

2021 SENATE TRANSPORTATION

SB 2149

2021 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

SB 2149
1/21/2021

A BILL for an Act to amend and reenact section 39-34-06 of the North Dakota Century Code, relating to a commercial service airport's authority to enter an agreement with a transportation network company.

Chair Clemens calls the meeting to order. Present are Chair Clemens, Vice Chair Fors, Senators Bakke, Conley, Dwyer, D. Larsen. [9:00]

Discussion Topics:

- Ground transportation outside of airports
- Transportation network companies
- Contracts between airports and transportation network companies
- Uber and Lyft

Senator Burckhard [9:02], presents the bill and testifies in favor, and submits testimony #2171.

Matthew Remyse [9:08], President of the Airport Association of ND, testifies in favor and submits testimony #1959.

Levi Andrist [9:33], with the GA Law Group, testifies in favor.

Dustin Gawrylow [9:35], Managing Director for the ND Watchdog Network, testifies in favor and submits testimonies #1029 and 1030.

Matthew Remyse [9:47], answers questions from the committee.

Shawn A. Dobberstein [9:47], Fargo Airport Authority, testifies in favor and submits testimony #2003.

Additional written testimony:

Jarrin Burke, Controller at Enterprise Rent-A-Car Company, submits testimony #2022.

Greg Haug, Airport Director at the Bismarck Airport, submits testimony #2045.

Chair Clemens adjourns the meeting. [10:01]

Sheldon Wolf, Committee Clerk

SB2149

Transportation Network Company

Senator Burckhard Talking Points

- The Airport Association of North Dakota (AAND) is spearheading an effort to modify the language in ND Century Code section 39-34-06 Controlling Authority of a Transportation Network Company (TNC), so commercial airport operators could enter into operational agreements with TNCs if they chose to.
- Currently, airport operators have the ability to enter in operational agreements with other ground transportation providers such as taxis, shuttles and rental cars, but not TNCs. AAND members feel this is an inequality issue and that century code should allow airport operators to enter into agreements with all ground transportation providers.
- Permitting airport operators to enter into operational agreements with TNCs allows airport operators to create a fee structure that keeps the airport as self-sustaining as possible, which is a requirement for airports that receive federal grant money for capital projects. This fee structure offsets some of the costs for maintaining the airport access roads and terminal front.
- This is NOT a new fee or tax. As stated, airport operators are able to enter into contracts with shuttle services, taxis, car rental companies and limo services for operations at a commercial airport and in those cases the fee is normally passed onto the customer.
- Also, by allowing TNCs and airports to establish contracts, airports will be able to safely and efficiently integrate TNC into their operations versus having to treat them like the public. Additionally, an airport would be able to promote TNC operations, actually increasing the need for TNC drivers at their airport.
- There are several airport operators looking to create a taxi/shuttle program, but are cautious about moving forward because of the inability to enter into an operational agreement for all similarly situated ground transportation providers.
- Combined, the major TNCs have contracts with over 300 airports nationwide. TNC operators want to be at airports and airports want TNCs. TNCs are going to continue to grow, and ND airport operators would like the ability to integrate TNCs into the airport's operation for safety and efficiency.
- City and Airport Leaders respectfully ask that you support this legislation by providing a do pass recommendation.



Airport Association of North Dakota

#1959

Matthew Remyse - President Ryan Riesinger - Vice President
Jordan Dahl - Sec. / Treasurer

P.O. Box 991 Bismarck, North Dakota 58502-0991
(701) 355-1808

January 21, 2021

RE: Testimony to Senate Transportation Committee – SB 2149 (Transportation Network Companies Operating at Commercial Service Airports)

Chairman Clemens and members of the committee,

I am Matthew Remyse, the President of the Airport Association of North Dakota (AAND). I want to thank you for the opportunity to testify here today. AAND is the professional organization for North Dakota Airports and it serves to promote airports, aviation, and safety across the state. I'm here today on behalf of the association to express our support of SB 2149.

Our commercial airports are a valuable asset for North Dakota's economy and touch all major industries. According to the 2015 Economic Impact of Aviation study, North Dakota's eight commercial service airports generate an economic impact of \$1.4 billion annually. In 2019, passenger boardings at our commercial airports totaled 1,191,569 passengers, an increase of 10% over 2018. That is an additional 108,452 passengers year over year. In 2020, passenger boardings were up 12% in the first two months and the growth was predicted to continue. Unfortunately, in March 2020, COVID-19 was deemed to be a pandemic and the results of lockdowns, border closures and travel restrictions devastated the commercial airline industry. Through the pandemic, North Dakota aviation has fared well; even with the decline in activity, yearly passenger boardings were only down 50% in 2020. During the pandemic, albeit at a smaller level, airport operations still continued, airlines continued flying passengers, TSA continued screening passengers and baggage, car rentals agencies continued to rent cars, passengers

continued park vehicles and use ground transportation services, like taxis and Transportation Network Companies (TNC).

Over the last four years, TNCs have become an important form of ground transportation in the state and without a doubt, airport leaders want to have TNCs operating at their airports. AAND's reason for pursuing this bill, is about equality for all ground transportation companies that operate at airports. Currently, North Dakota Century Code allows political sub-divisions to enter into operational agreements with taxis, shuttles, car rentals and other ground transportation providers, but not TNCs. At this time, airport operators are providing access to TNCs as the public, even though TNCs are a business. Airport operators that collect federal grants are bound by Federal Aviation Administration (FAA) grant assurances. A section in these assurances, requires airport operators to remain financially self-sufficient as possible by setting appropriate rates and charges for the use of the airport. With regard to ground transportation, car rentals companies are charged a fee to operate on an airport, so are taxis and shuttles at certain airports in the state. So yes, airport operators with healthy TNC activity will look to enter into agreements and collect fees, but this bill is not just about the fee collection. The bill is also about being able to partner with a TNC and integrate them into the airport's operation so they can receive the benefits of a commercial operator. A few examples include parking and pick-up locations, promotion and terminal signage; all of which better the airport and better the TNC operation.

During the last session, several concerns about AAND's TNC bill were brought up by this committee and other legislators. First, was the concern that the fee would be passed onto the customer and it was a blank check. In aviation, it is common place to see fees passed on to the customer. On a normal trip, customers normally see facilities fees, FAA fees, TSA security fees, parking fees, car rentals fees and concession fees. Airport directors are very aware of what fees are being passed along to the customer. They are also very conscious of this practice and are not looking to get rich off the fees. Rather, airport operators want to assure that all commercial

operators provide some payment for the captive audience airports provide and the resources they use when on the airport. Additionally, the fee assessed may be less than what a passenger would pay if they used a car rental or parked at the airport. Also, fee assessment is a local issue, some airport operators may assess a flat rate per year, while another may assess a per transaction fee or no fee at all. Second, was the concern that the bill was too open ended. Based on this concern, the new language is very specific to just airports and only for entering into agreements with TNCs. This bill will not affect TNC operations around a community. Similar language was codified in Wyoming and has worked well with multiple airports in Wyoming having contracts with TNCs. Third, was the concern that this would cause difficulty for the TNC drivers. This is untrue, the drivers will not be affected. The contract is between the airport operator and the TNC. In fact, drivers could see benefits like better parking and promotion within the terminal. Finally, was the concern that this bill would cause discrimination amongst TNC operators. Per FAA requirements and the airport authorities act, airport operators cannot discriminate against an entity unless there is a just reason for not entering into an agreement. So, an airport operator would have to offer the same terms or agreement to any TNC operator that wanted to operate at the airport.

Another topic discussed during on this bill, was that commercial airports have plenty of Federal funding. While our airports do receive federal funding, priority for federal funding is given to safety and airside related projects. Landside projects such as access roads and signage carry a low priority and very rarely receive federal funding. This leaves the responsibility of funding these projects to the airport and state. Additionally, pay parking lots are not eligible for federal funding, the cost for constructing and maintaining a parking lot is 100% local. The fees collected by an airport operator through a contract with a TNC would be used to offset the ongoing maintenance costs of landside infrastructure because those maintenance costs are not eligible for federal funding.

According to the FAA, North Dakota is only one of a handful of states that has laws restricting airports from entering into contracts with TNCs. Across the nation, TNCs have entered into contracts with political sub-divisions for operations at commercial service airports. According to an article in The Bond Buyer, Lyft has established agreements with 240 airports and Uber has agreements with over 100 airports. Even though not all the airport operators in North Dakota will pursue an agreement with a TNC, they are supportive of this bill and the proposed change to the TNC law. Truly, airport operators believe this is a local issue and want to have the option to enter into an agreement if the time is right and the opportunity is beneficial for both parties.

In summary, TNC operators have become a key ground transportation provider at commercial service airports in ND since starting operations in 2017. We feel they have grown enough to be incorporated in airport operations without negative consequences. We respectfully request the support of SB2149 and that this committee provide a "do pass" recommendation. Again, I thank you for the opportunity to provide testimony today and I will take any questions the committee may have for me. Additionally, I would be happy to come back during committee work on this bill and answer any questions that may come up at that time.

Respectfully,

A handwritten signature in blue ink, appearing to read "Matthew Remyse".

Matthew Remyse, A.A.E.
President, AAND

SB 2149 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network

This bill is a re-hash of SB 2180 from the 2019 session. Concerns surrounding this bill remain the same as then.

If you end up going this route, it would be good to allow the existing governing board of elected officials to have oversight of such agreements. And to ensure there is no exclusivity that might create a monopoly situation.

SB 2180 #4
1/24/19 pg.

SB2180 - Testimony by Dustin Gawrylow (Lobbyist #266) ND Watchdog Network

Opposed to the bill as written:

- SB 2180 currently gives a blank check to airport authorizes and actually grants the airport authorities more power than the municipalities that own/operate/manage them.

Amendments needed for oversight:

- If the airport is under oversight of a municipality, require the municipality governing board's explicit approval of rules enacted.
- Create appeals process directly to municipality governing board regarding execution of approved regulations.

Amendments needed for driver protection:

- Require that any "rates, fees, rental payments, or other charges" be approved by the municipality's governing board.
- Require that any such "rates, fees, rental payments, or other charges" be applied toward the rider's payment and not taken out of the amount TNCs pay to the driver (using a corporate rate baseline as of December 31st, 2018).
- Allow all "rates, fees, rental payments, or other charges" to be subject to public referendum.
- Require any permits to be acquired by the TNCs themselves, not the individual drivers.

Amendments needed for consumer protection:

- Prohibit airport authorities from banning TNCs altogether.
- Prohibit airport authorities from entering into exclusive agreements with any TNCs or private transportation companies, including taxi companies. **(NO MONOPOLIES!!!)**

Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2149

Introduced by

Senators Burckhard, Dwyer, Kreun

Representative O'Brien

1 A BILL for an Act to amend and reenact section 39-34-06 of the North Dakota Century Code,
2 relating to a commercial service airport's authority to enter an agreement with a transportation
3 network company.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 39-34-06 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-34-06. Controlling authority.**

- 8 1. Notwithstanding any other provision of law, transportation network companies and
9 transportation network company drivers are governed exclusively by this chapter,
10 chapter 26.1-40.1, and any rules adopted consistent with this chapter and adopted by
11 the insurance commissioner under chapter 26.1-40.1.
- 12 2. A political subdivision may not impose a tax on, or require a license for, a
13 transportation network company or a transportation network company driver or subject
14 a transportation network company to the political subdivision's rate, entry, operational,
15 or other requirements.
- 16 3. This chapter may not be construed to limit the ability of a commercial service airport or
17 the governing body of a commercial service airport to enter an operating agreement
18 with a transportation network company which authorizes operational access to the
19 commercial service airport. An operating agreement entered under this subsection
20 may provide guidelines for entry, pick-up, drop-off, fees, and other airport operational
21 procedures required by the commercial service airport for the transportation network
22 company to be allowed operational access to the commercial service airport. As used
23 in this subsection, "commercial service airport" means a public airport that has at least

- 1 two thousand five hundred passenger boardings per calendar year and receives
- 2 scheduled passenger aircraft service.



**MUNICIPAL AIRPORT AUTHORITY
OF THE
CITY OF FARGO**

January 21, 2021

RE: Testimony to Senate Transportation Committee – SB 2149 (Transportation Network Companies Operating at Commercial Service Airports)

Chairman Clemens and members of the committee,

I am Shawn Dobberstein, the Executive Director of the Municipal Airport Authority of the City of Fargo – Fargo's Hector International Airport. Thank you for the opportunity to testify. Thanks to all of you for your willingness to serve and represent the citizens of North Dakota.

I speak in support of SB 2149. I echo the comments made by Airport Association of North Dakota President Matthew Remynse. I also agree with the information conveyed by Senator Burckhard. Their testimony conveyed a number of important reasons why it is imperative that your committee provide a "do pass" recommendation.

The Fargo Airport has tried to work with Transportation Network Companies (TNC) Uber and Lyft since they began to provide service in the Fargo metro area. We are able to work with taxis, shuttles, car rentals and other ground transportation companies to coordinate access to accommodate our mutual customers. This is accomplished in accordance with the current state law, however, the current state law does not allow airports to coordinate the same access accommodations with our TNC operators such as Uber and Lyft.

I have spoken to representatives of TNC operators who are willing to enter into an agreement with the Fargo Airport Authority to improve their access to accommodate our mutual customers. Access accommodations would include the implementation of wayfinding signage, designated parking spaces to drop off and pick up passengers and a likely fee per trip. This would significantly improve the customer experience at the Fargo Airport.



The Fargo Airport has experienced a steady rise in the use of TNC options by our customers. We conducted six passenger surveys starting in June 2017 ending in December 2019. Two survey periods were conducted each year. One was during the summer months and one during the winter months. Approximately 1,400 passengers participated in each survey period. Over 8,000 passengers were engaged for the six survey events. Our June 2017 survey indicated 2% of those surveyed arrived at the airport via a TNC option. Our December 2019 survey indicated 8% of those surveyed arrived at the airport via one of the TNC options. Taxi and hotel shuttle use decreased over the same survey period from 5% to 3% and from 4% to 3% respectively. We did not survey in 2020 due to the COVID situation. The increase in TNC use does impact parking and car rental revenues streams for the airports.

Our ability to better coordinate and engage with our other ground transportation operators is hampered by our inability to engage our TNC operators with an agreement. Car rental, parking, taxi and shuttle operators in Fargo are quick to remind the Fargo Airport Authority administration that is not fair that we continue to allow the TNC businesses to operate at the airport without any ability to control their access in a coordinated manner. We have worked with Uber and Lyft corporate officials to establish a voluntary geofence on the airport property. This allows us to move the waiting TNC drivers from the curbside in front of the passenger terminal to a designated area on the airport property where they can stage to wait for their electronic requests for service from passengers arriving at the airport. We do not have the curb space in front of the passenger terminal to handle all of the Uber and Lyft vehicles that are present at any given time to park and wait for a fare. It was not safe and caused us significant traffic congestion every day. Without this voluntary cooperation, it would be traffic chaos.

In closing, I once again support the comments made earlier by Mr. Remyense. His testimony contains all of the points that are important for you to understand as you discuss the merits of this bill. I also support the information Senator Burckhard shared with you today.

I urge you to provide a "do pass" recommendation from this committee which will allow airports to finally enter into formal agreements with TNC operators that will benefit the traveling public, both residents and visitors, that utilize the commercial service airports in North Dakota. Thank you for your time and I am available for any questions.

Sincerely,

Shawn A. Dobberstein, AAE

Shawn A. Dobberstein, AAE
Executive Director
PO Box 2845
Fargo, ND 58108-2845

701-241-1501

shawn@fargoairport.com

#2022

ENTERPRISE HOLDINGS.



320 Pronghorn Trail
Bozeman, MT 59718
+1 406 522.2900
enterpriseholdings.com

Enterprise rent-A-Car Company of MT/WY, LLC ("Enterprise") is an on-site rental car service provider at each of the six (6) largest airports in North Dakota. We operate the Alamo Rent A Car, Enterprise Rent-A-Car and National Car Rental brands.

Enterprise values its relationships with our airport partners and we have entered into formal operating agreements at each airport whereby we pay substantial airport-mandated fees for access to the facilities and the traveling public. Such access fees are generally standard practice for car rental companies as well as other providers of airport ground transportation services.

Transportation Network Companies ("TNC's") however currently service the airports without contributing any access fees due to current State legislation. This not only results in an uneven playing field relative to our company and other ground transportation providers but also unfairly precludes airport authorities from collecting reasonable fees necessary to support the infrastructure they provide to TNC companies and their customers. Enterprise supports proposed Senate Bill 2149 that would allow airports to regulate TNC operators and charge appropriate fees for their ability to access customers at the respective airports in the State. Airport operators should be able to determine the business terms applicable to TNC operators just as they do with virtually all other modes of ground transportation.

While we fully support the intent of Senate Bill 2149, it is important to ensure that the Bill is specific to TNC operators and does not directly or indirectly address the operation of Peer-to-Peer ("P2P") vehicle rental operators. Both TNC's and P2P operators are relatively new modes of airport ground transportation yet are distinctly different. TNCs are ride hailing companies and so should pay access fees per trip similar to like services such as taxi. However, P2P car rental is car rental, and therefore must not be treated any differently in terms of access fees than other types of car rental at airports.

Testimony prepared by:

Jarrin Burke, Controller
Enterprise RAC Company of MT/WY, LLC



#2045

**Testimony to Senate Transportation Committee
On SB 2149
Greg Haug, Airport Director, Bismarck Airport
January 21, 2021**

Dear Chairman Clemens and members of the committee,

Thank you for the opportunity to provide testimony on SB2149. I am Greg Haug, Director of the Bismarck Airport. On behalf of the Bismarck Airport, I am writing to voice support for SB 2149 and the language it provides to allow North Dakota airport operators the ability to enter into contracts with Transportation Network Companies (TNC).


Prior to COVID-19, passenger boarding numbers at the Bismarck Airport showed strong growth. 2019 was Bismarck's 10th straight year of record enplanements and 2020 was on pace to be the 11th. During this growth, we saw an influx of taxi and shuttle services coming to the airport to provide services to airport users. Along with more taxi's and shuttle's we also saw an increase in TNC operators like Uber and Lyft. Even during the pandemic, we are seeing taxis, shuttles and TNC operations.

After seeing the increase in use of taxi's and TNC's in recent years while Bismarck's passenger numbers continued to climb, Bismarck Airport staff explored instituting a minimal fee for drop offs and pick-ups by taxi's, shuttles, limos and TNCs. Bismarck Airport does not currently charge any ground transportation companies even though it is common practice at all airports to establish fees and charges upon the commercial operators providing services at the airport when it is deemed to be reasonable or operationally necessary. In 2017 we felt the business climate was healthy enough to withstand a minimal charge for all ground transportation companies doing business at the Airport. However, when we started looking into establishing the new fee we found that the current law did not allow airports to contract specifically with TNC's for operations at an airport and we had to put that initiative on hold. Bismarck Airport would still like to see the current law changed so that Airports have the ability to establish a business relationship with all similarly situated ground transportation companies.

In conclusion, the creation of TNCs has resulted in new opportunities for airports and they have expanded the menu of choices for ground transportation services available to airport customers. We view this as good healthy competition. Airports are vital to the state's economy and this bill would assure that commercial airports throughout the state have the ability to manage and control the operation of all ground transportation companies providing service to the users of the state's air service airports.

Again, I appreciate the Opportunity to provide testimony of SB 2149 and ask that you provide a "do pass" recommendation.

Respectfully,



Gregory B. Haug
Airport Director

2021 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

SB 2149
1/22/2021

A BILL for an Act to amend and reenact section 39-34-06 of the North Dakota Century Code, relating to a commercial service airport's authority to enter an agreement with a transportation network company.

Chair Clemens calls the meeting to order. Present are Vice Chair Fors, Senators Bakke, Conley, Dwyer, D. Larsen; Chair Clemens is absent. [10:08]

Discussion Topics:

- Transportation to and from airports
- Uber and Lyft

Senator Dwyer [10:14] moves DO PASS.

Senator Bakke [10:14] seconds.

Senators	Vote
Senator David Clemens	-
Senator Robert Fors	N
Senator Cole Conley	Y
Senator Michael Dwyer	Y
Senator Doug Larsen	Y
Senator JoNell Bakke	Y

Motion passes 4-1-1. [10:14]

Senator Dwyer will carry.

Chair Clemens adjourns the meeting. [10:17]

Sheldon Wolf, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2149: Transportation Committee (Sen. Clemens, Chairman) recommends **DO PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2149 was placed on the Eleventh order on the calendar.

2021 HOUSE TRANSPORTATION

SB 2149

2021 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Room JW327E, State Capitol

SB 2149
3/11/2021
AM

A bill relating to a commercial service airport's authority to enter an agreement with a transportation network company.
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11:30 AM **Chairman Ruby** opened the hearing.

Attendance

Representatives	
Representative Dan Ruby	P
Representative Tom Kading	P
Representative Rick Becker	P
Representative Cole Christensen	A
Representative LaurieBeth Hager	P
Representative Jared C. Hagert	P
Representative Karla Rose Hanson	P
Representative Terry B. Jones	P
Representative Emily O'Brien	P
Representative Mark S. Owens	P
Representative Bob Paulson	P
Representative Gary Paur	P
Representative Robin Weisz	P
Representative Greg Westlind	P

Discussion Topics:

- Commercial airport operators' operational agreements with TNCs
- TNC (Transportation Network Company)
- Consistent application

Senator Burckhard introductory testimony #8831.

Matthew Remyse, Past President of Airport Association of North, supportive testimony #8691 and response to questions.

Shawn Dobberstein, Executive Directive for Fargo Airport Authority, supportive testimony #8662. (ZOOM)

Dustin Gawrylow, ND Watchdog Network, oppositional testimonies # 7780, #7781, and #7782.

Additional written testimony:

Jarrin Burke, Controller for Enterprise Rent-A-Car Company In favor #8694

12:02 **Chairman Ruby** closed the hearing.

House Transportation Committee
SB 2149
03-11-21
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12:03 Adjourned.

Jeanette Cook, Committee Clerk

Transportation Network Company

8831

Senator Burckhard Talking Points

Sponsor of SB2149

- The Airport Association of North Dakota(AAND) is spearheading an effort to modify the language in ND Century Code section 39-34-06 Controlling Authority of a Transportation Network Company (TNC), so commercial airport operators could enter into operational agreements with TNCs if they chose to.
- Currently, airport operators have the ability to enter in operational agreements with other ground transportation providers such as taxis, shuttles and rental cars, but not TNCs. AAND members feel this is an inequality issue and that century code should allow airport operators to enter into agreements with all ground transportation providers.
- Permitting airport operators to enter into operational agreements with TNCs allows airport operators to create a fee structure that keeps the airport as self-sustaining as possible, which is a requirement for airports that receive federal grant money for capital projects. This fee structure offsets some of the costs for maintaining the airport access roads and terminal front.
- This is NOT a new fee or tax. As stated, airport operators are able to enter into contracts with shuttle services, taxis, car rental companies and limo services for operations at a commercial airport and in those cases the fee is normally passed onto the customer.
- Also, by allowing TNCs and airports to establish contracts, airports will be able to safely and efficiently integrate TNC into their operations versus having to treat them like the public. Additionally, an airport would be able to promote TNC operations, actually increasing the need for TNC drivers at their airport.
- There are several airport operators looking to create a taxi/shuttle program, but are cautious about moving forward because of the inability to enter into an operational agreement for all similarly situated ground transportation providers.
- Combined, the major TNCs have contracts with over 300 airports nationwide. TNC operators want to be at airports and airports want TNCs. TNCs are going to continue to grow, and ND airport operators would like the ability to integrate TNCs into the airport's operation for safety and efficiency.
- City and Airport Leaders respectfully ask that you support this legislation by providing a do pass recommendation.



Airport Association of North Dakota

8691

Ryan Riesinger - President Anthony Dudas - Vice President

Jordan Dahl - Sec. / Treasurer

P.O. Box 2845, Fargo, North Dakota 58108-2845

March 11, 2021

RE: Testimony to House Transportation Committee – SB 2149 (Transportation Network Companies Operating at Commercial Service Airports)

Chairman Ruby and members of the committee,

I am Matthew Remyse, the past President of the Airport Association of North Dakota (AAND). I want to thank you for the opportunity to testify here today. AAND is the professional organization for North Dakota Airports and it serves to promote airports, aviation, and safety across the state. I'm here today on behalf of the association to express our support of SB 2149.

With an annual economic impact of \$1.4 billion, our commercial service airports are a valuable asset to North Dakota's economy and touch all major industries. In 2019, passenger boardings at our commercial airports totaled just under 1.2 million passengers, an increase of 10% over 2018. In 2020, passenger boardings were up 12% in the first two months and the growth was predicted to continue. Unfortunately, in March 2020, COVID-19 was deemed to be a global pandemic and the results of lockdowns, border closures and travel restrictions devastated the commercial airline industry. Through the pandemic, North Dakota aviation has fared well; even with the decline in activity, yearly passenger boardings were only down 50% in 2020. During the pandemic, albeit at a smaller level, airport operations still continued, airlines continued flying passengers, TSA continued screening passengers and baggage, car rentals agencies continued to rent cars, passengers continued to park vehicles and use ground transportation services, like taxis and Transportation Network Companies (TNC).

Over the last four years, TNCs have become an important form of ground transportation in the state and without a doubt, airport leaders want to have TNCs operating at their airports. AAND's reason for pursuing this bill, is about equality for all ground transportation companies that operate at airports. Currently, North Dakota Century Code allows political sub-divisions to enter into operational agreements with taxis, shuttles, car rentals and other ground transportation providers, but not TNCs. At this time, airport operators are providing access to TNCs as the public, even though TNCs are a business. Airport operators that collect federal grants are bound by Federal Aviation Administration (FAA) grant assurances. A section in these assurances, requires airport operators to remain financially self-sufficient as possible by setting appropriate rates and charges for the use of the airport. With regard to ground transportation, car rentals companies are charged a fee to operate on an airport, so are taxis and shuttles at certain airports in the state. So yes, airport operators with healthy TNC activity will look to enter into agreements and collect fees, but this bill is not just about the fee collection. The bill is also about being able to partner with a TNC and integrate them into the airport's operation so they can receive the benefits of a commercial operator. A few examples include parking and pick-up locations, promotion and terminal signage; all of which benefit the TNC and airport operation.

With any bill, there have been several questions and concerns that have come up regarding SB2149. First, was the concern that the fee would be passed onto the customer and it was a blank check. In aviation, it is common place to see fees passed on to the customer. On a normal trip, customers normally see facilities fees, FAA fees, TSA security fees, parking fees, car rentals fees and concession fees. Airport directors are very aware of what fees are being passed along to the customer. They are also very conscious of this practice and are not looking to get rich off the fees. Rather, airport operators want to assure that all commercial operators provide some payment for the captive audience airports provide and the resources they use when on the airport. Additionally, the fee assessed may be less than what a passenger would pay if they used a rental car or parked at the airport. Also, fee assessment is a local issue, some airport

operators may assess a flat rate per year, while another may assess a per transaction fee or no fee at all. Additionally, a concern about the driver having to pay this fee was presented. Airport contracts allow for the fee to be passed to the customer or absorbed by the company and reimbursed through a fare to the customer. So, this is a business practice that needs to be agreed to between the TNC operator and the individual driver. Second, is a concern that the bill was too opened ended. Based on this concern, the language is very specific to just allowing TNC operations at an airport and allowing an airport's governing body to enter into agreements with TNCs. This bill will not affect TNC operations around a community. Also, this language does not give more power to an airport than its governing body. Airports that are a department of a City must get approval from the City's governing body to enter into a contract. In the case of airport authorities, the authority is its own political sub-division that has its own rights and powers under ND Century Code including the ability to enter into operational agreements. Similar language was codified in Wyoming and has worked well with multiple airports in Wyoming having contracts with TNCs. Third, was the concern that this would cause difficulty for the TNC drivers. This is untrue, the drivers will not be affected. The contract is between the airport operator and the TNC. In fact, drivers could see benefits like better parking and promotion within the terminal. Finally, was the concern that this bill would cause discrimination amongst TNC operators. Per FAA requirements and the airport authorities act, airport operators cannot discriminate against an entity unless there is a just reason for not entering into an agreement. So, an airport operator would have to offer the same terms or agreement to any TNC operator that wanted to operate at the airport.

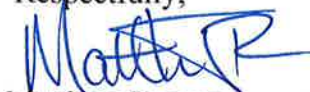
Another topic discussed during on this bill, was that commercial airports have plenty of Federal funding. While our airports do receive federal funding, priority for federal funding is given to safety and airside related projects. Landside projects such as access roads and signage carry a low priority and very rarely receive federal funding. This leaves the responsibility of funding these projects to the airport and state. Additionally, pay parking lots are not eligible for

federal funding, the cost for constructing and maintaining a parking lot is 100% local. The fees collected by an airport operator through a contract with a TNC would be used to offset the on-going maintenance costs of landside infrastructure because those maintenance costs are not eligible for federal funding. As an enclosure, I've attached a list of the commercial airports in the state identifying whether they charge a fee for ground transportation services, what the fee is and what their plans are in the future.

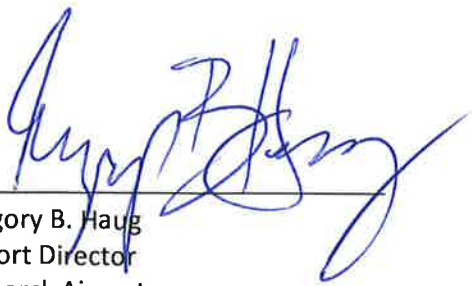
According to the FAA, North Dakota is only one of a handful of states that has laws restricting airports from entering into contracts with TNCs. Across the nation, TNCs have entered into contracts with political sub-divisions for operations at commercial service airports. According to an article in The Bond Buyer, Lyft has established agreements with 240 airports and Uber has agreements with over 100 airports. Even though not all the airport operators in North Dakota will pursue an agreement with a TNC, they are supportive of this bill and the proposed change to the TNC law. Truly, airport operators believe this is a local issue and want to have the option to enter into an agreement if the time is right and the opportunity is beneficial for both parties.

In summary, TNC operators have become a key ground transportation provider at commercial service airports in ND since starting operations in 2017. We feel they have grown enough to be incorporated in airport operations without negative consequences. We respectfully request the support of SB2149 and that this committee provide a "do pass" recommendation. Again, I thank you for the opportunity to provide testimony today and I will take any questions the committee may have for me.

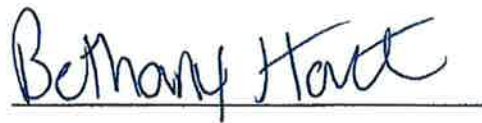
Respectfully,

A handwritten signature in blue ink, appearing to read "Matthew Remyse", with a stylized flourish at the end.

Matthew Remyse, A.A.E.
Past President, AAND



Gregory B. Haug
Airport Director
Bismarck Airport



Bethany Hart
Airport Manager
Devils Lake Regional Airport



Kelly Braun, C.M.
Airport Manager
Dickinson Theodore Roosevelt
Regional Airport



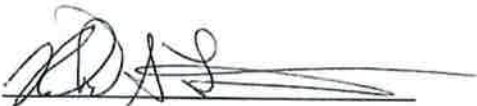
Shawn A. Dobberstein, A.A.E.
Executive Director
Fargo's Hector International Airport



Ryan Riesinger, C.M.
Executive Director
Grand Forks International Airport



Katie Hemmer
Airport Director
Jamestown Regional Airport



Richard A. Feltner, C.M.
Airport Director
Minot International Airport



Anthony Dudas, C.M.
Airport Director
Williston Basin International Airport

2020 North Dakota Airport Ground Transportation Rate and Charges			
<u>Airport Name</u>	<u>Currently Charge for Taxi Operations</u>	<u>Rate</u>	<u>Future Plans</u>
Bismarck Airport	No	N/A	If 2149 is approved, plan to develop a ground transportation program
Devils Lake Airport	No	N/A	
Dickinson Airport	Yes	\$600/operator/year.	Assess flat fee to TNC
Fargo Airport	No	N/A	If 2149 is approved, plan to develop a ground transportation program
Grand Forks	Yes	\$200/vehicle fee	If 2149 is approved, will consider going to a per trip fee for all users.
Jamestown Airport	No	N/A	
Minot Airport	Yes	\$600/operator/year	Assess flat fee to TNC
Williston Basin Airport	No	N/A	If 2149 is approved, plan to develop a ground transportation program

Enclosure 1



**MUNICIPAL AIRPORT AUTHORITY
OF THE
CITY OF FARGO**

8662

March 11, 2021

RE: Testimony to House Transportation Committee – SB 2149 (Transportation Network Companies Operating at Commercial Service Airports)

Chairman Ruby and members of the committee,

I am Shawn Dobberstein, the Executive Director of the Municipal Airport Authority of the City of Fargo – Fargo's Hector International Airport. Thank you for the opportunity to testify. Thanks to all of you for your willingness to serve and represent the citizens of North Dakota.

I speak in support of SB 2149. I echo the comments made by Airport Association of North Dakota President Matthew Remyse. His testimony conveyed a number of important reasons why it is imperative that your committee provide a "do pass" recommendation.

The Fargo Airport has tried to work with Transportation Network Companies (TNC) Uber and Lyft since they began to provide service in the Fargo metro area. We are able to work with taxis, shuttles, car rentals and other ground transportation companies to coordinate access to accommodate our mutual customers. This is accomplished in accordance with the current state law, however, the current state law does not allow airports to coordinate the same access accommodations with our TNC operators such as Uber and Lyft.

I have spoken to representatives of TNC operators who are willing to enter into an agreement with the Fargo Airport Authority to improve their access to accommodate our mutual customers. Access accommodations would include the implementation of wayfinding signage, designated parking spaces to drop off and pick up passengers and a likely fee per trip. This would significantly improve the customer experience at the Fargo Airport.



The Fargo Airport has experienced a steady rise in the use of TNC options by our customers. We conducted six passenger surveys starting in June 2017 ending in December 2019. Two survey periods were conducted each year. One was during the summer months and one during the winter months. Approximately 1,400 passengers participated in each survey period. Over 8,000 passengers were engaged for the six survey events. Our June 2017 survey indicated 2% of those surveyed arrived at the airport via a TNC option. Our December 2019 survey indicated 8% of those surveyed arrived at the airport via one of the TNC options. Taxi and hotel shuttle use decreased over the same survey period from 5% to 3% and from 4% to 3% respectively. We did not survey in 2020 due to the COVID situation. The increase in TNC use does impact parking and car rental revenues streams for the airports.

Our ability to better coordinate and engage with our other ground transportation operators is hampered by our inability to engage our TNC operators with an agreement. Car rental, parking, taxi and shuttle operators in Fargo are quick to remind the Fargo Airport Authority administration that is not fair that we continue to allow the TNC businesses to operate at the airport without any ability to control their access in a coordinated manner. We have worked with Uber and Lyft corporate officials to establish a voluntary geofence on the airport property. This allows us to move the waiting TNC drivers from the curbside in front of the passenger terminal to a designated area on the airport property where they can stage to wait for their electronic requests for service from passengers arriving at the airport. We do not have the curb space in front of the passenger terminal to handle all of the Uber and Lyft vehicles that are present at any given time to park and wait for a fare. It was not safe and caused us significant traffic congestion every day. Without this voluntary cooperation, it would be traffic chaos.

In closing, I once again support the comments made earlier by Mr. Remyense. His testimony contains all of the points that are important for you to understand as you discuss the merits of this bill.

I urge you to provide a "do pass" recommendation from this committee which will allow airports to finally enter into formal agreements with TNC operators that will benefit the traveling public, both residents and visitors, that utilize the commercial service airports in North Dakota. Thank you for your time and I am available for any questions.

Sincerely,

Shawn A. Dobberstein, AAE

Shawn A. Dobberstein, AAE
Executive Director
PO Box 2845
Fargo, ND 58108-2845

701-241-1501

shawn@fargoairport.com

SB 2149 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network

There is a need to level the playing field between rideshare services, and traditional taxi services.

However, the legislature must ensure that any power to levy taxes and fees against rideshare companies, or individual riders must be done equitably.

As a recent incident in Rapid City shows, a late payment of a mere \$1,500 can cause local governmental entities to demand these services cut off both drivers and passengers.

Any system allowed by the legislature for airport authorities must be fair and make sense for everyone.

Agreements should be fair and long term to ensure continuity for drivers relying on income, and for passengers relying on the rides.

We urge the House to fine-tune this bill and close the open-ended nature of this current approach.

7781

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Lyft misses payment to renew operating license in Rapid City leaving rideshare drivers in limbo

By [Connor Matteson](#)
Published: Feb. 19, 2021 at 8:26 PM CST



RAPID CITY, S.D. (KOTA) - Since Thursday, Lyft Drivers in Rapid City have not been able to accept rides coming from inside city limits.

“If we’re not getting ride requests; we’re not driving, we’re not making the money, and it really hurts our passengers for being in this predicament because a lot of them require a Lyft ride to get to and from work or to and from the airport or just a safe ride at night,” says rideshare driver Laurie Schlecht.

Every year, Lyft has to renew its \$1,500 operating license with the city and this year they missed that payment.

Darrell Shoemaker with the City of Rapid City says they were in communication with Lyft about their upcoming renewal.

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The city was asked why don't they extend Lyft services arbitrarily, but they didn't know if Lyft will continue operating or be changing their operating license in any way.

"As a show of good faith, we're going to allow email authorization for services to continue into Monday," says Shoemaker. "If we don't have payment from Lyft again we'll be over a week past their anniversary date, if we don't have payment in hand we will have a complaint ready to go and they would have to suspend operations based on non-payment."

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Shoemaker says Lyft has sent the city of Rapid City a tracking number for a shipment. The city has no idea what the rideshare company is sending them, but is assuming it's a payment.

As of Friday, the shipment is in Kentucky and Lyft drivers are able to operate.

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Around The Web

|

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InvestmentGuru
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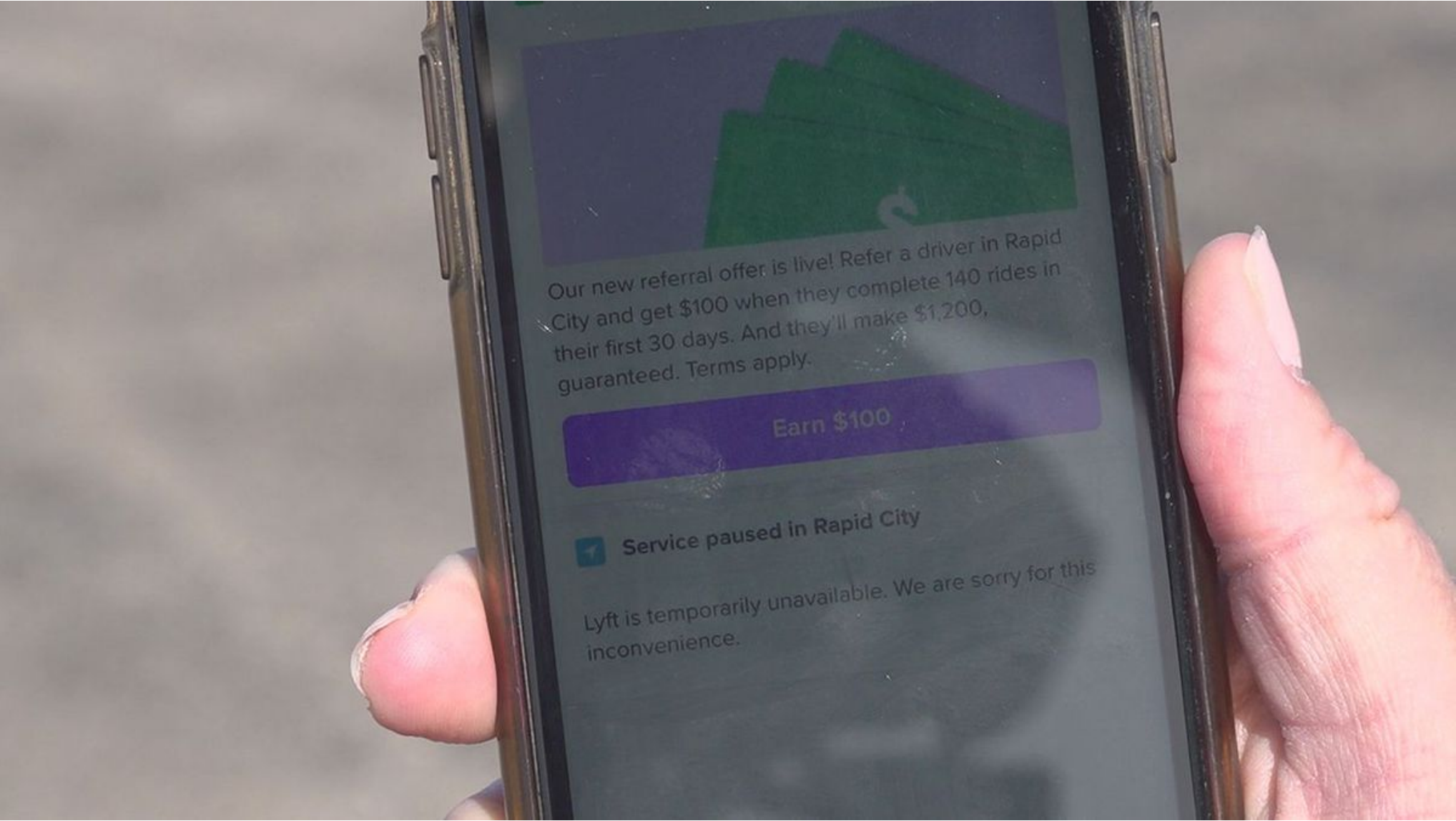
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- Nobody Can Name These Hit Shows By Just 1 Image. Can You?

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Lyft fee paid after licensing drama with Rapid City



The app was down for awhile. (Connor Matteson)

By [Connor Matteson](#)

Published: Feb. 22, 2021 at 2:17 PM CST



RAPID CITY, S.D. (KOTA) - As of early Monday Morning, Lyft paid the operating fee to Rapid City

It's an annual bill for Lyft due on Feb.14. Lyft owes \$1,500 to Rapid City in order to operate in the City of Presidents. When the money didn't show up by Feb. 18, the city took steps to stop the app from [working effectively shutting Lyft down.](#)

But as a show of good faith, the city allowed Lyft drivers to continue operating [through the weekend with the stipulation that the money is received by Monday.](#)

As drivers wonder about the upcoming week, Lyft paid the fee putting them back in business.

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March 11, 2021

Chairman Ruby and members of the House Transportation Committee,

Enterprise rent-A-Car Company of MT/WY, LLC ("Enterprise") is an on-site rental car service provider at each of the six (6) largest airports in North Dakota. We operate the Alamo Rent A Car, Enterprise Rent-A-Car and National Car Rental brands.

Enterprise values its relationships with our airport partners and we have entered into formal operating agreements at each airport whereby we pay substantial airport-mandated fees for access to the facilities and the traveling public. Such access fees are generally standard practice for car rental companies as well as other providers of airport ground transportation services.

Transportation Network Companies ("TNC's") however currently service the airports without contributing any access fees due to current State legislation. This not only results in an uneven playing field relative to our company and other ground transportation providers but also unfairly precludes airport authorities from collecting reasonable fees necessary to support the infrastructure they provide to TNC companies and their customers. Enterprise supports proposed Senate Bill 2149 that would allow airports to regulate TNC operators and charge appropriate fees for their ability to access customers at the respective airports in the State. Airport operators should be able to determine the business terms applicable to TNC operators just as they do with virtually all other modes of ground transportation.

While we fully support the intent of Senate Bill 2149, it is important to ensure that the Bill is specific to TNC operators and does not directly or indirectly address the operation of Peer-to-Peer ("P2P") vehicle rental operators. Both TNC's and P2P operators are relatively new modes of airport ground transportation yet are distinctly different. TNCs are ride hailing companies and so should pay access fees per trip similar to like services such as taxi. However, P2P car rental is car rental, and therefore must not be treated any differently in terms of access fees than other types of car rental at airports.

Testimony prepared by:

Jarrin Burke, Controller
Enterprise RAC Company of MT/WY, LLC

2021 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Room JW327E, State Capitol

SB 2149
3/11/2021
PM

A bill relating to a commercial service airport's authority to enter an agreement with a transportation network company.

3:07 PM **Chairman Ruby** brought bill back to the committee.

Attendance

Representatives	
Representative Dan Ruby	P
Representative Tom Kading	P
Representative Rick Becker	P
Representative Cole Christensen	A
Representative LaurieBeth Hager	P
Representative Jared C. Hagert	P
Representative Karla Rose Hanson	P
Representative Terry B. Jones	P
Representative Emily O'Brien	P
Representative Mark S. Owens	P
Representative Bob Paulson	P
Representative Gary Paur	P
Representative Robin Weisz	P
Representative Greg Westlind	P

Discussion Topics:

- Bill review
- Possible amendments

Representative Becker moved a Do Not Pass.

Representative Paur seconded.

Roll Call Vote

Representatives	Vote
Representative Dan Ruby	Y
Representative Tom Kading	Y
Representative Rick Becker	Y
Representative Cole Christensen	A
Representative LaurieBeth Hager	N
Representative Jared C. Hagert	N
Representative Karla Rose Hanson	N
Representative Terry B. Jones	Y
Representative Emily O'Brien	N

Representative Mark S. Owens	Y
Representative Bob Paulson	Y
Representative Gary Paur	Y
Representative Robin Weisz	Y
Representative Greg Westlind	N

Motion carried. 8-5-1 **Representative Becker** carrier.

3:27PM **Chairman Ruby** adjourned.

Jeanette Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2149: Transportation Committee (Rep. D. Ruby, Chairman) recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). SB 2149 was placed on the Fourteenth order on the calendar.