UNITED STEELWORKERS
UNITY AND STRENGTH FOR WORKERS

Leo W. Gerard
International President

June 28, 2017

The Honorable Virginia Foxx, Chair
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Bobby Scott, Ranking Member
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Foxx and Ranking Member Scott:

On behalf of the 850,000 members of the United Steelworkers (USW), we write to oppose the bills being marked up by the committee this week. Specifically, the misleadingly named *Workplace Democracy and Fairness Act* (H.R. 2776), *Employee Privacy Protection Act* (H.R. 2775), and *Tribal Labor Sovereignty Act of 2017* (H.R. 986) would make it harder for workers to exercise their right to join a union and would strip rights from employees and employers alike. These bills would also roll back recent modernizations to the union elections process that brought the process into the 21st century and exempt all federally recognized Native American-owned commercial enterprises operated on Indian lands from the protections of the National Labor Relations Act (NLRA).

The legislation before the committee today is counter to the explicit purpose of the NLRA, to "encourag[e] the practice and procedure of collective bargaining" and the implicit purpose to encourage labor peace in the workplace. Below are some of our specific concerns with these bills:

Workplace Democracy and Fairness Act (H.R. 2776)

The *Workplace Democracy and Fairness Act* would roll back modernizations to union election rules that the National Labor Relations Board (NLRB) finalized in April 2015. This bill would unnecessarily delay union elections by requiring the NLRB to wait at least two weeks before holding a pre-election hearing and requiring unions to wait at least five weeks to hold an election after filing a petition. While the 2015 update in timing of elections has not significantly changed the overall outcomes in union elections, rolling

back these modernizations would have a significant impact on the resources to be expended by the NLRB for each election.

This bill would also overturn a standard established for determining bargaining units in *Specialty Healthcare*, a 2011 decision in a case initiated by our union. In short, this decision, tracking the language of the NLRA, permits unions to organize any appropriate unit of their choosing, without regard to whether the Board believes it is the most appropriate unit. As the word "appropriate" here indicates, this does not, as some employers claim, allow unions to organize any unit – that is, the employees being organized must still be readily identifiable as a group and share a community of interests. By overturning this case, Congress will permit employers to delay elections by challenging the composition of bargaining units. This bill would also remove the discretion of the professionals at the NLRB in determining bargaining units and likely force the largest possible bargaining unit in all cases. H.R. 2776 strikes at the heart of freedom of association and rolls back 80 years of precedent.

Employee Privacy Protection Act (H.R. 2775)

The *Employee Privacy Protection Act* would also roll back current rules around unions' access to employee contact information. Similar to the ERA, this bill would reinstate the seven day time frame for employers to provide employee contact information to unions. Reinstating the longer time period does not accurately reflect that employers of today and of the future have computer systems and employee databases, therefore negating arguments that providing the information in two days is an unnecessary burden on employers.

In addition to the lengthy delay, this bill would allow employers to only provide one form of contact for employees. This is problematic because presently about 10 to 20 percent of records from employers are incorrect. Without a second form of contact, the union is at a significant disadvantage in its ability to contact and inform employees. These provisions also do not reflect changes in technology and the way Americans communicate electronically. For example, employers generally communicate electronically with employees to relay important messages, pay stubs, and more. Rolling back rules that allow for electronic communication by unions is short sighted and unreasonable.

Tribal Labor Sovereignty Act of 2017 (H.R. 986)

H.R.986, the Tribal Labor Sovereignty Act of 2017 would authorize over 567 distinct and separate labor law jurisdictions in the United States. By exempting all federally recognized Native American-owned commercial enterprises operated on Indian lands from the protections of the National Labor Relations Act (NLRA), H.R. 986 strips workers, both Native American and non-Native American of their NLRA protections.

While some organizations have falsely attempted to paint tribal governments as similar entities to states (which are exempt from the NLRA), tribal governments are substantially different than states in one key democratic principal. State governments allow workers an ability to vote for their legislators no matter their ancestry, while most tribal governments require blood quantum or lineal descent to determine who is eligible for membership or citizenship.

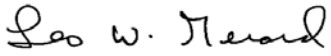
Simply, non-Native American U.S. citizens working in the United States for tribal commercial enterprises would not be able to vote for the elected representatives who will set their labor laws. These workers will lose the ability to petition the government that oversees their working conditions if this bill becomes law.

USW understands the importance of the principle of tribal sovereignty; however the fundamental human rights of employees are not the exclusive concern of tribal enterprises or tribal governments. Knowing this the NLRB has developed a significant and responsible test to determine jurisdiction of labor law enforcement. H.R.986 is unnecessary and will create significant confusion and jurisdictional issues over labor law enforcement while undermining worker's rights.

Overall, H.R. 2723, H.R. 2776, and H.R. 986 seek to roll back modernizations, eliminate freedoms, and suck resources from employers, employees, unions, and the NLRB. They are an overt attempt to demolish the rights of workers to join a union and collectively bargain for better wages and working conditions, which only results in diminishing the middle class in America.

There are no portions of these pieces of legislation that could be amended to make them acceptable to the members of our union. They cannot be described as sound policy. USW strongly urges all members of the Committee to oppose the *Workplace Democracy and Fairness Act* (H.R. 2776), *Employee Privacy Protection Act* (H.R. 2775), and *Tribal Labor Sovereignty Act of 2017* (H.R. 986).

Sincerely,



Leo W. Gerard
International President

cc: Members, Committee on Education and the Workforce