

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-third Session
May 16, 2005**

The Senate Committee on Natural Resources was called to order by Chair Dean A. Rhoads at 2:02 p.m. on Monday, May 16, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dean A. Rhoads, Chair
Senator Mike McGinness, Vice Chair
Senator Mark E. Amodei
Senator Bob Beers
Senator Bob Coffin
Senator Michael Schneider
Senator Maggie Carlton

GUEST LEGISLATORS PRESENT:

Assemblyman John C. Carpenter, Assembly District No. 33

STAFF MEMBERS PRESENT:

Linda Eissmann, Committee Policy Analyst
Lee-Ann Keever, Committee Secretary

OTHERS PRESENT:

Don Henderson, Director, State Department of Agriculture
Gina Session, Senior Deputy Attorney General, Office of the Attorney General
Don Alt

Chair Rhoads opened the work session on [Assembly Bill \(A.B.\) 15](#).

[ASSEMBLY BILL 15 \(1st Reprint\)](#): Revises provisions governing expenditure of money in Wildlife Heritage Trust Account. (BDR 45-177)

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Linda Eissmann, Committee Policy Analyst, gave an overview of A.B. 15 using the work session document provided to the Committee ([Exhibit C](#)).

SENATOR McGINNESS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 15.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Rhoads opened the work session on A.B. 32.

ASSEMBLY BILL 32 (2nd Reprint): Makes certain information collected by State Department of Agriculture confidential. (BDR 50-657)

Ms. Eissmann explained A.B. 32 using [Exhibit C](#).

SENATOR CARLTON MOVED TO DO PASS A.B. 32.

SENATOR McGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Rhoads opened the work session on A.B. 379.

ASSEMBLY BILL 379 (1st Reprint): Authorizes person to act on behalf of another to obtain license, tag or permit from Department of Wildlife under certain circumstances. (BDR 45-1006)

Ms. Eissmann gave an overview of A.B. 379 using [Exhibit C](#).

SENATOR McGINNESS MOVED TO DO PASS A.B. 379.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Rhoads opened the work session on A.B. 407.

[ASSEMBLY BILL 407 \(1st Reprint\)](#): Makes various changes relating to seizure of certain animals by governmental agencies. (BDR 50-685)

Ms. Eissmann explained A.B. 407 and the proposed amendment using [Exhibit C](#). She said she had received six different versions of the amendment and the most current was in the work session document. Chair Rhoads said he understood the bill to state that if a government agency decided someone was trespassing with livestock, they would go to a court, and the court would make a decision on whether it was trespassing. He then said the government agency could request the state brand inspector to inspect the livestock and issue brand papers. He asked if the bill would work as he had described. Assemblyman John C. Carpenter, Assembly District No. 33, said if a government agency decided someone was trespassing with livestock, they would be required to go to a court of competent jurisdiction and obtain a court order before being able to call the state brand inspector to inspect the livestock. Chair Rhoads asked if the process was done differently in the past. Assemblyman Carpenter said cattle were seized and then asked for a brand inspection in the past with no court order. Chair Rhoads asked if the government agency then went to court. Assemblyman Carpenter said that sometimes the government agency did not even go to court. Assemblyman Carpenter said there had been a memorandum of understanding between the U.S. Bureau of Land Management (BLM) and the State Department of Agriculture, but the memorandum did not receive a judicial confirmation. He said the judge had recommended the State Department of Agriculture go to the State Legislature to have the issue resolved, and that was why A.B. 407 was proposed.

Chair Rhoads asked what would happen if A.B. 407 was not passed. Don Henderson, Director, State Department of Agriculture, said the statutes in Nevada make it the duty of the state brand inspector to determine the legal possession of livestock before a brand certificate can be issued. He said it was currently the state brand inspector and the director of the State Department of Agriculture who have had to determine if someone had legal possession.

Mr. Henderson said the State Department of Agriculture had relied on the Office of the Attorney General to help make that determination. He said if the bill did not pass, things would remain the same with a great deal of responsibility in the hands of the State Department of Agriculture. Mr. Henderson said he supported A.B. 407. He said it had been amended to meet everyone's needs.

Senator McGinness asked if anyone opposed the proposed amendment to A.B. 407. Assemblyman Carpenter said the amendment had just been written on the previous Friday. He said he hoped everyone had time to see the amendment. Assemblyman Carpenter said most of the people he had spoken with had their concerns addressed in the amendment.

Senator Carlton asked how the interaction between the State and the BLM would be affected by A.B. 407. She also asked how the State should respond to the BLM's decision to go to court over the issue. Mr. Henderson said the current BLM director was and is willing to go through federal court for a decision before impounding livestock. He said a federal decision would meet the Department's needs. He said a future BLM director may not want to go through the federal courts, or the U.S. Justice Department may have other priorities and not take the case. He said:

... At that point, the federal government will insert their supremacy in this matter, or preemption maybe is a better word ... at that point they will just move unilaterally without a brand inspection and ... sell the livestock. In that instance, our options are to cite them for ... not following state statutes and we would ... go to court. Another option ... if you look [in the proposed amendment] under the exemptions, section 1, subsection 2, paragraph (d), there is a statute listed there, *Nevada Revised Statute* (NRS) 575.060. That is a statute that allows us to seize livestock if the ownership is in question. That is one recourse we would have, short of citing the federal government would be to ... seize them from the federal government and hold them and go through the court battle.

Gina Session, Senior Deputy Attorney General, Office of the Attorney General, said the current draft of A.B. 407 would meet everyone's needs. She said the federal government would not be looking to enter into a confrontational situation with the State over impounding livestock. She said the federal

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government would probably make efforts to comply with the state requirements prior to any impoundment.

Don Alt said he had been involved in a court case with the BLM and it was very difficult. He said a person should be allowed to go to court and explain why he or she was not trespassing. Chair Rhoads said A.B. 407 would provide for a trial. Mr. Alt said if that was the case, he would support A.B. 407.

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 407.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Rhoads adjourned the meeting of the Senate Committee on Natural Resources at 2:20 p.m.

RESPECTFULLY SUBMITTED:

Jonathan Sherwood,
Committee Secretary

APPROVED BY:

Senator Dean A. Rhoads, Chair

DATE: _____