



NATIONAL RIGHT TO WORK LEGAL DEFENSE FOUNDATION, INC.

8001 BRADDOCK ROAD • SPRINGFIELD, VIRGINIA • 22160

TEL: (703) 321-8510 • FAX: (703) 321-9613 • <http://www.nrtw.org>

Via electronic filing

July 30, 2025

Andrew Davis, Director of the Office of Program Operations
Office of Labor Management Standards
U.S. Department of Labor
200 Constitution Ave. NW, Room N-5609
Washington, DC 20210

Re: Comments of the National Right to Work Legal Defense Foundation, Inc. Regarding *Filing Thresholds for Forms LM-2, LM-3, and LM-4 Labor Organization Annual Reports*, RIN 1245-AA15, 90 Fed. Reg. 28251 (July 7, 2025).

Mr. Davis:

The National Right to Work Legal Defense Foundation, Inc. (“Foundation”) submits the following comments opposing the Department of Labor’s (“Department”) proposed rule *Filing Thresholds for Forms LM-2, LM-3, and LM-4 Labor Organization Annual Reports*, RIN 1245-AA15, 90 Fed. Reg. 28251 (July 7, 2025) (“NPRM”). Since 1968, the Foundation has been the nation’s leading advocate for employee freedom to choose whether to associate with unions. The Foundation urges the Department not to increase filing thresholds, but to eliminate them entirely and expand union reporting requirements to ensure workers have as much information as possible about unions that are empowered by federal law to exclusively represent them.

Summary

The NPRM states that the “Department believes that the benefits of the proposed changes, particularly the reduction in regulatory burden for filers, outweigh any loss of detail in annual reporting.” 90 Fed. Reg. at 28252. The Department is wrong. The “cost” of the proposed rule—the information that workers and others will no longer be able to learn about unions—is considerable. *See infra* Section A. The rule’s ostensible “benefit”—reducing union reporting burdens—is not supported by evidence and is insignificant. *See infra* Section B. The costs of the proposed rule greatly outweigh its nonexistent benefits.

Instead of increasing its filing thresholds, the Department should eliminate them and require all unions to file LM-2 reports. *See infra* Section C. This would increase the information available to workers without substantially burdening unions.

Comments

A. The Proposed Rule Will Reduce the Information Available to Workers.

1. *The LMRDA Requires Union Disclosures to Benefit Workers.* Congress enacted the LMRDA in the wake of investigations that revealed “shocking abuses” within unions, to include “impersonal and autocratic” union leaders who have “abused their power and forsaken their responsibilities to the membership and to the public.” H.R. Rep. 86-741, 1959 U.S.C.C.A.N. 2318, 2428 (30 July 1959), reprinted 1 Legislative History of the Labor-Management Reporting & Disclosure Act (“LHLMRDA”) 759, 764. By requiring disclosure of “full information concerning the financial and internal administrative practices and procedures of labor organizations” to both workers and the general public, Congress hoped “that a deterrent to abuses will be established.” *Id.* 1959 U.S.C.C.A.N. at 2430, reprinted 1 LHLMRDA at 766; see *id.* 1959 U.S.C.C.A.N. at 2449, reprinted 1 LHLMRDA at 784 (similar).

The information contained in LM-2 reports is especially important to those unfortunate workers who are being forced to pay compulsory fees to unions in states that lack Right to Work protections. OLMS data for the past year (accessed 7/22/2025), shows over 7,700 filings from unions with receipts under \$450,000 that are located in states that lack Right to Work laws.

These unions reported combined annual receipts of over \$523 million, annual disbursements of over \$514 million, and over four million members. The lack of more detailed reporting requirements for these unions therefore harms over four million workers by denying them meaningful details regarding the collection and spending of over half a billion dollars.

When looking only at unions in states without Right to Work laws who would no longer be required to file an LM-2 as a result of increasing the threshold—i.e., unions that have annual receipts between \$250,000 and \$450,000—you find that 932,447 members would be deprived of information they currently receive regarding 571 unions that spend over \$188 million. The proposed rule would deprive almost a million union members of information they currently can access.

In addition to workers who are already subject to a union’s representation, the information that unions disclose in LM-2 reports is also important to workers who are the targets of union organizing campaigns. Workers who are being solicited to sign union cards and/or workers who have to vote on a union’s exclusive representation need as much information as possible about that union to make informed choices about whether to support or oppose that union’s representation. Given that the Department currently (and wrongfully) refuses to require unions to file LM-10 reports that disclose the so-called “salts” employed by the union to persuade employees, LM-2 reports

are often the only way employees can learn if persons discussing unionization with them are genuine co-workers or union salts being secretly paid by a union.¹

2. The Proposed Rule Will Deprive Workers of Important Information. The Department concedes its proposed rule will result in unions disclosing less information to workers, the public, and the Department than they do under current rules. The NPRM states that approximately 868 unions that filed LM-2 reports in FY2024 would fall below the revised threshold for the LM-2 report. 90 Fed. Reg. 28252. This is a little under 18% of FY2024 LM-2 filers. *Id.* The proposed rule will result in roughly *one-sixth* of unions that currently file LM-2 reports disclosing less information in the future.

The proposed rule will deprive workers of important, useful information about these unions. Among other things Schedules 15 through 19 of the LM-2 require unions to categorize their disbursements into Representational Activities (Schedule 15), Political Activities and Lobbying (Schedule 16), Contributions, Gifts, and Grants (Schedule 17), General Overhead (Schedule 19), and Union Administration (Schedule 20). The LM-2 also requires that union officers and employees disclose the percentage of their time spent on these five categories.

These LM-2 schedules allow workers to gauge how a union generally spends the monies it extracts from members and forced-fee payers. Workers can quickly see how much a union devotes to representational activities as opposed to union overhead and administration. They also can determine how much the union that represents them or seeks to represent them spends on politics. The proposed rule will deprive workers of this information about many unions because the LM-3 does not include these reporting categories.

Based on the data available at the time these comments were written, unions that reported between \$250,000 and \$450,000 in annual receipts for 2024 spent a total of \$288,665,788 that year, and reported \$465,216,038 in assets. Without the detailed reporting categories of the LM-2, workers would not know how this money was being spent.

For example, these unions reported \$13,958,942 in Schedule 16 political expenditures in 2024, which included highly divisive and partisan political activity. Unions spending between \$250,000 and \$450,000 have reported contributions to Act Blue², Black Lives Matter³, the Democratic National Committee,⁴ and many other controversial causes. This spending would have been shielded from disclosure had the unions filed the LM-3.

¹ <https://nypost.com/2023/05/22/starbucks-union-organizer-kept-her-affiliation-from-congress/>

² <https://olmsapps.dol.gov/query/orgReport.do?rptId=895205&rptForm=LM2Form>

³ <https://olmsapps.dol.gov/query/orgReport.do?rptId=865426&rptForm=LM2Form>

⁴ <https://olmsapps.dol.gov/query/orgReport.do?rptId=915543&rptForm=LM2Form>

3. *The Proposed Rule Will Undermine Workers' Ability to Enforce Other Important Legal Rights.* In addition to giving workers and the public at large important disclosures about the financial activities of union officials, information contained in LM-2 reports (but lacking in LM-3 or LM-4 filings) assists workers in enforcing other important rights under federal law.

For example, the LM-2 form's disbursement categories help workers approximate how much they are required to pay under *CWA v. Beck*, 478 U.S. 735 (1988). Workers already face an uphill battle to enforce their right under *Beck* not to pay for union political activities. In one recent case, it took a Rhode Island nurse 11 years of litigation to receive a refund of forced dues union officials used to lobby multiple state legislatures.⁵ Workers who are forced to financially support a union to keep their jobs are at a further disadvantage when attempting to enforce their rights under *Beck* if they are not able to check numbers provided to them by the union against LM-2 filings made under penalty of perjury to the Department of Labor.

In addition to assisting with workers' exercise of their rights under *Beck*, the LM-2 helps workers exercise other important rights. The LM-2 can provide evidence of union Unfair Labor Practices under the National Labor Relations Act, documentation of illegal payments under Section 302 of the Labor Management Relations Act ("LMRA") which prohibits employers from giving "any money or other thing of value" to unions, or support for an employees' religious discrimination claims under the Equal Employment Opportunity Commission.

4. *The Proposed Rule Will Encourage Union Shell Games to Conceal Union Malfeasance and Political Activities.* Most unions are organized in a hierarchy that consists of an international or national union, intermediate unions, and local unions that each file their own LM reports. Increasing the filing thresholds will encourage unions that want to conceal their activities from workers or the Department to have unions that fall below the proposed LM-2 threshold conduct that activity. This includes corrupt activities as well as political activities that the union leadership knows workers would disapprove of if they were made public.

This is true to a limited extent under the current thresholds, which is why all unions should be required to file the LM-2, regardless of size. But increasing the threshold will give union officials greater leeway to conceal untoward activities from workers and the Department.

B. The Ostensible Benefit of the Proposed Rule is Not Supported by Evidence and Is Insignificant.

⁵ https://edworkforce.house.gov/uploadedfiles/geary_testimony.pdf

1. *Inflation Alone Cannot Justify the Rule.* The Department claims its rule is “necessary to reflect economic changes and reduce *unnecessary* reporting burdens on labor organizations.” 90 Fed. Reg. at 28251. But the “economic change”—the inflation that has occurred since filing thresholds were last increased in 2003—is not itself a justification for the proposed rule. Taken alone, the fact price levels have increased has no relevance to the information unions should disclose under the LMRDA. The only relevance inflation may have is if inflation supports the proposition that current filing thresholds result in “*unnecessary* reporting burdens on labor organizations.” *Id.* Thus, the Department’s only actual justification for its proposed rule is that current reporting requirements are unnecessarily burdensome for unions.

2. *The Department’s Burden Calculation Is Flawed Because It Is Based on Outdated Data.* The Department relies on the following flawed analysis to justify its supposition that its proposed change to the LM-2 threshold will save unions \$14,495,573.86:

The Department expects that, if adopted, this proposal will decrease the number of Form LM-2 reports received by 868, based on FY2024 Form LM-2 filing data. *Given that the Form LM-2 requires approximately 530 hours per response compared to 103 hours per response for the Form LM-3, the decrease in Form LM-2 filers by 868 will result in an estimated reduction of 427 burden hours per response for those new Form LM-3 filers, totaling approximately 370,636 fewer reporting hours annually. Multiplying the approximately 370,636 reduced burden hours by the estimated average hourly rate it takes to file the Form LM-3, \$39.11, the proposed total cost savings for new Form LM-3 filers is \$14,495,573.96.*

90 Fed. Reg. at 28253 (emphasis added).

This analysis is flawed because, among other reasons, it is predicated on an estimate that “the Form LM-2 requires approximately 530 hours per response.” *Id.* This estimate is outdated because it apparently comes from a 2003 Final Rule that made that estimate based on comments and data from 2002. *See Labor Org. Financial Reports; Final Rule*, 68 Fed. Reg. 58374, 58439 (Oct. 9, 2003) (estimating average reporting and recordkeeping burden for revised LM-2 to be 536 hours); *id.* at 58473 (same in proposed LM-2 instructions); *id.* at 58435, Table 2 (stating that hour estimates are based on comments received in 2002 and 2002 OLMS e.LORs data).

A lot has changed in the more than two decades that have passed since 2002. Accounting and recordkeeping software is more ubiquitous and easy to use. According to one United Autoworkers official, preparing LM filings is now as simple as “the press of a button.”⁶ A union bookkeeper at an International Brotherhood of Electrical

⁶ For example: <https://www.wipfli.com/news/2018/cons-new-tech-module-for-labor-unions-181024>; <https://emembership.winmill.com/reports-queries/> & <https://www.rcsunionsoftware.com/labor-management-software> where UAW Local 588 Financial Secretary Kenny Wallace is quoted (accessed 7/18/2025 <https://archive.is/6cerT>)

Workers local with well over \$6 million in annual receipts (according to its latest LM-2 report) similarly claims she could “finish our LM-2 within a day or two with the [software] program doing most of the work for me.”⁷

Given advancements in technology that makes it far easier and less burdensome for unions to produce LM-2 reports, the Department’s 2003 estimate of the average time it takes unions to produce these reports is hopelessly out of date and too high.

3. The Department’s Burden Calculation Is Flawed Because It Is Based on the Average Time It Supposedly Takes All Unions to Complete an LM-2. In addition to being outdated, the proposition that “the Form LM–2 requires approximately 530 hours per response,” 90 Fed. Reg. at 28253, is inapposite because it is the estimated average time it takes *all* unions to complete an LM-2.⁸ The average time it takes all unions to complete LM-2s has little bearing on the time it takes *unions impacted by the rule* to complete LM-2 reports.

The unions impacted by the rule consist of roughly 18% of unions that currently file LM-2 reports. These are the financially smallest unions that file LM-2 reports.

An average of all unions that file LM-2 reports includes the other 82% of unions that are financially larger than unions impacted by the rule. This population includes the very large unions with multi-million dollar revenues and disbursements that dwarf the revenues of the unions impacted by the rule.

Given that it takes more time for financially larger unions to comply with LM-2 reporting requirements than financially smaller unions—the former have more to report and often more complex finances—the average of the time it takes all unions to comply with LM-2 reporting requirements will be far greater than the average time it takes the smallest 18% of those unions to comply with the reporting requirements.

The Department’s 2003 Final Rule revising LM-2 reports proves the point. In that Rule, the Department found, under prior reporting requirements, “that 5,038 local unions now take 200 hours and 141 national and international unions take 1,500 hours to collect and report their information on the current Form LM–2.” 68 Fed. Reg. at 58434. The financially largest unions thus took vastly greater amounts of time to respond to LM-2 reporting requirements than smaller unions.

In the 2003 Final Rule’s regulatory burden analysis, the Department also divided unions impacted by the rule into three groups or tiers—unions with receipts between \$250,000 and \$450,000; unions with receipts between \$450,000 and \$49.999 million,

⁷ IBEW Local 2150 bookkeeper quoted <https://web.archive.org/web/20240621064959/https://www.rcsunionsoftware.com/labor-management-software>

⁸ See Form LM-2 Instructions. https://www.dol.gov/sites/dolgov/files/olms/regs/compliance/GPEA_Forms/2020/efile/LM-2_instructionsRevised2020.pdf (“Public reporting burden for this collection of information is estimated to *average* 530 hours per response”) (emphasis added).

and unions with receipts of \$50 million or more. *Id.* at 58436. The Department recognized that LM-2 reporting requirements impacted unions differently based on their financial size. *Id.*

The Department's estimate of "530 hours per response" is thus certainly not the average of how long it takes *unions impacted by the proposed rule* to complete LM-2 reports. Consequently, the Department's burden calculation, which is predicated on "530 hours per response," is wrong.

An example illustrates the point. If the question is how much time does it take for the bottom quintile of taxpayers to prepare their taxes, no rational person would say the answer is the average time it takes all taxpayers. The population of all taxpayers includes the other 80% of wealthier individuals whose taxes take longer to calculate (often far longer) because they have more to report and their finances are generally more complex. The average tax-preparation time of all taxpayers is far greater than the average tax-preparation time for the bottom quintile of taxpayers.

So too here, the time that unions impacted by the rule (i.e., the bottom 18% of unions that file LM-2 reports) devote to completing LM-2 reports is far less than the time that all unions impacted by the rule spend on completing LM-2 reports. The Department's regulatory burden calculation is fatally flawed.

4. *The Proposed Rule Will Not Substantially Reduce Reporting Burdens on Unions Because Most Impacted Unions Already File LM-2 Reports.* The primary effect of the proposed rule in the short and medium term will be to relieve unions that already file LM-2 reports from filing these reports in the future. These unions are already using accounting and time-recording systems that compile the information needed for LM-2 reports. This fact undercuts the Department's justification for its proposed rule.

Unions impacted by the proposed rule that *continue* to use the accounting and time-recording systems they currently use will not be relieved of any substantial regulatory burden. These unions will continue to compile the information needed for LM-2 reports—they simply will not be disclosing the information they compile. Most unions will be in this camp because of the time and expense of changing the organization's accounting and time-recording systems.

Unions impacted by the proposed rule that *stop* using their current accounting and time-recording systems to take advantage of the rule change will incur the time and expense of changing those systems. And those unions may incur that burden twice if and when they later become financially large enough to fall under the higher LM-2 threshold.

The Department's regulatory burden analysis fails to account for the implications of the fact that most impacted unions are currently using accounting and time-recording systems that compile the information needed for LM-2 reports.

5. *The Regulatory Burden the Proposed Rule May Reduce Is Insignificant and Does Not Justify the Costs of the Proposed Rule.* The actual union reporting burden that the proposed rule may reduce is insignificant for the reasons discussed above. The amount of time that unions impacted by the proposed rule—i.e., unions with annual receipts between \$250,000 and \$450,000—will save by not having to complete LM-2 reports will be miniscule given the modern accounting and timekeeping technology that most of these unions are already using. To the extent the proposed rule may result in some unions spending a little less time compiling the information needed for an LM-2 report, this tiny benefit to union officials is far outweighed by the cost of the proposed rule described in Section A.

6. *The Department Has Failed to Prove the Relevant Reporting Burdens Are “Unnecessary.”* Not only has the Department failed to show that its proposed rule will appreciably reduce unions’ ostensible burden of filing LM-2 reports, the Department has failed to show its proposed rule will “reduce *unnecessary* reporting burdens on labor organizations.” 90 Fed. Reg. at 28251 (emphasis added). There is not one sentence in the NPRM that supports the proposition that the information impacted unions currently disclose in their LM-2 reports is “*unnecessary*.”

Nor does the proposition make sense. Workers subject to the representation of these unions have just as much interest in knowing how much these unions spend on the categories of expenses covered by LM-2 Schedules 15-20 next year as they do this year. The Department provides no reasoning or rationale for why disclosure of information, which unions with receipts between \$250,000 and \$450,000 currently disclose on their LM-2 reports, is now “*unnecessary*” and should be shielded from view.

7. *Summary: The Proposed Rule’s Regulatory Burden Analysis Is Fatally Flawed.* For the above-stated reasons, the Department has failed to establish that its proposed rule will “reduce *unnecessary* reporting burdens on labor organizations” in the amount claimed by the NPRM. 90 Fed. Reg. at 28251.

The Department’s claim that its proposed rule “will result in an estimated reduction of 427 burden hours per response” for impacted unions, 90 Fed. Reg. at 28253, is predicated on the notion that it takes these impacted unions “approximately 530 hours” to respond to the LM-2. *Id.* This notion is wrong for the second and third reasons stated above. The Department’s 530 hour estimate is out of date, fails to account for modern accounting and timekeeping software, and is not even an estimate of the time it takes *impacted* unions to complete LM-2 reports, but rather is an estimate of the average time it takes *all* unions to complete LM-2 reports.

Further, the Department’s regulatory burden analysis fails to account for the fact that impacted unions that currently file LM-2 reports already have systems in place for complying with those reporting requirements. The Department has not shown that information contained in those reports has now somehow become “*unnecessary*.” 90 Fed. Reg. at 28251.

Consequently, the Department's proposed rule does not satisfy the requirements of Executive Order 12866. The proposed rule is also arbitrary and capricious because the Department bears the burden of proving its justifications for a rule change.

C. The Department Should Eliminate the Filing Thresholds.

Instead of raising the filing thresholds, the Department should eliminate the thresholds and require all unions to file LM-2 reports. Alternatively, the Department should only exempt the smallest of the unions—those filing LM-4 reports—from filing LM-2 reports.

The benefit of this change is self-evident: workers, the public, and the Department will receive more information about union finances, which in turn will lead to more informed workers and deter and uncover more union corruption.

This change would not appreciably increase reporting burdens for unions for two reasons. *First*, unions that have under \$250,000 in receipts would not have to devote significantly more time to completing LM-2 reports than LM-3 reports. The time and resources it takes a union to comply with LM-2 reporting requirements is related to a union's financial size. So the time it takes a union to complete an LM-2 report will be commiserate with its size—smaller unions will take less time to complete the report because they have less to disclose.

Second and relatedly, modern accounting and time-management software makes it relatively easy for unions to compile the information necessary for LM-2 reports. Whatever burdens completing the form with “pen and paper” may have entailed in the past, those burdens no longer exist. The Department should adapt its regulations to reflect current technology and eliminate its antiquated filing thresholds.

Finally, by simplifying reporting and applying the same LM-2 standard for all unions, the Department of Labor would be effectuating its stated goal of “aggressive deregulatory efforts... to put the American worker first”⁹ to implement President Trump's “Unleashing Prosperity through Deregulation” Executive Order.¹⁰

American workers have effectively zero control over the size of the union that controls their dues money, and shouldn't be punished with drastically less transparency because a union's annual receipts don't meet an arbitrary threshold. The Department would put American workers first through expanded transparency and simultaneously reduce government bureaucracy through eliminating the LM-3 and LM-4 forms and adopting a universal LM-2 standard.

⁹ <https://www.dol.gov/newsroom/releases/osec/osec20250701-0>

¹⁰ <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-prosperity-through-deregulation/>

CONCLUSION

The Department should not adopt the proposed rule but should instead eliminate filing thresholds and require all unions to file LM-2 reports.

Respectfully submitted,

A handwritten signature in blue ink that reads "Mark Mix". The signature is written in a cursive style with a large initial "M".

Mark Mix
President
National Right to Work
Legal Defense Foundation