

United States Senate  
WASHINGTON, DC 20510

July 26, 2024

The Honorable Bernie Sanders  
Chairman  
U.S. Senate Committee on Health, Education, Labor and Pensions  
332 Senate Dirksen Office Building  
Washington, DC 20510

Dear Chairman Sanders,

We write today to request that the business meeting scheduled to occur on Thursday, August 1, 2024 be postponed and that the HELP Committee hold a hearing on these nominations before scheduling any markup on them. Most importantly, any hearing or markup on these nominations should be held in a public forum where an open, transparent discussion can take place in front of a viewing audience.

HELP Committee rules clearly state that committee business should be open to the public with limited exceptions.<sup>1</sup> Nothing in the Senate Standing Rules would necessitate an exception to HELP Committee rules – a set of rules that prioritize maximum transparency for the American public concerning the Committee’s operations.

Next week’s scheduled business meeting will consider nominations that will have a significant effect on our nation. One in particular is the nomination of National Labor Relations Board (NLRB) Chairman Lauren McFerran for another five-year term on the Board. Under Chairman McFerran’s tenure, the NLRB has enacted many controversial decisions, some of which resulted in policies that Congress has rejected many times, such as allowing union bosses to take control of a workplace without giving employees even the limited protection of a secret-ballot vote.<sup>2</sup>

Further, an audit by the NLRB Inspector General found that the Board under Chairman McFerran has been grossly mismanaged, as it failed to comply with existing mail ballot procedures and failed to acknowledge publicly its misconduct in administering mail ballot elections or to release a proposal to the public on how it plans to remedy these problems.<sup>3</sup> This failure has created immense uncertainty for parties involved in union representation elections and undermined the Board’s integrity.

Taking these actions into account, a hearing examining this nominee’s renomination to the Board is certainly warranted. It is only prudent for the Senate to exercise its role to advise and consent in a public forum as we examine nominees that, if confirmed, would have significant power over

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<sup>1</sup> See HELP Committee, 117<sup>th</sup> Rules, Rule 3, “Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.”

<sup>2</sup> *Cemex Construction Materials Pacific, LLC*, 372 NLRB No. 130 (Aug. 25, 2023)

<sup>3</sup>NLRB Office of Inspector General: “Mail Ballot Elections,” Report No. OIG-AMR-101-24-03, <https://www.nlr.gov/sites/default/files/attachments/pages/node-151/mail-balot-elections-oig-amr-101-24-03.pdf>

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our nation's labor policies until nearly the end of this decade and an impact that would likely last much longer. We respectfully request the Committee make the necessary logistical plans to provide for both a hearing and a markup to take place in a public forum on these critical nominations.

Sincerely,



Mike Braun  
Ranking Member  
U.S. Senate HELP Subcommittee on  
Employment and Workplace Safety



Bill Cassidy, M.D.  
Ranking Member  
U.S. Senate Committee on Health,  
Education, Labor, and Pensions



Roger Marshall, M.D.  
U.S. Senator



Tommy Tuberville  
U.S. Senator



Markwayne Mullin  
U.S. Senator



Ted Budd  
U.S. Senator