

United States Senate

December 6, 2016

The Honorable Donald J. Trump
The President-elect
New York, NY

Dear President-elect Trump:

Congratulations on your historic election as the next President of the United States. I look forward to working together closely to address the many challenges facing the United States at home and abroad.

One of your driving principles is rolling back the countless Obama administration regulations and policies that have stifled job creation, economic growth, and innovation. I could not agree more that reversing such misguided policies is critically needed. In addition to enacting harmful policies, the current administration has failed to support commonsense reforms needed to improve the lives of hardworking Americans and protecting our way of life. While not exhaustive, I would like to draw your attention to several policies where the status quo is unacceptable and urge you to take prompt, decisive actions to change course on behalf of Montanans and all Americans.

Securing our nation's energy future

1. **Terminate the Clean Power Plan and unleash American innovation.** A University of Montana Bureau of Business and Economic Research study found the Clean Power Plan would lead to the biggest economic disaster in Montana in 30 years—including the closure of the Colstrip plant, the reduction of over 7,000 jobs, and more than a \$1.5 billion loss in economic output—all for a “negligible” impact on the environment according to the Environmental Protection Agency (EPA). No commercially available technology can achieve the Clean Power Plan’s required level of emissions at a coal plant, and certainly not by the EPA-mandated timeline for compliance. Montana would be forced to restructure its energy economy accordingly and jeopardize the grid’s reliability while doing so. Whether through executive action or through Congress, the United States should unleash American innovation by incentivizing clean coal technology instead of wiping the industry out of business.
2. **Approve the Keystone XL pipeline.** Whether through an Act of Congress or through executive action, this pipeline must be approved. The Keystone XL pipeline will be a much-needed lifeline to many rural Montana communities, entering the United States through Phillips County, and traveling about 284 miles across eastern Montana to South Dakota. The Obama administration unconscionably vetoed this project, which would create about 800 jobs in Montana, help keep electricity prices affordable for families, and generate more than \$80 million in Montana property taxes, more than \$16 million of which would be distributed to Montana’s schools and university system.

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3. **Terminate Secretarial Order 3338.** This order imposed a moratorium on federal coal leasing, paused ongoing lease applications and modification reviews, and launched a programmatic review of the federal coal leasing program, including overhauling the leasing process and changing royalty rates. This moratorium and Programmatic Environmental Impact Statement will put nearly 65,000 direct and indirect mining jobs at risk, as well as impact the billions of dollars in revenues to states like Montana, as well as to Indian tribes, used to pay for schools, reclamation, and other infrastructure projects. I urge you to rescind this damaging order.
4. **Utilize coal export terminals.** Powder River Basin coal is lower in sulfur content than Indonesian coal. Currently, Montana coal producers must rely on Canadian ports to bring our coal to market. I urge you to approve applications for coal export terminal permits in a timely manner. Doing so will help Montana coal reach Asian demand, thereby creating more American jobs here at home instead of across our border while keeping global emissions down.
5. **Halt finalization of the Office of Surface Mining's Stream Protection Rule.** This wholly unnecessary and unsupported Obama administration rule would affect both surface and underground coal mines, substantially impairing domestic industry's ability to meet our nation's energy needs and devastating Montana's coal development, which is a pillar of our state's economy. Furthermore, the proposed rule was developed without sufficient tribal consultation and consideration of potential harm to Indian tribes' economies, some of which in Montana would suffer.
6. **Empower states and tribes to take the lead in natural resource development and protecting the environment.** The Bureau of Land Management's (BLM) recently released Methane and Waste Reduction Rule is duplicative and unnecessary, conflicts with current state laws, such as those put in place in Montana, and would discourage state-driven solutions to managing methane emissions. I urge you to rescind this rule before implementation. The BLM hydraulic fracturing rule also represents overreach into states' and Indian tribes' efforts. With respect to its impact on Indian tribes in particular, this rule would make it harder to do business with Native nations and make them less competitive in energy markets. Furthermore, the BLM Sage-Grouse Conservation Plans are yet another example of federal requirements' dissonance with work states have already done. Whether through regulation of methane emissions, hydraulic fracturing, or approaches to wildlife management, I believe state and tribal governments are best suited to lead in addressing these issues, not an overreaching and out-of-touch federal bureaucracy.
7. **Strengthen our nation's critical mineral supply.** Our foreign mineral dependence is a mounting threat to our economy, our national security, and our international competitiveness. Despite our nation's abundant resources, including Montana's supply of palladium, platinum, molybdenum, and other important minerals, our nation's permitting

process for mineral development remains one of the longest in the world. I believe there are ways to streamline our critical mineral production while protecting our environment and urge you to work with Congress toward that end by prioritizing formulating a robust domestic critical mineral strategy.

8. **Terminate the EPA rulemaking under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).** The financial assurance regulations established by this rulemaking directly threaten the very industries that are a backbone of our economy and are essential to our energy security. They should be halted immediately.

Keeping Americans safe

1. **Prioritize nuclear deterrence.** The Obama administration has consistently jeopardized the nuclear triad, which is an essential aspect of our national defense and serves as a critical strategic deterrent to our enemies. I urge you instead to support and fully modernize our Intercontinental Ballistic Missile arsenal and the other components of the nuclear triad.
2. **Renegotiate the Iran deal.** The poorly formed and negotiated Joint Comprehensive Plan of Action provided billions of dollars to the world's leading state sponsor of terror. It is critical that this agreement is renegotiated to ensure that Iran is held to account for its actions that have destabilized the region, threatened our allies, and resulted in Americans being held hostage or even killed.
3. **Uphold the promises made to our veterans.** Over the course of the past eight years, the Department of Veterans Affairs (VA) has been plagued by scandal after scandal that has oftentimes resulted in our veterans not receiving the care they deserve. I urge you to hold officials at the VA accountable and ensure those who have served receive the best possible care. Additionally, veterans living in Montana and other rural regions of the country face unique challenges. I encourage you to prioritize care for veterans in these rural areas and ensure that their concerns are considered as you move forward with establishing new leadership at the VA.
4. **Defend the Second Amendment.** This constitutional right is essential to our way of life in Montana and our country as a whole. It is clear that the Obama administration has been intent on heavily restricting our Second Amendment rights through limits on access to ammunition, unnecessary regulations, artificially keeping common firearms on the United States Munitions List, and overreaching application of the International Trade in Arms Regulations. I urge you to instruct agencies, especially the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Federal Bureau of Investigation, to defend our Second Amendment rights and protect the lawful purchase, ownership, and use of firearms.

5. **Implement strong immigration policies.** The Obama administration's executive actions related to immigration degraded the rule of law and encouraged individuals to enter our country illegally. I request that you immediately rescind related executive orders; strengthen border security, including for northern states like Montana that must not be left vulnerable; enforce existing laws; and preclude sanctuary cities from receiving federal funding.

Protecting taxpayers and rights of conscience

1. **Repeal and replace Obamacare.** Obamacare has driven up the costs of health insurance premiums and has increased the financial burden on American middle class families. It is a story of broken promises and failed policy. I urge your administration to repeal and replace this law and spare the American people the severe hardships they have had to endure as a result of it.
2. **Reinstate the Mexico City Policy.** This policy, first established by President Reagan, prevents organizations that receive American taxpayer dollars from performing or promoting abortions abroad, even if done with non-United States government funding. The United States should seek to support the value of life among all nations and no taxpayer funds should be used to support programs such as forced abortion or for the promotion of abortion anywhere.
3. **Enforce the Weldon Amendment.** This amendment prohibits funds from going to any federal agency or program, state government, or local government that discriminates against a physician, a health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan on the basis that it does not provide, pay for, provide coverage for, or refer for abortions. Failure to enforce would allow states like California to continue to force churches, religious organizations, and other groups to provide coverage for abortions against their consciences.
4. **Strictly enforce the Hyde Amendment.** The Hyde Amendment prohibits any taxpayer dollars from being used for abortion except for specific cases. This includes taxpayer dollars used to provide health care plans for federal employees. Enforcement would follow the express will of Americans for the use of their taxpayer dollars.
5. **Rescind the Department of Health and Human Services rule on the coverage of certain preventive services under the Affordable Care Act issued on July 2, 2013.** This rule is a direct violation of religious freedom and is duplicative in coverage for the services offered. Coverage for contraceptives should be the choice of individuals and organizations according to their conscience as the Supreme Court found in *Burwell v. Hobby Lobby*.
6. **Rescind the Department of Education Title IX Guidance.** I urge you to immediately rescind the Department of Education's guidance that Title IX's prohibition of "sex"

discrimination encompasses “gender identity”. This guidance did not undergo public scrutiny and represents the epitome of government overreach. The Department of Education’s interpretation of Title IX to include “gender identity” is an unwarranted expansion of federal powers and related regulations should be developed and determined by local governments and schools.

Preserving our privacy and fostering innovation

1. **Replace the Federal Communications Commission (FCC) consumer privacy rules.** The FCC privacy rules arbitrarily put in place burdensome regulations on internet service providers. This approach creates an unworkable framework for businesses and a confusing internet ecosystem for consumers. Further, these rules have a particularly disparate impact on small businesses.
2. **Reverse net neutrality rules.** The Obama administration’s net neutrality rules are an unprecedented attempt to exert government control over the internet. The rules attempt to apply 20th century regulations to an open and vibrant ecosystem that all Americans have grown to rely on. These policies will chill innovation, slow investment, and harm consumers.
3. **Stop implementation of changes to Federal Rule of Criminal Procedure 41.** The Obama administration’s proposed changes to Rule 41 will greatly expand the government’s hacking powers and will substantially impact Americans’ Fourth Amendment rights. The rule change was made behind closed doors without any consideration by Congress. Implementation of the rule change must be stopped in order to give Congress the time it needs to review potential changes through a transparent process.

Bolstering America’s agricultural economy

1. **Revise the Waters of the United States (WOTUS) rule.** The overreaching WOTUS rule seeks to regulate virtually every ditch and pond that may be occasionally wet across the United States and would have a significant negative impact on farmers, ranchers, and landowners across the country. I urge you to support efforts to rollback WOTUS and issue a revised rule that protects traditional navigable waters from water pollution while protecting Montanans’ private property rights.
2. **Level the playing field for Montana producers.** Ensuring that Montana producers are treated fairly in foreign markets is of utmost importance and we need stronger leadership on this issue. For example, Montana ranchers must be able to sell beef into the Chinese market and Canada should not be able to unfairly subsidize its timber production to the detriment of Montana lumber mills. I urge you to prioritize both of those issues and work to reduce barriers to trade for Montana producers as they compete for the 95% of the world’s consumers that live outside of the United States. I also call on your

administration to fight for a level playing field for our nation's producers and consumers within any future trade negotiations.

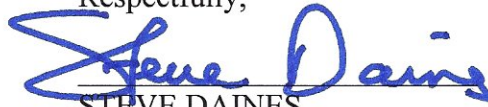
Standing up for small business and the workforce

1. **Reduce overburdensome regulations that stifle job creation and discourage ingenuity.** In order to reduce harmful regulations, I urge you to consider implementing the following executive policies: 1) sunset all regulations that are not reviewed and updated every ten years, 2) rescind unnecessary interpretive rules written by the Obama administration that significantly changed previously standing interpretive rules, and 3) eliminate two regulatory rules for each new rule adopted. Implementing such reforms will stimulate our currently anemic economy and help all Americans prosper.
2. **Exempt Indian tribes from the National Labor Relations Board (NLRB).** The National Labor Relations Act (NLRA), which is enforced by the NLRB, provides workers with the right to collectively bargain with employers and requires employers to bargain in good faith. It does not, however, specify whether Indian tribal employers are covered. As a matter of tribal sovereignty and tribes' right of self-government, I urge you to exercise your prosecutorial discretion to not enforce the NLRA against federally recognized Indian tribes in Montana and across the country.
3. **Reverse the NLRB ruling in *Specialty Healthcare and Rehab. Ctr. of Mobile*.** This decision, also known as the micro-union rule, creates an artificial bargaining group within the group of individuals employed. It creates a heavy burden for employers, reducing their capacity and resources to truly engage in collective bargaining, as the deck is stacked against them.
4. **Rescind the NLRB final rule on Representation-Case Procedures.** This rule, also known as the ambush election rule, creates a significant and artificial disadvantage for employers in negotiations with employees by allowing individuals seeking elections on representation to blindside employers and negate the possibility for true discussion. Ultimately, it puts a thumb on the scales against achieving a mutually beneficial outcome.
5. **Reverse the NLRB Browning-Ferris decision of August 27, 2015.** This rule, also known as the joint employer rule, single-handedly vitiated relationships between businesses and their vendors, franchisees, or staffing agencies. It introduced significant volatility into the employment market and created uncertainty for job creators navigating the ever increasing regulations placed on them.
6. **Eliminate the Department of Labor Overtime Rule.** This rule sets a national income threshold that is unfair to employers and employees alike in Montana since relatively more employees will qualify under the rule than in other parts of the country. As a result of the rule, Montana employers will be encouraged to automate unskilled jobs with salaries under the income threshold.

7. **Rescind the Department of Labor's Fiduciary Duty Rule.** The current administration's rule negatively impacts Montanans' ability to save for their retirement and will harm those it claims to help. Without the use of commission fees, the final rule gives financial advisors an incentive to shun small balance retirement accounts because they will become economically infeasible. Small balance account holders are often the very individuals that can afford to lose the least. As a result of the rule, many people will be forced to use robo-advisors, but many in rural America do not have internet access, putting them at a disadvantage when preparing for retirement. Rescinding the rule will allow financial advisors to better serve their clients. Montanans saving for retirement should not have to jump through unnecessary hoops or deal with complicated and confusing government regulations when seeking sound financial retirement advice.

Thank you for your consideration and I look forward to working together to bring these items to fruition.

Respectfully,



STEVE DAINES

United States Senator