

April 6, 1992

LB 719A
LR 219

but obviously there's not much in Nebraska now. The major airline carriers in Lincoln and Omaha do have some. They've not pursued it that much because it's not worth that much money. Obviously as Senator Conway has introduced in the past, the whole concept of locating a wayport in Nebraska, this may be something in the future that may be more significant, but this time it's not significant from a financial point of view. From a constitutional point of view, if you're going to use LR 219 as your constitutional yardstick, this amendment is certainly in order as that. It has the same, roughly the same protection as the railroads and so given those, since this defeats all the arguments given last week on taking the entire class of public utilities, this is simply the airlines and with that I'd ask for the adoption of the amendment, Mr. Speaker.

SPEAKER BAACK: Senator Warner, would you like to address...

SENATOR WARNER: Mr. President, members of the Legislature, this amendment, if I understand, I don't have it here in front of me, but as I understand from Senator Moore, is to expand airlines which, in fact, do have some federal protection although as I understand it they do not have the (d) clause that is some more, so much broader that we face with with carlines and rail companies. I understand it's been litigated in at least maybe two states, at least it has in North and South Dakota and in one case it was a federal court I believe in North Dakota where the airlines won and in South Dakota I believe it was the state court and they lost. I think it's probably unclear at this point, certainly the constitutional amendment as written will allow where the federal supremacy comes in, but until there is a longer list of litigation, I'm not so sure that we should make this move at this time. But in any event, I don't believe the dollar impact on local government would be anywhere near as close as this one as in the case of the railroads, the shortfall, and I'm hesitant to make that addition now although frankly it may not make that much difference in the event that there are further lawsuits. It may be something we need to do but I'd be hesitant to do it yet.

SPEAKER BAACK: Thank you, Senator Warner. Any other discussion on the Moore amendment. Seeing none, Senator Moore, do you wish to close?

SENATOR MOORE: Mr. Speaker and members, Senator Warner has opposed the amendment. I guess I would...it was a lot weaker