Opening Statement of Ranking Member Gregorio Kilili Camacho Sablan (MP-AL)
Subcommittee on Health, Labor, Employment and Pensions
Worker-Management Relations: Examining the Need to Modernize Federal Labor Law
April 26, 2018 at 9:30 a.m.

Chairman Walberg, thank you for holding this hearing today.

The National Labor Relations Act protects, by law the right of workers to form unions in order to rectify the inequality of bargaining power between employees and employers.

However, the NLRA fails to enforce workers' rights with meaningful remedies. There are no civil penalties when employers violate workers' rights under the Act. Employers understand can retaliate against workers for engaging in union activity with limited consequences—oftentimes the sole sanction is that the employer is ordered to post a notice stating it violated the law or, years later, award backpay minus any interim earnings.

Lacking a meaningful deterrent, there has been an intensification of aggressive anti-union campaigns, which, in turn, has contributed to the decline of union membership. This has exacerbated income inequality and contributed to wage stagnation for those in the middle, while serving as a boon for those in the top 10 percent.

[*post chart*]
As you can see from the chart, as union membership has decreased from 27.1 percent to 11.1 percent between 1973 and 2015, the share of income going to the top 10 percent has increased over that same time from 31.9 percent to 47.8 percent.

Over the past 4 decades, wages for working people have stagnated. When union membership hovered around 30 percent between the end of World War II and 1973, wages grew over 90 percent. However, as union membership decreased all the way down to 10.7 percent in 2017, wages have only grown by 12.3 percent, adjusting for inflation.

Safeguarding the right to join a union and negotiate for better wages and conditions is critical to reversing income inequality, growing the middle class, and making sure workers receive their fair share of the wealth that they create.

To address the need to modernize labor law, my Democratic colleagues and I have cosponsored legislation that would do exactly that. H.R. 4548, The WAGE Act, protects the right to join a union by providing prompt and fair remedies to deter unfair labor practices.

The WAGE Act would authorize meaningful sanctions for those who break the law. It prevents workers from being misclassified and denied their legal recourse. It facilitates dispute-resolution procedures to enable employers and unions to conclude a first contract, if workers choose to join a union.

I would be remiss if I did not note the mismanagement and conflicts of interest that have infected decision-making at the National Labor Relations Board over the past 6 months. The Board's mission under the NLRA is to protect workers' rights and promote collective bargaining.

For example, prior to serving on the Board, Member William Emanuel was a law partner at Littler Mendelson one of the largest management-side firms in the country. The firm represented a party in the *Browning Ferris* joint employer case, which is currently before the D.C. Circuit.

Member Emanuel voted to overturn *Browning Ferris* in a case called *Hy-Brand.* Emanuel then voted to direct the General Counsel to move the D.C. Circuit to remand *Browning Ferris* back to the Board.

The NLRB's Inspector General investigated and concluded that Member Emanuel violated his ethics pledge. The Board's ethics official agreed. By voting when he should have recused himself, Emanuel undermined the due process rights of workers in both the *Browning Ferris* and *Hy-Brand* cases.

Mr. Chairman, I ask unanimous consent to enter into the record the NLRB Inspector General's notification of "a serious and flagrant problem and/or deficiency" dated February 9, and the report dated March 20. I also ask for unanimous consent to enter into the record an April 18 Politico article titled "Dysfunction and Infighting Cripple Labor Agency".

I am also concerned that the Majority's legislative proposals will sabotage workers' rights to join together to improve wages and conditions.

One proposal, included in H.R. 2723, the misnamed "Employee Rights Act," which this subcommittee heard in June, would prevent unions from effectively representing their workers by requiring unnecessary periodic re-certification elections and would restrict union spending on advocacy and organizing ignoring that union member *already* have the absolute right to opt out of allowing their dues to be spent on those purposes.

Today, the majority attacks Worker Centers, which are community-based, non-profit, organizations of low-wage workers. They provide direct services and support, such as legal assistance, English classes, and leadership development; they do not represent workers for collective bargaining purposes and are not the exclusive representatives of employees, like unions are.

Instead of recognizing the work of these not-for-profit organizations for assisting low-wage workers, the Majority wants to handcuff these groups by imposing burdensome reporting requirements designed for unions under the Labor Management Reporting and Disclosure Act. The square peg of the LMRDA does not fit into the round hole of worker centers.

Before I conclude, I want to thank each of the witnesses for taking the time to prepare their testimony and appear here today. I also want to wish a happy birthday to Ranking Member Scott.

I yield back.