

# United States Senate

WASHINGTON, DC 20510

December 7, 2009

The Honorable Elizabeth Dougherty  
Chairman  
National Mediation Board  
1301 K Street, NW  
Suite 250  
Washington, DC 20005

The Honorable Harry Hoglander  
Member  
National Mediation Board  
1301 K Street, NW  
Suite 250  
Washington, DC 20005

The Honorable Linda Puchala  
Member  
National Mediation Board  
1301 K Street, NW  
Suite 250  
Washington, DC 20005

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

Dear Chairman Dougherty and Members Hoglander and Puchala:

We write in support of the National Mediation Board's (NMB) proposed change to allow for a majority of voting employees to organize under the Railway Labor Act if they so choose.

As you know, current election procedures require a majority of all eligible workers to cast a vote for a union in order for those wanting a union to prevail. All workers who do not vote are counted as "no" votes for the union.

Requiring affirmative votes of an absolute majority of eligible employees in order to recognize a union treats rail and aviation workers differently than employees covered by the National Labor Relations Act and U.S. citizens voting for government officials. We strongly believe that the same democratic process that governs other elections – requiring a simple majority of those who cast a ballot – should be extended to workers covered by the Railway Labor Act.

Employees must have a choice to vote for union representation, against union representation, or not to vote at all. There are often reasons for an individual not to vote – they may simply forget, do not have a tradition of voting, or may be unable to vote. A decision to abstain in an election

is simply not the same as a “no” vote and should not be treated as voting against union representation.

Further, by counting non-participating employees as “no” votes, the Board has created an incentive to suppress voter participation as employers may seek to influence the election by encouraging workers not to vote. The NMB should be encouraging employee participation in representational elections, not hindering involvement.

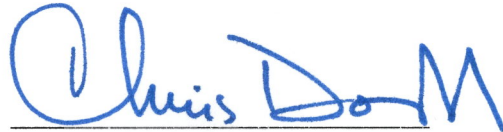
We do not believe the Railway Labor Act, which was designed to protect the rights of workers to organize and bargain collectively, requires the NMB to conduct elections in this manner. Further, we see no convincing policy reason to require an absolute majority of all eligible workers to cast a vote for a representational election.

Aviation and rail workers should not be subject to a different and more onerous process when deciding whether to choose union representation. We strongly encourage the NMB to use its broad discretion in setting its election policies to amend its election procedures to allow a majority of those voting to choose union representation.

Sincerely,



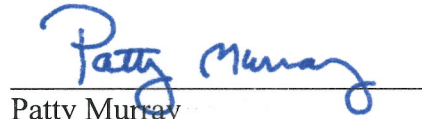
Tom Harkin



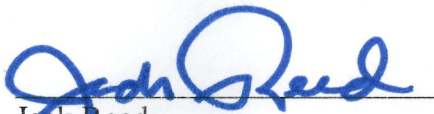
Christopher J. Dodd



Barbara A. Mikulski



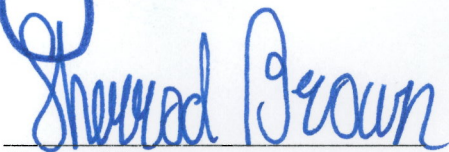
Patty Murray



Jack Reed



Bernard Sanders



Sherrod Brown



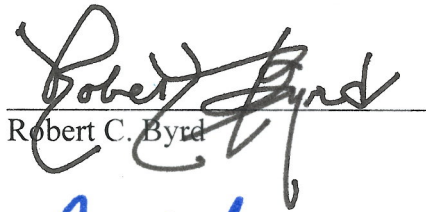
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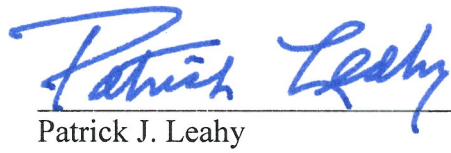


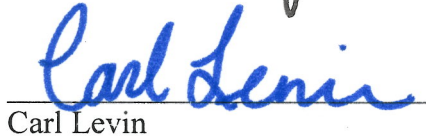
Jeff Merkley

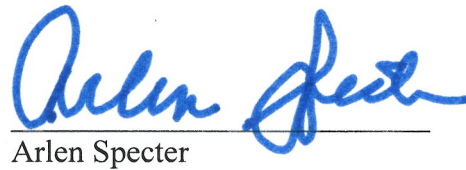


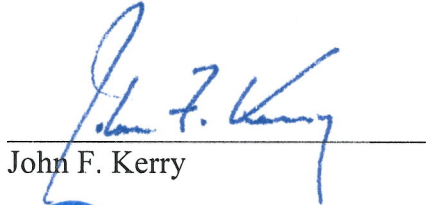
Al Franken

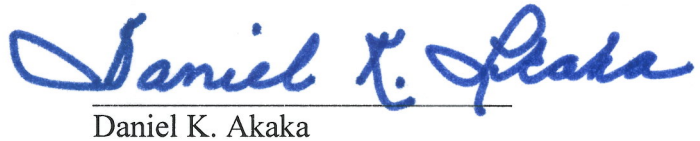
  
Robert C. Byrd

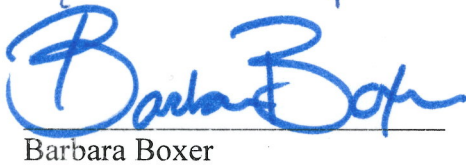
  
Patrick J. Leahy

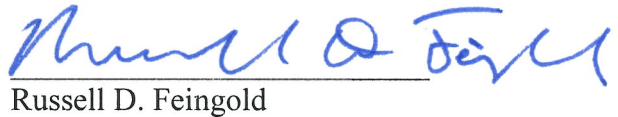
  
Carl Levin

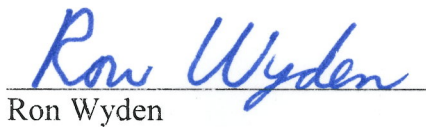
  
Arlen Specter

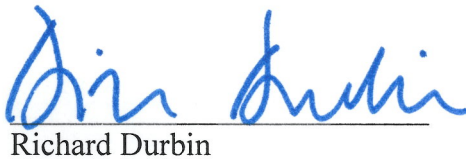
  
John F. Kerry

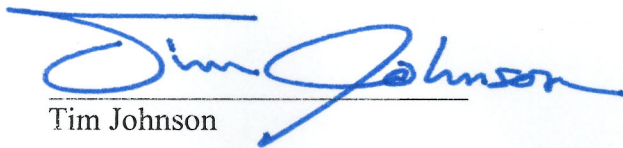
  
Daniel K. Akaka

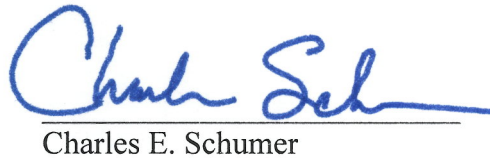
  
Barbara Boxer

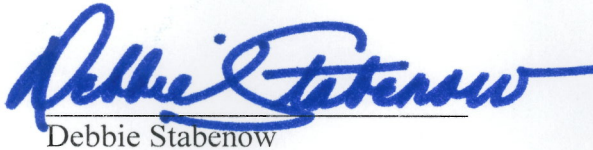
  
Russell D. Feingold

  
Ron Wyden

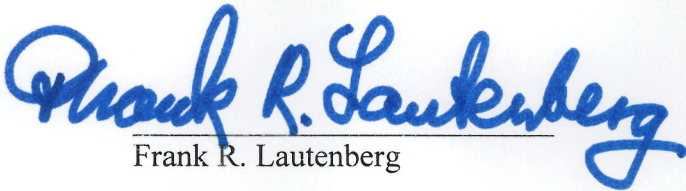
  
Richard Durbin

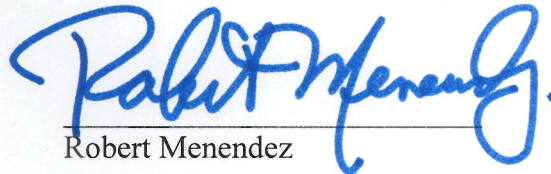
  
Tim Johnson

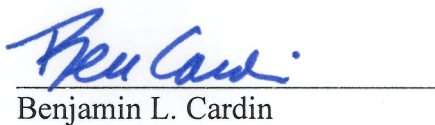
  
Charles E. Schumer

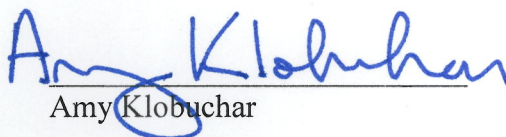
  
Debbie Stabenow

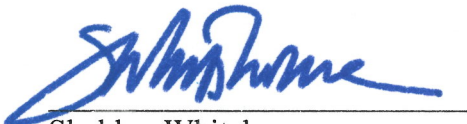
  
Maria Cantwell


  
Frank R. Lautenberg


  
Robert Menendez

  
Benjamin L. Cardin

  
Amy Klobuchar

  
Sheldon Whitehouse

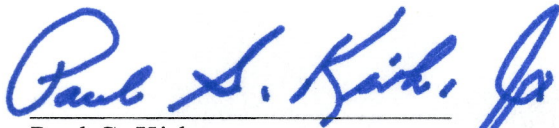
  
Tom Udall


  
Jeanne Shaheen

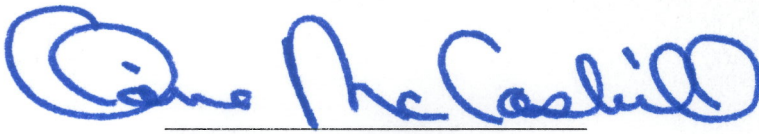
  
Edward E. Kaufman

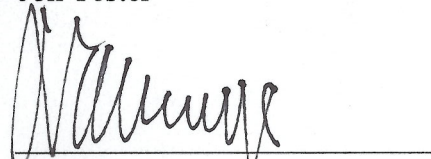
  
Roland W. Burris

  
Kirsten E. Gillibrand

  
Paul G. Kirk

  
Jon Tester

  
Claire McCaskill

  
Daniel Inouye

  
John D. Rockefeller IV