

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2474
OFFERED BY M.S. FOXX**

Insert after section 1 the following:

1 **TITLE I—GENERAL**
2 **REQUIREMENTS**

Redesignate sections 2 through 5, as sections 101 through 104, respectively.

Add at the end the following:

3 **TITLE II—DISCLOSURE**
4 **REQUIREMENTS**

5 **SEC. 201. DISCLOSURE REQUIREMENTS.**

6 Section 208 of the Labor-Management Reporting and
7 Disclosure Act of 1959 (29 U.S.C. 438) is amended—

8 (1) by striking “The Secretary” and inserting
9 “(a) The Secretary”; and

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

11 “(b) Notwithstanding subsection (a) and for each fis-
12 cal year, a labor organization that would be required to
13 file form LM-2 under part 403 of title 29, Code of Fed-
14 eral Regulations, under section 201(a) (as such part was

1 in effect on October 12, 2009) shall be required to annu-
2 ally file with the Secretary—

3 “(1) form LM-2, as published in the appendix
4 to the final rule issued by the Secretary of Labor en-
5 titled ‘Labor Organization Annual Financial Re-
6 ports’ (74 Fed. Reg. 3678 (January 21, 2009)); or

7 “(2) a successor form that includes all of the
8 information required in such form LM-2 (as such
9 form was published on January 21, 2009).

10 “(c) Notwithstanding subsection (a) and for each fis-
11 cal year, a labor organization that would be required to
12 file form T-1 under part 403 of title 29, Code of Federal
13 Regulations (as such part was in effect on November 30,
14 2010) shall file with the Secretary, as the report con-
15 cerning trusts in which a labor organization is inter-
16 ested—

17 “(1) form T-1, as published in the appendix to
18 the final rule issued by the Secretary entitled ‘Labor
19 Organization Annual Financial Reports for Trusts
20 in Which a Labor Organization Is Interested, Form
21 T-1’ (73 Fed. Reg. 57412 (October 2, 2008)); or

22 “(2) a successor form that includes all of the
23 information required in such form T-1 (as such
24 form was published on October 2, 2008).

1 “(d) Notwithstanding subsection (a) and for each fis-
2 cal year, an officer or employee of a labor organization
3 who would be required to file form LM-30 under part 404
4 of title 29, Code of Federal Regulations (as such part was
5 in effect on October 25, 2011) shall be required to file
6 with the Secretary—

7 “(1) form LM-30, as published in the appendix
8 to the final rule issued by the Secretary entitled
9 ‘Labor Organization Officer and Employee Report,
10 Form LM-30’ (72 Fed. Reg. 36106 (July 2, 2007));
11 or

12 “(2) a successor form that includes all of the
13 information required in such form LM-30 (as such
14 form was published on July 2, 2007).”.

15 **SEC. [202]. CIVIL FINES RELATING TO DISCLOSURE VIOLA-**
16 **TIONS.**

17 (a) CIVIL FINES FOR FAILURE TO PROVIDE INFOR-
18 MATION TO MEMBERS.—Section 201 of the Labor-Man-
19 agement Reporting and Disclosure Act of 1959 (29 U.S.C.
20 431) is amended—

21 (1) by redesignating subsection (c) as sub-
22 section (c)(1); and

23 (2) by inserting after such subsection (c)(1) the
24 following:

1 “(2) Any labor organization that fails to meet the re-
2 quirements of paragraph (1) with respect to a member,
3 by refusing to make available the information required to
4 be contained in a report required to be submitted under
5 this title, and any books, records, and accounts necessary
6 to verify such report (unless such failure or refusal results
7 from matters reasonably beyond the control of the labor
8 organization), may in the court’s discretion, and in addi-
9 tion to any other relief provided by law and determined
10 proper by the court, be liable to such member for an
11 amount that is not more than \$250 a day from the date
12 of such failure or refusal (except that such amount shall
13 be adjusted for inflation in the same manner as the Sec-
14 retary adjusts the amount of a civil fine under section
15 211(c)). For purposes of this paragraph, each violation
16 with respect to any single member shall be treated as a
17 separate violation.”

18 (b) CIVIL ENFORCEMENT FOR FAILURE TO FILE A
19 TIMELY REPORT.—Section 210 of the Labor-Management
20 Reporting and Disclosure Act of 1959 (29 U.S.C. 440)
21 is amended to read as follows:

22 **“SEC. 210. CIVIL ENFORCEMENT.**

23 “(a) IN GENERAL.—Whenever it shall appear that
24 any person has violated or is about to violate any of the
25 provisions of this title, or section 301(a), the Secretary

1 may bring a civil action for such relief, including an in-
2 junction or the enforcement of a civil fine imposed under
3 section 211, as may be appropriate. Any such action may
4 be brought in the district court of the United States where
5 the violation occurred or in the United States District
6 Court for the District of Columbia.

7 “(b) JUDICIAL REVIEW FOR ENFORCEMENT OF
8 CIVIL FINES.—

9 “(1) STANDARD OF REVIEW.—Upon a com-
10 plaint filed by the Secretary seeking the enforcement
11 of a civil fine, the appropriate district court shall im-
12 pose the civil fine that has been determined to be
13 appropriate by the Secretary—

14 “(A) if the person, labor organization, or
15 employer against whom the civil fine is sought
16 has been provided written notice and an oppor-
17 tunity to be heard before the Secretary or a
18 designee of such Secretary, in accordance with
19 procedures established by the Secretary under
20 section 211(g)(1); and

21 “(B) unless the Secretary’s determination
22 is shown to be arbitrary and capricious.

23 “(2) SCOPE OF REVIEW.—The appropriate
24 court shall not consider any objection or argument

1 that was not raised in the proceedings before the
2 Secretary.

3 “(c) APPROPRIATENESS OF INJUNCTIVE RELIEF.—

4 Upon a complaint filed by the Secretary seeking relief
5 under this section demonstrating that a person, labor or-
6 ganization, or employer has failed to file timely and com-
7 plete reports required by this title or section 301(a), or
8 has filed reports that are substantially incomplete or inac-
9 curate, or that information required to be reported may
10 be lost or destroyed absent such relief, the district court
11 shall issue an order enjoining continued violation of this
12 title or section 301(a). Injunctive relief may be awarded
13 in addition to any other additional civil or criminal remedy
14 and whether or not the Secretary seeks enforcement of a
15 civil fine.”.

16 (c) AUTHORITY TO IMPOSE CIVIL FINES.—Title II
17 of the Labor-Management Reporting and Disclosure Act
18 of 1959 (29 U.S.C. 431 et seq.) is amended—

19 (1) by redesignating section 211 as section 212;

20 and

21 (2) by inserting after section 210 the following:

22 **“SEC. 211. CIVIL FINES.**

23 “(a) NOTICE; CORRECTION PERIOD.—Upon finding
24 a violation of subsection (a) or (b) of section 201 or sec-
25 tion 202, 203, 207, 212, or 301(a), the Secretary shall,

1 in accordance with standards and procedures established
2 by the Secretary under subsection (g), provide the person,
3 labor organization, or employer responsible for such viola-
4 tion—

5 “(1) written notice of the violation; and

6 “(2) a period of time to correct the violation
7 that is not more than 30 days after the date that
8 the Secretary provides such written notice.

9 “(b) FINES ASSESSED.—Subject to the other provi-
10 sions of this section, if the Secretary determines that a
11 person, labor organization, or employer has violated sub-
12 section (a) or (b) of section 201 or section 202, 203, 207,
13 212, or 301(a) and has not corrected the violation within
14 the period described in subsection (a)(2), the Secretary
15 may assess a civil fine against the person, labor organiza-
16 tion, or employer responsible for such violation.

17 “(c) AMOUNT OF CIVIL FINE.—

18 “(1) MAXIMUM AMOUNT.—A civil fine under
19 this section shall be for an amount that is not more
20 than \$250 a day from the date of the violation, and
21 not more than \$45,000 in the aggregate, except that
22 such amounts shall be adjusted in accordance with
23 the inflation adjustment procedures prescribed in the
24 Federal Civil Penalties Inflation Adjustment Act of
25 1990 (28 U.S.C. 2461 note; Public Law 101-410).

1 “(2) FACTORS IN DETERMINING AMOUNT.—In
2 determining the amount of a civil fine under this
3 section, the Secretary may consider—

4 “(A) the gravity of the offense;

5 “(B) any history of prior offenses (includ-
6 ing offenses occurring before the date of enact-
7 ment of this section) of the person, labor orga-
8 nization, or employer responsible for such viola-
9 tion;

10 “(C) the ability of such person, labor orga-
11 nization, or employer to pay the civil fine with-
12 out material impairment of the ability to carry
13 out representational functions or honor other fi-
14 nancial obligations;

15 “(D) any injury to uninvolved members of
16 the labor organization or to the public;

17 “(E) any benefits to such person, labor or-
18 ganization, or employer resulting from such vio-
19 lation;

20 “(F) the ability of the civil fine to deter fu-
21 ture such violations; and

22 “(G) any other factors that the Secretary
23 may determine to be appropriate to further the
24 purposes of this Act.

1 “(d) LIMITATION.—A person, labor organization, or
2 employer shall not be required to pay a civil fine under
3 this section for a violation of subsection (a) or (b) of sec-
4 tion 201 or section 202, 203, 207, 212, or 301(a) for
5 which a material cause was reasonably beyond the control
6 of such person, labor organization, or employer.

7 “(e) INCOMPLETE REPORTS.—A report rejected by
8 the Secretary as incomplete shall be considered not filed
9 for purposes of determining the existence of a violation
10 of subsection (a) or (b) of section 201 or section 202, 203,
11 207, 212, or 301(a), and a civil fine may be assessed for
12 such violation.

13 “(f) EFFECT ON CRIMINAL SANCTIONS.—The impo-
14 sition of a civil fine under this section shall not affect the
15 availability of criminal sanctions against any person, labor
16 organization, or employer who knowingly or willfully vio-
17 lates a provision of this Act.

18 “(g) STANDARDS AND PROCEDURES.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish, pursuant to sections 208 and 606, standards
21 and procedures governing the imposition of a civil
22 fine under this section that include providing the
23 person, labor organization, or employer responsible
24 for an alleged violation of subsection (a) or (b) of

1 section 201 or section 202, 203, 207, 212, or 301(a)
2 with—

3 “(A) written notice of such violation; and

4 “(B) an opportunity for a hearing before
5 the Secretary or a designee of such Secretary.

6 “(2) JUDICIAL REVIEW.—

7 “(A) IN GENERAL.—After exhausting all
8 administrative remedies established by the Sec-
9 retary under paragraph (1), a person, labor or-
10 ganization, or employer against whom the Sec-
11 retary has imposed a civil fine under this sec-
12 tion may obtain a review of such fine in the
13 United States District Court where the viola-
14 tion occurred or in the United States District
15 Court for the District of Columbia, by filing in
16 such court, within 30 days of the entry of a
17 final order imposing the civil fine, a written pe-
18 tition that the Secretary’s order or determina-
19 tion be modified or be set aside in whole or in
20 part.

21 “(B) STANDARD OF REVIEW.—Upon peti-
22 tion for review of a civil fine under this section,
23 the appropriate district court shall impose the
24 civil fine determined to be appropriate by the
25 Secretary—

1 “(i) if the person, labor organization,
2 or employer against whom the civil fine is
3 sought has been provided written notice
4 and an opportunity to be heard, in accord-
5 ance with the procedures established by the
6 Secretary under paragraph (1); and

7 “(ii) unless the Secretary’s determina-
8 tion is shown to be arbitrary and capri-
9 cious.

10 “(C) SCOPE OF REVIEW.—In reviewing a
11 civil fine under this section, the appropriate dis-
12 trict court shall not consider any objection or
13 argument that was not raised in the pro-
14 ceedings before the Secretary.

15 “(h) SETTLEMENT BY SECRETARY.—The Secretary
16 may compromise, modify, or remit any civil fine that may
17 be, or has been, imposed under this section.”.

18 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
19 The Labor-Management Reporting and Disclosure Act of
20 1959 (29 U.S.C. 401 et seq.) is further amended—

21 (1) in section 205 (29 U.S.C. 435), by striking
22 “211” each place it appears and inserting “212”;

23 (2) in section 207(b) (29 U.S.C. 437(b)), by
24 striking “211” each place it appears and inserting
25 “212”; and

1 (3) in section 301(b) (29 U.S.C. 461(b)), by
2 striking "and 210" and inserting "210, and 211".

3 **SEC. 203. WHISTLEBLOWER PROTECTIONS FOR LABOR OR-**
4 **GANIZATION EMPLOYEES.**

5 Title II of the Labor-Management Reporting and
6 Disclosure Act of 1959 (29 U.S.C. 431 et seq.) is amended
7 by inserting after section 211 the following:

8 **"SEC. 211A. WHISTLEBLOWER PROTECTION FOR LABOR OR-**
9 **GANIZATION EMPLOYEES.**

10 "(a) WHISTLEBLOWER PROTECTION.—It shall be un-
11 lawful for any labor organization to discharge or in any
12 other manner discriminate against any employee because
13 such employee has filed any complaint or instituted or
14 caused to be instituted any proceeding under or related
15 to this Act, or has testified or is about to testify in any
16 such proceeding.

17 "(b) ENFORCEMENT AND REMEDIES.—Any person
18 whose rights secured by the provisions of this title have
19 been infringed by any violation of this title may bring a
20 civil action in the appropriate district court of the United
21 States for such relief as may be appropriate, including an
22 injunction. A civil action under this subsection against a
23 labor organization shall be brought in the district court
24 of the United States for the district where the alleged vio-

- 1 lation occurred or where the principal office of such labor
- 2 organization is located.”.



