Office of the Governor

May 14, 2007

The Honorable William Raggio
Senate Majority Leader
Legislative Building
401 South Carson Street
Carson City, NV 89701

RE: Return of Vetoed Bill

Dear Senator Raggio,

I am returning Senate Bill No. 567 to the 74th Session of the Nevada Legislature accompanied by my letter of objection.

Sincerely,

JIM GIBBONS
Governor

JG/kjc

Enclosure
Office of the Governor

May 14, 2007

The Honorable William Raggio
Senate Majority Leader
Legislative Building
401 South Carson Street
Carson City, NV 89701

RE: Senate Bill 567 of the 74th Legislative Session

Dear Senator Raggio,

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 567, which is entitled:

AN ACT relating to taxation; suspending all state action relating to tax exemptions applicable to energy efficient buildings; and providing other matters properly relating thereto.

Senate Bill 567 purports to suspend certain tax exemptions and abatements created by Assembly Bill 3 (22nd Legislative Special Session) in 2005. I appreciate the Legislature’s concern that the tax exemptions and abatements created by Assembly Bill 3 (22nd Legislative Special Session) may have had and may continue to have unanticipated fiscal impacts on state and local revenue. Providing tax incentives to encourage environmentally friendly construction is basically sound policy. However, as a matter of fundamental fairness to Nevada taxpayers, any efforts to amend the exemptions and abatements set forth in Assembly Bill 3 (22nd Legislative Special Session) should be carefully considered, and at a minimum should allow for public hearings where taxpayer concerns can be discussed and debated and the long-term fiscal impact of any tax exemptions or abatements can be carefully analyzed. To date, those hearings have not occurred.

I also appreciate that the Legislature apparently intends to pass further legislation this session in order to address the unanticipated consequences of Assembly Bill 3 (22nd Legislative Special Session), and that the Legislature is concerned that without Senate Bill 567 there will be a surge by taxpayers to obtain tax exemptions or abatements before
the current law is changed. In order to meet that concern, today I signed an Executive Order temporarily suspending the processing of applications for certificates of tax exemptions and abatements by the Tax Commission, the Department of Taxation, the Commission on Economic Development and the Office of Energy. My Executive Order will alleviate these concerns and will place taxpayers on notice that the Legislature will be considering changes to current law. I urge the Legislature to carefully consider the impacts on Nevada should any changes be made to existing law, and to come forward with a fair, reasonable and well-defined solution.

For all of these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 567.

Sincerely,

JIM GIBBONS
Governor

JG/kjc

Enclosure

Cc: The Honorable Barbara Buckley, Speaker of the Assembly (without enclosure)
The Honorable Ross Miller, Secretary of State (without enclosure)
Claire J. Clift, Secretary of the Senate (without enclosure)
Susan Furlong Reil, Chief Clerk of the Assembly (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)
Dino DiCianno, Executive Director, Department of Taxation (without enclosure)
Tim Rubald, Executive Director, Division of Economic Development (without enclosure)
Thomas Sheets, Chairman, Nevada Tax Commission
Dr. Hatice Gecol, Director, Nevada State Office of Energy (without enclosure)
SENATE BILL NO. 567—COMMITTEE ON COMMERCE AND LABOR

MAY 2, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Suspends all state action relating to tax exemptions applicable to energy efficient buildings. (BDR S-1495)


EXPLANATION—Matter in **bolded italics** is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to taxation; suspending all state action relating to tax exemptions applicable to energy efficient buildings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:
Under existing law, the Commission on Economic Development is authorized to grant a partial abatement from the taxes imposed on real property by chapter 361 of NRS for property that has a building or other structure that meets or exceeds certain requirements relating to energy efficiency which are adopted by the Director of the Office of Energy within the Office of the Governor. (NRS 361.0775, 701.217) Similarly, the Department of Taxation is authorized, pursuant to the former provisions of NRS 374.307, as amended by section 7 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, to grant a sales tax exemption under certain circumstances for products or materials used in the construction of such a building or structure. This bill suspends all state action relating to such tax exemptions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Legislature hereby finds and declares that:
1. At the 1982 General Election, the people of the State of Nevada voted to amend the Nevada Constitution to authorize the Nevada Legislature to provide by law for tax exemptions to encourage the conservation of energy and the substitution of other sources for fossil sources of energy;
2. Since that time, the Nevada Legislature has diligently followed the evolution of technological advances in the development of environmentally friendly building construction standards that foster the conservation of energy both during the construction of buildings and for the life of the building;

3. In Assembly Bill No. 3 of the 22nd Special Session of the Legislature, the Legislature included tax exemptions to provide incentives for commercial projects to build energy-efficient, environmentally friendly commercial buildings and required all new state buildings to take these same environmental and energy saving steps to avoid strains on the infrastructure of this State;

4. Determining the balance between tax exemptions promoting the efficient use of energy and the conservation of our natural resources to ensure quality of life for current and future Nevadans and the duty of the Legislature to ensure adequate revenue to fund our schools and other governmental services as well as the other fiscal needs of this State is difficult because it is not possible to predict with any certainty the number of exemptions that will be applied for and granted;

5. Upon announcement of the current economic conditions and the outlook for the 2007-2009 biennium presented to the Economic Forum on May 1, 2007, in which current State General Fund revenue projections were lowered by $40.1 million in Fiscal Year 2007-2008 and $48.2 million in Fiscal Year 2008-2009, compared to the Economic Forum's forecast prepared only 5 months ago on November 30, 2006, it became a certainty that the abatements and exemptions enacted by the 2005 Nevada Legislature from property taxes and the Local School Support Tax and other similar sales and use taxes must be reconsidered;

6. The Legislature hereby provides notice that it will be reconsidering these abatements and exemptions, and may limit, suspend or repeal them, and that no person should rely in any way upon the continued existence of the abatements and exemptions at their current level or at any level, and that any such reliance after the effective date of this act is unreasonable; and

7. The work of the Executive Branch of State Government to implement these programs must be held in abeyance to give the Legislature time to evaluate all of the information and consider all of the options available to this State to ensure that Nevada’s goals for encouraging energy efficiency are achieved without compromising our ability to meet our financial obligations to adequately fund schools and other necessary governmental services.

Sec. 2. Notwithstanding any other provision of law to the contrary, until another act of the Legislature which provides otherwise becomes effective:
1. The Department of Taxation shall not take any action with respect to an application or other request for:
   (a) A sales tax exemption on products or materials used in the construction of a building that is certified or will, when complete, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System adopted by the Director of the Office of Energy within the Office of the Governor pursuant to NRS 701.217 and any other applicable regulations adopted by the Director of the Office of Energy; or
   (b) An abatement from the tax imposed on real property by chapter 361 of NRS for property which has a building or other structure that is certified at or meets the equivalent of the silver level or higher by a person authorized to grant such certification in accordance with the Leadership in Energy and Environmental Design Green Building Rating System adopted by the Director of the Office of Energy within the Office of the Governor pursuant to NRS 701.217 and any other applicable regulations adopted by the Director of the Office of Energy, including, without limitation, the consideration, adoption or filing with the Secretary of State of any applicable regulation or the consideration or approval of any applicable application or other request.

2. The Commission on Economic Development shall not take any action with respect to an application or other request for:
   (a) A sales tax exemption on products or materials used in the construction of a building that is certified or will, when complete, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System adopted by the Director of the Office of Energy within the Office of the Governor pursuant to NRS 701.217 and any other applicable regulations adopted by the Director of the Office of Energy; or
   (b) An abatement from the tax imposed on real property by chapter 361 of NRS for property which has a building or other structure that is certified at or meets the equivalent of the silver level or higher by a person authorized to grant such certification in accordance with the Leadership in Energy and Environmental Design Green Building Rating System adopted by the Director of the Office of Energy within the Office of the Governor pursuant to NRS 701.217 and any other applicable regulations adopted by the Director of the Office of Energy, including, without limitation, the consideration or adoption of any applicable regulation, the consideration, adoption or filing with
the Secretary of State of any applicable application or other request
or the issuance of any certificate of eligibility for an abatement.

3. The Nevada Tax Commission shall not take any action that
in any manner relates to or may affect a sales tax exemption or
property tax abatement described in subsection 1 or 2, including,
without limitation, the consideration, adoption or filing with the
Secretary of State of any applicable regulation or the consideration
or approval of any applicable application or other request.

4. The Office of Energy shall not take any action that in any
manner relates to or may affect a sales tax exemption or property tax
abatement described in subsection 1 or 2, including, without
limitation, the consideration, adoption or filing with the Secretary of
State of any applicable regulation, the acceptance or processing of
any registration of a construction project, the providing of any
notification concerning such a project or the issuance of any letter of
verification that a building or other structure meets or exceeds
applicable certification requirements.

Sec. 3. This act becomes effective upon passage and approval.
EXECUTIVE ORDER BY THE GOVERNOR

SUSPENDING THE PROCESSING OF APPLICATIONS FOR TAX ABATEMENTS AND TAX EXEMPTIONS CREATED BY ASSEMBLY BILL 3 (22nd LEGISLATIVE SPECIAL SESSION)

WHEREAS, Assembly Bill 3 from the 22nd Legislative Special Session was signed into law on June 17, 2005; and

WHEREAS, Assembly Bill 3 from the 22nd Legislative Special Session provided for partial sales and use tax exemptions and partial real property tax exemptions for buildings meeting certain environmental standards; and

WHEREAS, the Legislature has expressed concerns that the aforementioned tax exemptions and abatements may have resulted in and may continue to result in unanticipated fiscal impacts on state and local revenue, and has expressed an intent to modify the scope of said tax exemptions and abatements; and

WHEREAS, Article 5, Section 1 of the Nevada Constitution provides that “The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada.”

NOW, THEREFORE, this Executive Order is hereby issued and the Nevada Tax Commission, the Nevada Department of Taxation, the Nevada Commission on Economic Development, and the Nevada Office of Energy are hereby directed as follows:

- Any existing certificates of tax exemptions, deferrals or abatements issued as a result of Assembly Bill 3 (22nd Legislative Special Session) shall be honored.

- The processing of any other requests for tax exemptions, deferrals or abatements based upon Assembly Bill 3 (22nd Legislative Special Session), including any other requests related thereto, shall be suspended and no action shall be taken on any such requests.

- The consideration or adoption of any regulations implementing any portion of Assembly Bill 3 (22nd Legislative Special Session) shall be suspended.

The mandates set forth in this Executive Order expire at midnight on June 4, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City this 14th day of May, in the year two thousand seven.

[Signature]
Governor of the State of Nevada

[Signature]
Secretary of State of Nevada

Deputy