



## 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 74<sup>th</sup> Session of the Nevada Legislature accompanied by my letter of objection.

Sincerely,

A handwritten signature in dark ink, reading "Jim Gibbons".  
JIM GIBBONS  
Governor

JG/kjc

Enclosure





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

**RE: Senate Bill 567 of the 74<sup>th</sup> 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 (22<sup>nd</sup> Legislative Special Session) in 2005. I appreciate the Legislature's concern that the tax exemptions and abatements created by Assembly Bill 3 (22<sup>nd</sup> 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 (22<sup>nd</sup> 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 (22<sup>nd</sup> 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





Senator William Raggio

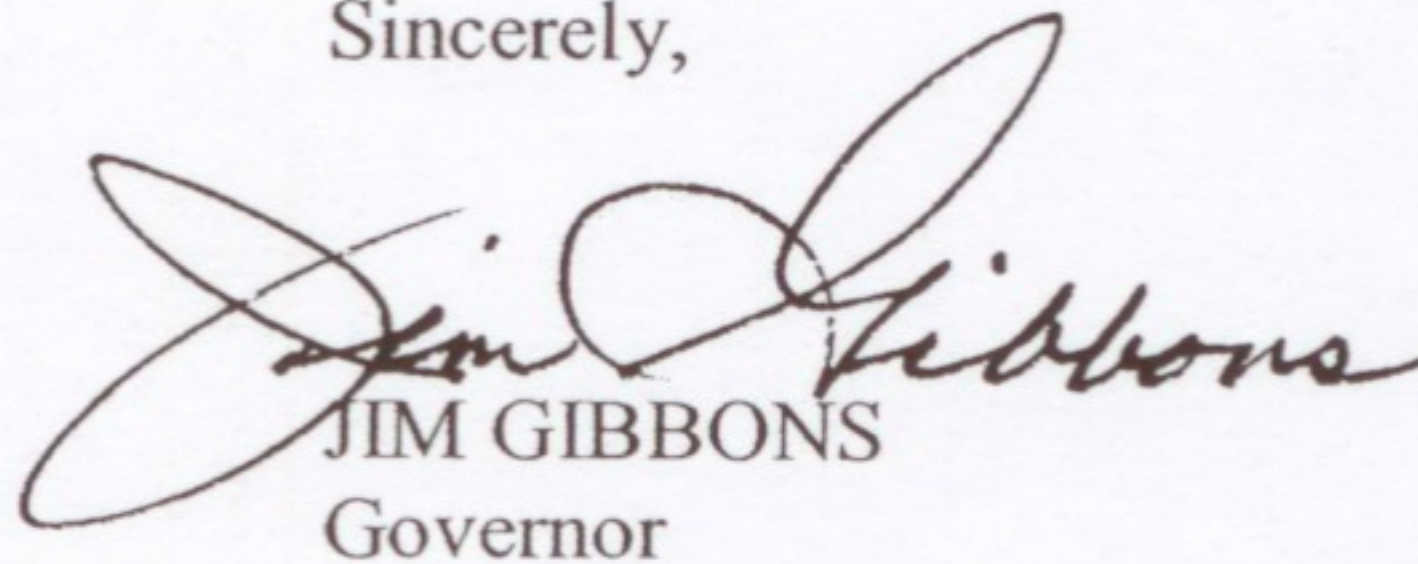
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the current law is changed. In order to meet that concern, today I signed an Executive Order temporarily suspending the processing of applications for certificates of tax exemptions and abatements by the Tax Commission, the Department of Taxation, 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)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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:**

1 Under existing law, the Commission on Economic Development is authorized  
2 to grant a partial abatement from the taxes imposed on real property by chapter 361  
3 of NRS for property that has a building or other structure that meets or exceeds  
4 certain requirements relating to energy efficiency which are adopted by the Director  
5 of the Office of Energy within the Office of the Governor. (NRS 361.0775,  
6 701.217) Similarly, the Department of Taxation is authorized, pursuant to the  
7 former provisions of NRS 374.307, as amended by section 7 of chapter 2, Statutes  
8 of Nevada 2005, 22nd Special Session, at page 71, to grant a sales tax exemption  
9 under certain circumstances for products or materials used in the construction of  
10 such a building or structure. This bill suspends all state action relating to such tax  
11 exemptions.

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

1 **Section 1.** The Legislature hereby finds and declares that:  
2 1. At the 1982 General Election, the people of the State of  
3 Nevada voted to amend the Nevada Constitution to authorize the  
4 Nevada Legislature to provide by law for tax exemptions to  
5 encourage the conservation of energy and the substitution of other  
6 sources for fossil sources of energy;





1       2. Since that time, the Nevada Legislature has diligently  
2 followed the evolution of technological advances in the  
3 development of environmentally friendly building construction  
4 standards that foster the conservation of energy both during the  
5 construction of buildings and for the life of the building;

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

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

20       5. Upon announcement of the current economic conditions and  
21 the outlook for the 2007-2009 biennium presented to the Economic  
22 Forum on May 1, 2007, in which current State General Fund  
23 revenue projections were lowered by \$40.1 million in Fiscal Year  
24 2007-2008 and \$48.2 million in Fiscal Year 2008-2009, compared  
25 to the Economic Forum's forecast prepared only 5 months ago on  
26 November 30, 2006, it became a certainty that the abatements and  
27 exemptions enacted by the 2005 Nevada Legislature from property  
28 taxes and the Local School Support Tax and other similar sales and  
29 use taxes must be reconsidered;

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

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

43       **Sec. 2.** Notwithstanding any other provision of law to the  
44 contrary, until another act of the Legislature which provides  
45 otherwise becomes effective:





1       1. The Department of Taxation shall not take any action with  
2 respect to an application or other request for:

3       (a) A sales tax exemption on products or materials used in the  
4 construction of a building that is certified or will, when complete,  
5 meet the requirements to be certified at or meet the equivalent of the  
6 silver level or higher in accordance with the Leadership in Energy  
7 and Environmental Design Green Building Rating System adopted  
8 by the Director of the Office of Energy within the Office of the  
9 Governor pursuant to NRS 701.217 and any other applicable  
10 regulations adopted by the Director of the Office of Energy; or

11       (b) An abatement from the tax imposed on real property by  
12 chapter 361 of NRS for property which has a building or other  
13 structure that is certified at or meets the equivalent of the silver level  
14 or higher by a person authorized to grant such certification in  
15 accordance with the Leadership in Energy and Environmental  
16 Design Green Building Rating System adopted by the Director of  
17 the Office of Energy pursuant to NRS 701.217 and any other  
18 applicable regulations adopted by the Director of the Office of  
19 Energy,

20       ↳ including, without limitation, the consideration, adoption or filing  
21 with the Secretary of State of any applicable regulation or the  
22 consideration or approval of any applicable application or other  
23 request.

24       2. The Commission on Economic Development shall not take  
25 any action with respect to an application or other request for:

26       (a) A sales tax exemption on products or materials used in the  
27 construction of a building that is certified or will, when complete,  
28 meet the requirements to be certified at or meet the equivalent of the  
29 silver level or higher in accordance with the Leadership in Energy  
30 and Environmental Design Green Building Rating System adopted  
31 by the Director of the Office of Energy within the Office of the  
32 Governor pursuant to NRS 701.217 and any other applicable  
33 regulations adopted by the Director of the Office of Energy; or

34       (b) An abatement from the tax imposed on real property by  
35 chapter 361 of NRS for property which has a building or other  
36 structure that is certified at or meets the equivalent of the silver level  
37 or higher by a person authorized to grant such certification in  
38 accordance with the Leadership in Energy and Environmental  
39 Design Green Building Rating System adopted by the Director of  
40 the Office of Energy pursuant to NRS 701.217 and any other  
41 applicable regulations adopted by the Director of the Office of  
42 Energy,

43       ↳ including, without limitation, the consideration or adoption of  
44 any applicable regulation, the consideration, adoption or filing with





1 the Secretary of State of any applicable application or other request  
2 or the issuance of any certificate of eligibility for an abatement.

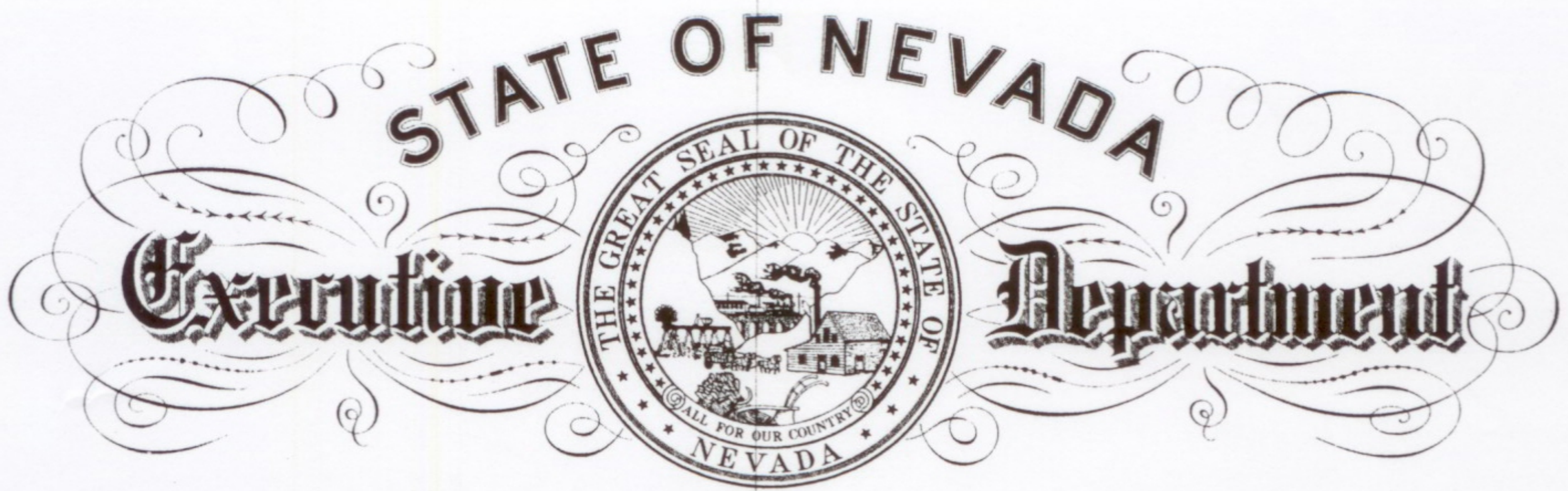
3 3. The Nevada Tax Commission shall not take any action that  
4 in any manner relates to or may affect a sales tax exemption or  
5 property tax abatement described in subsection 1 or 2, including,  
6 without limitation, the consideration, adoption or filing with the  
7 Secretary of State of any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

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

18 **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 (22<sup>nd</sup> LEGISLATIVE SPECIAL SESSION)

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

WHEREAS, Assembly Bill 3 from the 22<sup>nd</sup> 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

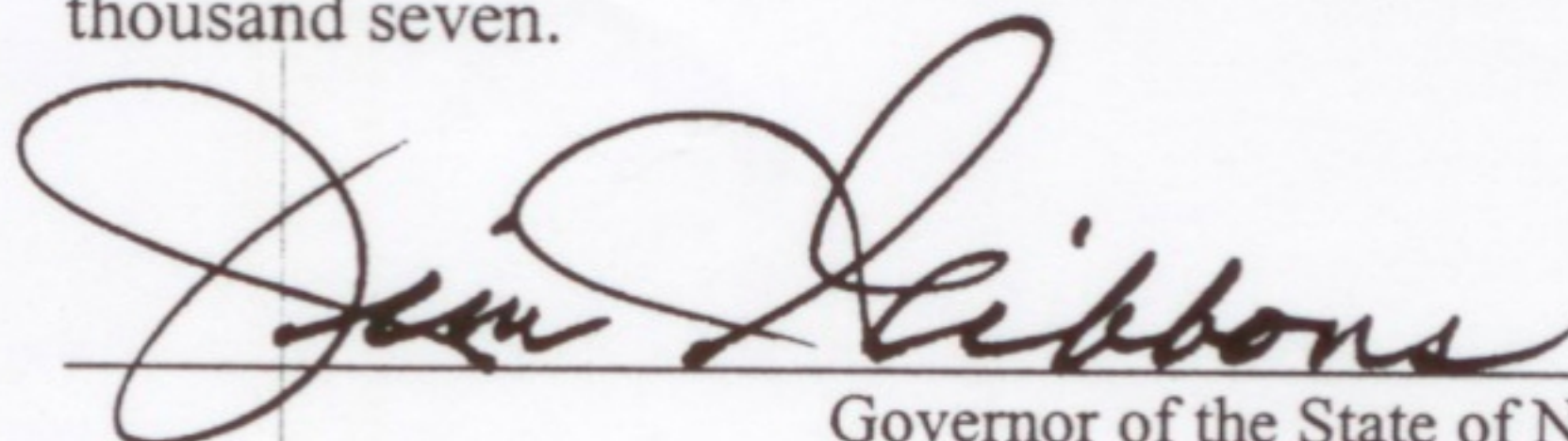
WHEREAS, Article 5, Section 1 of the Nevada Constitution provides that "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada."

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 (22<sup>nd</sup> Legislative Special Session) shall be honored.
- The processing of any other requests for tax exemptions, deferrals or abatements based upon Assembly Bill 3 (22<sup>nd</sup> 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 (22<sup>nd</sup> 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 14<sup>th</sup> day of May, in the year two thousand seven.



Governor of the State of Nevada

By the Governor:



Secretary of State of Nevada

Deputy

