

April 7, 1992

LB 899

perfectly clear because I don't understand enough about it and I hope you'll be patient with me just for a couple of questions.

SENATOR KRISTENSEN: I certainly will be.

SENATOR BEUTLER: First of all, when you...when you...when it says in the law that the replacement lands shall be capable of being used to create wetlands comparable to, now, I assume but don't know that that language means something broader than same size. It means, if you're talking about a loess salt marsh, for example, that probably...

SENATOR KRISTENSEN: Right.

SENATOR BEUTLER: ..you're talking about replacement of a salt marsh of some type.

SENATOR KRISTENSEN: Yes. Or it could be, you know, some areas are just low areas that occasionally have water, others are wet all year round. You just couldn't go out, fence off an area and say, here's our wetlands, because the purpose of the wetlands is to preserve fowl habitat, whatever, for that area, and so the "comparable" refers to style and type, not size.

SENATOR BEUTLER: Okay. And the provision in here that was retained from federal law, is that the area of the replacement lands may exceed the wetlands area affected and why is that...why is that language there? Why do you say that it can exceed?

SENATOR KRISTENSEN: You may have a project that requires you to take, let's say, an acre or two from this particular area and on down the road there may be one that takes five acres. If you make it a one for one exchange, that means you'd have to create a bank for the one acre and it's been interpreted that you'd have to replace one acre for one acre and then go get another one and replace that with the five acres. So, at one point in time, if they, let's say in one year they know they're going to have to replace this whole stretch of wetlands, they can go get one that exceeds the size of what they've taken that year, but the next year will dump into that wetlands to make that project work. You just can't always do a one for one exchange on the wetlands area.

SENATOR BEUTLER: Is it.... Okay, so you're talking about a