argument that a one-time notification issued in 1959 was sufficient to comply with the Act's notice provision. *See* Thomas v. Grand Lodge, International Association of Machinists and Aerospace Workers, 201 F.3d 517 (4th Cir. 2000). Two other reported decisions allege that unions failed to make the required notification to members under Section 105 (the court in each of those decisions denied requests for injunctive relief on procedural issues). *See* Boomer v. Schultz, 239 F.Supp. 699 (E.D.Pa. 1965)(request for injunction against Teamsters local for failing to inform membership under Section 105 denied on basis that members had not made

formal request to union), *aff'd* 356 F.2d 984 (3d Cir. 1966); Case v. International Brotherhood of Electrical Workers, Local Union No. 1547, 438 F.Supp. 856 (D.C. Alaska 1977)(request for injunction against local union for failing to inform members under Section 105 denied on basis that union members failed to exhaust internal union remedies first), *aff'd*, 587 F.2d 1379, *cert. denied*, 442 U.S. 944 (1979), *reh'g denied* 444 U.S. 889 (1979). *See Thomas v. Grand Lodge, International Association of Machinists and Aerospace Workers*, 201 F.3d 517 (4th Cir. 2000).

[32]*See* Rulemaking for the EDGAR System, 62 Fed. Reg. 36,451 (July 8, 1997).

[33]*See* Pub. L. 107–204, 116 Stat. 745 (2002); Regulation S-K, Item 101(e)(1)-(4), 17 C.F.R. 229.101(e)(1)-(4); Acceleration of Periodic Report Filing Dates and Disclosure Concerning Web Site Access to Reports; Final Rule, 67 Fed. Reg. 58,501 (September 16, 2002).

[34]Regulation S-K, Item 101(f), 17 C.F.R. 229.101(f).

[35]See Labor Management Relations Act, § 9(f), 29 U.S.C. § 159(f), *repealed by* LMRDA § 201(d), 29 U.S.C. § 431(d) (1994).

[36]S.Rep. No. 86–187, at 7 (1959), reprinted in 1 NLRB, Legislative History of the Labor-Management Reporting and Disclosure Act of 1959, at 403 (1985).

[37]*See* Foote, supra note 12.

[38]The National Legal and Policy Center tracks union corruption, including cases of embezzlement by union officials, at its website http://www.nlpc.org. They regularly report embezzlement cases where union officials steal money in increments of a few hundred dollars at a time.

[39]Employment Standards Administration, U.S. Department of Labor, Instructions for Form LM–2 8 (2000).

[40]See Section 434(b) of the Federal Election Campaign Act of 1971, Pub. L. 92–225, title III, Sec. 304, 86 Stat. 14 (codified at 2 U.S.C. §431 et seq.); 11 C.F.R. 104.3(a)(4)(i).

[41]Today companies are required to report all amounts expended on labor relations consultants for persuading activity on LM–10 forms. Individual consultants must file forms LM–20 and LM–21. See 29 C.F.R. §§ 405–6.

[42]In this system the union would file two reports, one complete with no dedactions. It simultaneously files a "Confidential Treatment Request" along with a dedacted version of the LM disclosure, stating: the grounds of the objection; any applicable exemption(s); the period of time for confidential treatment; and explanation of why disclosure unnecessary for the protection of union members. The Department then reviews the request, approves or denies the proposed dedactions, and makes available the resulting form for public disclosure and review. *Cf.* 17 C.F.R. 230.406, 61 Fed. Reg. 30,397, 30,402 (June 14, 1996).

[43]Deputy Secretary of Labor Findlay testified that the Department of Labor currently deals with delinquent filers by simply sending them letters and calling them to request compliance. *See* Statement of D. Cameron Findlay, supra note 7. Obviously this is unlikely to achieve compliance with the Act's requirements by unions that, for whatever reason, refuse to comply. *See* Letter of Don Todd, supra note 16 at 132.

[44]*See Record-Keeping Under The Labor-Management Reporting and Disclosure Act (LMRDA): Do DOL Reporting Systems Benefit the Rank and File?: Hearing Before The House Subcomm. on Employer-Employee Relations & Subcomm. on Workforce Protections – House Comm. on Education and the Workforce*, 107th Cong. 324 (2002)(statement of Paul Rosenzweig, Senior Legal Research Fellow, Center for Legal and Judicial Studies, The Heritage Foundation).

[45]*See* H.R. 4055, 107th Cong. (2d Sess. 2002).

[46]Labor Organization Annual Financial Reports, 67 Fed. Reg. at 79,316. Functional reporting means simply that unions must report receipts and disbursements according to key functional areas in which they provides services, i.e., collective bargaining, organizing, contract administration or lobbying. *See* Marick F. Masters, et al., *An Analysis of Union Reporting Requirements Under Title II of the Landrum-Griffin Act*, 40 Lab.L.J. 713–22 (1989).

[47]In Communications Workers of America v. Beck, 487 U.S. 735 (1988), the U.S. Supreme Court held that the NLRA prohibited unions from using compulsory fees collected from objecting nonmember employees to fund activities unrelated to collective bargaining. Objecting nonmembers often have to sue to get an accounting of dues money spent on non-representational matters. *See e.g.*, Price v. Auto Workers, 722 F.Supp. 933 (D.Conn. 1989).

[48]Valerie Strauss, Union Tardy Paying Bills, Premiums, Sources Say, Wash. Post, December 25, 2002, at B01; Valerie Strauss and Justin Blum, Teachers Union Slow To Repay Members, Wash. Post, November 23, 2002, at B01.

[49]Id.

[50]All figures from the 2000 LM-2 report are found at Washington Teachers' Union Local 0006, *Form LM-2 Labor Organization Annual Report*, File No. 511-940 (December 27, 2001).

[51]Id. The WTU showed total receipts of $4,203,243 in fiscal year 2000.

[52]Harry S Truman, Message to the Congress of the United States on Greece and Turkey (March 12, 1947) (transcript available at http://www.trumanlibrary.org /exhibit_documents/index.php?pagenumber=8&titleid=226&tldate=1947-03-12 percent20 percent20&collectionid=tdoc&PageID=1&groupid=3458).