

Congress of the United States

Washington, DC 20515

December 7, 2009

DEC14'09 PM 4:12 NMB

Elizabeth Dougherty, Chair
Harry Hoglander, Member
Linda Puchala, Member
National Mediation Board
1301 K Street, NW, Suite 250 East
Washington, DC 20005-7011

RE: Representation Election Procedure; Proposed Rule; Docket No. C-6964

Dear Chairman Dougherty and Members Hoglander and Puchala:

We are writing in support of the National Mediation Board's (NMB) Notice of Proposed Rulemaking (NPRM), which would allow a majority of voting employees to prevail in a union election under the Railway Labor Act (RLA). The current NMB election procedures, which treat non-participating voters as opponents of forming a union, do not comport with the standards governing elections throughout this country. Instead, we believe that the Board's proposal to allow workers to vote "yes" or "no" and have a majority of those voting prevail is a far more appropriate balloting process when using an election to determine employee interest in forming a union.

The Board's existing election procedures place aviation and rail employees in an unfair and unique position. Specifically, where employees are engaged in an election, the current NMB rules require a majority of all eligible voters, not actual voters in the election, to affirmatively vote for a union in order for that position to prevail. If a worker does not vote, he or she is counted as voting against unionization. In any election, there are a variety of reasons why eligible voters may not vote. Yet, current NMB procedures treat a non-vote as a vote for a specific position: "no union." We believe such an election system is inappropriate for any industry. The process is all the more flawed in a setting where voter rolls include significant numbers of furloughed employees who are not in regular communication with other voters.

These procedures provide employers with an inappropriate incentive to suppress voter turnout in the election, and provide the NMB with an inaccurate measure of employee sentiment.

The RLA provides the NMB with broad authority to address this problem – an authority affirmed by the Supreme Court – and in no way mandates the voting procedures currently in use. The Board is free to amend its election standards, as indeed it has previously. Allowing a majority of voting employees to choose union representation is not only entirely consistent with the statute, but we believe it enables the NMB to better carry out the Act's intention of determining the question of unionization on the basis of majority employee will.

We see no convincing policy reason or legal precedent to require, in an election process, an absolute majority of all eligible employees to cast a "yes" vote for representation; and see no reason to continue to subject aviation and rail workers to this exceptional standard.

We therefore urge adoption of the NMB's NPRM that will count "yes" votes as "yes," "no" votes as "no," and unknowns as unknown and recognize the majority will of those casting ballots. The NPRM will enable the NMB to more fully realize its mission and will provide a fair and appropriate process for employees in the airline and rail industries who utilize election procedures to determine whether to unionize.

Sincerely,


James L. Oberstar, Chairman
House Committee on
Transportation and Infrastructure


George Miller, Chairman
House Committee on
Education and Labor

John Dingell
Member of Congress

John Conyers Jr.
Member of Congress

David Coey
Member of Congress

Member of Congress

Fortney "Pete" Stark
Member of Congress

Member of Congress

Henry Waxman
Member of Congress

Edward J. Markey
Member of Congress

Norman Dicks
Member of Congress

Dale Kildee
Member of Congress

Nick Rahall
Member of Congress

Ike Skelton
Member of Congress

Barney Frank
Member of Congress

Howard Berman
Member of Congress

Rick Boucher
Member of Congress

Marcy Kaptur
Member of Congress



Sander Levin
Member of Congress



Solomon Ortiz
Member of Congress



Gary Ackerman
Member of Congress



Paul Kanjorski
Member of Congress



Peter Visclosky
Member of Congress



Peter DeFazio
Member of Congress



John Lewis
Member of Congress



Jerry Costello
Member of Congress



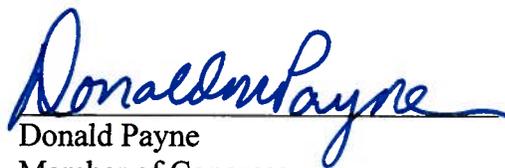
Frank Pallone Jr.
Member of Congress



Eliot Engel
Member of Congress



Nita Lowey
Member of Congress



Donald Payne
Member of Congress



José Serrano
Member of Congress



Neil Abercrombie
Member of Congress



David Price
Member of Congress



Rosa DeLauro
Member of Congress



James Moran
Member of Congress



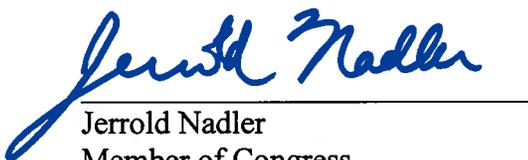
Collin Peterson
Member of Congress



Eleanor Holmes Norton
Member of Congress



Ed Pastor
Member of Congress



Jerrold Nadler
Member of Congress



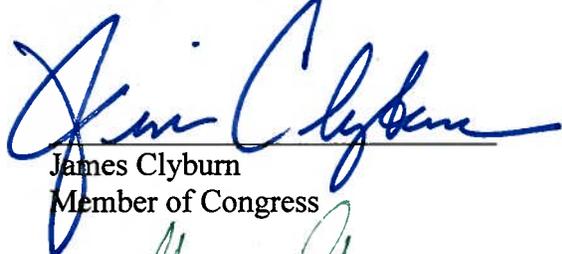
Xavier Becerra
Member of Congress



Sanford Bishop Jr.
Member of Congress



Corrine Brown
Member of Congress



James Clyburn
Member of Congress



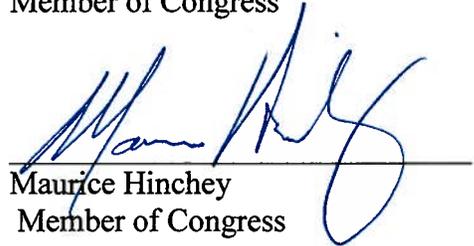
Bob Filner
Member of Congress



Raymond "Gene" Green
Member of Congress



Luis Gutierrez
Member of Congress



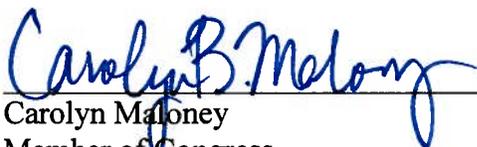
Maurice Hinchey
Member of Congress



Tim Holden
Member of Congress

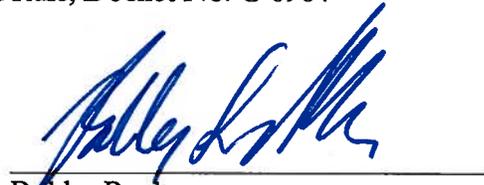


Eddie Bernice Johnson
Member of Congress



Carolyn Maloney
Member of Congress


Lucille Roybal-Allard
Member of Congress


Bobby Rush
Member of Congress


Robert "Bobby" Scott
Member of Congress


Bart Stupak
Member of Congress


Nydia Velázquez
Member of Congress


Melvin Watt
Member of Congress


Lynn Woolsey
Member of Congress


Bennie Thompson
Member of Congress


Sam Farr
Member of Congress


Lloyd Doggett
Member of Congress


Michael Doyle
Member of Congress


Sheila Jackson-Lee
Member of Congress


Patrick Kennedy
Member of Congress


Zoe Lofgren
Member of Congress


Jesse Jackson Jr.
Member of Congress


Elijah Cummings
Member of Congress

Earl Blumenauer

Earl Blumenauer
Member of Congress

Jane Harman

Jane Harman
Member of Congress

Marion Berry

Marion Berry
Member of Congress

Leonard L. Boswell

Leonard Boswell
Member of Congress

Danny K. Davis

Danny Davis
Member of Congress

Bill Delahunt

William Delahunt
Member of Congress

Carolyn Kilpatrick

Carolyn Kilpatrick
Member of Congress

Dennis J. Kucinich

Dennis Kucinich
Member of Congress

Carolyn M. McCarthy

Carolyn McCarthy
Member of Congress

Jim McGovern

James McGovern
Member of Congress

Bill Pascrell, Jr.

Bill Pascrell, Jr.
Member of Congress

Steve Rothman

Steven Rothman
Member of Congress

Loretta Sanchez

Loretta Sanchez
Member of Congress

Brad Sherman

Brad Sherman
Member of Congress

Adam Smith

Adam Smith
Member of Congress

John F. Tierney

John Tierney
Member of Congress



Robert Wexler
Member of Congress



Lois Capps
Member of Congress



Barbara Lee
Member of Congress



Robert Brady
Member of Congress



Brian Baird
Member of Congress



Tammy Baldwin
Member of Congress



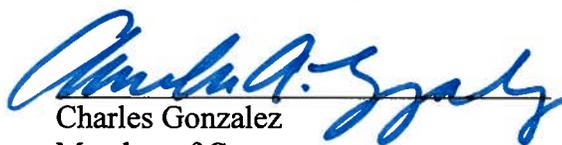
Shelley Berkley
Member of Congress



Michael Capuano
Member of Congress



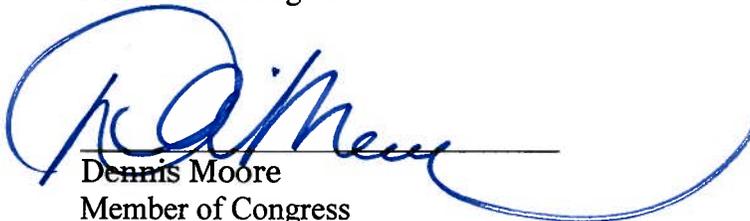
Joseph Crowley
Member of Congress



Charles Gonzalez
Member of Congress



Rush Holt
Member of Congress



Dennis Moore
Member of Congress



Grace Napolitano
Member of Congress



Janice Schakowsky
Member of Congress



David Wu
Member of Congress



Joe Baca
Member of Congress



Susan Davis
Member of Congress



Mike Honda
Member of Congress



Steve Israel
Member of Congress



James Langevin
Member of Congress



Rick Larsen
Member of Congress



Betty McCollum
Member of Congress



Adam Schiff
Member of Congress



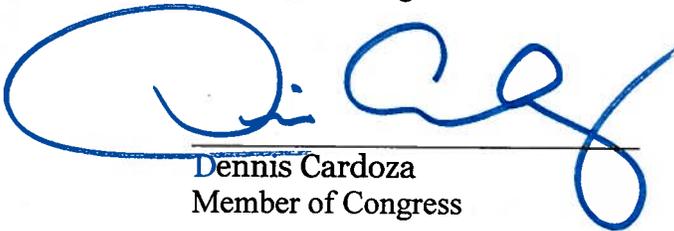
Diane Watson
Member of Congress



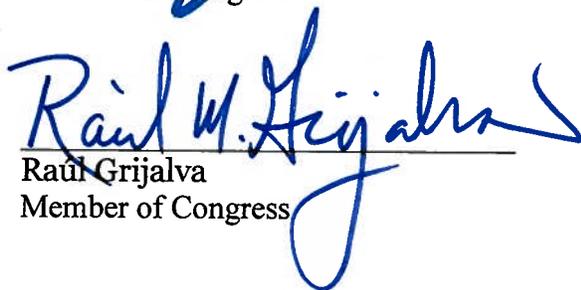
Stephen Lynch
Member of Congress



Timothy Bishop
Member of Congress



Dennis Cardoza
Member of Congress



Raúl Grijalva
Member of Congress



Kendrick Meek
Member of Congress



Michael Michaud
Member of Congress



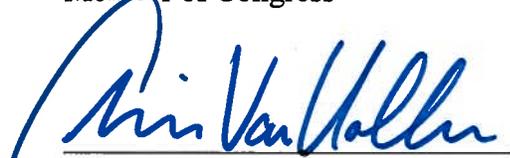
Brad Miller
Member of Congress



Tim Ryan
Member of Congress

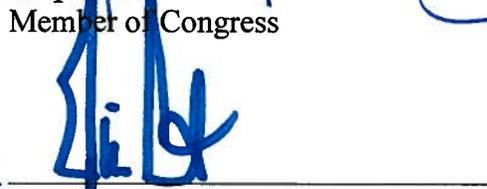

Linda Sánchez
Member of Congress


David Scott
Member of Congress


Chris Van Hollen
Member of Congress


Stephanie Herseth Sandlin
Member of Congress

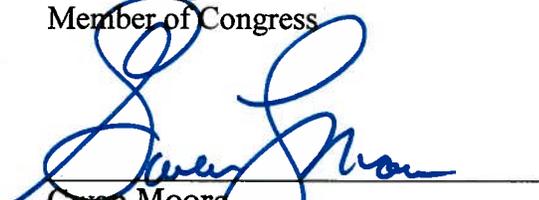

Russ Carnahan
Member of Congress


Jim Costa
Member of Congress


Al Green
Member of Congress


Brian Higgins
Member of Congress


Daniel Lipinski
Member of Congress

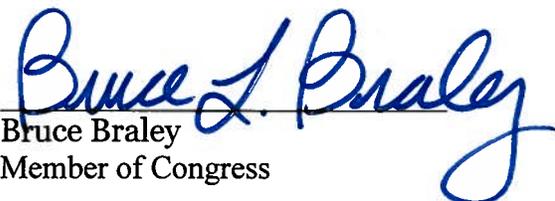

Gwen Moore
Member of Congress


Doris Matsui
Member of Congress


Albio Sires
Member of Congress


Jason Altmire
Member of Congress


Michael Arcuri
Member of Congress


Bruce Braley
Member of Congress


Christopher P. Carney
Member of Congress

Kathy Castor

Kathy Castor
Member of Congress

Yvette J. Clarke

Yvette D. Clarke
Member of Congress

Steve Cohen

Steve Cohen
Member of Congress

Joe Courtney

Joe Courtney
Member of Congress

Keith Ellison

Keith Ellison
Member of Congress

John Hall

John J. Hall
Member of Congress

Phil Hare

Phil Hare
Member of Congress

Mazie Hirono

Mazie Hirono
Member of Congress

Paul Hodes

Paul Hodes
Member of Congress

Hank Johnson

Henry "Hank" Johnson
Member of Congress

David Loeb

David Loeb
Member of Congress

Christopher Murphy

Christopher Murphy
Member of Congress

Patrick Murphy

Patrick Murphy
Member of Congress

Joe Sestak

Joe Sestak
Member of Congress

Zachary Space

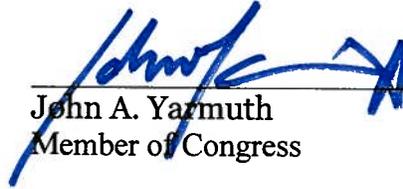
Zachary Space
Member of Congress

Betty Sutton

Betty Sutton
Member of Congress



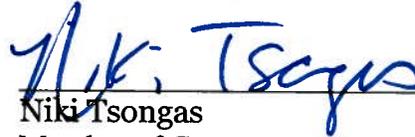
Timothy Walz
Member of Congress



John A. Yarmuth
Member of Congress



Laura Richardson
Member of Congress



Niki Tsongas
Member of Congress



André Carson
Member of Congress



Donna F. Edwards
Member of Congress



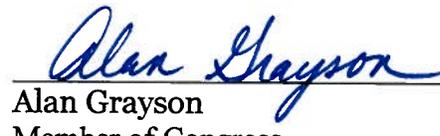
Marcia L. Fudge
Member of Congress



John Bocchieri
Member of Congress



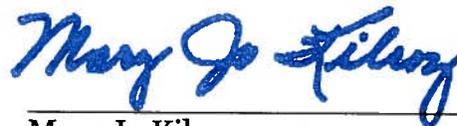
Gerald E. Connolly
Member of Congress



Alan Grayson
Member of Congress



Deborah "Debbie" Halvorson
Member of Congress



Mary Jo Kilroy
Member of Congress



Larry Kissell
Member of Congress



Eric J. J. Massa
Member of Congress



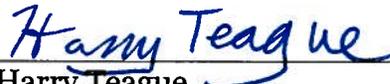
Gary C. Peters
Member of Congress



Chellie Pingree
Member of Congress



Mark H. Schauer
Member of Congress



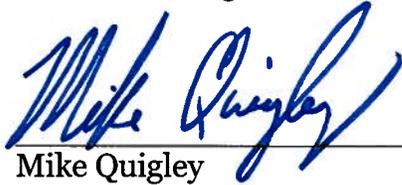
Harry Teague
Member of Congress



Dina Titus
Member of Congress



Paul Tonko
Member of Congress



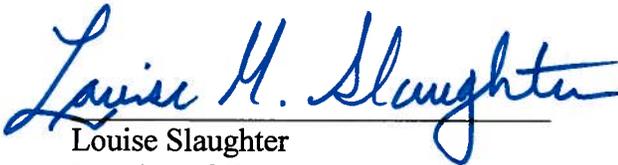
Mike Quigley
Member of Congress



Judy Chu
Member of Congress



John Garamendi
Member of Congress



Louise Slaughter
Member of Congress



Tom S. P. Perriello
Member of Congress



John Sarbanes
Member of Congress



Edolphus Towns
Member of Congress



Maxine Waters
Member of Congress



Madeleine Bordallo
Member of Congress



Wm. Lacy Clay
Member of Congress



Steve Driehaus
Member of Congress



Hni F. H. Faleomavaega
Member of Congress