

# Congress of the United States

Washington, DC 20515

December 7, 2009

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.

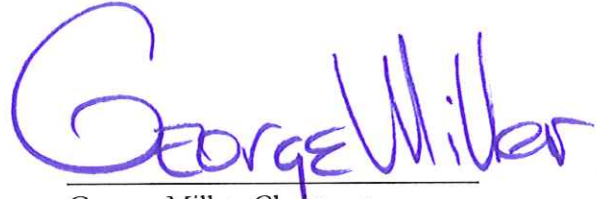
We see no convincing policy reason or legal precedent to require, in an election process, an absolute majority of all eligible employees to cast a "yes" vote for representation; and see no reason to continue to subject aviation and rail workers to this exceptional standard.

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.

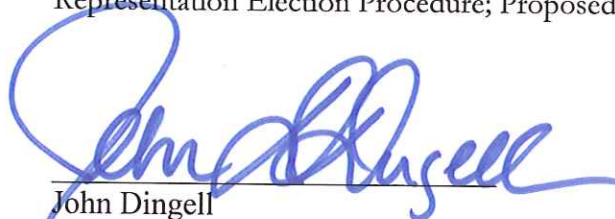
Sincerely,



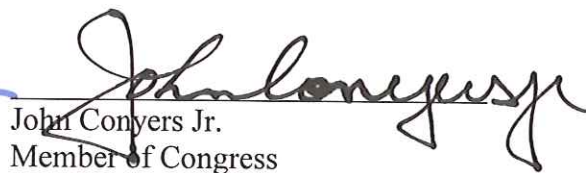
James L. Oberstar, Chairman  
House Committee on  
Transportation and Infrastructure



George Miller, Chairman  
House Committee on  
Education and Labor



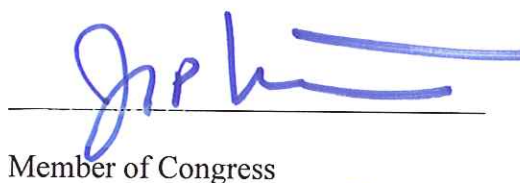
John Dingell  
Member of Congress



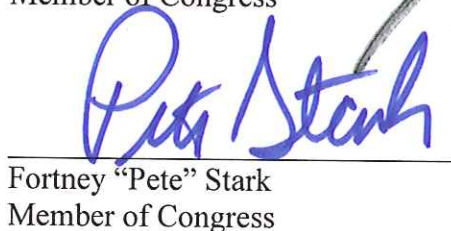
John Conyers Jr.  
Member of Congress



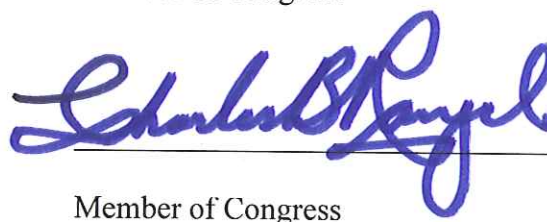
David Obey  
Member of Congress



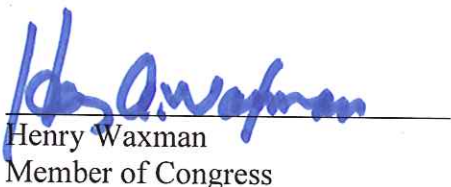
Member of Congress



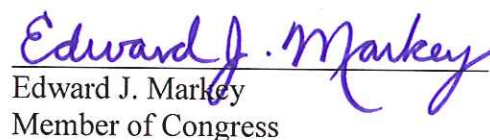
Fortney "Pete" Stark  
Member of Congress



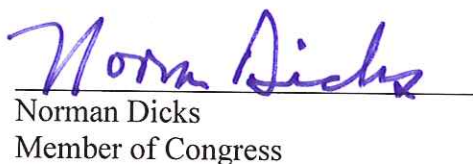
Member of Congress



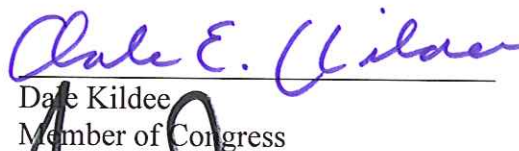
Henry Waxman  
Member of Congress



Edward J. Markey  
Member of Congress



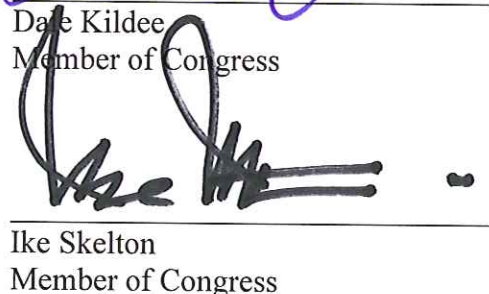
Norman Dicks  
Member of Congress



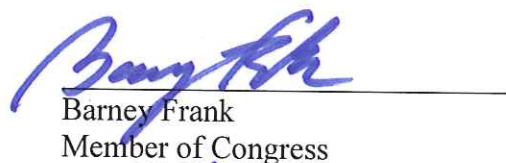
Dale Kildee  
Member of Congress



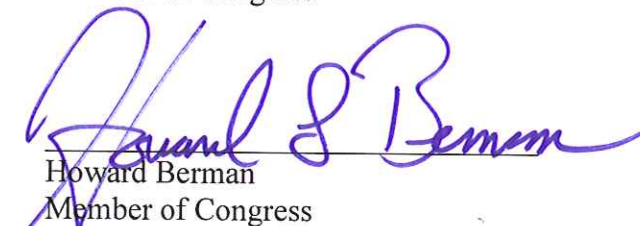
Nick Rahall  
Member of Congress



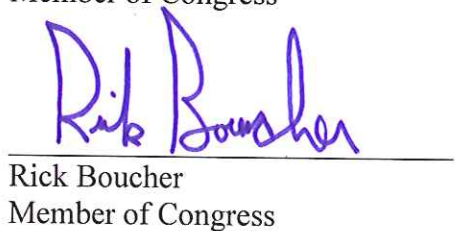
Ike Skelton  
Member of Congress



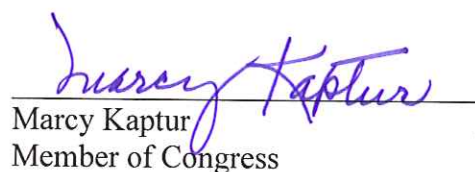
Barney Frank  
Member of Congress



Howard Berman  
Member of Congress



Rick Boucher  
Member of Congress



Marcy Kaptur  
Member of Congress





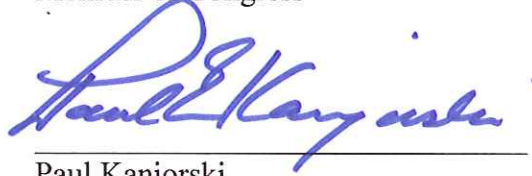
Sander Levin  
Member of Congress



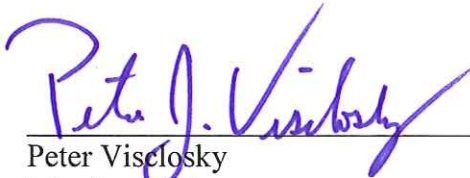
Solomon Ortiz  
Member of Congress



Gary Ackerman  
Member of Congress



Paul Kanjorski  
Member of Congress



Peter Visclosky  
Member of Congress



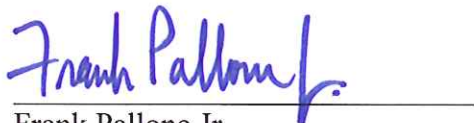
Peter DeFazio  
Member of Congress



John Lewis  
Member of Congress



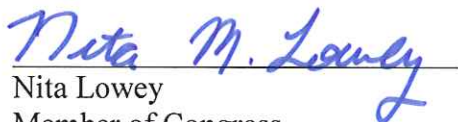
Jerry Costello  
Member of Congress



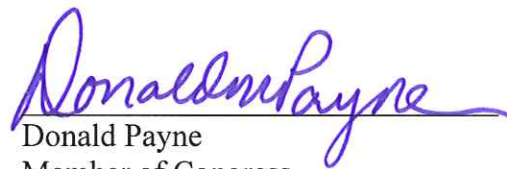
Frank Pallone Jr.  
Member of Congress



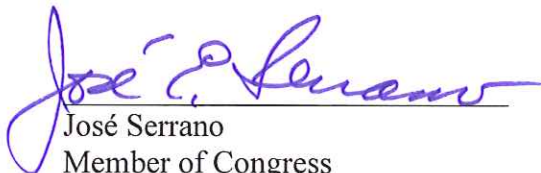
Eliot Engel  
Member of Congress



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



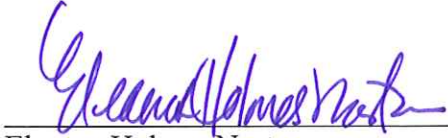
Rosa DeLauro  
Member of Congress



James Moran  
Member of Congress



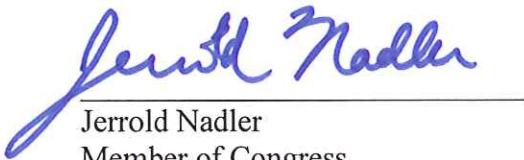
Collin Peterson  
Member of Congress



Eleanor Holmes Norton  
Member of Congress



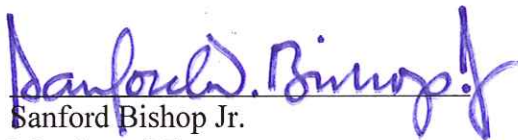
Ed Pastor  
Member of Congress



Jerrold Nadler  
Member of Congress



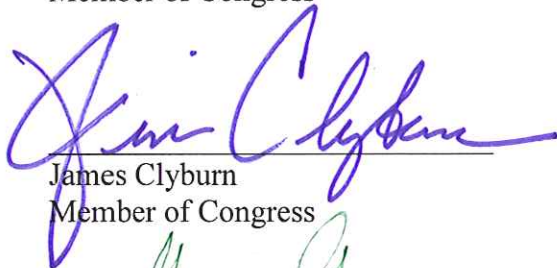
Xavier Becerra  
Member of Congress



Sanford Bishop Jr.  
Member of Congress



Corrine Brown  
Member of Congress



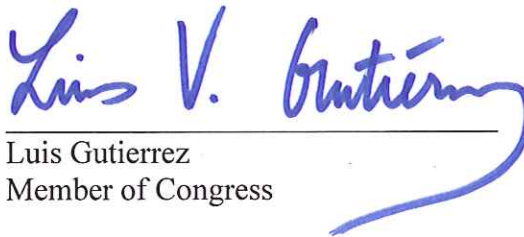
James Clyburn  
Member of Congress



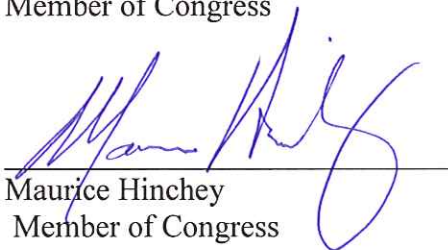
Bob Filner  
Member of Congress



Raymond "Gene" Green  
Member of Congress



Luis Gutierrez  
Member of Congress



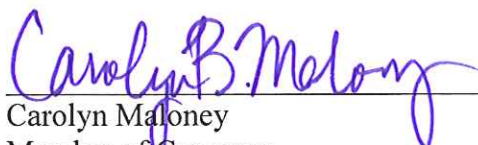
Maurice Hinchey  
Member of Congress



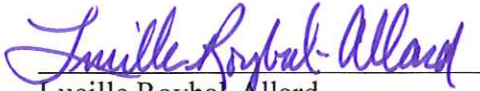
Tim Holden  
Member of Congress



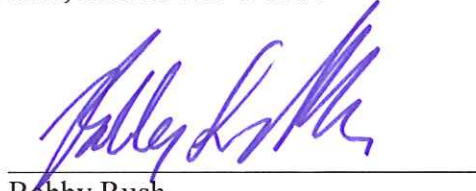
Eddie Bernice Johnson  
Member of Congress



Carolyn Maloney  
Member of Congress



Lucille Roybal-Allard  
Member of Congress



Bobby Rush  
Member of Congress



Robert "Bobby" Scott  
Member of Congress



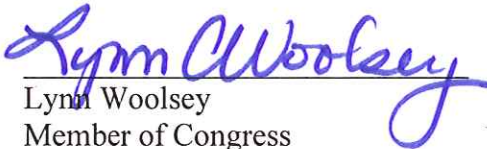
Bart Stupak  
Member of Congress



Nydia Velázquez  
Member of Congress



Melvin Watt  
Member of Congress



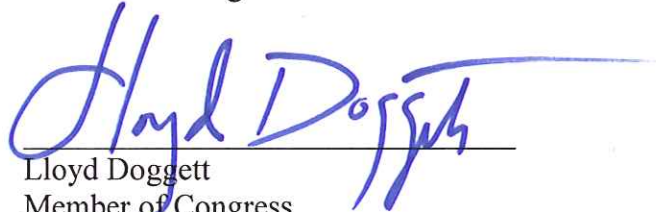
Lynn Woolsey  
Member of Congress



Bennie Thompson  
Member of Congress



Sam Farr  
Member of Congress



Lloyd Doggett  
Member of Congress



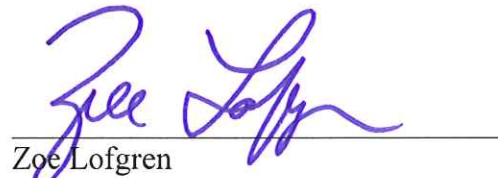
Michael Doyle  
Member of Congress



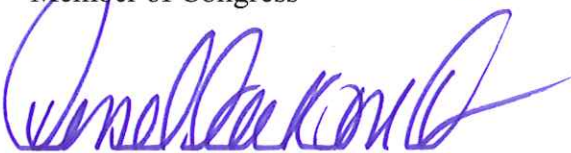
Sheila Jackson-Lee  
Member of Congress



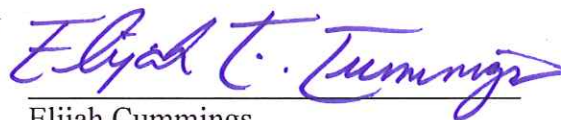
Patrick Kennedy  
Member of Congress



Zoe Lofgren  
Member of Congress



Jesse Jackson Jr.  
Member of Congress



Elijah Cummings  
Member of Congress

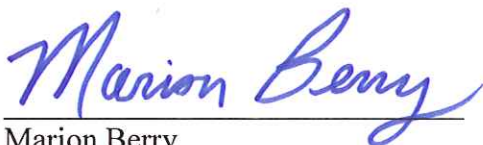




Earl Blumenauer  
Member of Congress



Jane Harman  
Member of Congress



Marion Berry  
Member of Congress



Leonard Boswell  
Member of Congress



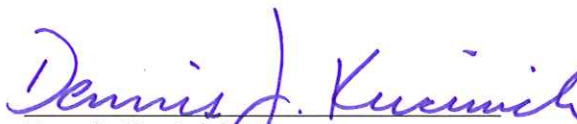
Danny Davis  
Member of Congress



William Delahunt  
Member of Congress



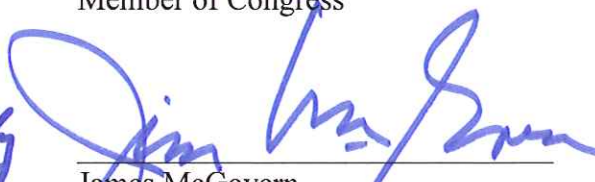
Carolyn Kilpatrick  
Member of Congress



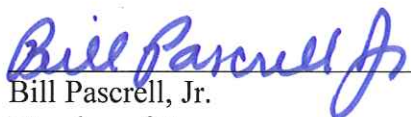
Dennis Kucinich  
Member of Congress



Carolyn McCarthy  
Member of Congress



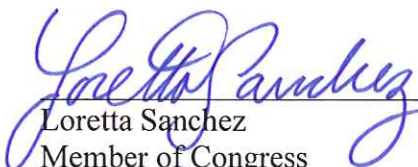
James McGovern  
Member of Congress



Bill Pascrell, Jr.  
Member of Congress



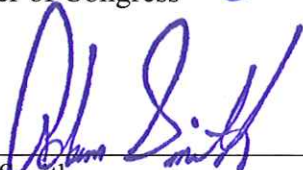
Steven Rothman  
Member of Congress



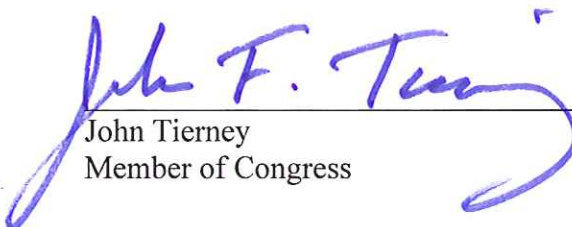
Loretta Sanchez  
Member of Congress



Brad Sherman  
Member of Congress



Adam Smith  
Member of Congress



John Tierney  
Member of Congress



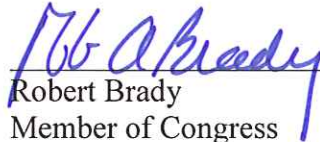
Robert Wexler  
Member of Congress



Lois Capps  
Member of Congress



Barbara Lee  
Member of Congress



Robert Brady  
Member of Congress



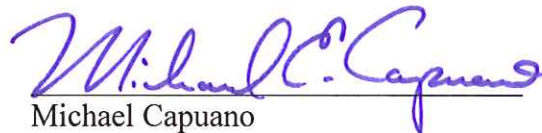
Brian Baird  
Member of Congress



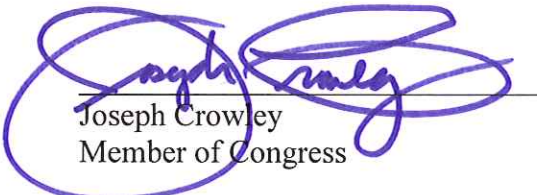
Tammy Baldwin  
Member of Congress



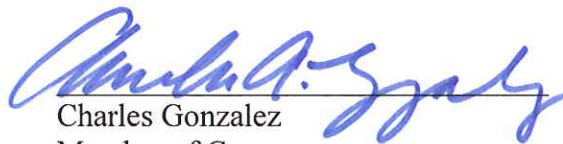
Shelley Berkley  
Member of Congress



Michael Capuano  
Member of Congress



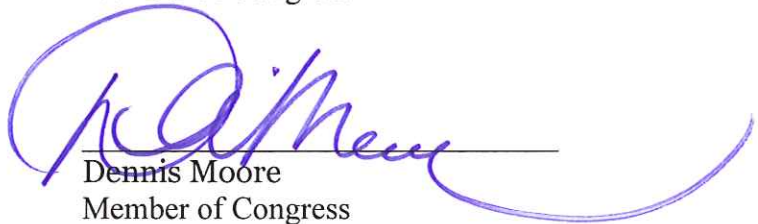
Joseph Crowley  
Member of Congress



Charles Gonzalez  
Member of Congress



Rush Holt  
Member of Congress



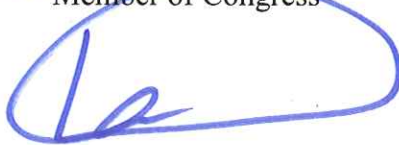
Dennis Moore  
Member of Congress



Grace Napolitano  
Member of Congress



Janice Schakowsky  
Member of Congress

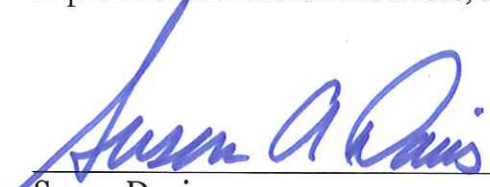


David Wu  
Member of Congress



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

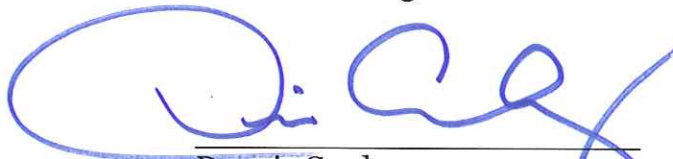
  
Betty McCollum  
Member of Congress

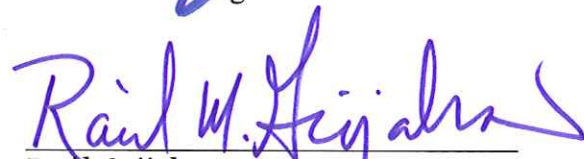
  
Adam Schiff  
Member of Congress

  
Diane Watson  
Member of Congress


  
Stephen Lynch  
Member of Congress

  
Timothy Bishop  
Member of Congress

  
Dennis Cardoza  
Member of Congress


  
Raul Grijalva  
Member of Congress

  
Kendrick Meek  
Member of Congress

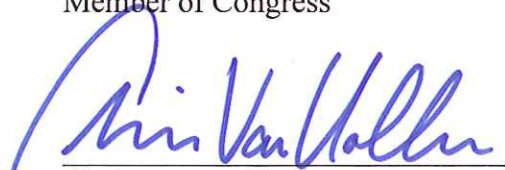
  
Michael Michaud  
Member of Congress

  
Brad Miller  
Member of Congress


  
Tim Ryan  
Member of Congress

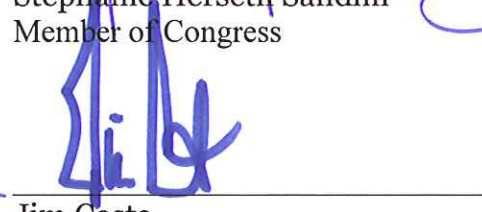
  
Linda Sánchez  
Member of Congress

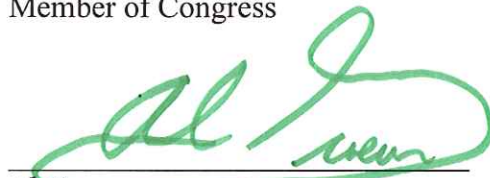
  
David Scott  
Member of Congress

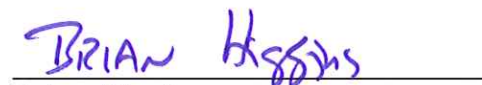
  
Chris Van Hollen  
Member of Congress

  
Stephanie Herseth Sandlin  
Member of Congress

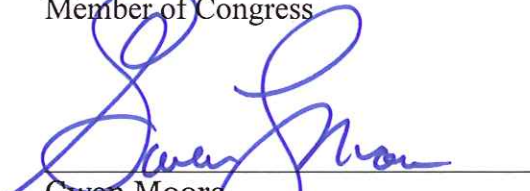
  
Russ Carnahan  
Member of Congress

  
Jim Costa  
Member of Congress

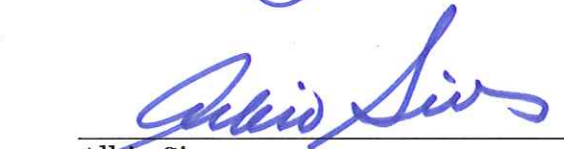
  
Al Green  
Member of Congress

  
Brian Higgins  
Member of Congress

  
Daniel Lipinski  
Member of Congress

  
Gwen Moore  
Member of Congress

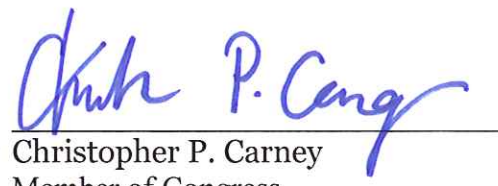
  
Doris Matsui  
Member of Congress

  
Albio Sires  
Member of Congress

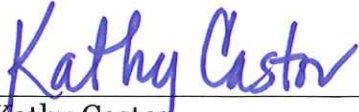
  
Jason Altmire  
Member of Congress

  
Michael Arcuri  
Member of Congress

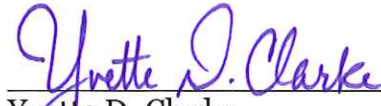
  
Bruce Braley  
Member of Congress

  
Christopher P. Carney  
Member of Congress





Kathy Castor  
Member of Congress



Yvette D. Clarke  
Member of Congress



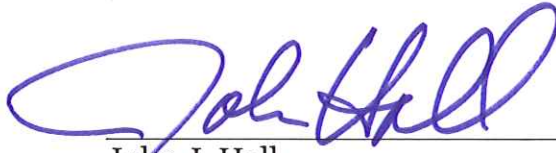
Steve Cohen  
Member of Congress



Joe Courtney  
Member of Congress



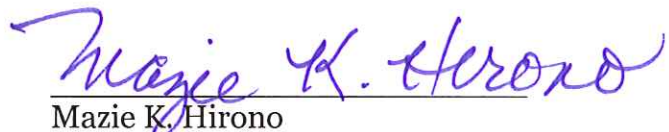
Keith Ellison  
Member of Congress



John J. Hall  
Member of Congress



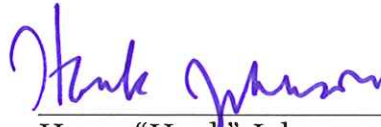
Phil Hare  
Member of Congress



Mazie K. Hirono  
Member of Congress



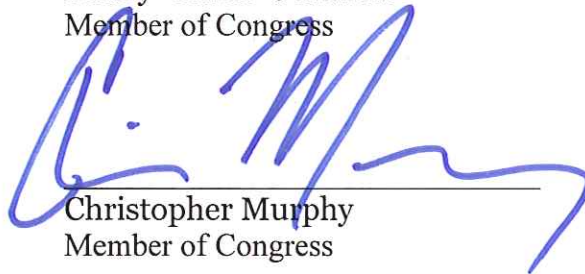
Paul Hodes  
Member of Congress



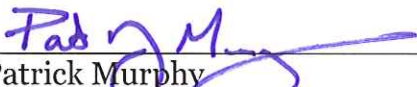
Henry "Hank" Johnson  
Member of Congress



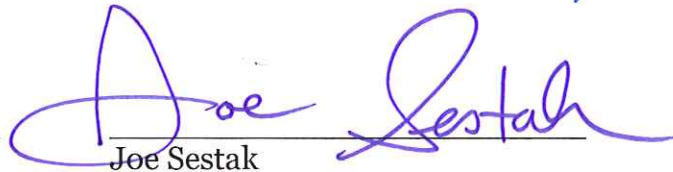
David Loebsack  
Member of Congress




Christopher Murphy  
Member of Congress



Patrick Murphy  
Member of Congress



Joe Sestak  
Member of Congress



Zachary Space  
Member of Congress

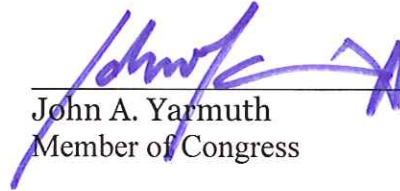


Betty Sutton  
Member of Congress





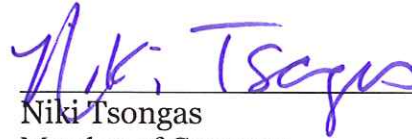
Timothy Walz  
Member of Congress



John A. Yarmuth  
Member of Congress



Laura Richardson  
Member of Congress



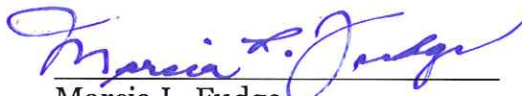
Niki Tsongas  
Member of Congress



André Carson  
Member of Congress



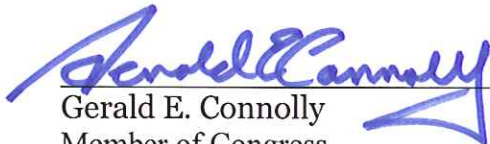
Donna F. Edwards  
Member of Congress



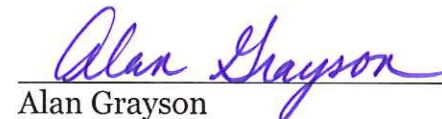
Marcia L. Fudge  
Member of Congress



John Bocchieri  
Member of Congress



Gerald E. Connolly  
Member of Congress




Alan Grayson  
Member of Congress



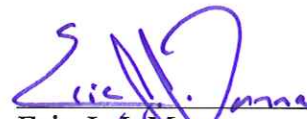
Deborah "Debbie" Halvorson  
Member of Congress



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



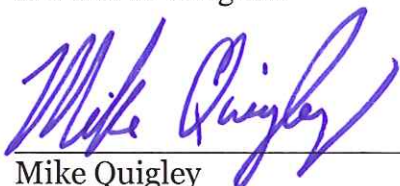
Harry Teague  
Member of Congress



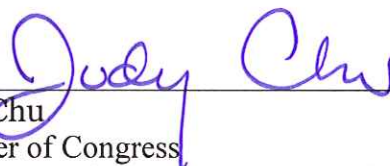
Dina Titus  
Member of Congress



Paul Tonko  
Member of Congress



Mike Quigley  
Member of Congress



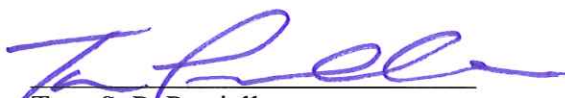
Judy Chu  
Member of Congress




John Garamendi  
Member of Congress



Louise Slaughter  
Member of Congress



Tom S. P. Perriello  
Member of Congress



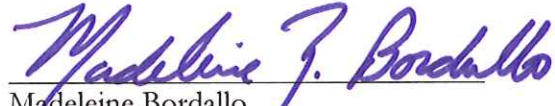
John Sarbanes  
Member of Congress



Edolphus Towns  
Member of Congress



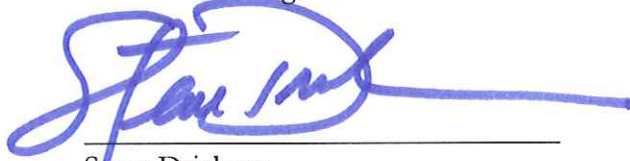
Maxine Waters  
Member of Congress



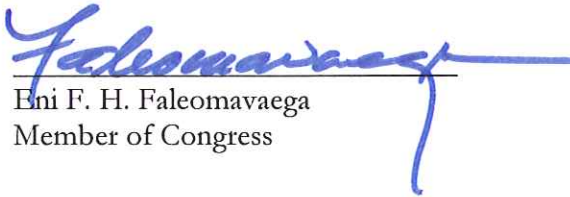
Madeleine Bordallo  
Member of Congress



Wm. Lacy Clay  
Member of Congress



Steve Driehaus  
Member of Congress



Eni F. H. Faleomavaega  
Member of Congress