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# Office of the Governor

**JIM GIBBONS**  
GOVERNOR

March 26, 2010

Margaret A. McLetchie  
Interim Southern Director  
ACLU of Nevada  
Las Vegas, NV 89101

Dear Ms. McLetchie:

Thank you for the opportunity to talk about transparency in government. I agree that in the majority of cases “democratic principles mandate that Nevada’s citizens not be excluded from the affairs of the state.” However, in this instance there are NO state funds expended by the Governor’s Blue Ribbon Education Task Force; nor is it deciding how to spend tax dollars. The primary mission of this group is to come up with innovative solutions to improve Nevada’s education system, not to figure out how to fund the system. Making “innovative solutions” public would ultimately result in the potential for other states to copy these ideas; hence the ideas will no longer be innovative. As I am ultimately responsible for the submission of Nevada’s Race to the Top grant application, I want to ensure our grant strategy is innovative and competitive so we can successfully obtain additional funding to assist Nevada’s children and our hardworking teachers.

The Task Force will be advising me, as the Governor, regarding its recommendations about the Race to the Top application and potential reforms to Nevada’s K-12 and higher education systems. The Task Force will produce a work product for me and my consideration, not for a public body and not for the Legislature.

In advising the Co-Chairmen of the Task Force, I relied on the advice of Senior Deputy Attorney General George Taylor who is the legal expert responsible for administering the Open Meeting Law (OML) in Nevada. Mr. Taylor’s advice given on March 11, 2010 was:

“I have reviewed the Governor’s Executive Order creating the Blue Ribbon Task Force to advise him on budget issues for the next biennium and to facilitate the application for federal funding pursuant to Race to the Top.”

“The Blue Ribbon Task Force, as described in the Executive Order, is not a public body subject to the OML. It will be appointed by the Governor (the Governor is not an entity subject to the OML: see §3.02, OML Manual) and secondly, the BRTF will make recommendations only to the Governor. (see §3.04, OML Manual) Committee is subject to OML where parent is a public body and it appoints a committee who is tasked to make recommendations to parent. Such is not the case here.”

Further clarity of this opinion was provided by Chief of Staff James Spencer of the Attorney General’s office, who also serves as my legal adviser, on March 23, 2010:

“See also NRS 241.015(3) which defines ‘public body’ as:  
‘Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any *entity* which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof ...’

The Governor is neither a ‘body’ nor an ‘entity’ – further, it would be stretching the ‘supported ...in part by tax revenue’ to say that because a person who is on the task force is paid through tax revenue, that the task force is supported by public money. Finally, it is my understanding that even the meeting place was on private property, not in a State building, although the location of the meeting place may not in itself be probative of ‘public body.’”

You may also not be aware that within an hour of its organizing meeting last Friday, Wynn Resorts put out a press release on behalf of the Task Force to ensure the public was informed of its meeting and to explain how it will be providing information to the public. A copy of this press release is attached. The Task Force is also working to get a public web site up on the internet in the next week.

Given the depth of your passion for Nevada’s Open Meeting Law, I hope you share my concerns about the closed negotiation process between various labor organizations and local government entities and school districts. K-12 education funding is responsible for 37.1 percent of state General Fund expenditures. Personnel costs at most levels of government make up at least 70 percent of all operational costs. These *are*

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expenditures, quite substantial expenditures, of taxpayer dollars. The legislature has specifically exempted collective bargaining from public scrutiny. I would ask that “in the spirit of operating within fundamental democratic principles of open government” that the ACLU support legislation to subject collective bargaining negotiations to the Open Meeting Law so that Nevada citizens and its press have fair access to these negotiations over millions of taxpayer dollars. Even the employees represented by unions do not have a clear line of sight into the negotiation process. I would ask that you join my efforts to open collective bargaining negotiations to the public.

Please be sure that the necessity of whether this work required following the open meeting law was vetted through the Attorney General’s Office. Let me assure you that this Task Force is meeting within the parameters explained to us by the Senior Deputy Attorney General who is an expert on both the letter of the law and its intent. Ultimately, based on the advice I received from the Attorney General, I am leaving the decision regarding how, when and where to hold the Task Force meetings to the discretion of the two very intelligent, talented and able Co-Chairmen of the Task Force.

Sincerely,



JIM GIBBONS  
Governor

Attachment: Blue Ribbon Education Reform Task Force Press Release, March 19, 2010

CC: Lee B. Rowland, ACLU Northern Coordinator  
Catherine Cortez Masto, Attorney General for the State of Nevada  
Elaine Wynn, Task Force Chair  
Dan Klaich, NV System of Higher Education Chancellor/Task Force Co-Chair  
Task Force Members  
Nevada Freedom of Information Coalition



**FOR IMMEDIATE RELEASE**  
March 19, 2010

## **Inaugural Meeting of the Blue Ribbon Education Reform Task Force Held at Wynn Las Vegas**

Las Vegas, March 19, 2010-The Blue Ribbon Education Reform Task Force created by Governor Gibbons met for the first time today at Wynn Las Vegas to review and organize the process for addressing their first priority, the State's application for Race to the Top funds from the federal government. The governor has requested that the application be delivered to him by May 21, 2010.

In its initial meeting, the task force reviewed the state of education in Nevada and organized into formal subcommittees to address each substantive portion of the application, which include state success factors, standards and assessments, data systems to support instruction, great teachers and leaders, turning around the lowest achieving schools and general selection criteria.

"I am inspired by the collective brainpower and experience of the task force, and I commend the governor for assembling this group to develop a vision for education in our state," said co-chair and Director of Wynn Resorts, Elaine Wynn. "Education will singularly drive our future, and I look forward to creating a public dialogue to address the pressing issues facing Nevada's public education system."

The committee will launch a Web site devoted to the process that will facilitate public involvement and discussion. News from the task force committees and progress updates will be available on the site, as well as presentations and committee-member bios. Public comment will also be encouraged through the site.

While the primary directive for the task force is to ensure a successful state application for the Race to the Top competition, it will necessarily review Nevada's education infrastructure and recommend long-term K-12 and higher education reform measures.

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