

adding unnecessary administrative time and cost.

Several commenters supported the itemization of political disbursements by unions without distinguishing between electoral politics and lobbying, the distinction crafted by the Department's proposal. No commenters expressed any opposition to combining the categories. A labor policy group supported the Department's expansive definition for political activities, recognizing that under the definition unions "would be required to report any and all expenditures that are made for any type of political activity, including political activity directed at a union's own membership." It asserted that union members deserve to know the nature and extent of political activities, lauding the Department's efforts at transparency. The same commenter also supported the Department's proposal with regard to the reporting of lobbying expenses. In this connection, it asserted that a labor organization, as a practical matter, can avoid reporting its lobbying and political expenses to the IRS. The commenter supported the Department's effort to require unions to follow the same reporting requirements as generally applicable to tax exempt organizations (but not unions) under the IRS rules. It suggested, however, that the Department clarify the meaning of "lobbying" so that it includes "any attempt to influence the general public, or segments thereof, with respect to public policy and legislative matters." Another policy group, while supportive overall of the proposal, asserted that the Department's proposed categories need to be modified to expressly include "grassroots lobbying" and "issue advocacy" by unions.

The comments support the Department's view, embodied in its proposal, that the itemization and aggregation of disbursements undertaken by unions in the political arena will provide information that is useful to union members and allow them to better understand the amount and purpose of their union's activities in this area. This information will supplement the limited information now available to members under other statutory programs. *See, e.g.,* Federal Election Campaign Act (FECA), 2 U.S.C. 431; Lobbying Disclosure Act of 1995, 2 U.S.C. 1601; IRS Form 990. While there are similarities between the information required under these other reporting regimes and the LMRDA, Form LM-2 is designed for the special purpose of providing meaningful information to union members who are not necessarily informed regarding the various exceptions and interpretations

applicable to these other regimes. The Department has devised a definition, reflected in the examples set forth in the Instructions to Form LM-2, expressly designed to provide a reasonable amount of usable information to union members.

The revised Form LM-2 is intended to require unions to report many of the disbursements that would not otherwise be reported. Labor unions, unlike most tax exempt organizations under 26 U.S.C. 501(c), are not required to report lobbying expenses to the IRS. *See* Instructions for Form 990 (for line 85); Judith E. Kindall and John Francis Reilly, *Lobbying Issues* 336 (IRS publication available at IRS Web site), *see also* Rev. Proc. 95-35 (Aug. 7, 1995); Rev. Proc. 98-19 (Feb. 2, 1998). In contrast, labor organizations must include in Schedule 16 (Political Activities and Lobbying) "disbursements for political communications with members (or agency fee paying non-members) and their families, registration, get-out-the-vote and voter education campaigns, and the expenses of establishing, administering and soliciting contributions to union segregated political funds (or PACs) and other political disbursements." Under the revised Form LM-2, labor organizations also are required to report disbursements supporting their dealings with the executive and legislative branches of the Federal, State, and local governments and with independent agencies and staffs, including disbursements for advocating or opposing legislation (including litigation challenging such legislation), and advocating or opposing regulations (including litigation challenging such regulations). Thus, the Form LM-2 will gather information not otherwise reported, and further, the activities that must be reported in the Form LM-2 are much broader than those included in the IRS definition and easier to apply than the more nuanced IRS application (as evidenced by the three pages of instructions the IRS devotes to reporting membership dues and lobbying expenses). Labor organizations also will be required to report disbursements on the Form LM-2 that would not be reported to the FEC because they are directed only at the union's employees and members and their families. Viewed from this perspective, the Form LM-2 does not duplicate any reports filed by unions with the IRS or the FEC.

The Department believes that the unions' comments understate the overall amount of disbursements and officer and employee time that will be reported as lobbying or political

activity. In part, this may be based on the unions' misapprehension of the proposal. As discussed above, the Department's proposed schedule is more comprehensive than the FEC and IRS requirements that limit the activities that must be reported. For example, under the Department's proposed and final rules, unions are required to report funds that they use in setting up a PAC and raising funds for it, as well as lobbying activities normally associated with "governmental relations" and "member communications." Further, the Department's decision to combine the two Schedules will increase the likelihood that the Schedule will be used to report a sufficient amount of information to prove useful to union members.

As discussed, the revised Form LM-2 will provide union members with a better understanding of their union's political activities, providing them a measure of the union's financial and human resources dedicated to these activities. Upon consideration of the comments, however, the Department is persuaded that there is merit to the suggestion that the two schedules should be combined into a single schedule. Distinguishing between "political activities," in the election-specific sense of that term, and "lobbying" is not always easy. And, for most union members, the distinction is likely to be much less important than being assured that they can ascertain the purpose and amount of their union's resource disbursements in the political arena. In the Department's view, this new schedule will provide meaningful information to union members without requiring unions to submit separate schedules for this purpose. Thus, the Department has decided to include a single schedule (16) for political activities and lobbying in the revised Form LM-2.

#### 5. Schedule 20 (Benefits)

This category, which tracks a category in the current Form LM-2, captures information relating to all direct and indirect benefit payments made by the union, including, for example, disbursements relating to life insurance, health insurance, and pensions. Direct payments are made from the union's funds directly to its officers, employees, members, and their beneficiaries. Indirect disbursements include, for example, a union's payment of the premium on group life insurance to a separate and independent entity such as a trust or insurance company. The Department proposed that labor organizations would be required to separately identify all "major"