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STATEMENT OF EDWARD M. KENNEDY ON NOMINEES RICHARD STICKLER AND ARLENE HOLEN

(As Prepared for Delivery before the Senate Health, Education, Labor, and Pensions Committee Executive Session)

I oppose the nomination of Richard Stickler to be Assistant Secretary of the Mine Safety and Health Administration and Arlene Holen to the Mine Safety and Health Review Commission.

This year 24 miners have already been killed—twenty-one in our nation’s coal mines, only three short of all of last year. It is clear that something is seriously wrong in mine safety. The Assistant Secretary of MSHA is the nation’s top official in protecting miners’ safety and we need someone who will be effective in meeting that responsibility.

Last month Chairman Enzi, Subcommittee Chairman Isakson, Subcommittee Ranking Member Senator Murray and I traveled to West Virginia to meet with the families of the miners killed at Sago Mine. We heard from them about the tragic losses they suffered and the last messages their loved ones left for them.

These family members, and these miners, are the true experts on mine safety and their voices must be heard. We have held hearings in the Committee on changes needed in federal law to enhance the safety of all miners, and I look forward to working with my colleagues to report legislation needed to strengthen safety standards and enforcement.

Our nation’s miners need and deserve a strong leader at the head of MSHA. But in his demeanor and responses in the committee hearing, Mr. Stickler failed to convince us that he is the right person for the job. He is not a safety and health specialist. His response, time and again, was that he would study and analyze these problems, which gave us little confidence. As numerous experts have testified, MSHA, NIOSH, and the health and safety community have been studying these problems for years—and in some cases, decades.

The time for study is over. It is time for action. America’s miners are paying the price for this long delay. We do not have all the answers yet, but clear consensus is emerging around certain basic protections that are urgently needed. We need an Assistant Secretary who will vigorously lead the agency and put these protections in place quickly, and who will aggressively seek other protections to make the United States once again the world leader in mine safety.

With respect to Ms. Holen’s nomination, my concern is that it would skew the make-up of the Mine Safety and Health Review Commission, the body responsible for reviewing penalties. The Commission’s work is of great concern. Last fall an administrative judge under the Commission chose to reduce penalties at the Jim Walters Resources Mine in Alabama from \$435,000 to only \$3,000 in a case in which repeated safety violations had taken place and 13 miners were killed. The Commission will be considering the appeal of this case. Imposing strong penalties against bad actors is a critical mission of the Commission and we must ensure that it is a balanced group.

Ms. Holen has served on the Commission before, but she is now being nominated to a seat vacated by a Democratic nominee. If Ms. Holen takes that seat, the Commission will be dominated by individuals with extensive industry ties and will have only one Commissioner who has worked on behalf of America’s miners.

It is critical for the Commission to have a balanced representation. Such representation is not required by statute, but it has been the long-standing practice of our Committee to insist on it. America’s miners and the

American public are not fairly served when the balance is tilted heavily in favor of the industry and against the interests of the miners.

For these reasons, I oppose these two nominees and I urge my colleagues to reject them.

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