

SIXTIETH DAY - APRIL 20, 2016

LEGISLATIVE JOURNAL

**ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION**

SIXTIETH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, April 20, 2016

PRAYER

The prayer was offered by Senator Campbell.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Foley presiding.

The roll was called and all members were present except Senator Fox who was excused until she arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-ninth day was approved.

MESSAGE(S) FROM THE GOVERNOR

April 15, 2016

Mr. President, Mr. Speaker, and
Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 935 without my signature and with my objections.

LB 935 includes many provisions that would operationally assist the Auditor of Public Accounts. I do not object to those policy changes. Unfortunately, the new proposal to convert the reimbursement of state employee travel costs from the current system of paying based on the submission of actual receipts to a new system based upon the federal government's per diem rate will increase costs to the State, decrease taxpayer transparency, and open the door for the misuse of taxpayer dollars.

I am pleased to let you know that I have reached an agreement with Auditor Janssen to work with him on a new proposal for next year. With additional vetting, I believe we can achieve the policy objective of LB 935 and reduce bureaucratic paperwork. There were several good government measures in this bill, and we will work on this issue before the next legislative session to come up with a solution that both respects the taxpayer and reduces bureaucratic audit processes.

For these reasons, I respectfully urge you to sustain my veto of LB 935.

Sincerely,
(Signed) Pete Ricketts
Governor

April 15, 2016

Mr. President, Mr. Speaker, and
Members of the Nebraska Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 947e without my signature and with my objections.

As I wrote to you earlier this week, not only is the bill unfair but I have serious concerns on the breadth and scope of LB 947. While proponents of this legislation have artfully focused only on the DACA youth, the bill, in its current form, would provide business licenses to a much broader group of illegal immigrants than just the young adults under the federal DACA program.

LB 947 clearly will require state agencies to issue Nebraska business licenses to multiple classes of non-qualified aliens, including those persons who have a pending application for asylum, those who have, or are pending review for, temporary protected status, and those individuals granted temporary deferred action status – a status which is much more expansive than covering only DACA youth.

I understand the desire to help these individuals, but first let's review how we got to this point and what passing LB 947 will ultimately mean for the State of Nebraska.

On June 15, 2012, President Obama usurped congressional authority and created the "Deferred Action for Childhood Arrivals ("DACA")" initiative. Deferred action, by federal definition, does not provide anyone with lawful permanent resident status or any legal status in the United States. It confers no legal immigration status, nor a pathway to citizenship.

DACA status does not confer any right or ability to remain permanently in the United States. It is merely an indication that deportation proceedings for illegal immigrants will not occur within a time specified by the federal government.

The President's unilateral executive action created a temporary status that placed a large group of illegal immigrants in limbo. There are currently estimated to be over 3,000 individuals in Nebraska with DACA status.

On November 20, 2014, President Obama once again usurped congressional authority and unilaterally announced his "Deferred Action for Parents of Americans and Lawful Permanent Residents ("DAPA")" initiative. There are an estimated 18,000 individuals in Nebraska with this status and with the proposed extended DACA status.

Last year, the U.S. District Court for the Southern District of Texas issued a preliminary injunction against implementation of DAPA and further expansion of the DACA status. The federal court agreed with Nebraska and 25 other states which sued the federal government challenging the lack of the President's authority to create an immigration status out of thin air.

A federal circuit court then agreed that the DACA and DAPA temporary stay of deportation status conferred by the President was not lawful.

Next week, the U.S. Supreme Court will consider arguments and review the legality of the DACA and DAPA initiatives. A decision is expected within the next several months. Depending on the Supreme Court's decision, or a new president's policy, or further action taken by the states, there could be a reversal or complete elimination of the DACA and DAPA deferred action status.

LB 947 is premature and exacerbates the uncertain situation of individuals in a deferred action status. It is also an attempt to codify benefits in state law at the same time as there are serious legal challenges to the federal government's extension of the temporary deferred status to the DACA and DAPA groups.

The extension of business licenses proposed in this bill is not a policy that has long-term solutions in mind. It is poorly conceived policy that does not consider what happens when the deferred status is removed – by federal court order or by a change in federal policy.

LB 947 is an affront to the individuals who are observing our laws and navigating proper immigration channels to obtain jobs and legal status. The enactment of this bill would unjustly allow individuals who are here illegally to be ahead of those who have been waiting years to be granted a proper permanent or legal status in our country.

For each of these reasons, I urge you to sustain my veto of LB 947.

Sincerely,
(Signed) Pete Ricketts
Governor

April 18, 2016

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 400, 400A, 465, 465A, 467e, 467Ae, 505, 505A, 683, 722, 722A, 745, 746e, 746Ae, 754, 754A, 774e, 774Ae, 803e, 830, 867, 886, 886A, 889, 889A, 919, 919A, 934e, 934A, 938e, 977e, 977Ae, 1022e, 1033e, 1038, 1038A, 1105e, and 1105Ae were received in my office on April 12, 2016.

These bills were signed and delivered to the Secretary of State on April 18, 2016.

Sincerely,
(Signed) Pete Ricketts
Governor

April 18, 2016

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 959e and 959Ae were received in my office on April 12, 2016.

These bills were signed and delivered to the Secretary of State on April 18, 2016.

Sincerely,
(Signed) Pete Ricketts
Governor

April 18, 2016

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 960e and 960Ae were received in my office on April 12, 2016.

These bills were signed and delivered to the Secretary of State on April 18, 2016.

Sincerely,
(Signed) Pete Ricketts
Governor

April 18, 2016

Mr. President, Mr. Speaker,
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Members of the Legislature:

I am returning LB 580 without my signature and with my objections.

The legislation has been described as an effort to remove partisanship from the redistricting process by creating and authorizing a so-called "Independent Redistricting Citizen's Advisory Commission" to perform this constitutionally required function.

LB 580 presents serious concerns regarding the partisan political nature of the newly created commission and raises significant constitutional questions. The bill creates what could become a hyper-partisan, unelected advisory commission that will likely be comprised of former political party activists and former elected officials.

Under the Nebraska Constitution, the people's elected representatives in our non-partisan Legislature are required to redistrict every ten years. While redistricting can be a tough process, handing this vital authority over to an unelected board -- which will be appointed by legislative caucuses based upon partisan political party affiliation -- is outside the spirit and tradition of our non-partisan Unicameral Legislature.

Article III, Section 5 of Nebraska's Constitution requires the Legislature to conduct legislative redistricting; not anyone else. The bill does not merely

delegate details of the redistricting process to an administrative advisory agency, rather it improperly delegates nearly all of the actual aspects of redistricting authority to an "advisory commission."

Under LB 580, only the unelected advisory commission can draft redistricting bills. Those bills do not receive a formal public hearing by a legislative committee -- a requirement for all other legislative bills. Instead, the highly substantive and politically sensitive redistricting plans are placed immediately on General File for the first round of debate.

While there is no bar in the Constitution precluding the Legislature from seeking input or advice, the bill presents an improper delegation of legislative power in violation of Article III, Section 1 of the Nebraska Constitution.

The Legislature may not properly delegate to an advisory commission power that is solely conferred upon the Legislature by the Constitution. The Legislature is granted the explicit authority to draw district boundaries for the U.S. House of Representatives, the Legislature, State Supreme Court, Board of Regents, Public Service Commission, and the State Board of Education.

Another constitutional problem with LB 580 is its requirement to have the Secretary of State provide formal opinions regarding the constitutionality of the proposed maps. This is clearly a legal function; therefore, the bill infringes on the actual and inherent duties of the Nebraska Attorney General as set forth in Article IV, Section 1 of the Constitution. The Legislature may not delegate duties or powers of one constitutional officer to another officer or agency.

Pragmatic considerations also exist with the actual structure of the bill. The timeline in it presents challenges and increases the likelihood of a needing a special session to be called for the purpose of enacting redistricting plans.

LB 580 proposes a major policy shift that violates several provisions of Nebraska's Constitution. At stake are the voting rights of all Nebraskans. Contemplating a better way to do redistricting than has been done in the past is not a bad thing. Doing redistricting as proposed in LB 580 is unworkable.

For each of these reasons, I respectfully urge you to sustain my veto of LB 580.

Sincerely,
(Signed) Pete Ricketts
Governor

April 18, 2016

Mr. President, Mr. Speaker,
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Mr. Speaker, and Members of the Legislature:

I have signed LB 867 but am returning LB 867A with line-item reductions. My vetoes in LB 867A, Section 2, total \$43,621 General Funds and \$21,489 Salary Limit in FY 2016-17.

LB 867A, Section 2, appropriates the incorrect amounts to the Department of Corrections in FY 2016-17 and FY 2017-18 to implement LB 867.

My line-item reductions correct LB 867A to comport with the costs of LB 867 for FY 2016-17 according to the fiscal note prepared by the Legislative Fiscal Office.

I urge you to sustain these technical reductions to LB 867A.

Sincerely,
(Signed) Pete Ricketts
Governor

April 18, 2016

Mr. President, Mr. Speaker,
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Mr. Speaker, and Members of the Legislature:

I have signed LB 938 but am returning LB 938A with line-item reductions. My vetoes in LB 938A, Section 1, total a \$1,000,000 Cash Fund reduction in FY 2015-2016, a \$1,267,833 Cash Fund reduction in FY 2016-17, and a PSL reduction of \$165,741 in FY 2016-17.

LB 938A does not correctly appropriate the funds necessary to implement the provisions of LB 938.

My line-item reductions correct LB 938A to comport with the costs of LB 938 according to the fiscal note prepared by the Public Service Commission and the Legislative Fiscal Office.

I urge you to sustain my technical line-item reductions in LB 938A.

Sincerely,
(Signed) Pete Ricketts
Governor

April 19, 2016

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 235, 716, 721, 756, 821, 824, 829, 851, 851A, 884, 930, 958, 1067, 1094e, and 1106 were received in my office on April 13, 2016.

These bills were signed and delivered to the Secretary of State on April 19, 2016.

Sincerely,
(Signed) Pete Ricketts
Governor

April 19, 2016

Mr. President, Mr. Speaker,
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President, Mr. Speaker, and Members of the Legislature:

I have signed LB 1067 but am returning LB 1067A with line-item reductions. My vetoes in LB 1067A total a \$3,855,627 General Fund appropriation reduction and a \$3,855,627 earmark reduction in FY 2017-18.

LB 1067 was passed by the Legislature with several adopted amendments which changed the financial requirements of the bill. My line-item reductions merely reflect the final cost estimates of LB 1067 provided by the Legislative Fiscal Office on final passage and reflected on the Legislature's General Fund Financial Status.

I urge the Legislature to sustain my technical line-item reductions in LB 1067A.

Sincerely,
(Signed) Pete Ricketts
Governor

REPORTS

Agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website at:
<http://www.nebraskalegislature.gov/agencies/view.php>

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of April 19, 2016, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

American Communications Group, Inc.
Nebraska Psychological Association

PRESENTED TO THE SECRETARY OF STATE

Presented to the Secretary of State on April 4, 2016, was the following:
LR381.

(Signed) Jamie Leishman
Clerk of the Legislature's Office

MOTION - Override Veto on LB947

Senator Mello offered the following motion to LB947:
MO291
Becomes law notwithstanding the objections of the Governor.

Senator Davis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

Senator Mello moved for a call of the house. The motion prevailed with 48 ayes, 0 nays, and 1 not voting.

Senator Mello requested a roll call vote on the motion to override the Governor's veto.

Voting in the affirmative, 31:

Baker	Ebke	Hilkemann	Morfeld	Stinner
Bolz	Garrett	Howard	Pansing Brooks	Sullivan
Campbell	Gloor	Kolowski	Scheer	Williams
Chambers	Haar, K.	Krist	Schilz	
Coash	Hadley	Lindstrom	Schumacher	
Cook	Hansen	McCollister	Seiler	
Crawford	Harr, B.	Mello	Smith	

Voting in the negative, 13:

Bloomfield	Davis	Kintner	Murante	Watermeier
Brasch	Fox	Kuehn	Riepe	
Craighead	Groene	McCoy	Schnoor	

Present and not voting, 5:

Friesen	Hughes	Johnson	Kolterman	Larson
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Having received a constitutional three-fifths majority voting in the affirmative, the bill passed notwithstanding the objections of the Governor.

The Chair declared the call raised.

RESOLUTION(S)

LEGISLATIVE RESOLUTION 626. Read. Considered.

LR626 was adopted with 37 ayes, 0 nays, and 12 present and not voting.

LEGISLATIVE RESOLUTION 627. Read. Considered.

LR627 was adopted with 34 ayes, 0 nays, and 15 present and not voting.

RESOLUTION(S)

Pursuant to Rule 4, Sec. 5(b), LRs 620, 621, 622, 623, 624, and 625 were adopted.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 620, 621, 622, 623, 624, and 625.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 415, 455, 626, and 627.

COMMUNICATION

April 20, 2016

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Pursuant to the provisions of 84-503, R.R.S., we are forwarding LB947e with a certificate attached thereto signed by the President of the Legislature certifying the passage of LB947e, notwithstanding the objections of the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:jl
Enc.

CERTIFICATE

Legislative Bill 947e, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority, has become law this 20th day of April 2016.

(Signed) Mike Foley
President of the Legislature

COMMUNICATION(S)

April 20, 2016

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the veto by Governor Ricketts of LB935, and consistent with our rules, I am delivering the bill for filing in the form prescribed by the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:jl

April 20, 2016

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the veto by Governor Ricketts of LB580, and consistent with our rules, I am delivering the bill for filing in the form prescribed by the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:jl

April 20, 2016

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the line-item vetoes by Governor Ricketts of LB867A, and consistent with our rules, I am delivering the bill for filing in the form and amounts as prescribed by the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:jl

April 20, 2016

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the line-item vetoes by

Governor Ricketts of LB938A, and consistent with our rules, I am delivering the bill for filing in the form and amounts as prescribed by the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:jl

April 20, 2016

The Honorable John Gale
Secretary of State
2300 State Capitol
Lincoln, NE 68509

Dear Mr. Secretary:

Inasmuch as the Legislature did not override the line-item vetoes by Governor Ricketts of LB1067A, and consistent with our rules, I am delivering the bill for filing in the form and amounts as prescribed by the Governor.

Sincerely,
(Signed) Patrick J. O'Donnell
Clerk of the Legislature

PJO:jl

EXECUTIVE BOARD REPORT

Senator Krist, Chairperson of the Executive Board, reported the appointments of the following members of the Legislature to the following special committees:

LB1083 – Venture Development and Innovation Task Force:

Senators Davis, Kolterman, Schumacher, Stinner, Watermeier, and Williams.

In addition, the Executive Board appointed Senator Watermeier as the Chairperson and Senator Williams as the Vice Chairperson of the committee.

LB1093 – Bioscience Steering Committee:

Senators Johnson, Kuehn, and Morfeld;
Senator Schumacher as the designee from the Revenue Committee; and
Senator Mello, Chairperson of the Appropriations Committee.

In addition, the Executive Board appointed Senator Morfeld as the Chairperson and Senator Kuehn as the Vice Chairperson of the committee.

LR547 – Tribal Economic Development Committee:

Senators Larson and Schilz;
Senator Lindstrom, Chairperson of the State-Tribal Relations Committee;
Senator Mello, Chairperson of the Appropriations Committee; and
Senator Smith, as the designee from the Revenue Committee.

LR601 – Special committee to review present facilities and determine the needs and options for developing a regional certified crime laboratory in the Omaha area:

Senators Chambers, Kolowski, and McCollister;
Senator Mello, Chairperson of the Appropriations Committee;
Senator Hilkemann, member of the Appropriations Committee;
Senator Seiler, Chairperson of the Judiciary Committee; and
Senator Williams, member of the Judiciary Committee.

LR455 – Special committee to examine issues relating to the impacts of climate change on the State of Nebraska.

Senators K. Haar, Mello, Pansing Brooks, Stinner, Kuehn, Schilz, and Larson.

(Signed) Bob Krist, Chairperson
Legislative Council, Executive Board

MOTION - Notify Governor

Senator Bloomfield moved that a committee of five be appointed to notify the Governor that the One Hundred Fourth Legislature, Second Session of the Nebraska Legislature, is about to complete its work, and to return with any message the Governor may have for the Legislature.

The motion prevailed.

The Chair appointed Senators Cook, K. Haar, Coash, McCoy, and Schilz to serve on said committee.

The committee returned and escorted Governor Pete Ricketts to the rostrum where he delivered a message to the members.

The committee escorted Governor Pete Ricketts from the Chamber.

SPEAKER HADLEY PRESIDING

SENATOR COASH PRESIDING

MOTION - Disposition of Bills

Senator Sullivan moved that all bills not otherwise disposed of, excluding bills on Final Reading and vetoed or line-item vetoed bills on this date, be indefinitely postponed.

The motion prevailed.

MOTION - Committee Records

Senator Gloor moved that the chairpersons of all standing committees file with the Clerk of the Legislature all standing committee records so that a proper record may be made of the final disposition of all bills.

The motion prevailed.

MOTION - Legislative Journal, Session Laws, and Indexes

Senator Campbell moved that the Legislature approve the preparation and printing of the permanent Legislative Journal, Session Laws, and Indexes by Patrick J. O'Donnell, and that he be directed to send to each member of the Legislature a copy of the permanent Legislative Journal and Session Laws.

The motion prevailed.

MOTION - Sixtieth Day Journal

Senator Mello moved that the Journal for the Sixtieth Day, as prepared by the Clerk of the Legislature, be approved.

The motion prevailed.

VISITOR(S)

Visitors to the Chamber were Senator Johnson's wife, Arlene, from Wahoo; Joel and Kathy Sartore from Lincoln; Senator Sullivan's husband, Mike, grandchildren, River, Clara, and Nora, daughters, Jill and Molly, and son-in-law, John Morrow; Senator Mello's wife, Catherine, daughter, Angelina, and son, John, from Omaha; 22 fourth-grade students from Freeman Public, Adams; 8 fourth-grade students from Howells-Dodge Consolidated, Dodge; Senator McCoy's father and mother, John and Tracy, from Omaha; Senator Gloor's wife, Marie de Martinez-Gloor, from Grand Island; Senator Coash's wife and son, Rhonda and Cole, from Lincoln; Senator Seiler's wife, Jo; Senator McCoy's wife and children, Shauna, Audrey, Ryan, Nora, Tess, and Millie; members of South Omaha High School, Young Nebraskans in Action, Heartland Worker Center, Justice for Our Neighbors, and Nebraska Appleseed, from Lincoln and Omaha; 30 fourth-grade students from Southern Elementary, Blue Springs; Kathy Utter

from Hastings and Denise Ott from Gretna; Senator Schilz's wife, son, and daughter, Deb, Jake, and Libby, from Ogallala; Taylor Finke from Malcolm and Jack Borden from Naperville, IL.

The Doctor of the Day was Dr. Patrick Hotovy from York.

MOTION - Adjourn Sine Die

Speaker Hadley moved that the One Hundred Fourth Legislature, Second Session of the Nebraska Legislature, having finished all business before it, now at 1:32 p.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell
Clerk of the Legislature