



# Attorney General Doug Peterson

## **WHY THE CONSTITUTION MATTERS By Attorney General Doug Peterson August 1, 2017**

It is common to hear elected officials refer to the Rule of Law or affirm that we are a nation of laws. But what does that really mean, and why is it important? The United States Constitution is the foundation for our form of government. It sets forth the purposes and powers of the legislative, executive, and judicial branches of our federal government. The Constitution creates a system of checks and balances that has sustained our nation for more than 200 years.

When I took office on January 8, 2015, I pledged an oath to uphold the Constitution. Since taking that oath, there have been several occasions where Nebraska has successfully led or joined other states in lawsuits against federal overreach.

Recently, I joined nine other state attorneys general in a letter requesting the phase out of the current Deferred Action Childhood Arrival program (DACA). The letter did not call for immediate removal of any DACA affected persons. The letter was prompted by a December 2014 lawsuit where Nebraska joined several other states challenging the legality of both the expanded DACA program and the new Deferred Action for Parental Accountability (DAPA). President Obama issued these new immigration policies in November 2014 via executive order. Our legal challenge was successful. The United States Court of Appeals for the Fifth Circuit held that these programs were unlawful both procedurally and substantively. However, the original DACA executive order signed by President Obama in 2012 is still in effect. The successful legal arguments that struck down the 2014 executive order have the same application to the 2012 executive order.

The Constitution provides that Congress has the exclusive authority to establish uniform rules regarding immigration policy. Congress has done that by passing the Immigration Nationality Act (INA), establishing the framework for granting legal status to foreigners wishing to stay in the United States. Although the

executive branch has responsibility and authority for implementing the Act, it cannot unilaterally expand or change the plain language of the law.

The topic of immigration, particularly the DACA program, evokes strong feelings on both sides of the issue. Persons of goodwill may disagree on the direction of immigration policy. The Constitution provides, however, that the appropriate venue for determining policy direction lies with the legislative branch and not the president acting via executive order. Our Constitution prohibits not only legislating from the bench but also from the Oval Office.

The constitutional system of checks and balances and separation of powers is essential to governmental stability. To make an exception allowing the president to expand any law beyond the meaning intended by Congress would violate this most important constitutional principle.

*Official photo is attached.*

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