



Nevada Legislature

June 24, 2010

Honorable Jim Gibbons, Governor
Capitol Building
101 N. Carson Street
Carson City, NV 89701

Dear Governor Gibbons:

As the current Legislative Leadership, we feel it is necessary for us to respond to your letter of June 22, 2010, to the staff for the Legislative Committee for the Fundamental Review of the Base Budgets of State Agencies, created pursuant to NRS 218E.440. You have indicated that the Housing Division of the Department of Business and Industry and the Division of Parole and Probation of the Department of Public Safety will not be responding to legally authorized requests for information which were made by the legislative staff on behalf of the Committee pursuant to NRS 218E.450. The requests ask the state agencies to submit information, analyses and reports which are pertinent and necessary for the Committee to conduct its legislative review of these budgets.

In your letter, you have not cited any legal authority which would allow the Executive Department and its officers and employees to disobey a state statute that imposes a mandatory legal duty on each state agency to cooperate fully with the Committee and to provide the material requested within the period specified by the Committee pursuant to NRS 218E.450(2). Our legal counsel has been unable to locate any legal authority which would allow the Executive Department and its officers and employees to disregard or otherwise fail to comply with the law.

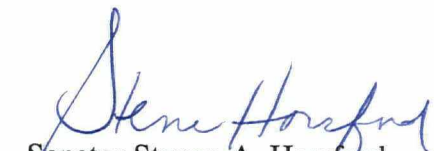
Therefore, we respectfully remind the Executive Department and its officers and employees that they have a constitutional duty to see that the laws of the State of Nevada are faithfully executed. Additionally, the Legislature has the power to state which actions the Executive Branch shall or shall not perform. While we agree that the Governor is vested with the Supreme Executive Power of this State, the Nevada Supreme Court has made clear that the power vested in the Governor by the Nevada Constitution does not

include the power to disregard acts of the legislature. As a result, the Executive Department and its officers and employees have a constitutional duty to obey all statutes enacted by the Legislature, and the Governor does not have the power to set aside a statute after it has become the law.

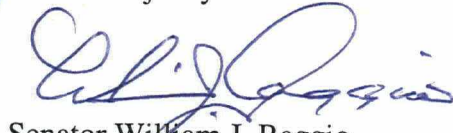
Accordingly, if the Executive Department and its officers and employees refuse or otherwise fail to cooperate fully with the Committee or provide any material requested within the period specified by the Committee pursuant to NRS 218E.450, they will be in violation of the law, and they will have breached their constitutional duty to see that the laws are faithfully executed.

It is our hope that a spirit of mutual respect and cooperation between the legislative and executive branches will prevail in this matter and that no further action will be necessary to compel the Executive Department and its officers and employees to comply with NRS 218E.450. However, if there is a failure on the part of the Executive Department and its officers and employees to comply with NRS 218E.450, the Committee, acting through its Chair, has the power to issue subpoenas to compel the attendance of witnesses and the production of books and papers pursuant to NRS 218E.455. Such subpoenas are enforceable in the district court, and the failure to obey such subpoenas constitutes a contempt of court, which is punishable by fines and imprisonment pursuant to NRS 218E.455, 22.100 and 22.110.

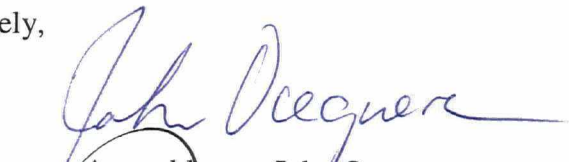
Sincerely,



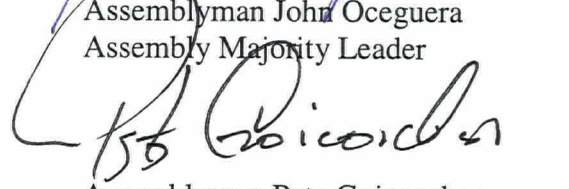
Senator Steven A. Horsford
Senate Majority Leader



Senator William J. Raggio
Senate Minority Leader



Assemblyman John Ocegüera
Assembly Majority Leader



Assemblyman Pete Goicoechea
Assembly Minority Leader

Enclosure

cc: Jerry Hafen, Director, Department of Public Safety
Dianne Cornwall, Director, Department of Business and Industry

NRS 218E.450 General powers and duties; cooperation of state agencies; reports.

1. A committee shall, during the legislative interim, perform a fundamental review of the base budget of each state agency assigned to it for review.

2. A committee may request the state agency under review and any other agency to submit information, analyses and reports which are pertinent to the reviews conducted pursuant to this section. Each agency of the State shall cooperate fully and provide the material requested within the period specified by a committee.

3. A committee shall, before the convening of the next regular session of the Legislature, transmit a report of each review conducted pursuant to this section, and any related recommendations, to the Interim Finance Committee and the Legislative Commission.

(Added to NRS by 1995, 2673; A 2005, 1234)—(Substituted in revision for NRS 218.5384)