

February 7, 1992 LB 899

CLERK: LB 899, Madam President, introduced by Senators Kristensen and Wickersham. (Read title.) The bill was introduced on January 8, referred to Transportation, advanced to General File. I have no amendments to the bill.

PRESIDENT MOUL: Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Madam President, members of the Legislature. In constructing highways in the State of Nebraska, the Department of Roads usually widens highway shoulders to improve safety and to meet design standards and so on. Oftentimes when they fill those shoulders of the road, the placement of that fill is sometimes put in wetlands material just because the road goes through a wetlands. Under recent federal laws and so on, the state can't place fills in wetlands unless the state receives a permit from the Army Corp of Engineers. To receive the permit, it's an extensive thing. You have to minimize the activities, and you have to replace the wetlands to do that, or even in some cases, increase that. The part of the Nebraska law is Section 39-1320 which authorizes where the State of Nebraska can take roads and for specific highway, state highway purposes. Back in 1955, when this bill or this law was placed into effect, they'd never heard of such things as wetlands nor ever envisioned that some 40 years later the federal government would require permits to do this, and so what this does is merely place in the list of what are state highway purposes a new section for the establishment and maintenance of wetlands, to replace or mitigate the damage done to wetlands due to highway construction, maintenance, or improvement. Generally, these are very small areas that come into play. It is often just a few feet on either side of the road. This bill would allow us specific statutory authority to do that. There has been a problem with a court that says we are not sure you have the authority to do that simply because wetlands were never placed in the statutes before as a state highway purpose. This just makes that addition, really does nothing to affect federal law, obviously, and could pose a tremendous problem with the Department of Roads if this was not passed. I'd be happy to answer any questions.

PRESIDENT MOUL: Thank you, Senator Kristensen. Senator Beutler, followed by Senator Schmit.

SENATOR BEUTLER: Senator Kristensen, one quick question, if I