

[Rollcall Vote No. 272 Ex.]

YEAS—50

Alexander	Fischer	Perdue
Barrasso	Flake	Portman
Blunt	Gardner	Risch
Boozman	Graham	Roberts
Burr	Grassley	Rounds
Capito	Hatch	Rubio
Cassidy	Heller	Sasse
Cochran	Hoeven	Scott
Collins	Inhofe	Shelby
Corker	Isakson	Strange
Cornyn	Johnson	Sullivan
Cotton	Kennedy	Thune
Crapo	Lankford	Tillis
Cruz	Lee	Toomey
Daines	McConnell	Wicker
Enzi	Moran	Young
Ernst	Murkowski	

NAYS—47

Baldwin	Harris	Nelson
Bennet	Hassan	Paul
Blumenthal	Heinrich	Peters
Brown	Heitkamp	Reed
Cantwell	Hirono	Sanders
Cardin	Kaine	Schatz
Carper	King	Schumer
Casey	Klobuchar	Shaheen
Coons	Leahy	Stabenow
Cortez Masto	Manchin	Tester
Donnelly	Markey	Udall
Duckworth	McCain	Warner
Durbin	McCaskey	Warren
Feinstein	Merkley	Whitehouse
Franken	Murphy	Wyden
Gillibrand	Murray	

NOT VOTING—3

Booker Menendez Van Hollen

The nomination was confirmed.

The PRESIDING OFFICER. The majority leader.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that with respect to the Bradbury nomination, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of David G. Zatezalo, of West Virginia, to be Assistant Secretary of Labor for Mine Safety and Health.

Mitch McConnell, John Hoeven, Thom Tillis, Tom Cotton, Cory Gardner, Jerry Moran, John Barrasso, Luther Strange, Mike Crapo, John Cornyn, Richard Burr, Mike Rounds, Orrin G. Hatch, David Perdue, Marco Rubio, John Thune, John Boozman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of David G. Zatezalo, of West Virginia, to be Assistant Secretary of Labor for Mine Safety and Health, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Maryland (Mr. VAN HOLLEN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 45, as follows:

[Rollcall Vote No. 273 Ex.]

YEAS—52

Alexander	Flake	Perdue
Barrasso	Gardner	Portman
Blunt	Graham	Risch
Boozman	Grassley	Roberts
Burr	Hatch	Rounds
Capito	Heller	Rubio
Cassidy	Hoeven	Sasse
Cochran	Inhofe	Scott
Collins	Isakson	Shelby
Corker	Johnson	Strange
Cornyn	Kennedy	Sullivan
Cotton	Lankford	Thune
Crapo	Lee	Tillis
Cruz	McCain	Toomey
Daines	McConnell	Wicker
Enzi	Moran	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—45

Baldwin	Gillibrand	Murray
Bennet	Harris	Nelson
Blumenthal	Hassan	Peters
Brown	Heinrich	Reed
Cantwell	Heitkamp	Sanders
Cardin	Hirono	Schatz
Carper	Kaine	Schumer
Casey	King	Shaheen
Coons	Klobuchar	Stabenow
Cortez Masto	Leahy	Tester
Donnelly	Manchin	Udall
Duckworth	Markey	Warner
Durbin	McCaskey	Warren
Feinstein	Merkley	Whitehouse
Franken	Murphy	Wyden

NOT VOTING—3

Booker Menendez Van Hollen

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 45.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of David G. Zatezalo, of West Virginia, to be Assistant Secretary of Labor for Mine Safety and Health.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Thank you, Mr. President.

Mr. President, the Senate has just invoked cloture on the nomination of David Zatezalo, of West Virginia, to be the Assistant Secretary for Mine Safety and Health. Mr. Zatezalo is uniquely qualified to lead the U.S. Department of Labor's Mine Safety and Health Administration because he knows the industry inside out. He has spent his career in mining, starting as a miner. He is a member of a union. He worked his way up to general superintendent in Southern Ohio Coal and was a general manager at AEP.

The Health, Education, Labor, and Pensions Committee approved his nomination on October 18, and I am glad the Senate will have the opportunity to vote on his confirmation.

TAX REFORM

Mr. President, for a few minutes I would like to turn to another subject. Congress has turned its attention to tax reform, and our principal challenge is to find tax breaks and loopholes to eliminate so that we can lower rates for taxpayers.

I have a nomination. The top of the list should be ending the wind production tax credit. Congress has already recognized the need to end the wind production tax credit by passing legislation to phase out the credit by 2020.

The draft House tax proposal reduces the amount available for new wind turbines by returning the credit to its original value instead of adjusting it for inflation, but we should do better. Instead of phasing it out, we should end the wind production tax credit this year. Ending the wind production tax credit on December 31, 2017, would save over \$4 billion, which we could then use to lower tax rates for the American people.

The wind production tax credit has been in place for 25 years. It has been extended 10 different times by Congress. It was originally set to expire in 1999.

Tax credits are best used to jumpstart new and emerging technologies. It has been a quarter of a century. Wind turbines are no longer a new technology.

President Obama's Energy Secretary, Steven Chu, testified that he believes that wind is a mature technology. It is time to end this wasteful and expensive subsidy for a clearly mature technology.

To date, the wind production tax credit has already cost the taxpayers billions. For 8 years—from 2008 to 2015—the wind production tax credit cost taxpayers \$9.6 billion. That is more than \$1 billion per year.

According to the Congressional Research Service, the wind production tax credit is expected to cost taxpayers over \$23 billion between 2016 and 2020, and the cost to taxpayers will continue until 2030. That is because when you extend the wind production tax credit for 1 year, it is really for 10 years.

To benefit from the tax credit, wind developers must just begin construction of a wind project before December 31, 2019. Then those developers can reap the tax benefits for a decade.

Despite the billions Congress has provided in subsidies, wind energy still produces only 6 percent of our country's electricity and 17 percent of our country's carbon-free electricity. By contrast, nuclear is 20 percent of our electricity and 60 percent of our emissions-free, carbon-free electricity.

The wind blows only about one-third of the time. Until there is some way to store large amounts of wind, a utility still needs to operate nuclear, gas, and coal plants when the wind doesn't blow.

On average, wind turbines are over two times as tall as the skyboxes at the University of Tennessee's Neyland Stadium and taller than the Statue of Liberty. The blades on the windmills can be as long as a football field, and their blinking lights can be seen for 20 miles.

This isn't the first time that I have been to the Senate floor to express my concern about the wind production tax credit, but I believe that the conversation about energy subsidies and taxes is bigger than the wind production tax credit. As Congress examines ways to reduce tax rates and to broaden the base, we must be willing to look at all tax subsidies from mature technologies. That includes oil and gas subsidies. I am here today to challenge my colleagues to be willing to consider all energy subsidies from mature technologies—wind, solar, oil, gas—as candidates for elimination in a tax reform bill. Those dollars could be better spent to lower rates for taxpayers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I come to the floor today to highlight yet another dangerous nominee who has been put forth by this administration.

During the campaign, President Trump made promise after promise to workers. He said he would put them first. He said he would bring back good-paying jobs to our struggling communities. While he made this promise to all workers, he specifically called out miners on more than one occasion, so it would stand to reason that President Trump would prioritize the Mine Safety and Health Administration and nominate a leader who is committed to the agency's core mission.

MSHA is critically important to ensuring that mining jobs are safe and that mining companies aren't unnecessarily endangering their workers' lives and safety. MSHA is responsible for inspecting mines and holding companies accountable when they violate safety and health standards. MSHA's top priorities are to eliminate fatal mining accidents, reduce the frequency and severity of accidents, and minimize health hazards for workers through inspection enforcement.

Unfortunately, we are already seeing MSHA safety standards lapse under the Trump administration. Earlier this year, MSHA was set to implement a rule that would require safety exams of mines prior to the start of a miner's shift. Ensuring mines are safe before miners are put at risk should not be controversial. Yet the Trump administration has delayed implementation of that rule and proposed changes to actually weaken it.

Given this concerning record so far, it is so critical—absolutely critical—that the MSHA Administrator is committed to standing up for our miners. But instead of nominating an advocate for workers' health and safety, President Trump nominated one of the industry's worst offenders.

David Zatezalo is a mining industry executive who has made it clear that he cares more about corporate profits than workers. When he was the CEO of Rhino Resources, one of the mines under Mr. Zatezalo's control received unprecedented safety penalties. A Rhino mine was the first in history to be cited twice for a pattern of violations, an action that is only taken when there is a clear and demonstrated disregard for workers' health and safety.

When the Obama administration issued commonsense rules to improve the pattern of violations process, the Ohio Coal Association, where Mr. Zatezalo sat on the board of directors, sued to block the rule.

Under Mr. Zatezalo's leadership, two separate mines owned by Rhino Resources had injury rates that far exceeded the national average.

As a mining executive, Mr. Zatezalo refused to play by the rules. His company violated the Federal Mine Safety and Health Act by giving advance notice of an MSHA inspection, meaning employees had the opportunity to cover up potential health and safety violations.

Rhino Resources was sued by the EEOC for creating an unlawful, hostile work environment by allowing an employee to be targeted based on his national origin. The EEOC said Zatezalo's company allowed discrimination to "continue unchecked in the workplace" and cited Rhino for retaliating against the employee instead of reprimanding those who were doing the harassing.

It is clear to me that Mr. Zatezalo is wholly unqualified to serve as the Mine Safety and Health Administrator, and I believe that if he is confirmed, he will put thousands of miners' lives and safety at risk.

I am very disappointed that President Trump and congressional Republicans are once again breaking promises to workers. I urge my colleagues to join me in standing up for our miners across the country and vote against Mr. Zatezalo's nomination.

Once again, the contrast with Democrats' vision couldn't be starker. Under the leadership of Senator CASEY, Democrats are advocating for stronger enforcement abilities for MSHA so we can hold operators who show a repeated disregard for miner safety accountable.

I really want my colleagues on the other side of the aisle to join us and pass these commonsense reforms that will help prevent further mining accidents and deaths. We will strengthen our economy if we start prioritizing workers' health, safety, and well-being over corporate profits. I believe that must begin with rejecting President Trump's extreme agenda and these nominees who appear all too willing to implement it without concern for the workers and families they are supposed to serve.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. RUBIO). The Senator from Utah.

BLUE SLIP PROCEDURE

Mr. LEE. Mr. President, I wish to speak for a few minutes about the Senate blue slip.

As my colleagues know, when the President nominates someone who will be processed by the Senate Judiciary Committee, home State Senators receive a letter informing them of the nomination and asking whether they approve of the nominee in question. The letter is printed on blue paper—thus the name. That is why we call it the blue slip.

The question on the table is, What should happen if one or both of the home State Senators do not approve the nomination?

In previous years, the chairman of the Senate Judiciary Committee has treated the blue slip as a *de facto* veto, but that is not how the blue slip originally functioned. Between 1917, when the blue slip was first used, and 1955, the blue slip was never treated as a veto. Instead, it gave the home State Senators a special ability to state their objections about a nominee during a hearing. The committee could then decide how to proceed.

When James Eastland, a Democrat from Mississippi, became chairman of the Senate Judiciary Committee in 1955, he took a different approach. Why did Eastland implement this new policy? No one knows for sure, but one scholar has written that Eastland, an ardent segregationist, might have been trying in part to "keep Mississippi's federal judicial bench free of sympathizers with *Brown v. Board of Education*."

We are evaluating the strength of a custom. It is a custom of relatively recent vintage, and its origin story surely matters in how we evaluate its ongoing relevance to the Senate today.

Eastland kept that policy in place for the whopping 22 years he served as chairman of the Senate Judiciary Committee. When Senator Ted Kennedy took over from Eastland in 1979, he immediately changed the status and functioning of the blue slip procedure. As the Congressional Research Service reports, Kennedy determined that the blue slip "did not have the same power to automatically stop committee action as before." Rather, Kennedy affirmed his right to move forward with a nomination regardless of the blue slip.

To make a long story short, since 1955, there have been eight chairmen of the Senate Judiciary Committee, including Eastland. By my count, two have treated the blue slip as a veto; the other six have either said the blue slip was not a veto or have at least not treated the blue slip as a veto.

What to make of this history? For one thing, we often hear that the blue slip is a 100-year-old tradition. In my view, it should be equally powerful to note that the blue slip originated 128 years after the first Congress. That is