



## 11 Groups Urge Senators to Allow More Time to Consider NLRB Nominee McFerran

December 08, 2014



Dear Members of the U.S. Senate:

We, the undersigned public policy organizations, are writing to ask you to give due and appropriate consideration to the new nominee to the National Labor Relations Board (NLRB), Lauren McFerran. Thoughtful review is appropriate as this rushed through without due diligence by the Senate to better understand how the nominee would approach the job as a member of the Board.



The Senate is expected to vote on McFerran's confirmation today in advance of the expiration of NLRB member Nancy Schiffer's term on December 16. McFerran, currently Chief Labor Counsel and Deputy Staff Director of the jurisdictional Senate Committee on Health, Education, Labor and Pensions, was recently nominated to the NLRB, on November 12, and the Senate advanced the nomination with a cloture vote on December 4.



One month is not enough time to evaluate this important nomination. We believe the nomination can and should be delayed for the following reasons:



- Major components of organized labor's agenda—including card-check organizing that would effectively end secret-ballot union elections—have been rejected by Congress. However, the Obama administration has been pursuing this same agenda by going around Congress, specifically through the NLRB—to which President Obama has consistently nominated union advocates, not neutral arbiters. It is important to the American public and workforce for the NLRB not to be turned into a partisan advocate for Big Labor.
- Were McFerran to be confirmed before the continuing resolution expires on December 11, 2014, that would mean the Senate took less than a month for her confirmation—a sixth of the minimum time typically given to judicial confirmations. Given the NLRB's adjudicatory role, such due diligence is important. Moreover, the Board has operated with fewer than five board members for 90 percent of the time over the last 10 years. It would continue to adequately function with four members until this nomination is properly reviewed.
- When questioned on her approach to major issues the NLRB will face in upcoming major cases, McFerran has been largely silent. One such case revolves around whether franchisor corporations, such as McDonald's, can be held jointly responsible for their franchisees' employees' wages, benefits, and working conditions—an issue with major implications for the American economy. While the NLRB's adjudicatory role requires nominees to look at all cases with an open mind, it is appropriate for the Senate to consider a



nominee's overall approach, especially to an agency that has been so politicized recently as the NLRB.

On behalf of our organizations, we urge you to act with due care and consideration in giving the president advice and consent on this nominee. The Senate should preferably wait until the expiration of Republican member Harry I. Johnson III next summer, and move the two nominations in tandem, as is established practice. Given that the NLRB has adequately functioned with less than its full membership, this would not hinder the Board's operations.

Again, we urge members of the U.S. Senate to oppose the confirmation of Lauren McFerran as the newest member of the National Labor Relations Board until due and appropriate consideration is given to her nomination. We appreciate your attention to this crucial matter.

Sincerely,

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