

**EXAMINING THE FUTURE OF TRANSPORTATION
NETWORK COMPANIES: CHALLENGES AND OP-
PORTUNITIES**

(116-36)

HEARING
BEFORE THE
SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT
OF THE
COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

OCTOBER 16, 2019

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U.S. House of Representatives
Washington, DC 20515

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OCTOBER 11, 2019

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Highways and Transit
FROM: Staff, Subcommittee on Highways and Transit
RE: Subcommittee Hearing on “Examining the Future of Transportation Network Companies: Challenges and Opportunities”

PURPOSE

The Subcommittee on Highways and Transit will meet on Wednesday, October 16, 2019, at 10:00 a.m. in 2167 Rayburn House Office Building to receive testimony related to “Examining the Future of Transportation Network Companies: Challenges and Opportunities.” The purpose of this hearing is to learn from stakeholders about transportation network companies (TNCs); the role of cities and States in regulating TNC operations; and the impacts of this transportation model on mobility, other transportation options, drivers, and passengers. The Subcommittee will hear from representatives from the National League of Cities, the Transportation Alliance, the Transportation Trades Department, AFL–CIO, and Commute with Enterprise.

BACKGROUND

TNCs use digital technologies such as a software application to connect passengers with drivers operating personal vehicles to provide one or more riders pre-arranged, for-hire transportation services. Over the past decade TNCs have rapidly expanded into cities across the U.S., significantly impacting the transportation landscape. According to 2016 data from Harvard Business Review, spending for on-demand transportation services is estimated to capture 7.3 million monthly consumers and \$5.6 billion in annual spending.¹ Additionally, Pew Research Center reported that 36 percent of U.S. adults have utilized TNCs—representing a 240-percent increase since 2015.² According to recent estimates, Uber and Lyft hold 98.3 percent of the market share at 71.1 percent³ and 27.2 percent⁴, respectively. Smaller competitors, such as Via and Juno, comprise the remainder of the market. In recent years, TNCs including Uber and Lyft have expanded their service options to include carpooling, bike, and scooter rentals.

Transportation options facilitated by TNCs can provide opportunities to develop a network of mobility choices, integrated with traditional transportation options, that meet the needs of diverse users and create benefits for consumers. This new model for transportation services has also raised numerous public policy questions,

¹ <https://hbr.org/2016/04/the-on-demand-economy-is-growing-and-not-just-for-the-young-and-wealthy>

² <https://www.pewresearch.org/fact-tank/2019/01/04/more-americans-are-using-ride-hailing-apps/>

³ <https://secondmeasure.com/datapoints/rideshare-industry-overview/>

⁴ *Id.*

including how to integrate TNCs with existing transit service, impacts on mobility and congestion in cities and States, how cities and States regulate this new model, implications for the transportation labor market, and safety impacts.

MOBILITY INNOVATION

Mobility on Demand (MOD)

As defined by the Department of Transportation, MOD is an innovative, user-focused approach that leverages emerging mobility services, integrated transit networks and operations, real-time data, connected travelers, and cooperative Intelligent Transportation Systems to allow for a more traveler-centric, transportation system-of-systems approach that provides improved mobility options to all travelers and users in an efficient and safe manner.⁵ MOD offers more flexibility and personal choice in mobility, and provides solutions to long-standing transportation challenges such as:

- *Convenience*: streamlined access to on-demand transportation services makes it easier for riders to travel quickly while eliminating the nuisance of multiple payment systems;
- *Congestion*: new carpool, scooter, bike share and transit options allow users opportunities to bypass congestion. For example, according to Lyft twenty percent of the company's riders have used a bike or scooter rental.⁶
- *Accessibility*: new mobility options for underserved populations, paratransit, and non-emergency medical transportation.

Transit Integration

While TNCs offer an alternative to traditional transit options, they can also increase access to existing public transit systems by providing first and last mile connections. Some transit agencies have been experimenting with TNC partnerships to close the gap in first and last mile connectivity. These agencies are subsidizing rides to and from transit stations to improve the speed and convenience of trips while still taking advantage of the inherent efficiencies of transit in busy corridors.

Taxis

TNCs are generally competitors with the taxi industry.⁷ Many of the challenges in accessibility, safety, and modal integration are similar to those that have historically confronted the taxi industry. However, these challenges have been brought to the forefront given the rapid growth of TNCs and their reach into new markets and segments.

CONGESTION

Americans lose 8.8 billion hours per year to congestion.⁸ TNCs first began operations in San Francisco almost a decade ago, providing a window into the long-term effects of TNCs and congestion. The San Francisco County Transportation Authority (SFCTA) found that since TNCs first emerged in 2010 they have increased congestion in San Francisco by approximately 50 percent according to several metrics.⁹

- From 2010 to 2016, total vehicle hours of delay in San Francisco increased by about 40,000 hours, 51 percent of which was estimated to be due to TNCs.
- During the same time period, total vehicle miles traveled (VMT) increased by over 630,000 miles, 47 percent of which were caused by TNCs.
- Average vehicle speeds decreased by 3.1 miles per hour, 55 percent of which was because of TNCs.

Another study found that TNCs have added 5.7 billion miles of driving annually in the metro areas of Boston, Chicago, Los Angeles, Miami, New York, Philadelphia, San Francisco, Seattle and Washington DC alone.¹⁰ In regards to the impact on traffic, the study found that private rides with a TNC add 2.8 new vehicle miles on the road for every one mile of personal driving removed, a 180 percent increase. Additionally, the study found that shared TNC rides have only a marginally lower impact with each shared ride adding 2.6 vehicle miles on the road for each one mile

⁵ <https://www.its.dot.gov/factsheets/pdf/MobilityonDemand.pdf>

⁶ <https://www.lyftimpact.com/impact/transportation/expanded>

⁷ The Economic Impact of Transportation Network Companies on the Taxi Industry, Alice Wang, 2015. https://scholarship.claremont.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1648&context=scripps_theses

⁸ "2019 Urban Mobility Report." *Texas A&M Transportation Institute*, Aug. 2019.

⁹ https://www.sfcta.org/sites/default/files/2019-05/TNCs_Congestion_Report_181015_Finals.pdf

¹⁰ <http://www.schallerconsult.com/rideservices/automobility.pdf>

of personal driving removed. This is because most passengers who choose shared TNC rides are switching from non-auto modes (e.g. public transit, biking, and walking).¹¹

REGULATIONS

State and Local Laws

The emergence of TNCs has prompted cities and States across the country to respond with laws that govern their operations. These companies do not fit neatly into existing regulatory frameworks, sometimes leading to conflicts between state and local priorities. Proponents of state-level TNC regulations assert that statewide frameworks create uniform standards, allowing TNCs to seamlessly operate anywhere in the state. Others believe that local regulations are necessary to account for localized needs, which may differ between cities. For example, a large, densely populated city may need to establish protections for limited curb space in urban centers, while rural, sparsely populated cities may need flexibility to encourage a TNC to cover underserved areas. As of October 2018, 42 States had passed legislation preempting local TNC regulations.¹² TNC regulations vary across cities and States, but often address safety standards as well as fees, permits, and insurance requirements.

Background Checks

To begin driving with a TNC, prospective drivers apply directly with the company either through their website or app. The application processes vary, but typically include both a criminal background check and a driving record check conducted by the TNC through a third-party provider, as well as a vehicle safety inspection administered by the relevant local agency. TNCs must also follow applicable state and local laws regarding background checks, which vary significantly by State and city, and may capture criteria not covered by the company check. Further, the *Fair Credit Reporting Act* (FCRA) prohibits consumer reporting agencies from disclosing arrests or adverse information that occurred prior to the 7 year period preceding the initiation of the background report.¹³ Recently in Eugene, Oregon, approximately two dozen drivers for Uber and Lyft were allowed to drive passengers after clearing the companies' background check but were then subsequently disqualified after failing background checks conducted by local law enforcement.¹⁴ One of those disqualified drivers was found to have been convicted of murder, while another was a registered sex offender.¹⁵

WORKFORCE

Wages

Estimates of how much TNC drivers earn vary significantly. According to Uber's Chief Economist Jonathan Hall, Uber estimates drivers in 20 of its largest U.S. markets earned an average of between \$19.04 and \$21.07 an hour between 2015 and 2017.¹⁶ The Economic Policy Institute, however, calculated an Uber driver's take home pay (once fees, taxes, and related expenses were deducted) to be an average of \$9.21 an hour.¹⁷ Further, the report found that Uber drivers have high turnover and, on average, work only part of the year (an average of three months) and part time (an average of 17 hours per week).¹⁸

Employee Classification

TNCs consider themselves technology platforms, not transportation companies, and consider their drivers to be independent contractors, not employees. TNC drivers are not eligible for benefits and must pay self-employment tax to cover Social Security and Medicare. Additionally, TNCs deduct fees and commissions from driver fares, and drivers are responsible for covering the costs of operating and maintaining their vehicles. This business model has faced backlash in some areas, most nota-

¹¹ *Id.*

¹² <https://onlabor.org/state-tnc-and-mc-legislation-preemption-and-employment-status-of-drivers/>

¹³ 15 U.S.C. § 1681

¹⁴ <http://eugeneregisterguard.or.newsmemory.com/?publink=02a06baf>

¹⁵ *Id.*

¹⁶ <https://medium.com/uber-under-the-hood/an-analysis-of-ceprps-paper-on-the-economics-of-ride-hailing-1c8bfbf1081d>

¹⁷ <https://www.epi.org/publication/uber-and-the-labor-market-uber-drivers-compensation-wages-and-the-scale-of-uber-and-the-gig-economy/>

¹⁸ *Id.*

bly in California. Last month, California passed a new state law (AB 5)¹⁹ allowing TNCs and other gig economy companies to classify workers as independent contractors only if the employer demonstrates they meet specific criteria.

Automation

TNCs have seen a significant increase in the number of drivers over recent years. According to a report from Uber in partnership with economist Alan Krueger, there were 464,681 drivers actively partnered with Uber in December 2015,²⁰ compared to only 162,037 active Uber drivers in December 2014.²¹ In early 2018, Uber reported there were more than 750,000 Uber drivers in the U.S.²² At the same time, both Uber and Lyft are working to develop self-driving technologies, which would eliminate most if not all of these jobs. For example, Lyft has partnered with automotive tech supplier Aptiv to offer self-driving ride-hailing services in Las Vegas and has completed over 50,000 driverless rides over the course of the partnership.²³ Uber has been testing its own self-driving cars in Pittsburgh, PA with plans to begin testing in Dallas, TX in November 2019.²⁴

SAFETY

TNC operations have faced increased scrutiny in recent years over the safety of drivers and riders. According to a lawsuit filed by fourteen women who state they were raped or sexually assaulted by Lyft drivers, Lyft received as many as 100 complaints of sexual assault in California alone between 2014 and 2016.²⁵ Legislative proposals at the local, State, and Federal level have been introduced to impose greater safety regulation of ride-hailing services. Further, safety concerns regarding mistaken vehicle identification by riders have been raised.²⁶ Both Uber and Lyft have instituted changes to increase rider awareness and safety in recent years. Uber also announced in November 2018 they plan to release a safety report on data of sexual violence reported by riders and drivers sometime this year. However, data on sexual assaults and other crimes reported to Uber and Lyft is not publicly available, and there is no comprehensive source detailing the number of incidents reported to police.

WITNESS LIST

MEMBER PANEL

- The Honorable Christopher H. Smith, Member of Congress
- The Honorable Thomas R. Suozzi, Member of Congress

PANEL I

- The Honorable Karen Freeman-Wilson, Mayor, City of Gary, Indiana, President, National League of Cities
- Mr. Jon W. Martz, Director, Government and Public Affairs, Commute with Enterprise
- Mr. Paul Miller, Legislative Counsel, The Transportation Alliance
- Mr. Larry Willis, President, Transportation Trades Department, AFL-CIO

Uber, Lyft, and Via were invited and declined the invitation.

¹⁹ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB5

²⁰ <https://www.nber.org/papers/w22843.pdf>

²¹ https://s3.amazonaws.com/uber-static/comms/PDF/Uber_Driver-Partners_Hall_Krueger_2015.pdf

²² <https://medium.com/uber-under-the-hood/an-analysis-of-ceedprs-paper-on-the-economics-of-ride-hailing-1c8bfbf1081d>

²³ <https://www.cnet.com/roadshow/news/lyft-aptiv-self-driving-car-50k-rides/>

²⁴ <https://www.theverge.com/2019/9/17/20870969/uber-self-driving-car-testing-dallas>

²⁵ <https://www.cbsnews.com/news/lyft-lawsuit-14-women-file-lawsuit-after-drivers-allegedly-sexually-assaulted-them/>

²⁶ <https://www.washingtonpost.com/crime-law/2019/03/31/she-thought-she-had-gotten-into-her-uber-police-say-hours-later-hunters-found-her-body/>

EXAMINING THE FUTURE OF TRANSPORTATION NETWORK COMPANIES: CHALLENGES AND OPPORTUNITIES

WEDNESDAY, OCTOBER 16, 2019

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:06 a.m. in room 2167, Rayburn House Office Building, Hon. Eleanor Holmes Norton (Chairwoman of the subcommittee) presiding.

Ms. NORTON. The subcommittee will come to order. I ask unanimous consent that the chair be authorized to declare recesses during today's hearing.

Without objection, so ordered.

I will proceed with my opening statement at this time. I want to thank our witnesses, including the two Members of Congress, who have joined us today for this important hearing on the burgeoning growth of alternative transportation companies. I will be calling them TNCs. These are companies that use technology to provide rides on demand.

The two largest TNCs that make up 98 percent of the market, Uber and Lyft, were, of course, invited to join us. But they declined. However, Congress cannot avoid its responsibility to engage, to investigate its role in overseeing this industry. Uber and Lyft have missed an important opportunity for them, but that will not stop this committee or this subcommittee from doing its duty.

Today we will hear from Members of Congress and the other witnesses reflect on the tough, outstanding questions to ensure that the TNC mobility option actually delivers a public service safely and equitably, and operates in the interest of the public and for its workers.

We will hear today about important public safety concerns that arise when companies develop an app that connects passengers and drivers through technology and hope for the best without appropriate scrutiny and rigorous background checks.

We also will hear of the effects on hundreds of thousands of workers who are left with little choice in today's market but to drive for Uber and Lyft to supplement their low wages that affect so many Americans today.

We will hear about the efforts of workers to organize to achieve improvements in income and working conditions.

We will hear about impacts to mobility in cities when more TNC vehicles are permitted to flood roadways and block curb cuts without thoughtful rules in place to mitigate congestion.

We will hear about the impact of TNCs on existing transportation networks such as transit systems.

Today's hearing marks the first serious discussion about how to harness the power of technology and innovation to deliver benefits to riders, while providing appropriate guardrails to ensure safety and accountability.

[Ms. Norton's prepared statement follows:]

Prepared Statement of Hon. Eleanor Holmes Norton, a Delegate in Congress from the District of Columbia, and Chairwoman, Subcommittee on Highways and Transit

I thank our witnesses for joining us today for this important hearing.

I would like to start out by noting a glaring omission on a panel assembled to discuss the challenges and opportunities presented by Transportation Network Companies, or TNCs.

The two largest TNCs that make up over 98 percent of the market—Uber and Lyft—were invited to join us but respectfully declined. That leaves me with a big question of what they don't want to talk about on record before Congress.

Since the TNCs choose not to participate and present their business model and story, we will have to take a different approach.

Today, we will hear Members of Congress and other esteemed witnesses reflect on the tough questions we all must ask to ensure that this new mobility option that TNCs have developed and discharged across the country actually delivers a public service safely and equitably, and will not escalate a race to the bottom for transportation workers.

We will hear today about important public safety concerns that arise when companies develop an app that connects passengers and drivers through technology and hope for the best—without appropriate scrutiny and rigorous background checks of whether drivers could pose a safety threat.

We will hear about the effects on hundreds of thousands of workers who—left with little other choice than to drive for Uber and Lyft to supplement low wages in other jobs—sign up hoping to earn money but quickly find that as independent contractors, they are left to maintain their vehicles and fund operational costs such as fuel, as well as pay required taxes, out of their own pockets.

We will hear about impacts to mobility in cities when more TNC vehicles are permitted to flood roadways and block curb cuts, without thoughtful rules in place to mitigate congestion.

And we will hear about the impacts to existing transportation networks, such as transit systems, that the TNC model is having.

I hope that today's hearing will spark a serious discussion about how to harness the power of technology and innovation to deliver benefits to travelers and riders, but with appropriate regulatory guardrails to ensure safety and accountability so that this new model—and all who travel on it—can thrive.

Ms. NORTON. I ask unanimous consent that Members not on the subcommittee be permitted to sit with the subcommittee at today's hearing, and to ask questions.

I now ask our ranking member if he has an opening statement.

Mr. DAVIS. Thank you, Madam Chair, and thank you, Chairman DeFazio. I also want to thank our two colleagues who have joined us today, Mr. Smith from New Jersey; Mr. Suozzi from New York.

I look forward to hearing your remarks. And it has been great to sit down and work with each of you on issues that are important to the hearing that is going to be conducted today.

Our public roads are a shared resource, and our job is to figure out how to best manage this shared and ultimately scarce resource.

Over the past decade we have seen an unprecedented explosion of a new player on public roads: TNCs. The mobility landscape has been completely reshaped, and the growth for on-demand shared mobility has required States and localities to think how to plan for and organize their road and transit systems.

The number of monthly active Uber users rose to over 100 million globally this year. And with over 15 million trips happening each day, this represents a huge shift in how Americans are getting around on a day-to-day basis.

TNCs aren't just focused in big cities, either. In my district alone, which is a mix of rural and many urban areas, Lyft conducted over 62,000 rides last year. And today Uber serves more than 82 percent of the U.S. population, upwards of 268 million people.

And while Uber and Lyft may not be able to serve every small town and city across the country, their presence and innovation has spurred other ride-hailing alternatives. And today we are going to hear about one of them from Mr. Martz, from COMMUTE with Enterprise, who is working to make carpooling easy for companies and commuters.

But while we are all excited about the prospects for new integrated mobility options, we must be cognizant of its risks and impacts both for riders and drivers. The safety of our traveling public is of paramount importance. And regardless, if you are traveling in a taxi, taking public transit, or riding through a TNC, you need to feel and be safe.

For example, in my district it is home to four public universities, including Illinois State University. And that university alone has over 20,000 students. And we must be sure to protect the safety of every one of our campuses across our country.

[Mr. Davis' prepared statement follows:]

Prepared Statement of Hon. Rodney Davis, a Representative in Congress from the State of Illinois, and Ranking Member, Subcommittee on Highways and Transit

Our public roads are a shared resource and our job is to figure out how to best manage this shared, and ultimately scarce, resource.

Over the past decade, we've seen an unprecedented explosion of a new player on our public roads: TNCs. The mobility landscape has been completely reshaped and the growth for on-demand shared mobility has required states and localities to rethink how to plan for and organize their road and transit systems.

The number of monthly active Uber users rose to over 100 million globally this year; and with over 15 million trips happening each day, this represents a huge shift in how Americans are getting around on a day-to-day basis.

TNCs aren't just focused in big cities either. In my district alone, Lyft conducted over 62,000 rides over the past year. And today, Uber serves more than 82 percent of the U.S. population—upwards of 268 million people. And while Uber and Lyft may not be able to serve every small town and city across the country, their presence and innovation has spurred other ride-hailing alternatives.

Today, we're going to hear from Mr. Martz, from Commute with Enterprise, who is making carpooling easy for companies and commuters.

But while we are all excited about the prospects for new, integrated mobility options, we must be cognizant of its risks and impacts, both for riders and drivers. The safety of our traveling public is of paramount importance, and regardless if you're traveling in a taxi, taking public transit, or riding through a TNC, you need to feel safe. For example, my district is home to four public universities, including the Illinois State University with over 20,000 students. We must be sure to protect the safety of all our campuses across the country.

With that, I want to thank our witnesses for being with us this morning, and I look forward to hearing their testimony.

Mr. DAVIS. With that I again want to thank our witnesses for being with us this morning. And I look forward to hearing their testimony.

And, Madam Chair, I yield back.

Ms. NORTON. Thank you very much, Mr. Davis. I would like to ask the chairman of the full committee, Mr. DeFazio, if he has an opening statement.

Mr. DEFAZIO. I certainly do, Madam Chair. Am I recognized?

Ms. NORTON. You are recognized for your opening statement.

Mr. DEFAZIO. Thank you. Thanks, Madam Chair.

Today the hearing is on a topic that is having already far-reaching implications on transportation mobility in our country. And this hearing should also serve as a wake-up call to companies that have flooded our roadways with disruptive technologies and investor capital that their days of operating with little public policy and regulatory oversight in the transportation space are coming to an end.

The transportation landscape in many cities has been upended by these TNCs, transportation network companies, led by Uber and Lyft, who refused to testify today, having led us on for weeks saying they would try to testify. They just told us on the holiday weekend they wouldn't come.

They have their transformative technology platforms connecting riders, revolutionizing travel, the way we travel. But there are a lot of problems with this model.

First off, TNCs are contributing in a major way to traffic congestion. In San Francisco, where the very first Uber ride was taken in 2010, in 6 years traffic delays increased by a total of 40,000 hours; vehicle miles traveled increased by 630,000 miles. And half of them are attributable to TNCs. Private and even shared TNC rides add more congestion and more emissions, not less.

How these new technologies are integrated into our existing systems, what rules TNCs must follow, must be carefully crafted to ensure that these services are truly a good option. Lawmakers at the Federal, State, and local level need to think far beyond just whether this new service gets people from point A to point B.

What this new business model means for public safety, jobs, emissions, transit service, and other factors must be at the center of any policy decisions to allow these companies to access our infrastructure.

The failure today of Uber and Lyft to appear is a telling sign that they don't want to answer questions on the record about their operations. I read a news account today that they have met with all the members, or almost all the members of the subcommittee, and had great conversations. Well, they didn't come to see me.

Now, perhaps they don't want to talk about their public safety problems. And I am grateful to Representatives Smith and Suozzi for being here today, and starting off this hearing with statements on their ideas on how to improve the safety of ride-hailing services. I have been focused on the potential dangers of pairing passengers with poorly vetted drivers for years.

In June 2015 I wrote to Uber's then-CEO, Travis Kalanick, urging the company to conduct fingerprint-based background checks.

Four years later, the process that Uber and Lyft use to vet drivers is not fingerprint-based. It is woefully inadequate, leaving passengers vulnerable and at risk of harassment or assault.

In my district, in the small city of Eugene, Oregon, they vetted 13 drivers as being right up to the standards of Uber and Lyft. Unfortunately for them, my city requires taxi drivers—and they were deemed to be taxi drivers—to take a fingerprint background check. Oh, guess what? Thirteen of them were convicted felons. One was a sexual predator. One was a murderer. And they were all just good to go, so far as Uber and Lyft were concerned.

And then Uber and Lyft show up at my State legislature and try and preempt communities from having higher standards. They spent millions of dollars in Texas on that same issue. They don't want people to be fully vetted, because they want anybody and everybody who can get behind the wheel who might or might not have a valid driver's license to be driving for them.

This has got to end.

They are also, as we have seen, making a lot of their employees yet another victim of the gig economy. California has deemed that these people are employees. Uber and Lyft say, "No, no employees, not employees. Contractors. We have no liability, no nothing. They just use our platform." Except they extract massive payments from these drivers, and the drivers are totally dependent upon the system.

And now they are sponsoring an initiative, or trying to sponsor an initiative in California, to repeal that law.

So it could be public safety, it could be abuse of their workers and what they are doing to them. Many of these people are working, according to calculations, at less than the minimum wage in these States. Of course, they are contractors, they don't have to get a minimum wage—\$9.81 an hour. That is less than the minimum wage in my State.

Now, they don't reveal the data on the prevalence of assaults. They don't reveal any data on how people are paid. Uber has posted more than \$5 billion in losses in the second quarter of this year, Lyft, \$650 million in loss. That is despite employing felons, sexual predators, paying abysmal wages. They are still losing money. This is not a sustainable business model.

At the same time they are asking us, the United States Congress, this committee, to consider subsidizing their operations if they partner with transit agencies and local governments to provide connecting service to existing public transportation.

In surface transportation reauthorization this committee will certainly evaluate how to incentivize greater transportation options. Overcoming our congestion and mobility challenges, particularly in urban areas, will require some innovative solutions.

However, this hearing should put those not here, Uber and Lyft, on notice that, for their long-term survival, for any hope of ever partnering with agencies who utilize Federal funds, they are going to have to clean up their acts, and they have got to come forward. And if they don't come forward, we will legislate without hearing from them.

[Mr. DeFazio's prepared statement follows:]

—————

Prepared Statement of Hon. Peter A. DeFazio, a Representative in Congress from the State of Oregon, and Chairman, Committee on Transportation and Infrastructure

Madam Chair, this hearing takes on a topic that is already having far-reaching implications on transportation and mobility in our country. It should also serve also a wake-up call to the companies that have flooded our roadways with disruptive technologies and investor capital that their days of operating with little public policy and regulatory oversight in the transportation space are coming to an end.

The transportation landscape in many cities has been upended by transportation network companies (TNCs). Companies—led by Uber and Lyft—that have developed transformative technology platforms connecting riders and drivers that have revolutionized how we travel. In a very short time, many people have come to rely on these services as a regular transportation option.

The impacts of TNCs on traffic congestion are significant. Consider San Francisco where the very first Uber ride was taken in 2010: in just six years, traffic delays increased by a total of 40,000 hours while vehicle miles traveled increased by 630,000 miles. Half of these increases have been attributed to the rise of TNCs. Despite common misconceptions that ride hailing ameliorates traffic, studies show private and even shared TNC rides add more congestion and more emissions, not less.

How these new technologies are integrated into our existing systems, and what rules TNCs must follow, must be carefully crafted to ensure that these services are a truly good option. Lawmakers at the Federal, State, and local level need to think far beyond just whether this new service gets people from point A to point B. What this new business model means for public safety, jobs, emissions, transit service, and other factors must also be at the center of any policy decisions to allow these companies access to our infrastructure.

For that reason, I invited representatives from Uber and Lyft to testify today so that we can start this discussion. Their failure to appear at this hearing is a telling sign that they would rather suffer a public lashing than answer questions on the record about their operations.

Perhaps they don't want to talk about their public safety problems. I am grateful to Representatives Smith and Suozzi for starting off this hearing with statements on their ideas to improve the safety of ride hailing services. I have been focused on the potential dangers of pairing passengers with poorly vetted drivers for years. In June 2015, I wrote to then-Uber CEO Travis Kalanick urging the company to conduct fingerprint-based background checks. Four years later, the process Uber and Lyft use to vet drivers is woefully inadequate leaving passengers vulnerable and at risk for harassment or assault.

In my district, a dozen applicants with serious criminal convictions, including a convicted murderer and a registered sex offender, were cleared through Uber and Lyft's screening process and allowed to drive passengers. It wasn't until the local police department performed their own, more comprehensive background checks that the drivers' criminal records were discovered, and they were removed from service.

Or, perhaps they don't want to talk about what their model is doing to drive down wages and turn our transportation workforce from a skilled, trained pool of workers earning living wages to another casualty of the gig economy. The tenuous existence of Uber and Lyft is literally fueled by millions of independent contractors who see their take home pay reduced drastically—below minimum wage in some States—as they are made to pay fees collected by the company, self-employment taxes, and costs associated with operating and maintaining their vehicles.

Or it may just be a general hostility toward transparency. Uber and Lyft don't make information about their process for deactivating dangerous drivers public. They don't share data on the prevalence of assaults on their platforms. They don't reveal details on how drivers are paid. What we do know is that both these companies are struggling since going public.

Uber posted more than \$5 billion in losses in the second quarter of 2019, while Lyft reported \$650 million in losses—despite paying low wages and pushing all vehicle costs off on drivers and hiring just about anyone they can find. Clearly, this business model is not sustainable.

At the same time, these companies have asked the Committee on Transportation and Infrastructure to consider subsidizing their operations if they partner with transit agencies and local governments to provide connecting service to existing public transportation. In surface transportation reauthorization, the Committee will certainly evaluate how to incentivize greater transportation options. Overcoming our

congestion and mobility challenges, particularly in urban areas, will require some innovative solutions. However, this hearing should put TNCs on notice that for their long-term survival, and for any hope of ever partnering with agencies who utilize Federal funds, they are going to have to clean up their acts.

I appreciate each of our witnesses for being here today to share their perspective on what Congress can do to shape future policy related to TNCs. Today's hearing is just the beginning.

Mr. DEFazio. With that, Madam Chair, I thank the other witnesses who will be here today, and yield back my time.

Ms. NORTON. I thank you, Mr. Chairman, because it is important that this Congress do its work. That is why we are going to act based on the testimony we hear today.

Now I would like, before proceeding with panel 1, to invite my colleagues, Congressman Thomas Suozzi and Congressman Christopher Smith, for opening statements for 5 minutes.

Mr. Smith or Mr. Suozzi, whichever you—

Mr. SMITH. Thank you very much, Madam Chair.

TESTIMONY OF HON. CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY; AND HON. THOMAS R. SUOZZI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. SMITH. Thank you very much, Madam Chair Eleanor Holmes Norton, thank you and Ranking Member Davis for calling this hearing—and Chairman DeFazio for that very, very passionate set of comments, very well spoken—for the invitation to speak on Sami's Law, a comprehensive bipartisan legislative initiative designed to more seriously protect passengers, especially women who utilize rideshare services including Uber and Lyft, from sexual assault and other forms of violence.

The idea for this legislation came directly from the grieving parents of a young woman from my district brutally murdered by a fake Uber driver. Now, however, we know that there are significant personal safety concerns associated with actual Uber and Lyft drivers, as well, not just the fakes, that are not well appreciated or publicized. And I will speak to that more in a minute.

Last March, University of South Carolina senior Sami Josephson left a late-night outing with her friends alone because she had to work early Saturday morning. The extraordinarily talented student who had recently earned a full scholarship to Drexel University Law ordered an Uber in a congested part of the town. A predator, pretending to be an Uber driver, took her into the car and brutally murdered her.

Less than 24 hours later her dead body was found in a field. The murderer was caught, jailed, and now awaits trial. Almost immediately, Madam Chair, and notwithstanding their excruciating agony—and you met with the parents, as did Mr. Davis, as did Mr. DeFazio—despite that agony and the loss of their precious daughter, Sami's parents, Seymour and Marci Josephson, began pushing for Federal and State legislation to better ensure that no one else loses their life or gets assaulted by a rideshare driver or a predator who pretends to be.

Working with the Josephsons, my good friend Tom and I crafted a bipartisan bill that would push States to require front license plates and, above all, scannable codes such as QR codes, on both

back passenger side windows that riders could scan on a smartphone device to verify their ride before—and I say again, before—entering that vehicle.

The bill provides a rider with the ability to opt out of using a QR code by instead using a four-digit personal authentication number to be verified—again, before entering the vehicle.

I want to point out that the personal number was an excellent idea suggested by the National Federation of the Blind, who have endorsed the bill. And I would ask that their letter endorsing the bill be made a part of the record.

These measures would not only ensure vehicle and driver identification for riders, assist law enforcement in tracking harmful offenders, but protects drivers, as well, by confirming the passenger.

The legislation also makes it unlawful for anyone other than a transportation network company like Uber or Lyft to sell a ride-hailing sign. Today anybody can buy an Uber or Lyft sign on Amazon or elsewhere for as little as 10 bucks, enabling the fakes and the predators with the appearance of signage legitimacy.

Additionally, Sami's Law requires the GAO to study the incidents of sexual assault and abuse of riders and drivers, and the nature and specifics of any background checks—how credible are they—of drivers and State laws that require such checks.

Madam Chair, in April of 2018 an investigation by CNN pointed out that, after searching—this is their quote—“police reports, Federal court records and county court databases for 20 major U.S. cities found 103 Uber drivers had been accused of sexual assault or abuse.” However, the story notes that the number suggests that there may be many more overall incidents of abuse than the 103 cases.

They told the story of a woman who had passed out in the back seat of an Uber. When she regained consciousness, the driver was on top of her, raping her one block from her home. The police picked up the man, John David Sanchez. They found videos of Sanchez raping other women and abusing teenagers dating back 5 years. In November he was sentenced to 80 years of prison for those horrible crimes. What kind of background check did Uber do on this particular individual who did such heinous things?

The report notes that Uber was made aware of CNN's reporting for the story, but the company failed to make any executives available, and it canceled an on-camera interview with an Uber executive. They didn't show up today, either.

Last month 14 women sued Lyft for mishandling their sexual assault complaints against drivers. It was carried by The Hill. Some of you may have seen it. I read each of their stories, and that number is growing.

Again, we are talking about predators, and these are Uber and Lyft drivers. In this case, it is a Lyft driver.

The GAO study, I think, will provide us very, very important information about what they are doing. And it is the final part of the bill.

Finally, due to the incomparable courage, compassion, and advocacy of Sami's parents, Seymour and Marci, the State version of Sami's Law, which is almost identical to our bill—it was the template for that bill, and I want to thank the Senate President

Sweeney for his insisting that they follow that pathway—it was signed into law by Governor Murphy of New Jersey on June 20th. They did act very quickly. New Jersey, at least—New Jersey citizens are more likely to be protected than other States. And again, we are hoping that this bill will prompt those other States to do all that is humanly possible.

We are not looking to eliminate this. We are looking to make sure, when you get into that back seat, it is safe.

[Mr. Smith’s prepared statement follows:]

**Prepared Statement of Hon. Christopher H. Smith, a Representative in
Congress from the State of New Jersey**

Chairwoman Eleanor Holmes Norton and Ranking Member Rodney Davis, thank you for the invitation to speak on Sami’s Law, a comprehensive bipartisan legislative initiative designed to more seriously protect passengers—especially women—who utilize rideshare services including Uber and Lyft from sexual assault and other forms of violence.

The idea for the legislation came directly from the grieving parents of a young woman brutally murdered by a fake Uber driver.

Now we know there are significant personal safety concerns associated with actual Uber and Lyft drivers as well—not just the fakes—that are not well appreciated or publicized. More on that in a minute.

Last March, University of South Carolina senior Sami Josephson left a late-night outing with her friends alone because she had to work in the morning.

The extraordinarily talented student who had recently earned a full scholarship to Drexel University Law ordered an Uber.

In a congested part of town, a predator pretending to be her Uber driver brutally murdered her. Less than 24 hours later her dead body was found in a field. The murderer was caught, jailed and awaits trial.

Almost immediately and notwithstanding their excruciating agony over the loss of their precious daughter, Sami’s parents—Seymour and Marci Josephson—began pushing for federal and state legislation to better ensure that no one else loses their life or gets assaulted by a rideshare driver or a predator who pretends to be.

Working with the Josephsons, we’ve crafted a bipartisan bill that would push states to require front license plates and scannable codes—such as QR codes—on both back-passenger side windows that riders could scan on a smart device to verify their ride *before*—I say again *before*—entering a vehicle.

The bill provides a rider with the ability to opt-out of using a QR code by using instead a four-digit personal authentication number to be verified before entering the vehicle. The personal number was an excellent idea suggested by the National Federation of the Blind—who have endorsed the bill [https://chrissmith.house.gov/UploadedFiles/NFB_-_HR_4686_-_Support_Letter.pdf].

These measures would not only ensure vehicle and driver identification for riders, assist law enforcement in tracking harmful offenders but protects drivers as well by confirming the passenger.

The legislation also makes it unlawful for anyone other than a transportation network company like Uber or Lyft to sell a ride-hailing sign.

Today, anybody can buy an Uber or Lyft sign on Amazon or elsewhere for as little as ten bucks—enabling the fakes and predators with the appearance of signage legitimacy.

Additionally, Sami’s Law requires the GAO to study the incidence of assault and abuse of riders and drivers and the nature and specifics of any background checks of drivers and state laws that may require such background checks.

In April of 2018, an investigation by CNN [<https://money.cnn.com/2018/04/30/technology/uber-driver-sexual-assault/index.html>] pointed out that after searching “police reports, federal court records and county court databases for 20 major U.S. cities found 103 Uber drivers had been accused of sexual assault or abuse.”

However, the story notes that the numbers suggest that there may be many more overall incidents of sexual assault than the 103 cases found in the CNN investigation.

The CNN investigative story began with this:

“After an evening of cocktails in San Diego, a woman got into the back of an Uber for a ride home. She was so intoxicated she had to ask the driver to stop so she could vomit. She says she then passed out in the backseat. When she regained consciousness, the Uber driver was on top of her, raping her, a block from her home, according to the police report and two sources familiar with the investigation . . .

“Police later arrested the Uber driver, John David Sanchez, 54. When they searched his computer, they found videos of Sanchez raping women and abusing young teenagers, dating back at least five years.

“In November, Sanchez was sentenced to 80 years in prison for the rape of the Uber passenger and 33 other counts against him, including sexual assaults of at least nine other women and children. Sanchez drugged many of his victims.”

What kind of background check and vetting did Uber driver Sanchez get?

The report notes that “Uber was made aware of CNN’s reporting for this story months ago, but the company failed to make any executives available to speak on the record. It canceled an on-camera interview with an Uber executive earlier this month.”

Last month, fourteen women sued Lyft [<https://thehill.com/homenews/news/459976-14-women-sue-lyft-for-alleged-sexual-predator-crisis-among-drivers>] for mishandling their sexual assault complaints against drivers, failing to cooperate with law enforcement officials, and refusing to inform victims about the status of the predators who committed these egregious crimes.

Sami’s law requires the GAO to study the incidence of assault and abuse inflicted on both riders and drivers and report back to Congress on the nature and specifics of any background checks by the companies including state laws requiring such checks.

Finally, due to the incomparable courage, compassion and advocacy of Sami’s parents Seymour and Marci, the state version of Sami’s Law—nearly identical to our federal bill—was signed into law by Governor Murphy of New Jersey on June 20th. Out of an abundance of concern for the safety, welfare and well-being of all rideshare customers, every state needs to do the same.

Ms. NORTON. Thank you very much, Congressman Smith.
Congressman Suozzi?

Mr. SUOZZI. Thank you, Madam Chairwoman. And thank you, Chairman DeFazio and Ranking Member Davis, and all the Members for allowing us to testify here today. We appreciate it very much, giving us the courtesy of going first like this.

We know you have a tremendous challenge, trying to determine the policies that are necessary to try and ensure that the new industry of transportation network companies provide safe, efficient, and cost-effective solutions to both consumers and employees. It is hard to imagine that Uber and Lyft didn’t actually show up here today. It is really very disrespectful to the committee, and it is a bad play on their part, I think.

I am here today with my colleague to talk about Sami’s Law, which Congressman Smith and I have sponsored. I would like to thank Congressman Smith for his leadership on this issue. He has done a lot of hard work here.

Earlier this year, when news reports about the murder of Sami Josephson first came to light, a New Jersey friend of mine, and a neighbor of the Josephsons contacted me to work on legislation to ensure that no other parent would experience this devastating loss in the way that the Josephsons did. I later discovered that Congressman Smith, who represents the Josephsons, was also working on this issue.

Sami Josephson called for an Uber, entered the wrong car, and she was murdered. This Smith-Suozzi bill works to provide consumers with a level of safety before entering the vehicle. Our bill’s

safety provisions are common sense and easy to implement, including the following requirements for States.

One, require a scannable QR quick response code on the vehicle window that matches the QR code on your phone and, as proposed by the National Federation of the Blind, an audio personal authentication number in lieu of the QR code, to make sure that this is the correct car before a passenger enters the vehicle.

Require transportation network companies to have illuminated signs that are visible in both day and night, and that are readable from 50 feet.

Three, require TNC drivers to have both front and back license plates. Currently, 19 States require only 1 plate.

And fourth, prohibit the sale of illuminated TNC signs and the display of such signs by individuals who are not drivers for a TNC company. Straightforward common sense.

As we began researching this issue, I was surprised to learn that the transportation network companies, a relatively new business model, are regulated very differently across States and local borders. While some States and cities, such as New York City, have implemented rules such as creating a new license category for high-volume for-hire services, TNCs have been mostly left to create their own policies for preventing and tracking violence or abuse to their passengers.

We have all heard about the horrific reports of assault and abuse incidents involving TNC passengers and drivers. That is why our bill also requires a GAO study on the prevalence of assault and abuse perpetrated on riders by TNC drivers of ride-hailing vehicles, and on TNC drivers by passengers. This data will be instrumental in determining any other safety procedures that may be necessary to ensure the safety of everyone who uses a ridesharing app.

There is no way to describe the sadness and horror and pain that Sami's death caused her family or to her community. She lived a vibrant and loving life. She had her whole life ahead of her. She planned to study law and had hopes and dreams. We must do everything we can to prevent what happened to Sami and so many others from happening to anyone else.

Congress now has a chance to come together and enact a change which will protect people. I believe it is our duty to do all we can to protect our constituents. I urge the entire committee, Democrats and Republicans, to work together to try and pass a bill such as this as soon as possible.

Thank you again for this opportunity to speak before you, and thank you for working with us on this issue.

[Mr. Suozzi's prepared statement follows:]

**Prepared Statement of Hon. Thomas R. Suozzi, a Representative in
Congress from the State of New York**

Good morning. Thank you to Chairwoman Holmes Norton, Ranking Member Davis, and Members of the Committee for allowing us to testify here today.

I know you have a big challenge trying to determine what policies are necessary to try and ensure that the new industry of Transportation Network Companies (TNCs) provides safe, efficient, and cost-effective solutions to consumers and employees.

I am here today, to speak about HR 3262, Sami's Law, which has been sponsored by Congressman Smith and I. I would like to thank Congressman Smith for his leadership on this issue.

Earlier this year when news reports surfaced about the tragic and horrific death of Sami Josephson, a New Jersey friend of mine and a friend and neighbor of the Josephson family contacted me to work on legislation to ensure that no other parent experienced the devastating loss of a child in the way that the Josephsons did.

I later discovered Congressman Smith, who represents the Josephsons, was also working on the issue.

Sami Josephson called for an Uber and entered the wrong car. That night, she was murdered. This Smith/Suozzi bill works to provide consumers with a level of safety BEFORE entering a vehicle.

Our bill's safety provisions are common-sense and easy to implement, including requiring states to:

- Require a scannable QR (Quick Response) code on the vehicle window that matches the QR code on your phone and, as proposed by a disability group, an audio personal authentication number in lieu of the QR code to make sure this is the correct car before the disabled passenger enters;

- Require TNC's to have illuminated signs that are visible in both day and night and are readable from fifty feet.

- Require TNC drivers to have both front and back license plates. Currently, 19 states require only one plate; and

- Prohibit the sale of illuminated TNC signs and the display of such signs by individuals who are NOT drivers for a TNC company.

As we began researching this issue, I was surprised to learn that transportation network companies (TNCs), a relatively new business model, are regulated very differently across state and local borders.

While some states and cities, such as New York City, have implemented new rules such as creating a new license category for "High-Volume For-Hire Services", TNCs have been mostly left to create their own policies for preventing and tracking violence or abuse to their passengers.

We have all heard about the horrific reports of assault and abuse incidents involving both TNC passengers and drivers. That is why our bill also requires a GAO study on the prevalence of assault and abuse perpetrated on riders by TNC drivers of ride-hailing vehicles, *and* on TNC drivers by passengers.

This data will be instrumental in determining any other safety procedures may be necessary to ensure the safety of everyone who uses a ridesharing application.

There is no way to describe the sadness, horror, and pain that Sami's death caused to her family and to her community. She lived a vibrant and loving life. She had her whole life ahead of her. She planned to study law, had hopes and dreams. We must do everything we can to prevent what happened to Sami from happening to anyone else.

Congress now has a chance to come together and enact change which will protect people. It is our duty to do all we can do protect our constituents. I urge the entire committee, Democrats and Republicans, to pass this bill as soon as possible.

Thank you once again for allowing me this opportunity and I look forward to working with you all to get this done.

Ms. NORTON. Thank you, Congressman Suozzi. The presence of two Members of Congress to begin this hearing only strengthens the committee's notion that something must be done. We thank you for your work, and we obviously will consider the legislation.

Mr. DEFAZIO. Madam Chair?

Ms. NORTON. The chairman would like to ask you a question.

Mr. DEFAZIO. I would just like to thank the gentleman.

I had no idea about the signs. I just went on Amazon and I see a very wide selection of Uber and Lyft signs, some as low as \$8.99, illuminated. I figured these were trademarked, distributed by the companies. But I guess, since these people are contractors, they couldn't do that. So anybody can buy one. That is—I had no idea. Thank you. That is mind-blowing.

Mr. SUOZZI. Thank you for having this hearing, Madam Chairwoman, for bringing these types of issues to light.

Mr. DEFAZIO. Right.

Ms. NORTON. Certainly. Thank you for that discovery during this hearing, Mr. Chairman.

Thank you both. And I would like to call the witnesses in panel 1, now.

[Pause.]

Ms. NORTON. I would like to welcome our witnesses: the mayor of the city of Gary, Indiana, and president of the National League of Cities, Karen Freeman-Wilson; director of public affairs for COMMUTE with Enterprise, Jon Martz; legislative counsel at The Transportation Alliance, Paul Miller; president of the Transportation Trades Department, AFL-CIO, Larry Willis.

I want to thank all of you for being here today. We look forward to your testimony.

Without objection, our witnesses' full statements will be included in the record.

Since your written testimony will be made part of the record, the subcommittee requests that you limit your oral testimony to 5 minutes.

Mayor Freeman, you may now proceed.

TESTIMONY OF HON. KAREN FREEMAN-WILSON, MAYOR, CITY OF GARY, INDIANA, AND PRESIDENT, NATIONAL LEAGUE OF CITIES; JON W. MARTZ, DIRECTOR, GOVERNMENT AND PUBLIC AFFAIRS, COMMUTE WITH ENTERPRISE; PAUL A. MILLER, LEGISLATIVE COUNSEL, THE TRANSPORTATION ALLIANCE; AND LARRY I. WILLIS, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

Ms. FREEMAN-WILSON. Thank you, Chair Norton. Good morning. Chair Norton, Ranking Member Davis, and members of the subcommittee, I am Karen Freeman-Wilson, as you know, the mayor of Gary, Indiana. And I am pleased to greet you on behalf of the citizens of Gary and the members of the National League of Cities, the Nation's largest organization that represents cities, towns, and villages throughout the country.

America's cities are not one size or type, but we share important commonalities. As city leaders we love our cities and care deeply about how our policies impact residents and local businesses. And, from our view, America is not doing nearly enough in our transportation networks.

As a country, we have not invested in ourselves, our neighborhoods, or in the next generation of transportation solutions. Today, even the status quo is in jeopardy because of the inadequacy of revenue in the Highway Trust Fund and mass transit account, and the looming \$7.6 billion rescission of contract authority.

Communities are ready to work with this subcommittee to increase the infrastructure investments that matter. We appreciate that you recognize that transportation is changing, and your investment strategy should change with it.

From transportation network companies, to bus rapid transit, to micro mobility, to shared cars and autonomous vehicles, the model of the future is shared, connected, and fleet-driven.

Cities are the Nation's test bed for transportation innovation, and we are looking to see what works and what needs to work bet-

ter. TNCs are a new transit option operating in only 730 of our 19,000 cities. Fueled by investor capital, TNCs rose quickly by serving the first- and last-mile gap and point-to-point service. Cities had to rework our ordinances and start pilots to quickly make room for these new entrants.

TNCs show how technological advances can lead to new models with the potential to combat some of society's most pressing challenges: climate issues, congestion, and connecting people of all abilities and areas. However, these ambitious businesses are not built or operated to act in the public good on their own.

To achieve larger goals of equitable service, better regional service, safety outcomes, and fair wage practices, we need guiding and nimble community policy. City regulations for all new mobility entrants, including autonomous vehicles, are built to embrace the best, manage the worst, and make sure it serves residents.

There are several ways Congress can support the mobility revolution and increase our connectivity. It starts with a Federal focus on closing the gaps. Right now there are enough holes in our transportation system for it to be swiss cheese.

Forty-five percent of Americans, including rural and urban underserved communities, still have no access to public transportation. The first- and last-mile gaps persist. TNCs are only operating in 3 percent of all cities. More solutions are needed.

Seniors and residents with disabilities are underserved in small towns and large cities. These residents deserve better mobility options.

Regional connectivity is lacking between our growing metropolitan regions.

Finally, there are severe gaps in transportation for both the unbanked and those without smartphone technology.

There are five actions that Congress can take to improve our Federal local partnership in transportation mobility: one, increase innovation investment, and capitalize on what is happening with transportation technology; two, ramp up research and pilots by accelerating testing, deployment, and integration of advanced transportation technologies with cities, and grow programs like the Mobility on Demand Sandbox grants, and bring back challenge grants; three, allow for tailoring and collaboration by strengthening provisions for local and regional transportation decisionmaking as a central component of any Federal program; four, encourage data sharing, as well as integrated transportation planning to manage the flow through our networks; five, we need to prepare for automation with workforce training.

Within 20 years almost half of U.S. jobs may be at risk from automation, and there will be a disproportionate impact on African Americans and Latinos.

In conclusion, we may remain excited about the innovation at our doorsteps and growing in our regions. We ask that this committee work with us to forge a bipartisan path forward and embrace emergent technology in new ways. Thank you.

[Ms. Freeman-Wilson's prepared statement follows:]

**Prepared Statement of Hon. Karen Freeman-Wilson, Mayor, City of Gary,
Indiana, and President, National League of Cities**

Good morning, Chair Norton, Ranking Member Davis and Members of the Subcommittee:

I am Karen Freeman Wilson, Mayor of Gary, Indiana. Gary is a legacy city, established by United States Steel as a company town in 1906. We experienced exponential growth through the mid 1960s. Because of deindustrialization, our population has now declined from 178,000 at its height to 75,000 today, resulting in one of the largest percentages of vacant and abandoned buildings in the U.S. Today, we are rebuilding our community by diversifying our economy, by building on assets such as transportation, our proximity to Chicago, our location on Lake Michigan, and our partnership with Indiana University.

I am honored to be here today on behalf of Gary and as the President of the National League of Cities (NLC), the nation's oldest and largest network of cities, towns and villages across America. We are the voice of America's communities representing more than 200 million people across our country.

America's cities are not one size or type, but we share important commonalities. We are organized to work for our residents and invest in our communities. We love our cities and care deeply about how our policy choices impact residents and local businesses, and we can all tell you that no matter how you slice or dice the numbers—America is not doing nearly enough to invest in our transportation networks. As a country, we are not investing in ourselves and in our neighborhoods or in the next generation of transportation solutions that will improve every family's livelihood. Today, even the status quo is at stake with the inadequacy of revenue in the Highway Trust Fund and Mass Transit Account and the looming \$7.6B rescission of contract authority.

We are here today to share the innovations in transportation happening at the local level, and we hope that Congress is not only encouraged but emboldened to act here in these chambers:

- To fix our federal transportation funding
- To invest in mobility, innovation and safety that is more than the status quo and
- To partner with local communities in new ways in the next reauthorization.

Cities, towns and villages from every state are ready to work with this Committee to increase the infrastructure investment that matters to rural towns and villages, legacy cities like my own, as well as our thriving urban regions that drive our economic competitiveness. As Congress looks to reauthorize our essential transportation programs, we appreciate that you are looking at the infrastructure landscape and acknowledging that transportation is changing, and your investment strategy should change with it.

**CITIES' MOBILITY REVOLUTION GOES FAR BEYOND TRANSPORTATION NETWORK
COMPANIES (TNCs)**

Cities are leaders in transportation and innovation, and we are the transportation laboratories where new mobility models are piloted today. From our transportation network companies, to bus rapid transit, to micromobility, to shared cars and autonomous shuttles and buses, the model of the future is shared, connected and fleet-driven. We are testing them all, finding what works, and what needs to work better to move great concepts forward. We are pleased to be here with you to share our experience as smart cities of all sizes, types and places who are the testing grounds for some of the most interesting, essential, and frustrating live experiments in transportation today. I hope to share a few of our lessons learned and ways that federal support can help as you consider the next transportation bill.

**CITIES ARE ACTIVELY ANALYZING, REACTING AND COLLABORATING AS MOBILITY
TECHNOLOGIES EVOLVE QUICKLY**

TNCs use mobile technology to connect potential passengers with drivers who use their personal vehicles to provide transportation for a fee. Uber, Lyft, and Via now operate in about 730 of our 19,000 cities across the U.S. and have gained popularity in many places as a new option in the transit market. While TNCs are not so different from their predecessors of taxis, vans, or limousine services, they demonstrate clearly how technological advances can lead to new business models that hold the potential to combat some of society's most pressing challenges—transportation's contribution to climate issues, congestion that is gridlocking our regions,

and the connectivity of all people, of all abilities and areas, to be able to engage in their communities.

The evolution of TNCs began with one service type and quickly became several types, including most notably pooled rides. However, the quick evolution cycle is best seen through the recent rise of micromobility—such as e-scooters and bikeshare—and then the resulting absorption of the competitive providers into the dominant TNCs. The use of micromobility platforms doubled from 2017 to 2018 to 84 million trips. At the end of 2018, e-scooters were available in 100 U.S. cities with a steady increase in 2019. Here is a snapshot of some of the most popular operators:

- Lime offers e-scooters in 92 cities
- Bird operates in 54 U.S. cities
- Lyft deploys e-scooters in 22 cities
- Uber deploys JUMP e-scooters in 13 cities
- Spin currently operates e-scooters in 8 cities with plans to expand to over 100 by the end of 2019

Yet, despite this growth, only 39% of urban residents have utilized a ride-hailing service, 16% a carsharing platform, 13% bikeshare, and 3.9% e-scooters, and these numbers would be far lower in suburban and rural environments. Additionally, when comparing the 730 cities served by TNCs to the more than 19,000 cities in the U.S., the reach is incredibly low at about 3%.

Additionally, even where TNCs operate, there may be offering adequate but not extensive service. For example, the city of Gary has two TNCs that are readily available, and local bikeshare is available in our Miller Beach neighborhood for the recreation on the lakefront. Yet scooters have not been deployed in our community even after a number of promising conversations with providers. The full capability of new mobility is on the rise, but it is far from reaching all the cities, towns and villages that want to see new services like micromobility and TNCs operating.

TRANSIT IS WHERE INNOVATION IS HAPPENING

Some of most exciting developments in transportation today are happening in what we have traditionally referred to as “transit.” Transit is a space that has been largely marginalized when it comes to federal transportation investment, yet it is coming back to the forefront as new partnerships form, expand and develop between cities, technology partners and our traditional transit providers. Reimagining transit, new mobility models and their potential within the national transportation network is needed, and the support of our technology partners, including TNCs, is essential.

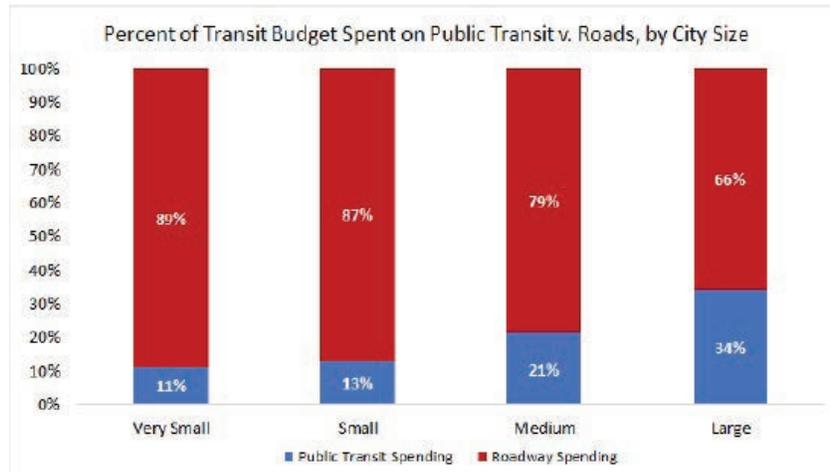


Figure 1: Transportation funding allocations by city size grouping

Reimagining transit also extends to the traditional fixed rail and buses that have received federal investment, and transit providers are fully invested in this. Through the traditional transit sector’s leadership in open-data sharing and integrated full trip travel planning, they have opened the door to new mobile app-based

services like bikeshare, TNCs and now scooters. Even small services providers like Tupelo Transit in Mississippi are using mobile apps to improve service and reliability. Additionally, more than a dozen transit providers have explored shared service with TNCs to mixed success, but through testing and tinkering, new models are being vetted.

TNCs CAN FILL GAPS IN TRANSIT SERVICE IN A COMPLEMENTARY WAY

Cities are finding that the adoption curves for new technology-driven transportation options are especially high when they are solving a known transit gap. Traditional buses and rail systems are structured for throughput and service that reaches into as many areas of a community as possible, but this leaves gaps such as short distance trips of less than three miles, the first and last mile between public transportation hubs and final destination trips. Transit providers have lamented about these challenges for decades, but these remained persistent challenges that were unachievable with today's fiscally constrained transit funding and financing models.

While data and time are still revealing the intricate relationship between traditional transit and new mobility services, public core transit does not appear to be replaceable by new entrants. Yet, connections to and from fixed transit systems can be provided effectively with new models like TNCs and micromobility which benefit both traditional and new mobility partners. Some studies indicate that TNCs can play a critical role in connecting riders to transit more often than distancing them, but others show that upon TNCs entry, some transit systems have seen about a 1.3% to 1.7% drop in heavy rail and bus ridership. Taking the longer view, since 1997, the rate of public transit ridership has still increased at a greater rate than the population growth (21% vs. 19%). Cities are both embracing the role that new entrants can provide but also ensuring that they do not undermine the core transit infrastructure that runs their cities, but TNCs clearly will be viable in places where limited or no transit service exists which is an extensive area of the U.S.

Forty-five percent of Americans still have no access to public transportation and many others only have limited service options. Given that TNCs are providing two of the most expensive elements—vehicles and drivers—places like Arlington, Texas, where individual cars were the primary transportation option, see transit through TNCs as viable. The city of Arlington decided to create a ride-sharing shuttle program with a TNC. For \$3 residents can arrange to be picked up from one location and be dropped off at another. The service is available Monday to Saturday, wait times are guaranteed to be less than 12 minutes, and the vehicles can transport multiple residents at once saving time and money. Additionally, Arlington has also launched one of the first autonomous shuttle services in the U.S. to serve the city's entertainment district transporting visitors from the parking lots to the attractions. When capital can be organized for vehicles and leveraged with technology and planning, mobility options that previously were dismissed are now gaining new appreciation.

STRATEGIC CHOICES NEED TO BE MADE ABOUT MOBILITY OPTIONS AND TAILORED TO EACH PLACE

When TNCs first arrived in cities, most city ordinances were written for traditional taxi and limousine service with some state laws leading to a disruptive entry. Yet cities proved they would be able to quickly incorporate new technology and new entrants like TNCs and do it strategically so as not to undermine existing essential transit services or create unintended consequences for riders or workers. While healthy competition is beneficial, some externalities, market manipulations and safety concerns raised by TNCs were seen as undermining many communities' goals. Additionally, extensive campaigns at state capitols to preempt traditional city regulations that apply to TNCs has led to blanket regulations in many areas that do not ensure safety, access for the disabled, equitable service, appropriate wages, and many other considerations that are likely poorly handled by a one-size-fits-all approach.

City leaders must walk a fine line, working to embrace change and innovation while simultaneously prioritizing safety and developing context-sensitive city solutions that work for their community. Overall, cities' regulations for TNCs are now structured to embrace their service with appropriate policy guardrails to protect against unintended consequences. One way that some cities and states are managing externalities is by instituting fees on TNCs. An effective example of adjusting for externalities has been in Washington, D.C. with its heavy urban and suburban metro region and heavy core rail system as well as extensive bus service. Due to the extreme influx in and out of the city, congestion is high and incentives for tran-

sit use and shared rides help all users move throughout the region. The Washington, DC city council voted in June of 2018 to raise the tax to 6% on TNCs operating in the city, with revenues going to improve the city's metro system. While these costs are passed along to drivers as fees and riders as higher fares, the city is leaning into their policy goals of investing in adequate transit to decrease trip times and congestion which ultimately riders of TNCs benefit from. Each city's ability to intentionally and nimbly manage local services using a tailored approach remains essential.

EQUITABLE SERVICE MUST BE ACHIEVED TO OPEN ECONOMIC OPPORTUNITY TO ALL AREAS

Providing equitable transportation options is one of the greatest potential offerings of new mobility options. Some cities, such as Columbus, Ohio, and Los Angeles, California, are working with companies to deploy in underserved areas to ensure these new pilots and programs align with their goals around equity. Many cities are also working with companies to provide solutions and access for unbanked users which represent a large audience of potential users. Interventions include a range of both initial and eventual caps per vendor as well as geographic distribution quotas.

Equitable service also means better connecting our aging and disabled residents to services and their community. Several communities are operating excellent on-demand services for seniors from Caldwell, Idaho, to Kettering, Ohio, but more support is needed nationally that is aligned with the growing senior population. The Ride Connection in Clackamas, Multnomah and Washington counties and the LIFT programs in Portland, OR, are attempting to increase transportation equity in the region. Ride Connection is a non-profit organization that provides public transportation options, to door-to-door and shuttle services to senior, disabled, and low-income residents. Residents can utilize the service to go grocery shopping, get to medical appointments, or take part in social activities that they otherwise might not have access to. The service allows residents that have difficulty utilizing traditional forms of transit to remain connected to their community, providing nearly 500,000 rides supporting over 2,000 residents. Additionally, the city also offers a paratransit service, LIFT, which services seniors and residents with disabilities along public transit routes. Residents can request singular or recurring pick-ups to get around the city. Paratransit service is one of the most expensive obligations of providing transit service in most communities, and every effort should be made to realign programs and resources to fulfill this essential service for seniors in all communities of all sizes.

PREPARING FOR AUTOMATION BEGINS NOW AND WITH WORKFORCE TRAINING IN MIND

Within 20 years, 47% of U.S. jobs may be at risk of replacement by new technologies including automation and artificial intelligence with many being in the transportation sector. TNCs have been vocal about their plans to automate their service in the future. There are roughly 53 million freelance workers today, comprising 34% of the total U.S. workforce. Uber and Lyft, the two most popular rideshare companies, employ 5.3 million drivers worldwide, and it is estimated that they employ about 3.5 million in the U.S., a little less than half of which are estimated to be full-time drivers. That job loss is predicted to be unequally distributed, affecting individuals with lower levels of education and African-American and Latino populations with greater severity. The future of work may change, but our preparation to train and shift workers into new opportunities begins today by investing in workforce training. Nationally, attention must be paid to wages and the failure of household income to keep pace with the cost of living, including most significantly housing.

CONGRESS, PARTNER WITH CITIES ON EFFECTIVE REGIONAL TRANSPORTATION MOBILITY SOLUTIONS

New transit and mobility solutions deserve a larger federal effort because they have the capability to increase mobility options and accessibility, while simultaneously ensuring safety and reducing emissions, collisions, and congestion.

Increase Innovation Investment: Congress should put emphasis on innovation investments where there is flexibility to build, operate and maintain local and regional transportation that is responsive to new technology and citizens. Recognizing the significant possibilities within the transportation technology sector, a significant new effort to ramp up block grants or new funding directly for ground-level local partnerships with technology players is essential to a achieving a modern transpor-

tation system. The Mobility on Demand Sandbox Grants remains an excellent program for this in addition to larger transportation technology efforts that previous Administrations have championed such as the Smart Cities Challenge.

Allow for Tailoring and Collaboration: Congress has the opportunity to strengthen provisions for local and regional transportation decision-making as a central component of any federal program. All federal testing should be done in collaboration with cities and include a robust public engagement process and appropriate regulations that ensure the unique needs of each municipality are accounted for. Adoption of new technologies should also be linked to solutions to address persistent challenges including funding, data for research, and integrated transportation planning.

Ramp Up Research and Pilots: City leaders welcome advanced technologies that can improve safety, reduce congestion and decrease costs within the transportation networks. It should be a federal policy to accelerate the testing, deployment and integration of advanced transportation technologies in partnership with cities, including automated, connected, electric and shared vehicles of all types. The federal government should consider ramping up research and development while increasing local pilots and demonstration projects of new technologies through federally-financed programs to provide the data needed for effective research and testing.

Support Transportation Planning and Data-Sharing: Cities have embraced the data behind transportation fleets to begin to manage rather than just influence the flow through our streets, sidewalks, and rails. Federal policy must encourage data-sharing, integrated management and operation of all transportation systems at the regional and local levels, maximizing the use of information technology for management of traffic and transit, monitoring structural integrity, and enforcement for public safety. City commitment to data-sharing leadership is unmatched, and we continue to press our technology partners to work closely with us to ensure the system outcomes for our residents and their customers is clear.

Cities, towns and villages remain excited about the innovation at our doorsteps and growing in our regions. We ask that this Committee work with local leaders to forge a bipartisan path forward on these emerging transportation technology investments.

Thank you.

APPENDIX

“CITY OF THE FUTURE: TECHNOLOGY & MOBILITY” BY THE NATIONAL LEAGUE OF CITIES CENTER FOR CITY SOLUTIONS AND APPLIED RESEARCH

[The report is retained in committee files and is available online at <https://www.nlc.org/sites/default/files/2016-12/City%20of%20the%20Future%20FINAL%20WEB.pdf>.]

Ms. NORTON. Thank you very much. Thank you very much, Mayor Freeman-Wilson.

And we must move now to Jon Martz, director of government and public affairs, COMMUTE with Enterprise.

Mr. MARTZ. Good morning and thank you, Chair Norton and Ranking Member Davis and Chairman DeFazio for the opportunity to present COMMUTE with Enterprise to the committee.

Again, my name is Jon Martz, and I am one of the original ride sharers. Decades before the iPhone apps and the Internet of Things, I worked for the Chrysler Corporation.

In the late 1970s, during the oil embargo, we heard about this program in Minnesota. 3M was providing employees with vans to get to and from work. We at Chrysler thought this was a great idea and began talking with employers around the Nation about developing similar programs. This was the beginning of ridesharing or, as we call it, vanpooling. That small program in Minnesota has grown into one of the largest and fastest growing modes of public transportation in the Nation.

And I am here today on behalf of COMMUTE with Enterprise. Enterprise’s journey in vanpooling began almost two decades ago, when it started offering vanpools in southern California. Since

then, Enterprise has become the largest vanpool service provider in the Nation, with 12,000 vehicles in service, and more than \$425 million of at-risk private capital providing public transportation. Our most successful programs are in public-private partnerships, and we currently have more than 75 such arrangements across the country.

Let me briefly describe what a vanpool is. Vanpools are a lot like carpools, just a little bit bigger. Commuters with common work schedules and destinations ride to and from work each day in a comfortable 7- to 15-passenger van. We provide commute groups their vehicle, insurance, and maintenance to keep the van running in optimum condition. One person volunteers to be the primary driver of the van, and the participants decide the driving, routing, and other arrangements themselves, supported by our team.

Typically, our customers commute each day 30 to 50 miles one way. Participants are assessed a monthly fee that is paid by the riders, their employers, or both. COMMUTE with Enterprise provides service in rural areas, including projects at White Sands Missile Range in New Mexico, where we have more than 80 vans providing job access to 600 individuals, and in Florida, where we work with the Florida DOT to provide a job access program for rural and economically distressed communities.

We also have programs in exurban and urban areas, such as the 1,340 vanpools in partnership with L.A. County metro. Additional case studies of our projects can be found in my written testimony, and there is about a dozen.

By reducing over 1 billion passenger-miles a year, our efforts put us as a top 10 transit agency when considering annual passenger-miles. The only difference is we provide service across the Nation, rather than in just one location.

Vanpooling is, by far, the safest mode of public transportation, according to the National Transit Database statistics. In addition, we are, by far, the most efficient mode. For example, our partnership in Gulfport, Mississippi, which, by the way, began as a recovery effort following Hurricane Katrina, provides the region with 60 percent of the passenger-miles for less than 0.5 percent of the public subsidy of the agency. Similarly, in San Diego, California, we provide about 18 percent of the passenger-miles in the region for just 2 percent of the overall public subsidy.

As I mentioned, our programs work best in partnership with public agencies. Public agencies can use Federal funds to create vanpools, vanpool programs, in the same way that you can use Federal funds for buses. We comply with all FTA requirements, including ADA, labor laws, and Buy America. Our vehicles are assembled in plants across the Nation, including Liberty, Missouri; East Liberty, Ohio; and the South Side of Chicago.

We strongly believe that more can be done to encourage the use of high-performing and innovative transportation solutions like vanpooling.

First and foremost, we believe a new grant program should be created that provides cities, counties, and other municipal agencies with funding to utilize innovative transportation solutions, both new and old, on the condition that the service follows all applicable FTA requirements and creates new service to areas that are not

served or are underserved. This program should receive separate funding from the core transit program.

We believe that, if a project is successful, it should then be incorporated into the region's core program of projects, so long as it meets certain conditions. We are working with Congressman Scott Perry on such a proposal in hopes of providing a service to the thousands of his constituents traveling more than 60 miles one way each day to work in either Baltimore, Philadelphia, or here in Washington, DC.

Also, as additional transit funding is hopefully secured in reauthorization, we believe a significant portion of any new transit dollars should be allocated through existing performance formulas to encourage agencies to look at highly efficient service options such as vanpooling and micro transit for job access, first-last mile, and rural transportation needs.

Thank you for the opportunity, and I would be happy to answer any of your questions.

[Mr. Martz's prepared statement follows:]

Prepared Statement of Jon W. Martz, Director, Government and Public Affairs, COMMUTE with Enterprise

Good morning, Chair Norton, Ranking Member Davis, and Members of the Highways and Transit Subcommittee. My name is Jon Martz, Director of Government & Public Affairs for COMMUTE with Enterprise. For more than 40 years, I have been fortunate to work in the transportation sector in a variety of roles which enabled me to work with countless public transit agencies, State Departments of Transportation and Metropolitan Planning Organizations to problem solve and advance solutions on commuter vanpooling and public transportation issues.

For several years, I also had the opportunity to serve here in Washington, D.C. as a consultant to the Office of Budget and Policy of the Federal Transit Administration (FTA) on private sector involvement in public transportation, transit service contracting, innovative transit financing, and as a traveling instructor of activity-based cost analysis for transit agencies.

I am grateful for the opportunity to appear on today's distinguished panel and before the subcommittee to share our company's perspective on our innovative commuter vanpooling program and to offer a number of policy recommendations for your consideration as you seek to reauthorize the Fixing America's Surface Transportation or FAST Act.

I'd like to begin my testimony today by providing an overview of a public-private vanpooling partnership program that I, along with dozens of my colleagues, have sought to implement in jurisdictions throughout the country to provide meaningful benefits to commuters, employers, and communities.

Launched in 1994, COMMUTE with Enterprise, is a service of Enterprise Rent-A-Car and has become one of the largest and most cost-effective vanpool operations in the nation which offers immediate savings, safety and sustainability to those we partner with. Every business day, COMMUTE with Enterprise takes 67,000 individual cars off the road, eliminating 1.4 billion commuter miles driven each year and eradicating the need for 67,000 parking spaces. Additionally, 1.1 billion pounds of carbon emissions are reduced by our program with Enterprise customers annually.

Furthermore, based on annual passenger miles, COMMUTE with Enterprise would rank as one of the largest U.S. public transit agencies today. By providing an industry-leading selection of vehicles—including minivans and large passenger vans—COMMUTE with Enterprise offers customizable programs that help both rural and urban communities across the nation overcome transportation challenges, both long- and short-term.

HOW DOES VANPOOLING WORK?

Put simply, vanpools are like carpools—just a little bigger. Commuters with common work schedules and destinations ride to and from work each day in a com-

fortable, seven- to fifteen-passenger van. Companies like COMMUTE with Enterprise provide commuting groups with access to their desired vehicle and access to proper insurance and mechanical maintenance to keep their van running in optimum condition. Participants are assessed a monthly fee that is paid by the riders, their employers, or both.

The cost of gas is also shared among those in the vanpool group. On average, our customers commute upwards between anywhere from 30 to over 100 miles one way each day from origin to destination.

One person volunteers to be the primary driver of the van. The participants decide the driving, routing, operating and gas cost sharing arrangements themselves. Riders plan trips that accommodate pick-up and drop-off locations at a starting point or along the commuter's route. Riders usually meet at a pickup location, such as a park & ride lot or a shopping center.

The needs of the vanpool groups are supported by the extensive Enterprise Rent-A-Car neighborhood network. From working with employers to help create vanpool groups to providing an industry-leading selection of vehicles and customizable vanpool programs, Enterprise helps eliminate common barriers communities face in creating vanpool services, particularly in small urban or rural areas where public transportation may be limited.

WHO IS COMMUTE WITH ENTERPRISE?

Vanpooling began more than 40 years ago and was a strategy that employers utilized during the oil embargo of the 1970s. The success of the program prompted an expansion to other cities across the U.S. Our vanpool fleet now stands at ~12,000 vehicles ... testimony to our continuing success!

We provide service in both large urban areas and small rural areas. Some of our most noteworthy efforts are in rural and exurban areas of the country.

COMMUTE with Enterprise is one of the largest public transportation service providers in the United States. Reducing well over 1 billion passenger-miles a year, our efforts put us as a top 10 transit agency when considering annual passenger-miles?

- Notably, our vanpool fleet represents a private capital investment of more than \$425 million in the provision of public transportation service ... and we can do more!

SO, WHERE ARE WE TODAY?

Our public/private partnerships enable us to provide regional vanpool services in more than seventy-five (75+) U.S. cities.

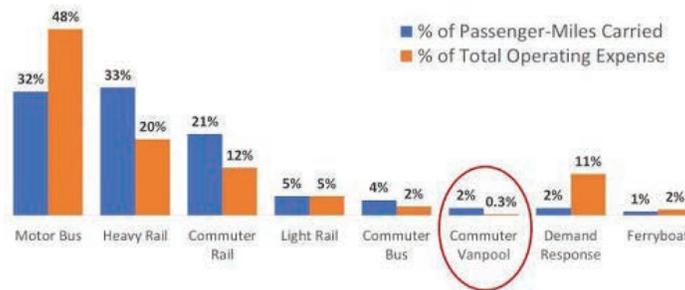


VANPOOLING IS ONE OF THE MOST EFFICIENT MODES OF PUBLIC TRANSPORTATION

Vanpooling is one of the most efficient forms of public transportation. And, it requires a comparatively small amount of funding to be successful, especially when you consider the private sector is supplying the vehicle.

In fact, most of our public sector partners spend a small percentage of their transportation budget to subsidize vanpools. And this is true in rural areas, as well urban areas. Vanpooling's efficiency is not limited to large urban areas where one would assume the scale of operations would be a major factor.

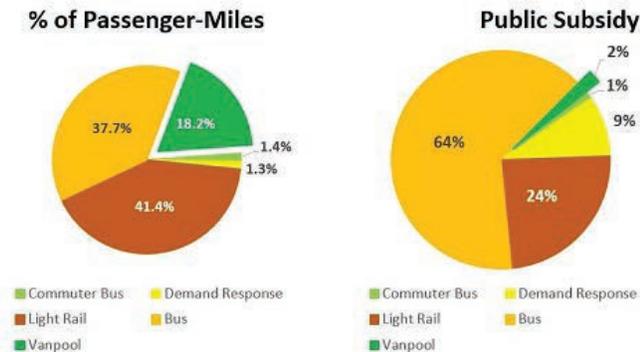
Comparative Efficiency of Various Transit Modes
FTA's National Transit Summaries and Trends, 2017



Examples of Efficiency

San Diego, CA (Large UZA)

For 2% of the overall public subsidy we are providing 18.2% of the region's passenger miles



San Diego CA—Several years ago, the San Diego Association of Governments (aka SANDAG), contracted with COMMUTE Enterprise to provide vanpool services to commuters in San Diego County.

Today, 727 vanpools provide 18.2% of the total passenger-miles carried by the all modes of public transportation provided by San Diego MTS and SANDAG, yet *vanpool subsidies consume only 2.4% of these two agency's combined subsidies.*

VANPOOLS ARE THE SAFEST MODE OF PUBLIC TRANSPORTATION

Vanpools are the safest modes of public transportation, both in terms of fatalities and injuries. In fact, vanpooling is safer than driving or riding in your personal automobile. This long-term history can be attributed to several reasons:

- *Vehicles* ... In most cases, commute groups are provided a new vehicle when they start vanpooling. And, our typical vanpool vehicles are replaced after reaching 4 years, 100K miles (whichever comes first).
- *Maintenance* ... Preventive maintenance (in accordance with manufacturer's recommendation) is provided by Enterprise. Unscheduled repairs are rare, but when they do occur, Enterprise is there to address the problem.
- *Drivers* ... Vanpool drivers are unpaid, volunteers from within the commute group. In most cases, the driver is not a stranger to the group.

All drivers must apply for approval before they are given the keys. Each driver's MVR (Motor Vehicle Record) will be checked annually. Each approved vanpool driver must meet the following criteria:

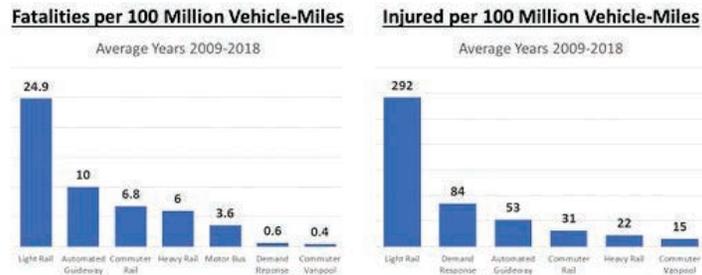
- Possess a valid driver's license.
- Be 25 years of age or older*.
- Have no more than two moving violations and/or at-fault accidents in the previous three years and no more than four moving violations and/or at-fault accidents in the previous five years.
- No major convictions in the past five years (i.e. driving under the influence of alcohol or drugs, driving while impaired, failure to stop and report an accident, driving while license is suspended or revoked, possession of drugs or open containers of alcoholic beverage, reckless driving and/or participating in a speed contest, drag or highway race, or attempting to elude authorities).
- Be licensed a minimum of five years in the United States.
- Meet and comply with any laws/criteria required by the state where the vanpool is operated (i.e. medical requirements, drug screen).

If a vanpool driver is traveling too fast or erratically, the vanpoolers are not shy about letting their driver know of their displeasure. And, given they are sitting directly behind the driver, their comments are always heard. Because the vehicles are much like the personal vehicles of most commuters, it is not necessary to put vanpool drivers through extensive driver training courses. The drivers are oriented to the few differences in the vehicles and encouraged to drive the vehicles individually before starting the vanpool.

- *Environment* ... Most of our vanpools travel in traffic on paved roads at an average speed of 35 miles per hour. A notable percentage of vanpools in large urban areas travel on barrier-separated, high-occupancy vehicle lanes. Parking of vehicles is typically off-street in garages or surface lots provided by their employer.

Public Transportation Safety: United States

USDOT Bureau of Transportation Statistics, 2009-2018



POLICY CONSIDERATIONS

- *Innovation Should Support and Enhance Transportation*—There is much to be gained from innovation including expanded service, cost efficiencies, and environmental benefits. However, we should not rewrite policies designed to protect the public because disruptive companies have decided that they should be exempt from existing policies instead of following the rules. Rather, we believe that this Committee should look to encourage and enhance the ability to utilize innovative and high-performing technologies and replicate business models that will expand and enhance services.
- *Innovation in transportation comes in forms other than an “app”*—Numerous terms are being used to describe new ways to access transportation: carsharing; ridesharing; ride hailing; vanpooling; ride matching, peer-to-peer rental, point-to-point rental, and the list goes on. It is essential that policy at all levels be consistent and tailored toward the underlying service being provided—regardless of the means that the service is provided. All these terms are used to describe the same three basic transportation services that have existed for decades and prior to the advent of smartphones:
 1. *For-hire ride-hailing*—Often referred to as Transportation Network Companies (TNCs), this business line, like traditional taxicabs and limo services, provides a service that the Associated Press has labeled “ride-hailing.” A consumer pays to have a driver transport them from, and to, locations of the consumer’s choosing; and the driver intends to profit by providing the transportation to the consumer.
 2. *Car and vanpools*—The correct term for organized car and van pools is traditional “ridesharing.” It includes technology platforms that connect people who want to carpool; and vanpooling, which is the service of providing a large occupancy vehicle for people who want to commute together. In ridesharing, the driver of the vehicle is a volunteer and contributes to the cost of the transportation.
 3. *Car rental/Carsharing*—If you are paying someone to allow you to personally operate a vehicle you don’t own, whether for an hour, a day, a week or a month. This also includes peer-to-peer car-sharing, where private individuals rent their vehicle to another private individual.
- *Provide local and municipal governments with access to Federal transit funds*—Federal transit funding is directed to transit agencies and quite often local and regional governments are not provided access to such funding, despite a need and desire to initiate programs such as long-distance commuter services, first/last mile connections, microtransit, or enhance demand response. A funding stream should be made available to regional and municipal governments that is separate from core transit funding.
- *Reward Innovation & Performance*—As Congress looks to authorize additional transit funding, we believe that a significant portion of the new transit dollars should be allocated through existing performance formulas to encourage agencies to look at highly efficient service options such as vanpooling and microtransit to provide job access, first-last mile, and rural transportation needs.

POLICY RECOMMENDATION

1. *Create a High Performing & Innovative Transit Grant Program*
Funding should be made available to cities, counties, transit agencies, and municipal governments. The funding should be used to provide innovative mobility solutions such as microtransit, commuter vanpooling, first/last mile connections, and rural access to jobs and healthcare under certain conditions:
 - The funding would be to provide *new* service to areas that have little to no existing service;
 - The new service does not detract from existing service that is being provided; and
 - The new service must meet all existing requirements including, Buy America, ADA and Labor protections.

If the initial project is successful, the project should be included in the core program of projects for continued funding, provided it continues to meet the conditions for eligibility.
2. *Allocate A Portion of New Transit Funds Through the Performance Portion of the Formula*
Currently only about 7% of a region’s transit allocation comes from the performance portion. We believe that as Congress invests more in the transit pro-

gram, at least half of all *new* formula dollars should be allocated based upon the performance section.

Under this proposal all transit agencies would see their formula allocation rise. But, there would be an incentive to look towards operationally efficient and innovative solutions to provide service.

PROJECT CASE STUDIES

Rural Vanpool Project: White Sands Missile Range, NM



Since August 2008, Department of Defense and non-DOD employees commuting to work from homes in Las Cruces NM (30+ miles away), El Paso TX (45+ miles away), and Alamogordo NM (50+ miles away) to White Sands Missile Range, McGregor Range, William Beaumont Army Medical Center and Holloman AFB have been afforded the opportunity to participate in the COMMUTE with Enterprise vanpool program. Today, more than eighty (80) vanpools serve ~600 commuting participants.

The demonstrated success of COMMUTE's efforts at the White Sands Missile Range has prompted the NMDOT to contract with COMMUTE with Enterprise to provide vanpool services to commuters traveling to and from the cities of Farmington, Santa Fe, Los Lunas, and Las Cruces.

The statewide vanpool program aims to help expand and enhance regional transportation options by providing a flexible public transportation alternative to commuters who are not currently served by fixed route service, those working outside of fixed route schedules, or those with longer commutes—typically exceeding 20 miles each way.

Program participants traveling to and from Farmington, Santa Fe, Los Lunas, or Las Cruces can also obtain a 33 percent discount on the monthly rate, while also helping increase federal transit formula grant funds in these areas to potentially make the program financially self-sustaining. The NMDOT–COMMUTE partnership currently serves 36 vanpool groups with more than 250 passengers per day.

Statewide Vanpool Program: MichiVan



MichiVan, a long-standing partnership between Michigan MDOT and COMMUTE with Enterprise, provides vanpool services to commute groups throughout the State of Michigan. Under the MichiVan program, the passengers pay a flat fee as low as \$55 per month (*based on monthly commute mileage and the size of van*).

Today, more than 525 vanpools are in service in this program. The MichiVan commuter vanpool program is THE most efficient public transportation program in the State of Michigan.

Additionally, both urban and rural public transit agencies in Michigan gain an allocated share of the Net Gain in FTA formula funds generated by the miles traveled by the commuter vanpools in Michigan's urban and rural areas of the state ... *an estimated ~\$4.3M annually*.

Emergency Recovery: Gulfport / Biloxi, Mississippi



Coast Transit Authority's (CTA) "Coast Commuter" vanpool program is designed to assist employers on the Mississippi Gulf Coast in recruitment and retention of employees and to provide cost and stress reducing options for commuters.

In the aftermath of Hurricane Katrina, the devastated towns of Biloxi and Gulfport struggled to find ways to return displace residents to the cities to rebuild and continue their lives in those communities.

COMMUTE with Enterprise surveyed the companies, reviewed their employee commuting habits, mapped out where all employees live and identified distances and clusters of residents. Based on the information gathered, COMMUTE with Enterprise deployed the vans needed to transport participants, and it recruited and trained the drivers from among the potential commuters.

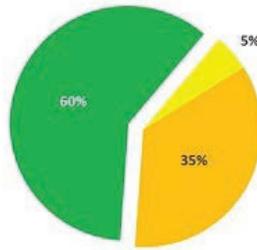
Currently, the vanpools primarily serve the Huntington Ingalls shipyard in Pascagoula, Mississippi, and various federal agencies operating at the Stennis Space

Center, also located in this rural area. Of the 35 vanpools in operation today, 15 originate in rural communities. Vanpools are available to accommodate all work shifts at these facilities with enough interested commuters to start a pool.

Gulfport, MS (Small UZA)

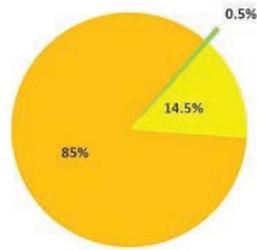
For .5% of the overall public subsidy we are providing 60% of the region's passenger miles

% of Passenger-Miles



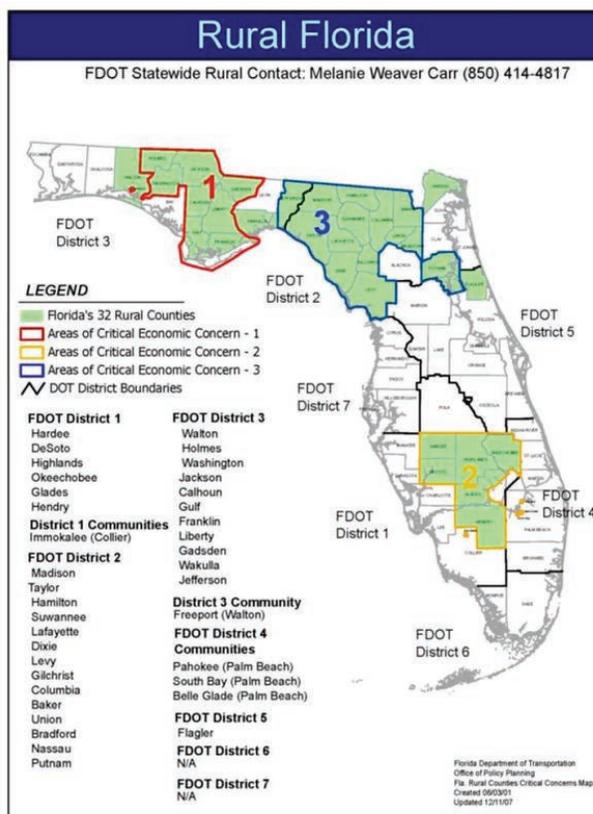
■ Demand Response ■ Bus ■ Vanpool

Public Subsidies



■ Demand Response ■ Bus ■ Vanpool

Job Access: Florida Rural Vanpool Program



The Florida DOT identified 28 of 32 rural counties as “Areas of Critical Concern.” These three “Areas of Critical Concern” have similar economic conditions:

- Low per capita income
- High unemployment
- Low wages compared to the state averages
- High percentages receiving public assistance
- High poverty levels compared to the state average
- A lack of year-round stable employment opportunities

COMMUTE with Enterprise proposed a public-private partnership to provide vanpool services to get individuals to jobs in adjoining counties. Traditional public transportation was not available or was considered inadequate to meet the needs of the population.

Today, more than thirty-five (35+) vanpools serve individuals in these areas who commute to jobs in the coastal counties. The program could grow, and more people be served, but historical funding constraints have limited the ability of COMMUTE with Enterprise to grow the program.

A call was placed to the Nebraska DOT who referred the challenge to COMMUTE with Enterprise. The vanpool service program was quickly offered to the team at Cargill, who completely embraced the idea. Home locations and shift information was supplied and analyzed, language barriers were addressed, vanpool group formation meetings were hosted, and services were overwhelmingly accepted. Today, ~30 vanpool groups commute to and from the Nebraska City facility ... serving more than 25% of the facility's workforce.

The statewide vanpool program in Nebraska currently stands at 46 vanpools with 3 more scheduled for delivery later this month (October 2019). Most of the vanpool groups commute from suburban and exurban locations on the periphery of Omaha to various locations in Lincoln (an hour's drive each way), or the groups commute to rural worksites in small towns like Nebraska City or Schuler (both an hour away from Omaha).

Note: COMMUTE with Enterprise has made an upfront capital commitment of nearly \$2M to serve these commute groups. The Nebraska DOT will be billed ~\$20k each month on a pay-as-you-go basis for these ~50 vanpools. Nebraska DOT is gaining significant leverage ... ~\$250K a year in federal financial assistance (or \$1M over the life of the fleet). There is no financial obligation required for out-of-service or spare vehicles, or for non-appropriation of future funds. The private sector absorbs 100% of the financial risk, and 100% of the insurance risk.

Design-Build-Finance-Operate-Manage (DBFOM) ... a true P3 partnership in public transportation in a mostly rural state.

Job Access: Eugene and Salem, Oregon



Valley Vanpool is a partnership between the Cascades West Council of Governments, the Salem Area Mass Transit district (aka "Cherriots"), the Lane Transit District ("LTD") of Eugene, and COMMUTE with Enterprise.

The partnership was launched in 2002 to streamline service, promotion, and recruitment for commuter vanpools in the Willamette Valley. The 2017 National Transit Database Reporting "Agency Profiles" for both Cherriots and LTD show forty-seven (47) vanpools in service in the Willamette Valley.

- In the Eugene area, the seventeen (17) commuter vanpools carry 5% of the total passenger-miles carried by the regional system, yet *vanpool subsidies consume only 0.05% of the agency's operating subsidies*. The average trip length is 50 miles, and each vanpool carries an average of 5 passengers daily.
- In the Salem area, thirty (30) commuter vanpools carry 17% of the total passenger-miles carried by the Cherriots system, yet *vanpool subsidies consume none of the agency's operating subsidies*. The average trip length is 35 miles one-way, and each vanpool carries an average of 5 passengers daily.

Ms. NORTON. Thank you very much, Mr. Martz.

Paul Miller, legislative counsel, Transportation Alliance, we will hear your testimony for 5 minutes.

Mr. MILLER. Chair Norton, Ranking Member Davis, Chairman DeFazio, and members of the committee, my name is Paul Miller, and I serve as legislative counsel to The Transportation Alliance.

The Transportation Alliance is the oldest and largest trade organization in the for-hire passenger transportation industry, with

members operating over 100,000 vehicles and serving 900 million passengers per year.

I applaud this committee and its leadership for holding this important hearing on transportation network companies today.

I am here today because TNCs have been dangerously careless in their approaches to safety when it comes to properly vetting drivers. The number of TNC victims are astounding. According to a story done by CNN in April 2018, the news outlet was able to verify that 103 Uber drivers had been accused of assault or abuse.

We believe the numbers are much, much higher. Between 2013 and 2018, The Transportation Alliance tracked media stories involving 395 sexual assaults at the hands of Uber and Lyft drivers. This is an epidemic, and something needs to be done.

We have read the Boston Globe's chilling story 2 weeks ago of just some of the numerous women in Boston who have been sexually assaulted by Uber and Lyft drivers. As one survivor said after realizing she had been charged for a Lyft ride given by her violent attacker, "They got paid for me being sexually assaulted. Lyft is profiting from this."

We have seen stories of convicted felons, including murderers and registered sex offenders, who have slipped through the so-called background checks of these companies. We all know the tragedy of Samantha Josephson, which affected even the halls of this great institution. Sami was a young college student from New Jersey. She was out with friends, decided to go home early. Samantha got into what she believed was her Uber vehicle, only to realize too late that the car she entered was fake.

Unfortunately, this is a common occurrence, because there are no significant marking requirements for these vehicles. Samantha never made it home because disguising oneself as a fake Uber driver is all too easy today.

And who can forget the threat against your own colleague by an Uber driver who tweeted to Senator Roy Blunt, "I can't wait to shoot you in the face one by one." One can only imagine what might have happened, had the Senator or any elected official been unlucky enough to have been paired with this driver.

These incidents can be avoided if TNCs would just adhere to one of the most rigorous but also most basic safety standard: a simple fingerprint. We believe any contractor providing for-hire transportation services paid for in full or in part by the Federal Government must first be required to pass a fingerprint-based national background check. It is especially important at the moment because, as we speak, the General Services Administration is in the process of putting together a request for proposal which is looking to outsource some of the Federal Government's transportation needs to TNCs. This must not be allowed to happen, unless TNCs fingerprint every driver.

TNCs like Uber and Lyft will argue fingerprint background checks are costly. They will argue fingerprint background checks discriminate against some Americans. These are simply myths. In most major cities in the United States taxicab drivers are required to pass fingerprint-based criminal background checks conducted by State or local authorities, and for good reason. A recent peer review study by a team of law enforcement experts, "One Standard for

All,” found that name-based background checks are 43 times more likely to have errors than fingerprint background checks.

Even the company Uber uses to run name-based checks on its drivers has acknowledged fingerprint background checks are more secure because fingerprinting helps us uncover criminal history not discovered through traditional methods, offers extra protection to aid in meeting industry guidelines, and helps prevent fraud.

And most notably, in filings to the Security and Exchange Commission prior to its stock market debut this year, Uber itself acknowledged that its third-party background check process, “may fail to conduct such background checks adequately, or disclose information that could be relevant to a determination of eligibility.”

It is time for action, and that action starts by requiring fingerprint background checks for anyone driving on a federally funded contract.

Thank you for the opportunity today, and I am happy to answer any questions the committee may have. Thank you.

[Mr. Miller’s prepared statement follows:]

**Prepared Statement of Paul A. Miller, Legislative Counsel, The
Transportation Alliance**

Chair Norton, Ranking Member Davis, and members of the Committee, my name is Paul Miller and I serve as Legislative Counsel to The Transportation Alliance, which represents the interests of members in 250 cities on four continents, including taxicab, limousine, sedan, TNC, shuttle, brokers, paratransit and nonemergency medical fleets. The Transportation Alliance is the largest trade organization in the industry, with members operating over 100,000 vehicles and serving 900 million passengers per year.

Let me begin by saying our President, Terry O’Toole, very much wanted to have the opportunity to present his views in person to the Committee, but our trade association’s 101st annual convention starts today. He has asked me to fill in for him, and to pass along his apologies for not being here to testify, and his thanks to you for bringing the concerns I am about to raise into a clarifying light.

Our industry has changed dramatically since the 2010 entrance of Transportation Network Companies (TNCs). The Transportation Alliance has never opposed competition. What we have opposed has been the special treatment afforded to these new companies.

In the early days of TNCs, the debate centered on whether TNCs were taxi companies or technology companies. From the beginning, our industry has had major concerns about the safety of TNC passengers due to a growing number of news reports highlighting assaults against passengers.

Since 2010, The Transportation Alliance has put passenger safety on its priority list due to the growing trend of incidents against passengers by TNC drivers. We started by launching “Who’s Driving You?”, a public safety campaign. This campaign tabulated news articles alleging 395 sexual assaults, 102 physical assaults and 22 kidnappings perpetrated by Uber and Lyft drivers from July 2013 to August 2018. Because these incidents were discovered among news stories, rather than by scouring police reports, we firmly believe the actual number of victims to be substantially higher since, as we know, sexual assault cases are always tragically underreported.

There is a growing chorus among lawmakers questioning the safety standards of these companies. Just last week, Sen. Richard Blumenthal held a press conference to call for Uber and Lyft to institute fingerprint-based background checks on their drivers. His call for immediate action came on the heels of sexual assault crimes committed by Uber and Lyft drivers in Connecticut this year. In one case, a convicted felon was allowed to slip through Uber’s background check was charged with sexually assaulting a young woman riding with him. That same month, a former Uber driver, later hired by Lyft, was charged with sexually assaulting an intoxicated female passenger.

As a backdrop to tragic cases such as these, the process of becoming a public company has brought additional light the real problems with Uber and Lyft’s background checks, and the inferiority of their background-check process.

In its form S-1 Registration Statement submitted to the United States Securities and Exchange Commission prior to its May, 2019 initial public offering, Uber acknowledged: "... there have been allegations, including from regulators, legislators, prosecutors, taxicab owners, and consumers, that our background check process is insufficient or inadequate."

Most notably, Uber finally publicly admitted something the corporation had denied for years: "Although we administer certain qualification processes for users of the platform, including background checks on Drivers through third-party service providers, *these qualification processes and background checks may not expose all potentially relevant information and are limited in certain jurisdictions according to national and local laws, and our third-party service providers may fail to conduct such background checks adequately or disclose information that could be relevant to a determination of eligibility.*"

Uber and Lyft use the same background check company.

I applaud this Committee and its leadership for holding this important hearing today. We've all seen the stories in the media about the continued rise in assaults on passengers. These stories are tragic, yet in most cases avoidable.

On behalf of our professional transportation operators around the country, The Transportation Alliance continues to be concerned about the increased number of incidents against TNC passengers.

A few years ago, Uber and Lyft spent more than \$10 million to oppose fingerprint-based background checks in Austin, Texas. As we gather here today, Uber and Lyft are lobbying for less stringent statewide background checks in Oregon, despite the fact that the Eugene, Oregon police department just recently identified a convicted murderer, and a registered sex offender, driving for the ride-hailing companies. Neither of these people should ever have been able to pick up an unsuspecting passenger.

I'm here today to call on Congress to take immediate action to protect passengers. Every incident against a passenger impacts all of us, even if it's not our own company. When the public feels unsafe, it means they are less likely to use our services and will turn to other modes of transportation. Today, passengers have more transportation services than ever to get around—from the bus to the scooters flooding our streets. In the past, consumers had limited mobility options. Today, if you are unhappy with one mode, you can easily move to another.

Today we are seeing a rise in the number of harmful incidents involving TNC passengers. Part of the problem with this is that these incidents are hard to track. When a taxi driver is involved in a car accident or passenger assault, not only are the local police on-site, the local taxi commission is monitoring passenger safety too.

With TNCs, these same safeguards are not in place. If a TNC incident occurs, the police are likely to be involved, but the incident is not necessarily documented as TNC-related. If it weren't for the press, we might never learn about these tragic stories. The fact is: We are all here today because of *The Washington Post* article documenting the increasing number of incidents of passengers harmed by TNC drivers, and because of Uber's and Lyft's callous regard for safety. These companies have made a cold, calculated decision that profit and propping up their valuations is more important than irrevocable harm committed against vulnerable passengers.

In short, Uber and Lyft regulate passenger safety themselves, and they do so while prioritizing profit as the recent *The Washington Post* article points out.

I'm here today because we need your help. For the past three years, The Transportation Alliance has been actively working to bring awareness to the issue of passenger safety and the need for action. Our industry wants action, but we want Congress to be deliberate about any actions it takes. Today our industry isn't regulated at the federal level, nor do we want to be. We believe our issues are better resolved at the state and local levels. Issues in the District of Columbia may be different than those in Illinois and we do not want a one-size-fits-all solution that isn't effective.

However, dangerous times call for immediate action. Where we do see Congress having an immediate role is with federal contracts awarded to for-hire transportation companies. The General Services Administration (GSA) is in the process of putting together a Request for Proposal (RFP), which is looking to outsource some of the Federal government's transportation needs to TNCs.

We believe fervently that any company awarded a federal transportation contract must have its drivers undergo a fingerprint-based background checks.

Congress needs to become involved in this immediately. No industry can weed out all bad actors, but Congress can put in place commonsense safeguards that go the extra mile to ensure we are doing everything we can to protect passengers who put their lives in our hands. That includes protecting federal workers, from Senators and Representatives to interns working in their first job in government. If you trav-

el on federal business, someone has to be looking out for you, and making sure that you will arrive safely at your destination.

I know TNCs will argue fingerprint background checks are costly. TNCs will argue fingerprint background checks discriminate against some Americans. These are simply myths to avoid taking steps to ensure passengers are protected.

In most major cities in the United States, taxicab drivers are required to pass fingerprint-based criminal background checks conducted by state or local authorities. When a Live Scan fingerprint check is used, it can cost an applicant between \$60–\$90 dollars. The scan crosschecks the applicant through official Department of Justice and FBI databases.

The real reason TNCs oppose fingerprint background checks is because their business model depends on flooding the streets with as many drivers as possible, so that they can put their competition (taxis and limousines) out of business. This rush to put anyone behind the wheel, regardless of their criminal history, is the reason why we are seeing the increase in incidents against TNC passengers today.

In contrast to traditional for-hire vehicle companies, Uber and Lyft use private company background checks on applicant names and social security numbers. Time and time again, felons have been proven to be behind the wheel of Uber and Lyft vehicles owing to these inferior checks.

How inferior are the background checks performed by Uber and Lyft? A recent peer-reviewed study by a team of law enforcement experts, “One Standard for All,” found that name-based background checks are 43 times more likely to have errors than fingerprint-based checks (executive summary included in footnote below).¹

Conducting thorough criminal background checks on drivers who transport passengers is crucial to keeping passengers safe. Passengers are frequently alone with these drivers in their vehicle, and being exhausted, inebriated or traveling in a strange city renders them even more vulnerable.

Fingerprint-based checks are used to definitively identify applicants are who they claim to be. Instead, Uber’s entire application process, including background checks, is conducted online. Drivers do not appear in person and are not fingerprinted. Intentionally or not, this anonymity positions Uber as attractive to predators.

Even Hirease (now Accurate Background), the company Uber uses to run name-based checks on its drivers, acknowledged fingerprint-based criminal background checks are more secure because “fingerprinting helps uncover criminal history not discovered through traditional methods, offers extra protection to aid in meeting industry guidelines, and helps prevent fraud.”²

This is why The Transportation Alliance supports fingerprint-based criminal background checks conducted on all drivers of for-hire vehicles: taxicabs, limousines, Uber and Lyft.

Nationally, a number of organizations and Members of Congress have called for fingerprint-based criminal background checks. These organizations include the Boston Chapter of the National Organization for Women, the National Coalition Against Domestic Violence, and the National Women’s Coalition Against Violence & Exploitation.

We are not asking Congress to do something that’s unproven or something that will disrupt the industry. We are asking Congress to move judiciously by requiring that any contractor providing for-hire transportation services paid for in full or in part by the Federal government first be required to pass a fingerprint background check. This is a responsible first step toward ensuring all federal government employees are safe on official government business travel. We are confident this requirement will save lives.

What we’re proposing is a small and easily achievable step toward ensuring passengers in the service of the American government can trust that the vehicles they are getting into are safe. This simple step would provide the peace of mind that family members, mothers, fathers, grandparents, siblings, and friends need to believe their loved will arrive home safe every time.

The numbers of TNC victims are astounding. According to a story done by CNN in April of 2018, the news outlet was able to verify that 103 Uber drivers had been accused of assault or abuse. Again, we believe the real numbers are much, much higher. This is an epidemic. Something needs to be done.

As the father of a daughter, these stories make me cringe. Take, for example, the woman in San Diego who was riding home in an Uber because she was intoxicated who woke to encounter her Uber driver assaulting her. When police searched the driver’s home, they found videos of him abusing numerous other young teenage

¹ <http://www.utrc2.org/sites/default/files/pubs/Background%20Check%20Report.pdf>

² <http://www.hirease.com/fingerprinting/>

women. As a father, I cannot imagine what this young woman and her family went through.

Ask the numerous women in Boston who have been sexually assaulted by drivers, in horrific incidents covered by the Boston Globe. As one survivor said after realizing she had been charged for the Lyft ride given by her violent attacker, “They got paid for me being sexually assaulted. Lyft is profiting from this.”

Or, in a tragedy that affected even the halls of this great institution, ask the parents of Samantha Josephson, the young college student from New Jersey, who was out with friends one night and decided to go home early. Samantha got into what she believed was her Uber ride only to realize too late the car she entered was a fake Uber. Unfortunately, this is a common occurrence because there are no significant marking requirements for these vehicles. Samantha got into the wrong vehicle and never made it home. Passengers entering the wrong TNC vehicle is a very real and common occurrence. Just ask some of your colleagues who may themselves (or their children) have had this experience.

Then there is the story of Anthony Horn who was sentenced to 30 years in prison for evading police. Horn was on parole for murder, yet he was allowed to drive for Uber. Or, as mentioned previously, the Oregon drivers for Uber and Lyft—one a convicted murderer and one a convicted sex offender.

The safety issues don’t stop here. In 2016, Kyler Schmit, an Uber driver, tweeted: “I can’t wait to shoot you in the face one by one.” This tweet was sent to your colleague Senator Roy Blunt. What if he, or one of his colleagues, had inadvertently been assigned that driver?

I mention these stories because incidents like this can be avoided. No system is 100 percent foolproof. But ride-hailing companies, specifically Uber and Lyft, are not adhering to the most rigorous—but also most basic—safety standards. This cannot continue.

Thank you for the opportunity to testify before the Committee today and The Transportation Alliance looks forward to working with you on commonsense safety solutions that are good for the industry, our passengers, and your family and friends using our services.

APPENDIX

“ONE STANDARD FOR ALL: CRIMINAL BACKGROUND CHECKS FOR TAXICAB, FOR-HIRE, AND TRANSPORTATION NETWORK COMPANY (TNC) DRIVERS”

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[The executive summary of this report, referenced in footnote 1 and included as an appendix to Mr. Miller’s testimony, is retained in committee files and is available online, together with the report in its entirety, at <http://www.utrc2.org/sites/default/files/pubs/Background%20Check%20Report.pdf>.]

Ms. NORTON. Thank you for your testimony, Mr. Miller.

And finally, Larry Willis, who is president of the Transportation Trades Department of the AFL–CIO.

Mr. WILLIS. Good morning. On behalf of the Transportation Trades Department, AFL–CIO, and our 33 affiliated unions, I want to thank you, Chair Norton, Ranking Member Davis, Chairman DeFazio, and members of this subcommittee for inviting me to participate in today’s discussion.

First, I would like to submit a copy of TTD's report released this morning, which urges lawmakers to hold this industry, the ride-hailing industry, accountable. My testimony today will be a summary of that report.

Over the past 10 years companies like Uber, Lyft, and Via have unquestionably grown in popularity, and have radically transformed expectations for mobility and employment. As the title of this hearing suggests, they have also presented us with some new opportunities, but enormous challenges, as well.

As the future of this industry is debated, we cannot ignore the facts. The very feature that drives the explosive growth and popularity of the ride-hailing industry—relatively affordable and convenient service—is based on a business model that exploits workers and undermines the goals of public transportation.

Meanwhile, this has been a losing equation for the industry itself. Uber's and Lyft's public filings reveal that they are bleeding cash and are now desperate to find a path to profitability in other markets, including seeking financial partnerships with public transportation agencies.

While we welcome opportunities to work with any partners who are advocating for innovation in public transportation, we expect those partners to subscribe to the promise of public transit. It must be equitable and accessible to all, affordable, safe, and reliable.

Most importantly, any new technology or innovation in the transportation sector must not, as a key feature of its service, depend on denying workers their fundamental rights to fair wages and benefits that collective bargaining can provide. The ride-hailing industry so far has not—has not—lived up to these expectations.

First, while this industry has always seen competition with public transit as a growth strategy, it is clear that they now have a more harmful agenda. They plan to go directly after Federal public transportation funding to pad their losses and help prop up their unsustainable business model. Of course, we cannot stop Wall Street investors from pouring billions into these money-losing businesses. But lawmakers, lawmakers in this room, can ensure that these same companies are not permitted to prey on public transportation and fleece the taxpayer.

Second, companies like Uber, Lyft and Via believe that their only chance to make a profit requires the suppression of worker rights and wages. As such, they try to attract drivers with the promise of high earnings, but slash take-home pay once a strong market foothold is established. Many drivers, as has been noted, make less than the minimum wage in the city that they are operating in, with some making as little as \$3.75 an hour after expenses. By way of contrast, due to high union density and smart labor policies linked to Federal transit funding, the average hourly wage for a busdriver is nearly \$20, and as high as \$40 in some cities.

Third, while the Federal Government has invested billions into improving outcomes for congestion and air quality, the ride-hailing industry has added nearly 6 billion miles of driving annually in nine of our largest cities. Even worse, between 20 and 50 percent of their driving time is without passengers in their vehicles.

Fourth, unlike public transportation, ride-hailing platforms are not and never were intended to serve all users equally. In Chicago,

for example, one-way trips on Lyft and Uber averaged about \$15 more than the same trip on transit.

Finally, we have serious concerns about the safety for drivers and passengers on these platforms. Stories like Sami's shared this morning with us by Congressman Smith and Congressman Suozzi and others are, unfortunately, all too common. And other shocking reports about sexual assaults, inadequate background checks, and cover-ups of wrongdoing should give policymakers pause here.

Look, our goal is not to put this industry out of business, it is not to stop innovation. On the contrary, we believe that this technology can provide real benefits for Americans. We just believe that there must be accountability to the employees, to riders, and to the aims and goals of our national transportation system, accountability that so far just isn't there.

With that said, I thank you and look forward to your questions. [Mr. Willis' prepared statement follows:]

Prepared Statement of Larry I. Willis, President, Transportation Trades Department, AFL-CIO

On behalf of the Transportation Trades Department, AFL-CIO (TTD), and our 33 affiliated unions, I want to thank Chair Norton and Ranking Member Davis for inviting me to participate in today's hearing.

First, I ask that the Committee allow me to submit a report published by TTD this morning entitled *The Costs of Doing Business: Why Lawmakers Must Hold the Ride-Hailing Industry Accountable as they Undermine their Workers and Play by their Own Rules*, to the record. My testimony today will be a summary of the findings in that report.

Over the past ten years, ride-hailing companies like Uber, Lyft, and Via have unquestionably created significant demand for their services, and in doing so, have radically transformed models and expectations for mobility and employment in this sector. As the title of this hearing suggests, they have also presented us with enormous challenges and opportunities at a pace that is unmatched by any innovation in surface transportation in recent memory.

The key feature that drives the explosive growth and popularity of companies like Uber, Lyft, and Via—relatively affordable and convenient service—is, however, based on a business model that too often exploits the drivers who provide this service, and intentionally undermines the goals of public transportation.

Meanwhile, this has been a losing equation for the industry. While Uber and Lyft's public filings reveal that they are bleeding cash to uphold this charade, they are desperately scrambling to find a path to profitability in other markets, like food delivery, on-demand bicycles and scooters, and—most important to today's hearing—partnerships with public transportation providers.

In some regards, these ventures into new markets have been positive steps. For instance, bike-sharing services provide mobility options and boost transit ridership, and workers who are classified correctly as employees in that industry have successfully exercised their right to form and join unions across the country. We also recognize the opportunity that on-demand transportation services like microtransit and first-mile/last-mile connections offer. If structured correctly, we believe they can be an exciting new way to drive growth on existing bus, subway, and rail systems.

To that effect, we welcome the opportunity to work with any partners who are advocating for more and better public transportation services. However, we expect partners in innovation to subscribe to the promise of public transportation established by more than 50 years of federal precedent. That is, it must be equitable and accessible to all, affordable, safe, and reliable.

Most importantly, any new technology or innovation in the transportation sector that is worth investing public dollars in, must not as a key feature of its service, depend on denying the workforce of their fundamental rights to fair wages and benefits that collective bargaining can provide.

Unfortunately, so far, the ride-hailing industry has not lived up to these expectations.

RIDE-HAILING IS A BUSINESS MODEL THAT IS BUILT ON UNDERMINING OUR NATIONAL
TRANSPORTATION GOALS

We have long known that the ride-hailing industry sees competition with public transportation for ridership as a growth strategy. In their IPO filing, for example, Uber identified public transportation as a \$1 trillion market and they were not shy about their intentions to compete in that space. TTD has obvious concerns about companies that are spending billions to ensure they can play by their own set of rules seeking to undercut public transportation. While a handful of investors may win in this game, they do so purely at the expense of those who rely on it the most.

Even worse, we have seen the recent growth of a more duplicitous business strategy. It is evident that these companies no longer see competition with public transportation as enough to drive profit. Instead, they plan to go directly after federal public transportation funding to pad their losses and help prop up their currently unsustainable business models. In other words, if they cannot turn a profit for their shareholders, they will just ask the American taxpayer to do it for them.

Unfortunately, the first part of their plan is already paying off for them. The effect of Uber and Lyft on transit agencies is so substantial that they may see a nearly 14 percent decline in bus ridership and 10 percent decline in rail ridership over the next 8 years.

We cannot stop Wall Street investors from pouring billions into these corporate entities, but lawmakers in this room can ensure these same entities are not permitted to prey on public transportation and fleece the taxpayer.

THE RIDE-HAILING INDUSTRY SEES FAIR WAGES AND COLLECTIVE BARGAINING AS AN
IMPEDIMENT TO GROWTH

It is clear why companies like Uber, Lyft, and Via object to giving their drivers the right to organize. If they ever hope to eke out a profit, they believe their only chance to do so is by suppressing their workers' rights and driving wages to rock bottom. We see it time and again with these companies. They lure drivers with the promise of high earnings, but slash them to the bone once they establish a strong foothold in the market. Many drivers make less than the minimum wage of the city they are operating in, and worse still, there have been reports of workers making as little as \$3.75 an hour after expenses.

By way of contrast, federal policy has long ensured that the use of federal funding for public transportation comes attached with strong labor protections. It is because of those policies that the average hourly wage for a bus driver is nearly \$20 and as high as \$40 in some cities. In addition to paying living wages, union jobs in the public transportation sector come with good benefits, including overtime, sick leave, flexible scheduling, health insurance, and pension plans.

To be sure, there have been victories for workers in the ride-hailing industry. The Dynamex California Supreme Court case and the passage of AB 5 in the California Legislature, for example, will require that nearly all platform workers must be classified as employees. While AB 5 is only a first step in giving drivers the right to collectively bargain, Uber, Lyft, and others have seen it as such an existential threat that they plan to invest \$60 million into a ballot measure to overturn the law.

Uber and Lyft's aggressive strategy to prevent their employees from having the rights they deserve is an unsustainable model for riders and a punitive model for workers that both lawmakers and transit agencies must see for what it is.

RIDE-HAILING UNDERMINES THE WORK THIS NATION HAS DONE TO RELIEVE
CONGESTION ON OUR ROADS

Despite claims by the ride-hailing industry that they intend to complement existing public transportation, it is clear they mean to undercut these services. By shifting riders from high-occupancy vehicles like buses and railcars to small vans or personal vehicles, companies like Uber, Lyft, and Via will do nothing to alleviate one of the greatest problems public transportation intended to solve: reducing congestion.

Consider the following:

- Ride-hailing platforms have already added 5.7 billion miles of driving annually in just nine of the largest cities in America, a number that we expect to grow significantly each year.
- While pooled rides on these platforms may seem like a compelling means of decreasing their overall contribution to additional vehicle miles traveled, studies have shown that low utilization of these services simply does not offset their traffic increasing effects.

- Studies have already shown that riders using ride-hailing services are primarily substituting ride-hailing in place of public transit, biking, and walking rather than replacing trips they would have taken in their personal vehicles.
- A significant portion of Uber and Lyft's miles are "deadhead" trips—that is, miles traveled without any passengers in the car. In some cities, deadhead miles account for between 20 and 50 percent of all trips.

This should give lawmakers significant pause. While the federal government has invested billions into reducing congestion and improving clean-air outcomes, these companies are constantly undermining these improvements without improving the efficiency of our transportation network.

RIDE-HAILING'S HIGH COST TO CONSUMERS PLACES THEM SQUARELY OUT OF THE HANDS OF THOSE WHO NEED TRANSIT THE MOST

Unlike public transportation, ride-hailing platforms are not, and were never, intended to serve all road users equally. The fact is, the majority of ride-hailing platform users come from wealthy households and the average ride cost puts their services squarely out of the hands of lower-income customers.

Consider, for example, that the average Chicago Transit Authority fare is \$2.69, while Lyft and UberX average \$18.13 and \$17.90 respectively, and Lyft Line and UberPool average \$14.04 and \$9.33, respectively. This means that single-occupancy rides on both platforms average \$15–\$16 more than transit services, and shared-ride services average \$6–\$11 more. To make trips using ride-hailing services affordable, transit agencies would have to significantly subsidize these platforms with public money.

Let's be clear, though. This would be nothing more than a subsidy for a handful of for-profit companies at taxpayers' expense, with unproven benefits to transit-dependent Americans.

THE RIDE-HAILING INDUSTRY SIDE-STEPS SAFETY

TTD also has serious concerns about ride-hailing companies' history of sidestepping safety, which has already put passengers, drivers, and road users at serious risk.

First, while Uber and Lyft finally limited the consecutive hours their drivers can operate on their platforms in one day, these drivers frequently work across multiple platforms. Many rely on more than one on-demand platform as their primary source of income, and work backbreaking hours just to make minimum wage. The results are driver fatigue and health complications, both serious threats to road-user safety. Even with limits to hours of service, companies like Uber and Lyft squeeze their employees to work longer hours if they want to receive the bonuses and incentives that help them earn something close to a living wage.

Shocking reports about sexual assaults, inadequate background checks, and ride-hailing companies covering up wrongdoing should also give policymakers pause when considering whether to reward these companies with federal funding. A recent investigation, for example, found that Uber coaches investigators to put the company's interest ahead of passenger safety. In one instance, a driver was accused of making sexual advances on riders three times before an investigator was assigned to their case.

Finally, while transit operators are subject to drug and alcohol testing and a number of medical qualification standards, no such requirements exist for drivers on ride-hailing platforms. Countless stories have revealed incidents involving drivers reported or arrested for driving under the influence.

CONCLUSION

Ride-hailing has undoubtedly become popular with American commuters; but a business model based on creating an unfair competitive advantage in the marketplace of mobility cannot be condoned or ignored. To date, this industry has demonstrated no interest in furthering the goals of public transportation, even as it seeks to make inroads into this sector and undermines the jobs and rights of its own drivers. Innovation is not a license to exploit workers and play by your own rules in the transportation space. Public transportation agencies and lawmakers must consider the exploitative and dangerous behavior of the ride-hailing industry and its unsustainable business model when weighing how and when to engage and support this industry.

Ms. NORTON. Thank you very much, Mr. Willis.

We are not here to malign Uber and Lyft. There is probably not a member of this committee that hasn't, on occasion, taken an Uber or Lyft ride. But we have obligations of our own to the public.

Mr. Miller, you noted something that this committee can get a hold of right away, when you say that the General Services Administration is, as we speak, in the process of a request for proposals looking to outsource some of the Federal Government's transportation needs to TNCs. Would you elaborate on that?

Mr. MILLER. Yes, the General Services Administration has put out some requests for information. And in putting together a request for proposal that would allow Government workers who travel to different cities or even within the city here, instead of using a taxi or a bike or service like that, they would have contracts with TNCs that would take them to and from the locations that they need to go.

Ms. NORTON. Well, you see the handle that gives the Federal Government right there to begin with. And, this committee will be very interested.

Mr. MILLER. Well, Congresswoman, Chairwoman, that piece concerns us greatly because, again, I am not here to say we are anti-Uber or anti-Lyft, because we are not. This new opportunity with the Federal Government could be business for all of our companies.

But when you have an—when the incidents that we are seeing today continue to rise, and escalation of violence against passengers—just the news media today—we are here, in part, because we had two Congressmen come and talk about Sami and the horrible tragedy that happened to her. What happens if that happens to a Government employee? That is going to be on the front page of every newspaper, every news outlet for weeks and weeks and weeks, and those business opportunities are going to go away for all of us. So—

Ms. NORTON. Well, it is the obligation of this committee to see that it doesn't happen to Government employees, and that it doesn't happen to the public any longer.

I don't understand the difficulty in getting statistics. And this is another role Congress can play. What about law enforcement agencies? Is there no—is that a role for the Federal Government? Why is it that we do not even have good information to begin with?

Mr. MILLER. I can answer that a little bit.

Ms. NORTON. Mr. Miller?

Mr. MILLER. If you are in a taxicab accident, or there is an incident, you have law enforcement that will show up, and you will have the taxi commission, somebody representing the taxi commission there to take statements and file those types of reports.

What we have today with TNCs, you don't have those types of police. Law enforcement may show up, but it is not going to be ticketed or written up as a TNC type of violation or accident, because they are just regular people owning vehicles. So there is no way to distinguish what they are and who they are.

Ms. NORTON. Yes, which means that the committee has to work with law enforcement to find ways to make sure we get this information.

Mr. Willis, I was interested to read that drivers on the west coast were seeking to organize. It seems to me that that was a hopeful move. Could you tell us more about that, please?

Mr. WILLIS. Well, I think what you are seeing across the board is Uber and Lyft drivers wanting some type of union representation, a union voice, because of the terrible wages and benefits that we see in the industry.

Ms. NORTON. I mean you report as little as \$3.75 an hour.

Mr. WILLIS. Yes. I mean, that is—you know, that really goes to the problem, and it goes to the issue of the independent contractor status that you raised.

In California specifically, the legislature has passed a new law that we believe will ensure that these workers are treated as employees, and that is a good path forward. There is going to be more work that needs to be done, as the Governor has mentioned. But I think making sure that those workers at least are given the protections of employees and collective bargaining rights is absolutely essential.

And I think, you know, the fact that Uber and Lyft—the law is not even dry yet, the ink on the paper, and they are committing to spend \$60, \$70 million to overturn that. So I think you see the real problem here with the way that these companies think about their drivers.

Ms. NORTON. Yes, they are terrified at organization, more terrified at organization than they are, I think, of the Congress itself.

Finally, I would like to ask Mayor Freeman-Wilson about her testimony about affordability.

You want to spread these? In their present state you want to spread these to low-income communities, to the disabled? Why aren't they going into those communities in the first place?

Ms. FREEMAN-WILSON. Thank you for that question, Chair Norton. I think that, in many instances, you find that there is not the opportunity to use TNCs in the—

Ms. NORTON. Well, do those communities call for TNCs? Do they dial and say, "I need an Uber or Lyft," or is it that Uber and Lyft refuses to go to those communities?

Ms. FREEMAN-WILSON. No, I don't think there is a refusal to go into our communities. I think it is the availability of people who may or may not be working for TNCs. In many instances they require insurance, they require certain types of vehicles. And when you have communities with higher poverty levels, you just don't find those willing and able drivers that you may find in some of the larger—

Ms. NORTON. Well, I don't know why drivers from more affluent communities can't go into those communities, as well. I mean, if you get a call, can't you just go to the community where the call has come from?

Ms. FREEMAN-WILSON. Well, a lot of times you find that they may be 15 minutes away. And generally, when someone is looking for an Uber or Lyft they are looking for that ride in 3 to 5 minutes.

Ms. NORTON. That is certainly the case—

Mr. MILLER. Can I add something to that, Chair?

Ms. NORTON. Yes, please.

Mr. MILLER. When it comes to this type of ride that you are talking about, some of the challenge becomes that these—the TNCs don't have the appropriate vehicles. They don't have wheelchair-accessible vehicles to pick these folks up.

Ms. NORTON. I understand.

Mr. MILLER. So that does become a challenge. In a lot of communities taxi companies are required to have a certain percentage of their fleet wheelchair-accessible vehicles. So on the other side of the equation, TNCs don't have that same requirement.

Ms. NORTON. Yes, well, thank you for pointing that out.

And I am going to go to the ranking member now for his questions. Indeed, you point out the difference between how taxis are regulated, and how these TNCs are virtually unregulated.

Mr. Davis?

Mr. DAVIS. Thank you, Madam Chair. And thank you all for your testimony. Great to see some folks again.

Mr. Willis, always great to work with you. I appreciate your comments.

Mayor Freeman-Wilson, I don't have a question for you, but I haven't spoken to my old college classmate, Darren Washington, in a while. And we both graduated from Millikin University in Decatur, Illinois. I know he is active in Gary, Indiana. So if you see him, give him my best.

Ms. FREEMAN-WILSON. Yes.

Mr. DAVIS. Thank you. And thank you for your testimony.

Mr. Martz, I do want to focus my questions on you real quick. I am very intrigued by what your company is trying to do to kind of provide a—really, filling the gap between some of the ride-hailing companies and services that may be offered in urban areas that may not be offered as much in districts like mine.

You know, if you could talk a little bit more—I know you gave us your testimony. Just talk a little bit more about how your commute program works.

Mr. MARTZ. OK.

Mr. DAVIS. And the successes, too.

Mr. MARTZ. Yes, yes. I will give you a couple of good examples in rural areas.

What we face lots of times is a need for reverse commuting to work sites that you might not necessarily put in your backyard. It might be a prison. It might be a meat processing plant. And that is one of the examples that I put in the testimony.

In Nebraska, roughly an hour south of Omaha, is Nebraska City, a small town of 7,000 residents. Cargill has a protein plant, they call it, there. And with the flooding of the Missouri River that occurred in this last year, they had problems getting people to work. They called the Nebraska DOT, who we have a public-private partnership with, and we quickly sent our folks down there, explained our program, how we would work with the employees to get them to and from work.

We did some analysis of their home locations and so forth, and we knew what their work schedules were going to be. And essentially, over the course of the next 3 months, we put 30 commuter vanpools in service from different areas around Omaha to an hour south of there to Nebraska City, transporting probably around 200,

220 people to and from work during a time of crisis. And the company completely embraced it.

The program itself, because we provide the capital for the program and the Nebraska DOT only provides, like, a \$400 subsidy per month—I mean, getting into details here, but the DOT gets great leverage, essentially. We provide the capital asset on a 30-day, pay-as-you-go basis. We only bill them for service that meets the standard. Essentially, it is pay for performance. And in the process, they don't have to have their capital increased to buy assets, and things like that. They only pay for the subsidy. So they get two-to-one leverage on their dollars.

Mr. DAVIS. Right. So I—

Mr. MARTZ. So that is an interesting rural scenario.

Another one is in Florida, where we have this program to—

Mr. DAVIS. Well, I don't have too much time left.

Mr. MARTZ. OK.

Mr. DAVIS. I got to get to—I do have a couple of other questions. I appreciate that example. But I do notice you don't have your commute program operating in the St. Louis area or right across the river in my district. Are you planning some expansion in those areas?

Mr. MARTZ. We would like to. We have made several pitches to the folks in St. Louis, the transit agencies. And one of the problems that we have is the designated recipients get, essentially, all of the transit dollars. And it is up to them to have a desire to share those dollars, and they are not willing to do so.

Now, we have a very limited amount of service in St. Louis that is not in any way subsidized, but it is very limited. Could we provide hundreds and hundreds of vanpools in the St. Louis market if we had the ability to lower our rates just to even one-third? Absolutely. This is what happened in Los Angeles, or even in El Paso, or Dallas, or Houston. This is where our rates are just lowered 30 to 40 percent. And instead of 200 vans, we will have 800 vans in service. So just a little bit of assistance makes a huge deal.

But it is—St. Louis is a great example. Right here in DC is another one, which WMATA has never agreed to want to share those dollars. Every mile, essentially, that we would operate would contribute 50 cents towards the formula program. So there are transit agencies that we operate with. But even in those agencies, they don't share a significant amount to grow the program even more.

Mr. DAVIS. Right. Thank you, Mr. Martz.

Mr. Willis, you know, some of the TNCs have introduced some safety measures already. You know, ability to text 911 through the rideshare app, and reminding them to check the license plate number before entering a vehicle. Can you tell us, in your opinion, how can the taxi and limo industry keep up with technological advances like that too?

Or any of you guys. Mr. Miller?

Mr. MILLER. I can answer that. We do it today. I mean the myth is that only Uber and Lyft are using technology. I mean every company that is respectably having a legitimate business out there in the for-hire transportation industry are using apps today. We are not global like Uber and Lyft, but our members have apps very

similar to the same platforms that Uber and Lyft have for their very own company. So they do have that.

And what you will see in some of the taxis right now, you will have the public displays in the back, and it will give you a button. If you are feeling threatened, or—somehow you can push a button and emergency will be called for privately. It is a private button, or a panic button type of thing.

Mr. DAVIS. All right. Thank you. I yield back.

Ms. NORTON. Thank you very much, Mr. Davis.

Mr. DeFazio?

Mr. DEFAZIO. Thanks, Madam Chair.

Mr. Miller, this weird thing about fingerprint background checks would be discriminatory, I mean, I know they would be discriminatory against, you know, murderers and convicted rapists. But what, other than that, is the basis for this discrimination?

Mr. MILLER. There is feeling from some that if you have any kind of criminal background, that you won't be able to drive safe. You are 18 years old and you had a minor drug offense—

Mr. DEFAZIO. Well, no. I just looked at the Uber conditions. They say even certain felony offenses will be permitted. They don't even mention misdemeanors. And they list certain driving offenses.

So why wouldn't they really want to know about that stuff, as opposed to conducting a fake, insufficient background check just by name basis?

Mr. MILLER. I cannot answer that for them. But I can just tell you that the thing about discrimination is really more of a myth.

Mr. DEFAZIO. Right.

Mr. MILLER. Just by having some sort of offense in your background is not going to necessarily prohibit you from driving for any—

Mr. DEFAZIO. Right. I mean they can—they set the conditions, and they—

Mr. MILLER. Right.

Mr. DEFAZIO. It is—I just—look, because I said, "How can I become an Uber driver?" I just looked at the list of conditions.

Mr. MILLER. Right.

Mr. DEFAZIO. And they say certain felonies are allowed, and I am OK with nonviolent ones. So they set those conditions, but they specifically exclude murderers and sexual predators, who they approved in Eugene, Oregon, with their background check.

Now, I just—did they really spend \$10 million in one city to oppose fingerprint-based background—that can't be—

Mr. MILLER. That is correct.

Mr. DEFAZIO. It can't be—that has got to be inaccurate.

Mr. MILLER. No, that is actually—

Mr. DEFAZIO. How do we know that number?

Mr. MILLER. Because that comes from the folks back in those communities who are tracking it, both on the labor side and on the business side.

Mr. DEFAZIO. \$10 million? I just figured out if a background check costs \$60, fingerprint-based, that would be 170,000 or so background checks. How many Uber drivers do they have down there, 1 billion?

Mr. MILLER. A lot.

Mr. DEFAZIO. So, I mean, this is incredible. I am—you know, I am so angry that they wouldn't show up today. But thank you. I learned in the first panel—and I went online—that I could be a fake Lyft driver tomorrow for \$8.99 with Prime delivery.

Mr. MILLER. Yes.

Mr. DEFAZIO. And I learned from you that GSA is soliciting these people. Yet we are going to put, you know, public employees into systems where the workers are being abused, as has been talked about here, some people earning as little as less than four bucks an hour after expenses, and where their safety could be at risk. We can deal with that.

Mr. MILLER. Well, what makes this even worse, Mr. Chairman, is that I gave Mr. Smith an article that comes from Uber drivers themselves who are taunting and saying that you don't even need to get a background check. Here is how you cheat the system by doing that. It is just flaunting it. And again—

Mr. DEFAZIO. Well, I would love to have that document.

Mr. MILLER. I will get that to you.

Mr. DEFAZIO. I mean we have been through things like this before, drug testing and alcohol testing for truck drivers with things called Whizzinators to get around the system. We have been down this—I would love to have that document.

Mr. MILLER. I will get that to you right after this hearing.

Mr. DEFAZIO. Mr. Willis?

Mr. WILLIS. Mr. Chairman, you pointed it out. This committee has mandated background checks for transportation workers across the board, including truck drivers that happen to need a hazmat endorsement have to get a fingerprint background check that, quite frankly, is pretty extensive. So I think there is significant precedent here. And you have done this for, again, other areas in the transportation space.

Mr. DEFAZIO. And we have certain rules. I can't remember with truck drivers, but I know with longshore people we have set the standards on what past offenses and what time lapse. But we are not saying, gee, if you ever had a felony you can't do this, but—

Mr. WILLIS. And there is a waiver process that we fought very hard for to make sure that, even if you did commit an offense, you have an ability to demonstrate that you are not a security—in this case, a safety—risk that may allow you to still work in that profession. So there are some due process protections built into that.

Mr. MILLER. And the Government also does require drivers who drop things off at military bases and other secure facilities to require their drivers to be fingerprint-background checked, as well. And they do it as a cost of business.

Mr. DEFAZIO. And—OK, I think that—I think we have covered that. Thank you, Madam Chair. I appreciate it.

Ms. NORTON. I thank you, Mr. Chairman, for laying out that almost everybody else who drives the public has to have fingerprints and a background check except these people. We got to do something about that.

Mr. Babin?

Dr. BABIN. Yes, ma'am. Thank you, Madam Chair. This is a very, very interesting and very, very good hearing.

I would say thank you very much for you all coming in and giving your testimony, as well. I also want to thank my colleagues, Congressmen Smith and Suozzi, who shared their testimony in the first panel on their rideshare passenger protection bill, which I plan to cosponsor.

And I, too, am disappointed that we were not able to ask questions of Uber and Lyft.

But my first question is for the panel here. I represent a large part of southeast Texas. And while my district includes the heavily populated Houston area, it is mostly made up of rural and widely spread-out communities. The majority of my constituents do not have access to a robust transit system like others in more densely populated areas have.

I have seen studies that show that access to reliable transportation can greatly improve the health of senior citizens and those who receive medical treatments in which it is not safe for patients to drive themselves to and from, such as dialysis and chemotherapy. With that, I am very concerned about Americans who live in districts like mine, who are all across this country, and who are in dire need of access to transportation, and the problems that they have.

But very quickly, if each of you can share what your organizations are doing to ensure that services are available to people who live or work in sparse transportation and underserved areas.

And I would start with you, Mayor. If you would, tell me what some of those are.

Ms. FREEMAN-WILSON. Thank you, Mr. Babin.

Dr. BABIN. Yes, ma'am.

Ms. FREEMAN-WILSON. NLC represents communities that have as few as 500 people and as large as New York City. We believe that one of the ways that Congress can impact this phenomenon that you describe is through the metropolitan planning councils.

In our own metropolitan planning council in northwest Indiana—we it is called NIRPC—we are able to work together with large cities and small towns to ensure that there is equitable funding, equitable access for citizens, and that there is, in fact, a regional transit authority. And we believe that the funding and the encouragement that Congress gives to make sure that we work together in that manner has an impact. And NLC certainly supports those networks.

Dr. BABIN. Right. Thank you.

Mr. Martz?

Mr. MARTZ. Interesting. In your particular—we are focused on work commutes, you more, more so than the other trips. But there are instances in your district, whether it is—an example would be someone—groups of commuters going from, let's say, Woodville to Beaumont, or from, let's say, Livingston to the airport in Houston, that there just really isn't an entity that is there to help facilitate funding for those, other than TxDOT. And they don't necessarily view themselves as operational.

The Mobil plant just west of Beaumont would be one that doesn't really fall in Houston metro's jurisdiction, who has a program. But Beaumont Transit could do this type of program, but they have

chosen not to over the years because we have approached them on several occasions.

Dr. BABIN. Yes. You know your stuff, I can see that, in my district, as well.

Mr. MARTZ. All my wife's family is from Beaumont.

Dr. BABIN. No kidding. That is my hometown. All right. Well, thank you very much.

Mr. Miller?

Mr. MILLER. Let me echo first—echo the comments made by the mayor.

But also, it has been a challenge for us. I will say we are doing better at it, but it still continues to be a challenge, and partly because you have two sets of rules. You have a new set of entrants who have really come into the market in 2010 with zero rules and regulations, and then you have another set of operators who have overabundant rules and regulations.

So just take the insurance, for example. For a taxicab insurance is about \$5,000 per vehicle per year. For an Uber or Lyft, it is probably a couple hundred dollars. So you are talking about a huge cost, on the one hand, and zero cost on the other. So if we could truly, really try to level that playing field out, I think some of this sorts itself out through that.

Pricing is another issue. I mean, in some of those communities you may get surge pricing on the TNC side. On the taxi side you don't have that. It is a regulated price fee structure.

Dr. BABIN. Absolutely. Thank you, Mr. Miller.

Mr. Willis?

Mr. WILLIS. You know, look, we see real value in expanding transportation services here. But I would remind the committee that the reason that TNCs may be attractive in some settings is because no one is really paying the full cost of the service. Right? It is being subsidized by investors. The drivers are absorbing many of these costs.

And what we should be focused on is finding ways to encourage creativity and innovation within public transit agencies. I think that is going to require more money and more support from this committee. But I think, within the public transit framework, even in rural areas, is where we can grow these services.

Dr. BABIN. OK, thank you. And I will go ahead and yield back there, Madam Chair. Thank you.

Ms. NORTON. Thank you, Mr. Babin.

Ms. Johnson.

Ms. JOHNSON OF TEXAS. Thank you very much, Madam Chair, for holding this hearing, and thanks to all of our witnesses.

I am really disappointed that Uber and Lyft are not here, because my questions that I had when I came to this hearing would have been directed.

I am from a very large urban area where we have spent lots of time planning public transit with our rapid transit system supplemented by buses. But we also have large pockets of people where we have at least three sizable rehabilitation programs for ex-offenders. And in my State, an ex-offender cannot get a driver's license nor a State ID, which is a real problem. When they get

through the rehabilitation, they got to find jobs, but they don't have a way to get there.

And so maybe perhaps you have some ideas, other than supplementing the public transit system with services like Lyft or Uber. But that is a major problem in many urban areas, especially in large urban areas, where you have a concentration of the job opportunities a distance from where many of the disadvantaged people have to go.

So if you could comment on how we could address that issue without some type of temporary or supplemental transportation services, I would appreciate it.

Ms. FREEMAN-WILSON. Ms. Johnson, I can certainly address how we have done that in Gary and other communities. We too share your challenge, in terms of having a large number of former offenders who are required and who desire, quite frankly, to work.

One of the partnerships that we have developed with UPS, actually, in Illinois is we provide vans for them to work, and they travel about 40 miles from Gary every day. We provide two shifts of vans, and we have partnered with UPS to ensure that certain offenses won't prevent people from being able to work in those jobs.

I think what that demonstrates is that cities are always focused on trying to ensure that every resident has an opportunity to realize their greatest dreams, and to support their families, and do the things that we all want to do.

Mr. MARTZ. Ms. Johnson?

Ms. JOHNSON OF TEXAS. Yes?

Mr. MARTZ. In Dallas and Fort Worth and Denton County we have three different public-private partnerships. We provide about 300 commuter vanpools between the two. And the Dallas program is about 175, I think. It has been financially constrained a little bit, which is kind of surprising, given the market that is there. There is room for many more.

But your agencies, I don't think, are necessarily the problems. There are so many others around the country that don't really view what we do, for example, which is a lot of reverse commute type stuff, or suburb-to-suburb commuting, as something that they really do or want to do. They are very set in their ways, in "This is our route system, this has always been our route system. It is not going to change very much, and we don't have enough money to operate what we have got, so we don't even look at things." And that—we run into this all the time.

So we work cooperatively with your folks in the Dallas market, and—but we think there is still more opportunity there to do more.

Mr. MILLER. And I will just say, from our perspective, it—because we are independent contractors, it is going to be up to each individual company or individual driver. And I think some of that—there needs to be more sophistication, there needs to be more business savvy looking at these types of opportunities that they need—they may not know that they exist, and I think that is the biggest challenge that we have in some of these areas.

Mr. WILLIS. I would only add, you know, that one of the great benefits of public transit, as I mentioned in my opening statement, is that, you know, by law and by practice, it is accessible to all, or should be accessible to all. To the degree that TNCs want to pre-

tend to be public transit providers and seek Federal subsidies, they need to be held to that same standard, as well.

So again, I think a lot of the mobility on demand and the new innovation of transportation services can be done in the public transit context. But to the degree that you are using these outside entities, we have to hold them to the same standards that we require of public transit.

Ms. NORTON. Thank you very much, Ms. Johnson.

Mr. LaMalfa?

Mr. LAMALFA. Thank you, Chair Norton, for having this hearing today on this increasingly important topic. I appreciate it.

As a Californian, I do note that last month Governor Newsom did sign a bill called AB-5 into law, which is going to force most of the rideshare companies in a district like mine to lay off their drivers, as well as the effects on independent truckers, and basically a lot of the lifeblood for rural California and rural living.

Now, some might, on the left flank of—or Democratic colleagues might cheer this on, because their urban constituents won't really feel the effect of this law. They make enough money as full-time employees in urban areas to make it work. But again, in a district like mine, in rural areas, mountainous areas, northern California, this law will decrease the commercial services available to the elderly, disabled, those with medical visits that cannot drive themselves, and those that are likely to be picked up for DUIs if they drive themselves, something I really thought we all agreed was a bad thing.

According to data provided by Lyft in my own district they average 24,000 rides per month from around 1,000 drivers. Just under two-thirds of those rides start in low-income areas that might not have easy access to other transportation.

Now, transit doesn't have 24-hour models in a lot of areas, even here. Or there might be a very long hike to get to public transit.

So when you look at that, just 10 percent of that would be 2,400 rides per month, which happen late at night for those that might be under the influence. So you can look at the data however you want. Lyft alone is taking probably 2,400 maybe drunk drivers or drowsy drivers off the road every month in my own district.

So the Governor has effectively—and the legislature—has effectively banned my constituents from making a choice, choice for these consumers, and choice for the drivers themselves that want to be—don't want to be employees, rather than be independent, have their own business. Who is against that? Evidently people in this room. People on this panel would have them all rather be corralled into a situation that doesn't suit them, but the typical norm.

You can call a taxi in many places. Maybe people don't, and maybe as riders we don't always want that choice.

I noticed that the Uber and Lyft vehicles are a little cleaner, a little nicer, and a little more available a lot of times.

So what we see again in my district, 88 percent of the drivers in NorCal were part-time, driving on the side to earn a little extra money. There will not be 1,000 new taxi drivers in Chico and Redding on January 1, when this law kicks in in California. But on that particular day, January 1, how many more drunk drivers will there be?

So a question for Mr. Martz and Mayor Freeman-Wilson. This committee spent a few months talking about this concept of mobility on demand. We have had committee hearings and a roundtable. Even Chairman Norton has talked about her interest in helping with working with me to set up something in the very rural areas of the U.S., such as what we are talking about with medical visits and for our veterans.

How can—how can vanpooling—again, Mr. Martz and Ms. Freeman-Wilson—or some next-day service be adopted to work for the elderly, disabled, and our veterans who have trouble attending their medical appointments, getting groceries, or even traveling to community events? What do you see as being feasible for those?

Ms. FREEMAN-WILSON. We believe that there is an opportunity for cities and localities—cities, towns, and villages, quite frankly—to work with senior organizations, to work with those organizations that serve our disabled residents to provide opportunities for partnership.

I think the thing that mayors and, quite frankly, council members bring to the table is the ability to convene folks from localities.

But at the same time, Mr. LaMalfa, we are not looking for a ban on Uber and Lyft. All we are saying is that, in instances where there are safety challenges, that there is room for background checks, for other opportunities to ensure—

Mr. LAMALFA. Yes, my time is short. I appreciate that. And there are good things they are talking about in the bill with that. But it sounds like there is a big push to really eviscerate those services, and that we have had these—some of these programs in rural counties, and you see that either they are riding around empty at the wrong times of day, or not available and not as feasible, sustainable, financially.

So my time has already expired, but I appreciate that. And I hope we can continue this in that not everything that gets passed in Sacramento, such as AB-5, which will gig a lot of the economy, as they call it—the gig—on trucking and personal services like this, but that we can have more flexibility for many of our rural needs for areas that just can't afford all these.

So I appreciate it, Madam Chair, and I will yield back.

Ms. NORTON. I appreciate those remarks. We are trying to make these rides safe, and we are trying to make them more equitable across the country. And I am concerned. I think what is happening in rural communities is exactly like the question I asked the mayor about what is happening in low-income communities here.

These rides are going to be out there. We—with all of the safety problems they have, which Congress must take leadership in correcting, we have also got to make sure that they are more widely available where they are most needed. So I appreciate that line of questions.

Mr. Garamendi?

Mr. GARAMENDI. Thank you, Madam Chair, and thank the witnesses. This is an extremely important hearing.

We have had a lot of discussion about the safety issues, and ways in which that can be dealt with, fingerprints and the like. And certainly we must move forward with that particular piece. And I suggest it be at the Federal level.

I want to go back to AB-5, the California legislation, which has been bounced around here several times.

Mr. Willis, why don't we start with you? Can you give us a run-down on exactly what is in it, and why it was important enough to become the law in California?

Mr. WILLIS. Well, thank you for the question. First of all, I have to respond in part to your colleague. The idea that Uber and Lyft drivers are somehow their own business is laughable. These are drivers that, in many cases, are making below minimum wage in the cities in which they are driving. As I cited in my testimony, it can go as low as \$3.75 after you back out expenses.

The idea that they should be covered by minimum wage laws, other worker protection laws that California and other States affords their employees, we think, is a matter of basic fairness.

You know, one of the problems when employers misclassify their workers as independent contractors is they gain a competitive advantage by other companies that follow the rules. And that is what we are seeing in the transit space. We have people walking away from transit in cases to go use TNCs, but only because those services are cheaper because those companies aren't abiding by their obligations to treat their workers and to classify their workers in the right way.

So I think AB-5 is a very good step in that direction. It is a codification and a clarification of a supreme court decision in your State—a unanimous decision, I should note. So, you know, again, we think that is a good first step, to at least give these workers the basic rights that employees, which we believe they are, should have.

Mr. GARAMENDI. We really—

Mr. WILLIS. And—I am sorry, go ahead.

Mr. GARAMENDI. We really need to understand the difference between an independent contractor and an employee to fully comprehend why AB-5 was necessary. Could you elaborate on that fundamental issue as quickly as possible?

Mr. WILLIS. Sure. Look, an independent contractor, in a sense, is an independent business, and doesn't need the same type of minimum wage protections, worker compensation protections, benefit protections that a frontline employee does. The idea that has been raised here, that just because someone is a part-time driver, that they shouldn't be afforded the rights as employees, there are a lot of part-time workers here that are employees. Those two things are not inconsistent. So, again, I think it is an important distinction.

Mr. GARAMENDI. We really need to understand, as a committee, and we haven't really gotten into this in detail yet, but we may need to do so to really write decent legislation here. An independent contractor, an independent business contractor, versus an employee, it really comes down to who controls the time and the job itself.

Mr. WILLIS. Correct.

Mr. GARAMENDI. And in the case of Uber and Lyft, it has been determined in California very clearly by the supreme court and court cases that it is the company, Uber and Lyft, that control the timing, the availability, or the access to the work. We need to understand that.

With that in mind, there are many other issues that are critical to the employee: tax collection, workers' compensation, insurance, automobile insurance, liability insurance, and other things that are in play in this relationship. We need to go into it in detail.

I, frankly, think AB-5 was the right thing to do in clarifying the difference between independent and employee, which is what it does.

Mr. WILLIS. Yes.

Mr. GARAMENDI. It certainly affects Uber and Lyft. It does affect others. But my own experience at this on the insurance side is that it is an extremely important step forward in clarifying these matters.

And for us right now, we do have in play, I think, a very important matter, and that is the background check on the driver, which was one of the issues that has been raised here. Also we ought to have greater clarity at the national level, the difference between an employee and an independent contractor.

I will let it go at that, Mr. Willis, I am out of time.

But I would like to urge the committee to really hone in on this very, very important matter. Use California. The court case in California and the law that follows and implements that court case—

Mr. WILLIS. Well, I think the lead that California has done here with AB-5 is absolutely tremendous. And I think, you know, your comments in support of that, I think, are right on. So thank you for that.

Mr. GARAMENDI. I yield back.

Ms. NORTON. Thank you, Mr. Garamendi. This distinction between an employee and a contractor has stymied this Congress now for some time. But I think we all can agree that, whether you are an independent contractor or an employee, you serve the public. Safety should come first.

Mr. Stauber?

Mr. STAUBER. I thank you, Madam Chair, for holding this meeting here today. This is a question for Mr. Martz.

When we think about rural communities, transportation to and from work is always an issue of utmost importance. In a growing competitive economic environment companies are looking at every possible factor when deciding where to expand, and when and where to open new facilities and break ground on new projects. When Amazon, for example, was deciding where to put their headquarters, one of their factors of consideration was ease of transportation for work commutes.

In my rural district of Minnesota the vast majority of people travel to and from work by personal vehicle. When a district the size of West Virginia—you can imagine that these folks sometimes have to travel 60 miles to and from work. And when commutes are that long, you can also imagine that putting in a subway system or expanding access to electric scooters in rural Minnesota wouldn't really cut it.

So how can commuter vanpool programs fill a needed gap in our transportation system in rural communities? And how are they providing cost-effective job access in rural settings?

Mr. MARTZ. For example, like in your district, I would say one of the bigger employers would be the mining companies outside of

Duluth. We don't do a lot in your district today, but we do a lot with mining companies in other areas—in Victor Valley in California, and in Phoenix, and Tucson, and areas like that, where they do borax mining and copper—and so forth—mining.

But what happens is a lot of these facilities that are outside the urban areas that employ several hundred people, for example, the local town generally might have, like in the case I used, Nebraska City, 7,000 residents. You are not going to fill all those jobs from those people. So the next town, which might be 50 miles away, would be a next source for employment for those people.

And that is our bread and butter. If we can get those employers to work with us to find prospective employees, we can put service into those areas in that fashion. And that is what we do. Every day we do that stuff.

There are probably situations where in your district folks travel from maybe like Cambridge to St. Paul, which is a pretty good hike. It is a little bit outside the metro's service area.

Mr. STAUBER. Yes.

Mr. MARTZ. But that is not an unusual trip for us. But that is the kind of thing that we do all the time.

Mr. STAUBER. Thank you. And I will say that—I just want to make a note who these Uber drivers are, which I think is important to frame this hearing by. Many of these drivers are immigrants, middle-class parents taking on a second job, students saving for college, and maybe a retiree making some spending money. This committee must be mindful of these drivers, these hard workers, while we legislate. Because the worst law is one of the unintended consequences, and it would be extremely unfortunate if we took action that limited these populations' ability to participate in this industry.

And my last comment to this committee and Madam Chair, I don't necessarily think that this committee should blindly follow the State of California. My State of Minnesota is much different than the State of California. It is much more rural. And I think we have to have a broader look at this issue, and the transportation network companies, and how we can serve not only urban and metro, but rural communities.

Mr. Martz, I will give you the last minute.

Mr. MARTZ. Well, and there are very differing business models that we have presented today, too. And one of my concerns with this is, you know, the possibility of throwing the baby out with the bathwater.

What we do has an extraordinary safety history, extremely efficient, and we work very closely with the transit agencies that are willing to partner with us, and DOTs and MPOs. So we would like to do more. But we just—that is one of the reasons why we are here, is so that we don't get thrown out in the process.

Mr. STAUBER. And I think that I just want to echo—Madam Chair, you talked about safety being the number one priority. I couldn't agree with you more. And I appreciate that comment. And I yield back.

Ms. NORTON. Thank you very much, Mr. Stauber.

Mr. Johnson?

Mr. JOHNSON OF GEORGIA. Thank you, Madam Chairwoman.

Mayor Freeman-Wilson, as mayor I know that concerns about transit, access, and equity matter a great deal to you. Though the presence of TNCs has skyrocketed in major metropolitan areas, more rural and suburban areas haven't seen the same availability of ride-hailing services. At this time do you think these ride-hailing services have helped or further exacerbated the issue of transit equity?

Ms. FREEMAN-WILSON. Thank you, Mr. Johnson. That is certainly a question and a concern that we have in local communities. I think that there is an opportunity there, given what the statistics have shown, given what we have seen to date, for our local mayors and council members to join with Members of Congress, to sit down with Uber, Lyft, Via, those providers of ridesharing services, to ensure their commitment to equity, to their commitment to providing more robust opportunities in communities both urban and rural—

Mr. JOHNSON OF GEORGIA. OK, thank you—

Ms. FREEMAN-WILSON [continuing]. That have seen—

Mr. JOHNSON OF GEORGIA. Thank you. Now I am concerned about the ride-hailing services' dependence on forced arbitration clauses in the terms of service of their agreements. And what might happen is some person, older person wanting to be hip and cool like everybody else, and maybe the car is in for repairs and the children have told him, well, instead of calling the cab, that is just so old school. Why don't you call the ride-hailing company?

And so the person goes onto their app on their phone, proudly goes to the app store, downloads the app, and scrolls all the way down to the box where it says, "I agree to these terms." And so they click that box, and they order a driver.

The driver arrives. It is in a beautiful neighborhood. It is, clearly, some—you know, the person has money. And they jump in the car, the driver hits the child lock button so that they can't get out. The driver just happens to be recently released on parole from the maximum security State pen, where he served 30 years for murder. And he is out now, driving a ride-hailing car. He pulls around, picks up his buddy, or maybe the buddy was in the car to begin with, and they start leaning on you, telling you that, "Look, I need to get \$5,000. Let me have your bank card and your PIN number."

And then they go ahead and get your money out at a bank. And then the driver pulls out into the street, so excited that he has got the money, and bam, he gets hit by a Mack truck. He has failed to yield the right of way. Everybody dies.

And then your next of kin seek to sue, to recover for the loss of your life, and only to find out in horror that you have agreed to a forced arbitration clause that prohibits your next of kin from taking the ride-hailing company, which is negligent in many respects, to court for a trial by jury, and forces it into an arbitration context.

Mr. Miller, have you had any experience with that happening?

Mr. MILLER. We have not. We don't have those types of clauses in our apps. It is if you want to sign up, you sign up, and you download it. It is a local ride. So, yes, we do not have those types of clauses.

Mr. JOHNSON OF GEORGIA. I have heard that the major ride-hailing companies—who shall remain nameless, but they have been

named repeatedly, and they are not here today, they refused to come—they have these terms of services. They have these agreements in their term of services, these clauses.

Do you know anything about it, Mr. Willis?

Mr. WILLIS. Well, look, I think it is a great example of these companies trying to not follow what other providers have to follow here. And this sort of attitude that they are beyond these type of regulations, these type of oversights, this type of legal responsibility that other providers, whether they are taxicabs, or transit, or other transportation services.

So I think, again, it raises another good example of the problems here that we need to think about.

Mr. JOHNSON OF GEORGIA. Why do you think they include those clauses in their terms of agreement?

Mr. WILLIS. Because I think it is financially advantageous for them, and I think they can get away with it, and no one is really holding them accountable. And I think this committee and other policymakers need to do that, especially if these companies want to go, again, play and be a part of the public transit network and framework. Issues like this just cannot be tolerated.

Mr. JOHNSON OF GEORGIA. Thank you, and I yield back.

Ms. NORTON. Thank you, Mr. Johnson.

Mrs. Miller?

Mrs. MILLER. Thank you, Chairwoman Norton. And thank you all for being here today.

Transportation network companies have dramatically changed the way people get around in my community. From initiatives to make sure that students at Marshall University can get home safely after a night out or a football game, to expanding access from my district's older and disabled residents who leave the house or have to attend a nonemergency medical visit, ridesharing serves them all.

Ridesharing companies like Uber and Lyft have become a central part of my rural community, one that typically relies on personal vehicles for transit. Without a large taxi community or reliable public transportation, ridesharing has played an important role in lowering impaired driving accidents and expanding access to services for underserved communities.

Mr. Willis, I worry that reclassifying ridesharing drivers as employees will eliminate many of the benefits that the transportation network companies provide for my constituents. Currently, someone from my district can reliably hail a ride in about 6 minutes from 1 of over 500 drivers who are working for a ridesharing company. Most of the drivers in my district only drive part-time to earn extra money on top of their full-time job.

And I worry that reclassifying contractors will take away the flexibility that drivers rely on to drive when they are not at their main job, and will drastically increase the time riders will need to wait for a ride and, in turn, could also lead to a return to pre-ridesharing levels of accidents occurring while driving under the influence, since ridesharing will be less convenient and available.

Do you have data that would say otherwise, and that the reclassification of contractors would not negatively impact both drivers and riders?

Mr. WILLIS. Well, look, as I said in my opening statement—and we submitted a report to this committee—we are not opposed to these services. We think mobility on demand has a lot of potential. But we reject the notion that, just because you are offering innovation in this space, because you are providing a service that I want, that you can do it by misclassifying your drivers as independent contractors.

When you look at laws, especially now in California, and I think in other States, that they should be classified as employees. And as I said earlier, we categorically reject the notion that, just because a driver is a part-time driver, I don't understand how that makes them an independent contractor. We have a lot of part-time workers in this country who are—and correctly are—treated as employees. And I think a union contract, I think employee status can be done in a way to provide the flexibility that I think you are looking for.

Mrs. MILLER. Well, I was looking for some data.

Mayor Freeman-Wilson, many TNCs have partnered with cities and communities to show riders that the most efficient way to get to their destination is by using a combination of ridesharing and public transit. In rural areas, having access to mass transit options can be extremely limited. How do we continue to promote increasing options for consumers, instead of limiting them?

Do you have recommendations as to how Congress can work with the State, or on local levels to increase options for our constituents?

Ms. FREEMAN-WILSON. Thank you, Mrs. Miller, for that question. We absolutely do have recommendations. We believe that one of the ways that can happen is by convening roundtables, as an example, with local communities, both rural and urban, to sit down with TNCs.

We believe that your experience in your rural area in West Virginia is, quite frankly, unusual. We have 700—we have TNCs in only 730 of our 19,000 cities, towns, and villages. And so we think there is room for growth. But we know that Congress has to step in to ensure that that growth occurs in a fair, safe, and equitable manner.

Mrs. MILLER. Well, our idea of urban is more like 55,000 people.

Ms. FREEMAN-WILSON. I understand.

Mrs. MILLER. Mr. Miller, how has the taxi industry expanded from urban to rural areas?

Can taxis fulfill the needs of rural communities, while providing the same convenience that the TNCs are providing now?

Mr. MILLER. Yes, I think it is a myth to think that taxis can't do the same—provide the same types of services Uber and Lyft—again, everybody is using apps today. So, yes, we can—we do have the same types of platforms. Again, the difference being we are not global. We are local, in-your-community types of providers. So, yes, we can do that.

I think the industry as a whole needs to do better in rural communities.

But again, when you have a playing field that is stacked so far on one side that—where you don't have many regulations, and on the other side you have more regulations, it is hard to do business. We need to find a way to level that playing field so everybody has

the same opportunities, not just giving the carve-outs and the advantages to one side versus the other, just because they are new entrants. We are all taxi companies.

I mean, I hear a lot about how Uber and Lyft are technology companies. They are not. Everybody is using an app today. If using an app constituted you being a technology company, every business in this country would be. Pepsi, Coke, everybody who has an app, you can get fast food on delivery, and things of that nature. So let's call it what it is. We are all taxi—we are all for-hire transportation services, and we can all do a better job, but we have to level the playing field. And this myth that only Uber and Lyft had this fancy new technology, they don't. We all have it and use it.

Mrs. MILLER. Thank you so much. I yield back.

Ms. NORTON. Thank you very much, Mrs. Miller.

Mr. Lowenthal?

Mr. LOWENTHAL. Thank you, Madam Chair, and thank you for holding this hearing. And to the panelists, thank you. This has been very interesting.

My question is to the mayor, Mayor Freeman-Wilson. You have mentioned how some cities are partnering with TNCs to expand transit options, either in areas that lack rail or bus transit, or to serve workers that need to commute late at night. There are these arrangements, or these relationships, or partnerships. Can you give us a little bit more detail?

How are these partnerships initiated? Are they new services, or do they replace services that may have been provided by an infrequent bus or dial-a-ride service? Are we talking about something new, or are we talking about replacement of existing services when they—and how do the partner—who—how do they come together?

Ms. FREEMAN-WILSON. Mr. Lowenthal, thank you for that question.

What we found is that, because of the need, because transit stops at certain times in most communities, because transit doesn't go everywhere, that there is an opportunity for a unique partnership. Those partnerships are generally initiated by mayors, by someone who works at the direction of the mayor, by regional transit agencies, and certainly by our regional planning commissions.

What I would like to do is get you some specific examples of that, because I think that this will help the committee as you develop this legislation. So we can provide that from NLC staff.

Mr. LOWENTHAL. Mr. Willis, I am sorry, my question is, in terms of these partnerships that are developing, how would you like to see cities and transit agencies come together? What are some of the critical issues?

You have already indicated this, but now, when cities are initiating, or transit agencies are seeking out, what should they be looking for?

Mr. WILLIS. In the TNC space, or—

Mr. LOWENTHAL. In the TNC space.

Mr. WILLIS. Look, as we have discussed here—and I think this is why we want to be a part of this discussion—these entities have to agree to create a service that is like public transit. They have to treat their workers in the right way. They have to provide a safe service. That has been discussed a lot here. They have to be equi-

table and accessible to all communities, a standard that I don't think exists here.

And again, on the workers' side, the insistence of the TNC industry to misclassify their workers drives down those wages. We think that runs counter to the promise of public transit, which creates a lot of good jobs in our communities, that supports other workers to get to their place of employment.

So, you know, public transit binds our communities together. And until the Ubers and Lyfts and Vias of the world can figure out a way to operate more, treat the workers in the right way, provide this same level of service, we don't think they should be part of that public transit mix.

Mr. LOWENTHAL. Thank you. The next question is back to Mayor Freeman-Wilson.

As I understand—and we have talked about it a little bit—TNC rides are heavily subsidized by investors. Is that not so today?

So how do cities manage this risk that a TNC partner may have to scale back increases, or increase prices? You know, we now have California's AB-5, and really looking at the role. And the existing model may not be able to sustain itself the way it is now. Do cities deal with this risk that, all of a sudden, it could go away? Or what are some of the concerns that cities would assume? Do they assume risk in developing partnerships?

Ms. FREEMAN-WILSON. I am sorry, do—

Mr. LOWENTHAL. I am just wondering about the risk that a city assumes if they develop a relationship with the TNCs.

And we know that these ridesharing or the—or TNCs are heavily subsidized now. We know that they are not making money. I just want to know what risk cities are assuming by offering these kinds of services, or these partnerships. Are there risks that go along with this? And who assumes those risks?

Ms. FREEMAN-WILSON. So I would say that there is not an assumption of risk. I think that—it more speaks to the responsibility, as we—that we have as local leaders to ensure certain things for our citizens. And the best way to ensure that is through communication.

Communication of loan doesn't ensure that risk. Even regulation, like our colleagues have done in Eugene, Oregon, doesn't assume a risk. It simply speaks to the responsibility that we have.

Mr. LOWENTHAL. Anybody else want to—

Mr. WILLIS. Congressman?

Mr. LOWENTHAL. Is there going to be risk involved in this?

Mr. WILLIS. Could I answer that, as well?

Mr. LOWENTHAL. Yes.

Mr. WILLIS. Congressman, I think the Federal Government is going to find out very quickly whether or not it is going to have risk.

I mean, if GSA does go forward and contract with TNCs for these services, the question has to be asked. That final bid or quote that they give you, is that going to be something they are going to be able to come back and change and say, "We can't make money on this"?

As soon as the investors say, "We want to see profits in these areas," are they going to now come to the Federal Government and

say, “We now have to increase prices here because we can’t sustain the subsidy that we are giving to our drivers now”? You are going to find out very quickly whether or not that happens.

Mr. LOWENTHAL. Well, I am glad we are at least discussing that issue.

Yes?

Mr. MARTZ. And in our case, which is a little different, we provide the vehicles, we assume all the risk, financially. There is no risk to transit agencies, cities, counties. And on insurance, as well, we completely insure and indemnify these contract sponsors.

So it is a little bit different model, all together. But there is assumption of the risk on the part of the private sector on our particular services. And I wanted to make that clear.

The other thing, though, is that cities and counties—you are bringing this up—

Ms. NORTON. Thank you very much.

Mr. MARTZ [continuing]. We don’t have a lot of—

Ms. NORTON. Your time has expired. Thank you.

Mr. LOWENTHAL. Thank you, and I yield back.

Ms. NORTON. Mr. Smucker?

Mr. SMUCKER. Thank you, Madam Chair. I want to go back to the testimony and the legislation that is being proposed by two other Members. And I am going to personally take a look at that, because, obviously, every rider, every user of any form of transportation should be able to feel safe when they enter a vehicle, whether it is an Uber driver, Lyft driver, train, transit, taxi, whoever it may be. And so I do think it is—you know, we need to look at ensuring that we are adequately doing what we can to ensure that drivers are protected.

Unfortunately—fortunately, I should say, in my district I am not aware of any specific incidents where an Uber or Lyft driver had been involved in an assault, and certainly no murder. I do want to read, though, a headline from about a year ago, which I vividly remember. And it says, “Lancaster City Taxi Driver Charged with Raping Woman After Dropping Her Off at Her Home.”

And in this specific situation, the driver of the taxi offered to take the woman’s luggage into the home for her, and ended up raping her. How do you think that happened, Mr. Miller?

Mr. MILLER. How do I think it happened?

Mr. SMUCKER. Yes. What happened in the system to allow a taxi driver to do that?

Mr. MILLER. It clearly fell through the cracks. I don’t know the specific article you are talking about, but it happens on all sides. I am not here to bash Uber and Lyft, because we have TNCs within our membership, as well. It—

Mr. SMUCKER. I know I have talked to many Uber and Lyft drivers in my district who are grateful for the opportunity, for maybe a part-time job, or something of that sort. And none of them have assaulted anyone. None of them have murdered anyone.

So the idea that I have heard in this hearing today, bashing all Uber and Lyft drivers due to the criminality and the horrific crimes of a few of them, it is insulting.

Mr. MILLER. Congressman, when we—

Mr. SMUCKER. Do you think the taxi driver in Lancaster City would have been required to have been fingerprinted?

Mr. MILLER. They should have been. And that is why I am here today. We are pushing for everybody—

Mr. SMUCKER. I would actually like to have more information on that. I would like to have more information on specific statistics on taxi drivers, and how many have been involved in an assault or a—

Mr. MILLER. That is one reason I think why we are all here today, is we would like to find a way to track all this.

Mr. SMUCKER. I am going to submit it to the record, some questions along this line that I would like you to answer.

I do also want to ask Mr. Miller, you know, the ridesharing, the idea that—the benefit of what Uber and Lyft have been providing in my district to folks who do not have access—we don't have a lot of taxi drivers in our area. Why is it that those ideas have not—don't you think they are long overdue? And why weren't they developed by the taxi and limousine drivers industry?

Mr. MILLER. Are you talking about just the TNC model itself?

Mr. SMUCKER. Yes.

Mr. MILLER. Again, it is a business that has been around for hundreds of years, and they have been doing things the same way.

Again, competition is not a bad thing. Uber and Lyft found a new model, and something that appealed to consumers. We are all doing it now. Again, the difference being now if we—we have some of our members who have traditional taxi companies, but also have divisions of the TNC model themselves. It is harder for us for some reason in localities to get approved for a TNC model.

Mr. SMUCKER. You mentioned the regulation. You specifically mentioned that taxi drivers today by regulation are not allowed to provide congestion pricing.

Mr. MILLER. Correct.

Mr. SMUCKER. Is that true?

Mr. MILLER. Correct.

Mr. SMUCKER. Would you support us removing that regulation?

Mr. MILLER. I think—I would have to go back, but I would venture to guess if you polled our drivers, they probably would say, yes.

Mr. SMUCKER. You—and the association would support that position?

Mr. MILLER. I can't answer for them right now, but I can take it back to them and get you an answer for that.

Mr. SMUCKER. You did—I can relate to the situation you are in, where you are heavily regulated, and a new disruptive model really is impacting, and you are potentially looking for barriers to entry, or at least leveling the playing field. You have said multiple times you would like to see the playing field leveled.

Mr. MILLER. Absolutely.

Mr. SMUCKER. I think the free market has driven this kind of innovation. What regulations would you support removing on your current taxi drivers and limousines?

Mr. MILLER. I would be happy to get that from the leadership, and get you a direct answer to that. I just don't have all the—way to answer that today without vetting it through them. But we—

Mr. SMUCKER. Do you have one regulation that you would support removing?

Mr. MILLER. I think the insurance right now—we have a higher standard for getting insurance than they do. We would like to see us be able to qualify for that hybrid type of insurance because, again, you are talking about a \$5,000-a-year cost versus—

Mr. SMUCKER. I am running out of time, and I am sorry. I would love to have more of this discussion. In fact, I will submit a question in that regard, as well.

Mr. MILLER. Absolutely.

Mr. SMUCKER. I would love to hear from you what regulations you would like to see removed.

Mr. MILLER. Absolutely.

Mr. SMUCKER. Thank you.

Ms. NORTON. Well, Mr. Smucker, if you submit the question to the chair, we will make sure it goes to Mr. Miller.

Mr. SMUCKER. Thank you.

Ms. NORTON. Mr. Carbajal?

Mr. CARBAJAL. Thank you, Madam Chair. And let me just start by saying how disappointed I am that Uber and Lyft felt they could not come today to be part of this hearing. I think it was a real loss of an opportunity, and it is really unfortunate.

Let me just say that, before I came to Congress, I served as a county supervisor. So I know firsthand how TNCs work in our communities, the benefit they provide, but the challenges and the cons. And I know those issues, firsthand.

And in my community, in my district, there have been public safety incidents that have dealt with Uber, Lyft, and even taxis. And I think there is a lot to discuss and explore how we can make TNCs work better for everyone.

Mayor Freeman-Wilson, thank you for being here. In particular, I share your local government service. And in your testimony you cite some compelling statistics regarding our workforce. There are roughly 53 million freelance workers today, comprising 34 percent of our total U.S. workforce. Uber and Lyft employ nearly 3.5 million of those workers in the United States.

As we look at the future of self-driving cars, and improvements in automation, what are recommendations we should look at, in terms of preparing our workforce towards this shift?

Ms. FREEMAN-WILSON. Thank you, Mr. Carbajal. And thank you for your comments about my service.

We are gravely concerned that over the next 20 years there may very well be a drastic reduction, if not an elimination, of those who currently work for Uber and Lyft and similar companies. And we believe that the Federal Government and Congress can be a significant partner in terms of workforce development, retooling those skills of those workers to participate in new technology.

Mr. CARBAJAL. Thank you. Let me continue. More than half of the States have established a State infrastructure bank. How have infrastructure banks helped cities meet their infrastructure needs?

And two, if there was a Federal infrastructure bank, how can we best model this to anticipate some of the future needs in transportation?

Ms. FREEMAN-WILSON. Thank you for that question. We have had a wonderful experience with that in the State of Indiana, and particularly the city of Gary. It is not necessarily an infrastructure bank, but it is called Community Crossings program, where we can get matching funds. We have utilized those funds every year to improve our infrastructure to the tune of about \$40 million. And they have done it in communities large and small all over the State.

We believe a similar program with the Federal Government would only encourage the improvement of our infrastructure, and reduce the danger that we see on our streets now.

Mr. CARBAJAL. So in that program you mentioned, were those grants or low-interest loans?

Ms. FREEMAN-WILSON. They were grants, actually, and they were matching grants. And the smaller the community, the more you were eligible for in matching dollars.

Mr. CARBAJAL. Thank you for sharing that with me.

Madam Chair, I yield back.

Ms. NORTON. Thank you very much, Mr. Carbajal.

Mr. Balderson? No, I am sorry, he is not here at the moment.

Ms. Davids?

Ms. DAVIDS. Thank you, Chairwoman, Ranking Member, and the witnesses for being here today.

I represent the Kansas Third Congressional District, and we are fortunate to have a strong transit authority in my district and the Kansas City metro area in the Kansas City Area Transportation Authority, with a strong leader in Robbie Makinen, who really feels the needs of our area, and is doing an amazing job. And because Robbie understands our district and transit and transportation, he has helped push forward RideKC's micro transit pilot, which is now in the process of expanding to add taxi-type vehicles to the fleet during high demand times.

I had the pleasure of trying out the micro transit pilot not too long ago, and I am definitely on board. We have—it is an innovative pilot that is taking people back and forth between Wyandotte County, Johnson County, and riders can use this on-demand service to augment their commute. It is a project that is led by a local entity, and I very much appreciate the partnerships that are going on there.

It is clear to me, because of this and many people in Kansas, that we have to move forward with newer models of mobility. And so my first question is for the mayor.

I have heard you and actually a few of the other folks on the panel testifying today about the desire for the Federal Government to invest in and encourage investment in these innovative-type partnerships and/or ramping up pilot programs, especially where there are local collaborations. Can you elaborate a little bit on the ideas that you have for how those kind of programs—what should we be looking for, and how can we encourage those investments or make those investments?

Ms. FREEMAN-WILSON. Well, first, thank you for the question and for the example in the Kansas City community, regional community, because I think it is a great example of how all of these modes can work together.

I will give you another example from northwest Indiana, and that is our double-tracking project that we have gone through, and our expansion of our commuter rail service. It not only uses the existing South Shore Line, and looks for expansion of that South Shore Line to a new area, a new regional area, but it also uses on-demand service to meet the needs of some of our disabled residents.

We believe that those types of models only come through communication between local leaders, regional transit leaders, Members of Congress to encourage both public providers and private providers to come to the table. And that is done sometimes by challenge grants, by incentive grants that say when you work together you are more apt to get that type of funding.

Ms. DAVIDS. Thank you, Mayor.

And then, Mr. Martz, I believe you mentioned earlier the idea of having pilot grants that would eventually be integrated into transit and multimodal grants as—moving forward. Can you elaborate a little bit about that?

Mr. MARTZ. Yes. If it is going to be new, if you could provide new service that meets certain standards, meets the FTA regulations, could you apply for funding to provide new service, pass through with a public steward? And then, if it is successful, and continues and so forth, to be made part of the regional core program, and be eligible for formula funding on an ongoing basis?

Ms. DAVIDS. And do you think that right now there is a dearth of those opportunities? Does that—that doesn't exist?

Mr. MARTZ. Yes.

Ms. DAVIDS. And so we need to add more flexibility into—

Mr. MARTZ. Exactly.

Ms. DAVIDS [continuing]. The way that—

Mr. MARTZ. I think we need to add more flexibility for the—your community is a little different. But even before, when Johnson County came over and started working with KCATA, I mean, there were opportunities prior to that.

We have had other situations where a large—in San Francisco it took 10 years to get the MTC to finally agree to work with us. And there were communities that wanted to do so, but they couldn't figure out how they would share the Federal funding, and that was stymieing the entire process. We have resolved that. Just in the last year, our program has grown from 600 to 800, and will probably be 900 vans here just before the end of the year. So, I mean, it works.

Ms. DAVIDS. Yes.

Mr. MARTZ. It works. But you have to tweak the system a bit.

Ms. DAVIDS. Yes. Well, I appreciate your time and efforts here today. And I also just appreciate the recognition of the—I think the KCATA has been a pretty interesting and amazing model for some of this stuff.

So I yield back.

Ms. NORTON. Thank you very much.

Ms. Wilson?

Ms. WILSON. Thank you, Chairwoman Norton. And thank you to our witnesses for sharing your perspectives on the challenges and opportunities transportation network companies face.

In just a few short years transportation network companies like Uber and Lyft have transformed the way we get from point A to point B, whether they are going to work, a doctor's appointment, out to eat, or even a public transit station, millions of Americans increasingly depend on the services that TNCs provide.

As Members of Congress, it is our obligation to ensure that these businesses are prioritizing the interests of passengers, drivers, and the communities in which they operate.

I am deeply troubled by growing reports of violence and sexual assault by drivers, lack of safety oversight, and inadequate background checks. Faulty background checks and insufficient safety measures are putting passengers in Florida and throughout the Nation at tremendous risk. In March of this year a woman visiting my hometown fell asleep in an Uber and was assaulted by her driver. It was later discovered that the driver had an extensive criminal record, spanning decades. Uber and all transportation network companies can and must do better on safety.

As chair of the Committee on Education and Labor Subcommittee on Health, Employment, Labor, and Pensions, I am also concerned about efforts to misclassify workers and undermine their right to organize, which have led to protests by drivers and other stakeholders. That is why I led three hearings on Protecting the Right to Organize Act, known as the PRO Act, which would prevent misclassification by clarifying the tests for determining whether a worker, including a rideshare driver, is an employee. I want to thank both Chairs DeFazio and Norton for being original cosponsors of the PRO Act.

The tremendous success that Uber, Lyft, Via, and other transportation network companies have experienced can largely be attributed to their drivers' efforts. They deserve to be rewarded accordingly.

Like many colleagues on this committee, I am disappointed that Uber, Lyft, and Via declined Chairman DeFazio's invitation to testify today. Nonetheless, I am committed to working with Chairs DeFazio and Holmes Norton to find solutions to address many of the issues being raised today. Thank you, Chairwoman Norton. I have a few questions.

Mr. Willis, in your testimony you discuss how the ride-hailing industries see fair wages and collective bargaining for drivers as an impediment to growth, and are actively working to undermine collective bargaining through misclassification. As you know, the PRO Act would expand the definition of employee and employer to discourage the classification of workers as independent contractors.

How would clarifying the definition of an employee like in the PRO Act create good jobs for rideshare drivers?

Mr. WILLIS. Well, Congresswoman, thank you for not only your statement, but for the tremendous leadership that you have offered on the PRO Act and other issues that are important to the labor movement and frontline workers.

I think you are absolutely correct. The PRO Act, by, quite frankly, adopting what we have seen now in California, in terms of how to properly classify who is an independent contractor and who is an employee, among other things, would ensure that those workers are covered by minimum wage standards so that we don't have

drivers below the minimum wage in some of the cities in which they drive, making as low as \$3.75, as I cited earlier.

And, you know, if you create a framework where these drivers are employees, they then also have the opportunity to have a union voice on the property. We know that union workers across the board do better on both wages and benefits, working conditions, saying what goes on in the workplace than their nonunion counterparts. And we think that is an important path forward for these drivers.

So, again, thank you for your leadership on these issues. Affording these drivers basic rights—you know, we are—as I said at the outset, we are not trying to put anyone out of business here. We want to support these drivers and do what is right by them. And the right classification on employee versus independent contractor is an excellent place to start.

Ms. NORTON. Thank you very much, Ms. Wilson, and thank you, Mr. Willis.

Are there any further questions from members of the subcommittee?

Seeing none, I would like to thank our colleagues and each of the witnesses for their testimony today. Your contribution to today's discussions has been very informative and helpful, and I can assure you have enabled us to move forward with corrective action.

I ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing, and unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of the day's hearing.

Without objection, so ordered.

If no other Members have anything to add, the subcommittee is now adjourned.

[Whereupon, at 12:17 p.m., the subcommittee was adjourned.]

SUBMISSIONS FOR THE RECORD

Prepared Statement of Hon. Sam Graves, a Representative in Congress from the State of Missouri, and Ranking Member, Committee on Transportation and Infrastructure

Thank you, Chairwoman Norton.

Thank you to our witnesses for being here today.

I especially want to welcome Mr. Jon Martz, appearing on behalf of Commute with Enterprise.

Enterprise has a large presence in my district and is helping meet the transportation needs in rural areas.

Today's hearing focuses on a newer mobility service that operates as part of our surface transportation system—transportation network companies (TNCs).

In fewer than 10 years, TNCs have rapidly expanded in the United States and around the world.

Although service began in large metropolitan cities, TNC operations continue to expand into suburbs and rural areas, including in my district in Missouri.

Since access to transportation options is limited in rural areas, TNCs can fill the gaps in our transportation networks and improve the quality of life for rural residents.

TNCs also can offer low cost and convenient mobility for other underserved populations, like the elderly, disabled, or individuals who have difficulty driving or accessing public transportation.

As part of our work towards a surface reauthorization bill, we must discuss and address the public policy issues that have emerged over the last nine years.

We must ensure that TNCs contribute to our goals of supporting economic growth, maintaining public safety, and increasing transportation options and mobility through further innovation.

TNCs, along with other technological advancements, hold great promise to improving our mobility.

I am confident that we can address these issues as we continue to work towards development of a surface transportation reauthorization bill, while continuing to foster innovative advancements in transportation.

I want to again thank our witnesses for being here, and yield the balance of my time.

Prepared Statement of Hon. Eddie Bernice Johnson, a Representative in Congress from the State of Texas

Madam Chairwoman, I am delighted that we are having this hearing so that we can focus on the future of transportation network companies or TNCs. The most well-known TNCs like Uber and Lyft, have grown in popularity and usage in recent years.

On demand transportation services have changed the landscape of how passengers interact with drivers for hire. While convenient for many, these services also raise many questions about integration with existing transit services; impacts on congestion and mobility in major cities and states; safety, and the impact on labor and people who work in traditional transportation industry jobs.

How will we handle and provide opportunities for our workers who may be displaced by automated vehicles? While TNCs are expanding operations and opportunities for employment, these benefits to drivers may be short-lived, given that Uber will begin testing self-driving cars later this year.

Mobility on demand is viewed by many as the way of the future, making it easier for riders to travel from place to place without having to bargain or haggle over fees and multiple payments. For many, it is a matter of convenience.

People who do not have cars and rely on public transportation can benefit from autonomous vehicle services in these areas where they may be needed.

I am concerned with ensuring that communities of color and underserved communities have access to these services. Transit integration and providing access to existing public transportation systems would be beneficial to underserved communities. These services may benefit many people who work late night shifts who have a difficult time trying to get home after work.

Safety is always a critical issue. Cities and states share a role in regulating TNC operations to ensure that they are safe and do not cause harm to passengers, drivers and other vehicles.

While the services that TNCs provide may be convenient, there seem to be little protections for drivers. TNCs consider themselves to be technology platforms and not transportation companies, and consider their drivers to be independent contractors, not employees. Consequently, TNC drivers are not eligible for benefits and must pay self-employment tax to cover Social Security and Medicare. My concern is for the drivers and ensuring that they are not taken advantage of as they seek to provide for their livelihood and families.

My hometown of Dallas is a transportation hub. We have five interstate highways, we have the DART light rail, and we are hoping to build a high-speed rail line to Houston.

As a major transportation hub, Dallas not only serves as a test site for automated vehicles, but our city will also serve as a test site for the Uber Elevate project to develop flying cars.

Dallas is the fifth-most-congested city in the nation, in large part because we are one of the most rapidly growing cities in the nation. As we continue to look for ways to increase safety and alleviate congestion in the near term, we must also set a course for smart transportation systems of the future.

We have a lot of issues that we must address and work out that surround TNCs and their current and planned operations. What I hope to see is a coherent plan for an integrated transportation system that benefits all of our communities.

Madam Chairwoman, again thank you for this hearing and I look forward to the panel of expert witnesses and our exchange of ideas.

**Prepared Statement of Hon. Steve Cohen, a Representative in Congress
from the State of Tennessee**

Thank you, Chairwoman Norton and Ranking Member Davis for holding this important hearing.

I appreciate the opportunity to examine the challenges and opportunities of transportation network companies, especially in the context of Complete Streets.

Between 2008 and 2017, drivers struck and killed 49,340 people who were walking on streets across the United States.

That's more than 13 people per day, or one person every hour and 46 minutes.

We all have a responsibility to operate so that our roads can be enjoyed by all users, both safely and equitably.

This is an issue that is personal to me.

Nationally, Tennessee is the 12th most dangerous state for pedestrians.

In my district, drivers struck and killed 210 people who were walking between 2008 and 2017.

Out of more than 100 major metropolitan areas in the nation, Memphis is the 11th most dangerous for people biking and walking.

This is why I introduced H.R. 3663, the Complete Streets Act of 2019, with Senator Ed Markey of Massachusetts.

This bill will help to promote safer and more accessible transportation routes both in Memphis and across the United States.

Local and regional entities would apply for technical assistance and capital funding to build safe streets projects, such as sidewalks, bike lanes, crosswalks and bus stops.

Creating Complete Streets means that every transportation project will make the street network better and safer for drivers, transit users, pedestrians, and bicyclists.

They make it safer for people to access a ride share service, allow buses to run on time and make it safe for people to walk to and from train stations.

They ultimately make our towns better places to live.

As transportation network companies continue to proliferate, it is very important that they work with communities to operate as safely as possible for all road users. Thank you. I yield back.

Report entitled “The Costs of Doing Business: Why Lawmakers Must Hold the Ride-Hailing Industry Accountable as They Undermine Their Workers and Play by Their Own Rules,” by the Transportation Trades Department, AFL–CIO, October 2019, Submitted for the Record by Hon. Peter A. DeFazio

THE COSTS OF DOING BUSINESS: WHY LAWMAKERS MUST HOLD THE RIDE-HAILING INDUSTRY ACCOUNTABLE AS THEY UNDERMINE THEIR WORKERS AND PLAY BY THEIR OWN RULES

Transportation Trades Department, AFL–CIO
October 2019

Public transportation is the glue that binds communities together. It connects Americans from all walks of life to home, work, and school, spur local and regional economic growth, and provide good jobs in operations, maintenance, and design.

This is no accident. Decades of carefully crafted policy at the local, state, and federal levels has enabled our nation’s public transportation networks to deliver safe, reliable, and efficient service at affordable prices. These services are provided to all Americans—regardless of socioeconomic status or physical ability—and are correctly touted for their environmental benefits.

Yet, the decades-long promise of public transportation is now threatened by a severe lack of resources. Shoestring budgets brought on by years of chronic underfunding at all levels of government have prevented agencies from growing to meet current demands.

Meanwhile, a new threat to public transportation, and the communities who rely on it the most, has emerged in the form of unfair, unregulated competition that believes it is entitled to play by a different set of rules.

Ride-hailing companies like Uber, Lyft, and Via are competing directly with public transit for both customers and, if they have their way, public dollars, while operating under their own terms outside of the regulatory framework that applies to public transit systems.

Even worse, their current predatory business models trap drivers in low-wage, no-benefit positions, offer no guarantee to customers that services will be safe or equitable, and contribute questionable economic benefits and adverse environmental effects to the communities in which they operate.

For these reasons, the Transportation Trades Department, AFL–CIO (TTD), is calling on public transportation agencies and lawmakers to examine the exploitative practices of ride-hailing companies and consider the economic and social impacts those practices have on local communities when weighing how to spend limited federal transportation dollars.

BACKGROUND

In Search of a Sustainable Business Model

Over the past ten years, ride-hailing companies have generated significant demand for their services, with nearly 40 percent of Americans having now used a ride-hailing app.¹ In doing so, they have radically transformed both models and expectations for mobility and employment. But the key feature that drives these companies’ popularity—relatively affordable and convenient service—is simply not sustainable. Their current business model artificially drives down prices by classifying employees as independent contractors, often paying them less than minimum wage, avoiding local and federal regulations, and massively subsidizing trip costs through billions in private capital.

It is no wonder then, that these companies are seeking sustainable revenue in other markets: food delivery, on-demand bicycles and scooters, automated vehicle deployment, and partnerships with public transportation providers. In some regards, these have been positive steps. For example, bike-sharing services provide mobility options and boost transit ridership, and workers who are classified correctly as employees in that industry have successfully exercised their right to form and join unions across the country.

However, these same companies should not be allowed to undercut public transportation by avoiding regulation while also competing with public transportation providers in seeking federal funding for the provision of their own services. We cannot stop Wall Street investors from pouring billions into these corporate entities, but we can ensure these same entities are not permitted to prey on public transportation and fleece the taxpayer.

Unfortunately, the ride-hailing industry has demonstrated a pattern of bad behavior that lawmakers cannot ignore. From day one, ride-hailing companies have fought nation-wide to bypass regulations, creating a regime that favors profits over worker and passenger safety by aggressively working to preempt local decision-making, a tactic one recent report aptly referred to as the “buy, bully, and bamboozle” strategy.² Despite the success of their efforts to define their own regulatory structure and avoid what they view as a costly patchwork of regulations, these companies have failed to demonstrate a clear path toward long-term profitability for their shareholders.³ Put simply, to turn a profit, ride-hailing companies must either increase fares or cut driver pay.

Yet, because of fierce competition in the industry, neither is possible. Incidentally, it should be no surprise that the ride-hailing industry is exploring ways to eliminate drivers altogether through automated vehicle technology.⁴

We have long known that the ride-hailing industry sees competing with public transportation for riders as a growth strategy.⁵

Yet, we have seen a startling pivot in recent months. It is now evident that these companies no longer see competition with public transportation as enough to drive profit. Instead, they now plan to go directly after federal public transportation funding themselves to pad their losses and help prop up their currently unsustainable business models. In other words, if they cannot turn a profit for their shareholders, they will just ask the American taxpayer to do it for them.

The Growing Ecosystem of Transit and Ride-Hailing Partnership

As far back as 2015, the United States Department of Transportation (USDOT), under the administration of President Barack Obama, began showing significant interest in propping up ride-hailing as a mobility solution for cities. In a report issued by the USDOT, then Secretary of Transportation Anthony Foxx (now Chief Policy Officer at Lyft) highlighted proposals by cities to subsidize ride-hailing trips using public funds for first-mile/last-mile connections to transit as an example of a, “future transportation system that meets the needs of all city residents.”⁶

The federal government’s interest in ride-hailing platforms and efforts to integrate them into our transportation network have only increased since then. The USDOT’s Integrated Mobility Innovation and Mobility on Demand Sandbox Programs, for example, use federal funding to subsidize for-profit companies like Uber, Lyft, and Via as they seek new ways to integrate their own services into public transportation.⁷ Congressional committees have also shown interest in the growing number of partnerships between transit agencies and mobility on-demand services, including ride-hailing platforms.⁸

Yet, the environment facilitated by USDOT for new technologies is slowly edging its way into formal policy, with seemingly no thought given to the potential downsides of these partnerships. For example, in April 2019, the Federal Transit Administration (FTA) took early steps towards normalizing the use of ride-hailing platforms in cooperation with or as a substitute for public transportation.

TTD’s public comment on that notice provides a further exploration of FTA’s actions and why we believe this is such an ill-advised approach.⁹ TTD recognizes the opportunity that on-demand services offer and believes app-based microtransit and first-mile/last-mile connections to transit can be an exciting new way to drive growth in public transportation. To that effect, we welcome the opportunity to work with any partner that is advocating for more and better public transportation services.

However, we expect partners in innovation to subscribe to the promise of public transportation established by more than 50 years of federal precedent. That is, it must be equitable and accessible to all, affordable, safe, reliable, and that those who work in this sector must earn fair, living wages. Unfortunately, so far, the ride-hailing industry has not lived up to these expectations.

MEETING THE PROMISE OF PUBLIC TRANSPORTATION

Employee misclassification and driver pay

Contracting with or outsourcing services to for-profit ride-hailing companies may seem like an appealing solution for cash-strapped transit agencies. However, the relative affordability of Uber, Lyft, and Via—which makes them seem like such an at-

tractive option—is rooted largely in the fact that they exploit their workers. By misclassifying them as independent contractors, these companies artificially and temporarily drive down the true costs of their services by passing off operating costs such as vehicle maintenance and insurance onto their drivers.¹⁰ This is an unsustainable model for riders and a punitive model for workers that both lawmakers and transit agencies must see for what it is.

Federal transit policy has long ensured that the use of federal funding for public transportation comes attached with strong labor protections, which protect the right to collectively bargain.

It is because of those policies that the average hourly wage for a bus driver is nearly \$20 and as high as \$40 in some cities.¹¹ In addition to paying living wages, union jobs in the public transportation sector come with good benefits, including overtime, sick leave, flexible scheduling, health insurance, and pension plans. Unions in the public transportation sector have also championed programs to create apprenticeship pipelines for workers to gain new skills, adapt to and embrace new technologies, and earn better pay.¹²

By contrast, Uber and Lyft lure drivers with the promise of high earnings, but slash them to the bone once they establish a strong foothold in a market.¹³ Many drivers make less than the minimum wage of the city they are operating in, and worse still, there have been reports of workers making as little as \$3.75 an hour after expenses.¹⁴ At the same time, these companies have invested millions fighting efforts to classify workers as employees, making it all but impossible for drivers to organize and collectively demand fair treatment and living wages.

To be sure, there have been victories for workers. The Dynamex California Supreme Court decision and the passage of AB 5 in California, for example, make clear that nearly all platform workers must be classified as employees.¹⁵ While AB 5 is only a first step in giving drivers the right to collectively bargain, Uber, Lyft, and others have seen it as such an existential threat to their bottom lines that they plan to invest \$90 million into a ballot measure to overturn the law.¹⁶ Nonetheless, AB 5 has already provided lawmakers across the country with a valuable model for empowering workers, who—for no other reason than ride-hailing companies' looking to eke out extra profit by stripping them of their deserved rights—have been wrongly classified as independent contractors.

Effects on existing transit service and congestion

Despite claims by the ride-hailing industry that they intend to complement existing public transportation, by their own admission, it is clear they intend to undercut these services. In their initial IPO filing, for example, Uber identified public transportation as a \$1 trillion market that they could compete for a slice of.¹⁷ Likewise, in a recent presentation, Via's head of public policy argued that subway service is too expensive and that buses are inefficient, suggesting instead that the future of public transportation is their own privatized model.¹⁸

By shifting riders from high-occupancy vehicles like buses and railcars to small vans or personal vehicles, these companies will do nothing to alleviate one of the greatest problems public transportation can solve: reducing congestion. In fact, a number of studies have shown just the opposite. Ride-hailing platforms have already added 5.7 billion miles of driving annually in just nine of the largest cities in America, a number that we expect to grow significantly each year.¹⁹ While pooled rides on services like Uber and Lyft may seem like a way to decrease their overall contribution to additional vehicle miles traveled, studies have shown that low utilization of these services does not offset their traffic increasing effects.²⁰ Furthermore, studies have shown that companies like Uber, Lyft, and Via are primarily substituting ride-hailing in place of public transit, biking, and walking rather than replacing trips commuters would have taken in their personal vehicles.²¹ Beyond adding more VMT to our roads, a significant portion of Uber and Lyft's miles are "deadhead" trips—that is, miles traveled without any passengers in the car.

In some cities, deadhead miles account for between 20 and 50 percent of all trips.²² While federal, state, and local governments have invested vast resources into improving air quality, ride-hailing may undo those improvements without increasing the efficiency of our transportation network.

We urge lawmakers and transit agencies to give full and careful consideration to the downsides that commuters and communities will bear if public policies encourage services that place significant new pressures on our roads and air quality.

Cost to consumers and equity

Unlike public transportation, ride-hailing platforms are not, and were never, intended to serve all road users equally. The fact is, the majority of ride-hailing platform users come from wealthy households and the average ride cost puts their serv-

ices squarely out of the hands of lower-income customers.²³ Consider, for example, that the average Chicago Transit Authority fare is \$2.69, while Lyft and UberX trips average \$18.13 and \$17.90 respectively, and Lyft Line and UberPool trips average \$14.04 and \$9.33, respectively. This means that single-occupancy rides on both platforms average \$15–\$16 more than transit services, and shared-ride services average \$6–\$11 more.²⁴ To make trips using ride-hailing services affordable, transit agencies would have to significantly subsidize these platforms with public money. It would be nothing more than a subsidy for a handful of for-profit companies at taxpayers' expense, with unproven benefits to commuters.

At the same time, ride-hailing companies are placing significant pressure on transit systems, which means reduced fare box collections and ultimately, reduced service in the communities that need public transportation the most. In fact, the effect of Uber and Lyft on transit agencies is so substantial that they may see a nearly 14 percent decline in bus ridership and 10 percent decline in rail ridership over the next 8 years.²⁵

As ride-hailing platforms continue to impact bus and rail service, hitting America's most vulnerable populations the hardest, they have shown a shocking disregard for those with ADA needs. Lyft went so far as to claim it is "not in the transportation business" after a federal class-action lawsuit brought against the company exposed its utter disinterest in providing accessible vehicles.²⁶ Like driver misclassification, this effort to establish a double standard is part of a pattern we see time and again with ride-hailing platforms. They want to play by their own set of rules in order to gain unfair advantages and keep costs down as they search for a path to profitability—a path that is simply not there without help from taxpayer dollars. Again, lawmakers and public transportation agencies must see these companies for what they are: private companies with multi-billion dollar cash burn rates in search of special treatment under federal and state regulations and federal subsidies.

Sidestepping safety

TTD also has serious concerns about ride-hailing companies' history of sidestepping safety regulations, which has already put passengers, drivers, and road users at serious risk.

First, while Uber and Lyft finally limited the consecutive hours their drivers can operate on their platform in one day, these drivers frequently work across multiple platforms including Uber, Lyft, Via, Grubhub, Uber Eats, and others. Many of these drivers rely on the ride-hailing apps as their primary source of income, and work backbreaking hours just to make minimum wage. The results are driver fatigue and health complications, both serious threats to road-user safety.²⁷ Even with limits to hours of service, companies like Uber and Lyft squeeze their employees to work longer hours if they want to receive the bonuses and incentives that help them earn something close to a living wage.²⁸

Shocking reports of sexual assaults, inadequate background checks, and ride-hailing companies covering up wrongdoing should also give policymakers pause when considering whether to reward these companies with federal funding.

A recent investigation, for example, found that Uber coaches investigators to put the company's interest ahead of passenger safety. In one case, a driver was accused of making sexual advances to riders three times before an investigator was assigned to their case.²⁹ Other horrifying stories show that Uber and Lyft's background check systems have been routinely insufficient, allowing convicted murderers and sex offenders to drive for their services.³⁰

Finally, while transit operators are subject to drug and alcohol testing and a number of medical qualification standards, no such requirements exist for drivers on ride-hailing platforms. Countless stories have revealed incidents involving drivers reported or arrested for driving under the influence. Shockingly, one report exposed Uber for not investigating many incidents, for which it was fined over \$1 million.³¹

The current behavior of these companies is unacceptable to the American people and should be scrutinized by lawmakers as we seek ways to expand access to transportation.

CONCLUSION

Ride-hailing has undoubtedly become popular with American commuters; but it in no way serves the same goals as public transportation. Rather, this industry serves a handful of wealthy Americans while seeking to undercut public transportation for those who rely on it the most. It does so by creating unfair competitive advantages in the marketplace: paying less than minimum wage, defining its own regulatory structure, and sidelining safety in the name of profit.

TTD welcomes the opportunity to work with any partner that advocates for better and more public transportation services. However, public transportation agencies and lawmakers must consider the exploitative and dangerous behavior of the ride-hailing industry and their unsustainable business model when weighing how to spend limited federal transportation dollars.

ENDNOTES

¹Jiang, Jingjing. “More Americans Are Using Ride-Hailing Apps”. Pew Research Center, 2019, <https://www.pewresearch.org/fact-tank/2019/01/04/more-americans-are-using-ride-hailing-apps/>.

²Smith, Rebecca. “Uber State Interference: How TNC’s Buy, Bully, And Bamboozle Their Way To Deregulation—National Employment Law Project”. National Employment Law Project, 2018, <https://www.nelp.org/publication/uber-state-interference/>.

³Goldstein, Scott. “Transportation For America—Uber And Lyft Fight Local Control Over City Streets In Oregon”. T4america, 2019, <http://t4america.org/2019/03/15/uber-and-lyft-fight-local-control-over-city-streets-in-oregon/>; Borkholder, Joy et al. Uber State Interference: How Transportation Network Companies Buy, Bully, And Bamboozle Their Way To Deregulation. National Employment Law Project, 2018, <https://www.forworkingfamilies.org/sites/default/files/publications/Uber%20State%20Interference%20Jan%202018.pdf>; “Uber Shares Tumble As Profit Figures Disappoint”. BBC News, 2019, <https://www.bbc.com/news/business-49287489>; McBride, Stephen. “Uber’s Nightmare Has Just Begun”. Forbes, 2019, <https://www.forbes.com/sites/stephenmcbride1/2019/09/04/ubers-nightmare-has-just-started/#6f703d4cb7e0>; Sherman, Len. “Why Can’t Uber Make Money?”. Forbes, 2017, <https://www.forbes.com/sites/lensherman/2017/12/14/why-cant-uber-make-money/#4318ee3210ec>.

⁴Marshall, Aarian. “A Bet On Uber Is A Bet On Self-Driving”. Wired, 2019, <https://www.wired.com/story/bet-uber-bet-self-driving/>.

⁵Geman, Ben. “Uber’s IPO Shows It Views Mass Transit As A Competitor”. Axios, 2019, <https://www.axios.com/uber-ipo-mass-transit-competition-db5b2876-a1dd-4e52-9693-3771891e835b.html>.

⁶Smart City Challenge. United States Department Of Transportation, 2016, <https://www.transportation.gov/sites/dot.gov/files/docs/Smart%20City%20Challenge%20Overview.pdf>.

⁷“Mobility On Demand (MOD) Sandbox Program”. Federal Transit Administration, 2019, <https://www.transit.dot.gov/research-innovation/mobility-demand-mod-sandbox-program>.

⁸“Examining The Role Of Mobility On Demand (MOD) In Surface Transportation Policy”. The House Committee on Transportation and Infrastructure, 2019, <https://transportation.house.gov/committee-activity/hearings/the-subcommittee-on-highways-and-transit-roundtable-on--examining-the-role-of-mobility-on-demand-mod-in-surface-transportation-policy>.

⁹“TTD Urges Federal Transit Administration Not To Include Private Ride-Hailing Companies In Definition Of Transit”. TTD, 2019, <https://ttd.org/policy/ttd-urges-federal-transit-administration-not-to-include-private-ride-hailing-companies-in-definition-of-transit/>.

¹⁰Sammon, Alexander. “When Cities Turn To Uber, Instead Of Buses And Trains”. The American Prospect, 2019, <https://prospect.org/article/when-cities-turn-uber-instead-buses-and-trains>.

¹¹“Bus Drivers, Transit And Intercity”. Bureau Of Labor Statistics, 2019, [https://www.bls.gov/oes/2017/may/oes533021.htm#\(1\)](https://www.bls.gov/oes/2017/may/oes533021.htm#(1)).

¹²“ATU Setting The Standard For Transit Apprenticeships”. Amalgamated Transit Union, <https://www.atu.org/media/intransit/atu-setting-the-standard-for-transit-apprenticeships/atu-setting-the-standard-for-transit-apprenticeships>.

¹³Siddiqui, Faiz. “Uber And Lyft Slashed Wages. Now California Drivers Are Protesting Their Ipos”. Washington Post, 2019, <https://www.washingtonpost.com/technology/2019/03/26/uber-lyft-slashed-wages-now-california-drivers-are-protesting-their-ipos/>. Accessed 8 Oct 2019; Laughlin, Jason, and Juliana Feliciano Reyes. “Working Harder And Getting Less’: Good Old Days Of Ride-Sharing Are Gone, Philly Drivers Say”. Philadelphia Inquirer, 2019, <https://www.inquirer.com/news/uber-lyft-rideshare-drivers-philadelphia-pay-cut-ipo-public-stock-strike-20190410.html>; Brustein, Joshua, and Josh Eidelson. “Uber Warns In IPO Filing That Its Drivers Will Be Even Less Happy”. Bloomberg, 2019, <https://>

www.bloomberg.com/news/articles/2019-04-12/uber-ipo-filing-warns-that-drivers-will-be-even-less-happy.

¹⁴ Mishel, Lawrence. "Uber And The Labor Market: Uber Drivers' Compensation, Wages, And The Scale Of Uber And The Gig Economy". Economic Policy Institute, 2018, <https://www.epi.org/publication/uber-and-the-labor-market-uber-drivers-compensation-wages-and-the-scale-of-uber-and-the-gig-economy/>.

¹⁵ "AB-5 Worker Status: Employees And Independent Contractors". California State Legislature, 2019, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB5.

¹⁶ Ghaffary, Shirin. "Uber's Baffling Claim That Its Drivers Aren't Core To Its Business, Explained". Vox, 2019, <https://www.vox.com/recode/2019/9/16/20868916/uber-ab5-argument-legal-experts-california>; Rodriguez, Salvador. "Uber And Lyft Pledge \$60 Million To Ballot Measure In Fight To Keep Drivers' Classification As Contractors". CNBC, 2019, <https://www.cnbc.com/2019/08/29/uber-and-lyft-pledge-60-million-to-fight-california-ballot-measure.html>.

¹⁷ McFarland, Matt. "Uber Wants To Compete With Public Transit. These Experts Are Horrified". CNN, 2019, <https://www.cnn.com/2019/04/25/tech/uber-public-transportation/index.html>.

¹⁸ Greenawalt, Andrei. "Convenient, Affordable, Sustainable And Accessible Shared Mobility". Auto Alliance, 2019, https://autoalliance.org/wp-content/uploads/2019/09/Via_accessibility.pdf.

¹⁹ Schaller, Bruce. The New Automobility: Lyft, Uber And The Future Of American Cities. 2018, <http://www.schallerconsult.com/rideservices/automobility.pdf>.

²⁰ Ibid.

²¹ Clewlow, Regina. "New Research On How Ride-Hailing Impact Travel Behavior". UC Davis, <https://steps.ucdavis.edu/new-research-ride-hailing-impacts-travel-behavior/>.

²² Bliss, Laura. "The Ride-Hailing Industry Isn't Green Yet". Citylab, 2018, <https://www.citylab.com/transportation/2018/04/how-uber-and-lyft-could-do-better-by-the-planet/558866/>.

²³ Young, Mischa, and Steven Farber. "The Who, Why, And When Of Uber And Other Ride-Hailing Trips: An Examination Of A Large Sample Household Travel Survey". Transportation Research Part A: Policy And Practice, 2019, <https://www.sciencedirect.com/science/article/pii/S096585641830764X>.

²⁴ Schwieterman, Joseph and Mallory Livingston. "Uber Economics: Evaluating the Monetary and Nonmonetary Tradeoffs of TNC and Transit Service in Chicago, Illinois". Chaddick Institute Policy Series, 2018, https://las.depaul.edu/centers-and-institutes/chaddick-institute-for-metropolitan-development/research-and-publications/Documents/Uber%20Economics_Live.pdf.

²⁵ Bliss, Laura. "Uber And Lyft Slashed U.S. Bus Ridership By 12%, Study Says". Citylab, 2019, <https://www.citylab.com/transportation/2019/01/uber-lyft-ride-hailing-impact-public-transit-ridership/581062/>.

²⁶ Locker, Melissa. "Lyft's Response To ADA Lawsuit: Sorry, We're 'Not In The Transportation Business'". Fast Company, 2019, <https://www.fastcompany.com/90343921/lyft-claims-its-not-a-transportation-company-to-avoid-ada-compliance>.

²⁷ Crist, Carolyn. "Fatigue A Major Risk In Ridesharing Industry". Reuters, 2018, <https://www.reuters.com/article/us-health-ridesharing-drowsy-driving/fatigue-a-major-risk-in-ridesharing-industry-idUSKBN1HW2QE>.

²⁸ Rosenblat, Alex. "Slate's Use Of Your Data". Slate Magazine, 2018, <https://slate.com/technology/2018/03/uber-may-have-imposed-12-hour-driving-limits-but-its-still-pushing-drivers-in-other-troubling-ways.html>.

²⁹ Besinger, Wes. "When Rides Go Wrong: How Uber's Investigations Unit Works To Limit The Company's Liability". New York Times, 2019, <https://www.washingtonpost.com/technology/2019/09/25/ubers-investigations-unit-finds-what-went-wrong-rides-its-never-companys-fault/>.

³⁰ Hill, Christian. "ICYMI: Uber, Lyft Driver Checks Miss Convicted Murderer, Sex Offender". The Register-Guard, 2019, <https://www.registerguard.com/news/20190929/icymi-uber-lyft-driver-checks-miss-convicted-murderer-sex-offender>.

³¹ Roberts, Jeff. "Uber Faces \$1.1 Million Fine Over Drunk Drivers". Fortune, 2017, <https://fortune.com/2017/04/13/uber-drunk-drivers/>.

Letter of July 22, 2019, from the National Conference of State Legislatures and the American Association of State Highway and Transportation Officials, Submitted for the Record by Hon. Eleanor Holmes Norton

JULY 22, 2019.

Representative CHRIS SMITH,
Member,
United States House of Representatives, 2373 Rayburn House Office Building, Washington, DC.

Representative THOMAS R. SUOZZI,
Member,
United States House of Representatives, 214 Cannon House Office Building, Washington, DC.

RE: H.R. 3262—Sami’s Law

DEAR REPRESENTATIVE SMITH AND REPRESENTATIVE SUOZZI,

On behalf of the National Conference of State Legislatures, the American Association of State Highway and Transportation Officials and the public officials we represent, we appreciate your efforts to address an important area of public safety. The stories of Samantha Josephson and other individuals whose lives were cut too short are truly heartbreaking.

Our organizations support a continued federal role in helping to set certain transportation safety goals, and we agree that such programs should be expanded to incorporate emerging safety issues in order to promote a comprehensive suite of programs in the states, while respecting state sovereignty.

However, we strongly oppose the use of federal sanctions or redirection penalties to enforce federal safety standards. We urge you to make significant changes to section 2 “Sanctions for States Without Transportation Network Company Vehicle Identification Laws,” which could result in the loss of billions of dollars in state federal highway aid every year. One alternative approach could be to incentivize states to achieve the outcomes sought in section 2 in order to promote state action on this issue while ensuring and adhering to principles of federalism.

It is no secret that the United States faces a host of unmet infrastructure needs. States have worked to address this problem by raising tens of billions of dollars in new funding over the past half-decade with nearly 30 states increasing their motor fuels tax rate to increase revenues for infrastructure. But work still remains. States work hand in hand with the federal government to ensure a national surface transportation system that facilitates interstate commerce, addresses fairly and equally the mobility needs of all Americans, and meets national defense needs. The potential loss of billions in federal funding every year would almost assuredly result in a less safe transportation system, leading to a rise in additional motor vehicle traffic fatalities, seemingly the opposite goal of your bill.

We would welcome the opportunity to work with you and your staff to continue to move the conversation forward. Please contact NCSL staff Ben Husch or AASHTO staff Joung Lee to discuss this matter further.

Sincerely,

TIM STOREY,
Executive Director, National Conference of State Legislatures.

JIM TYMON
Executive Director, American Association of State Highway and Transportation Officials.

Statement of Gary Buffo, President, National Limousine Association, Submitted for the Record by Hon. Peter A. DeFazio

Chairwoman Norton, Ranking Member Davis, and distinguished members of the Subcommittee, thank you for the opportunity to comment on the future of TNC’s. My name is Gary Buffo, President of the National Limousine Association (“NLA”). The NLA is the trade association dedicated to representing and furthering the worldwide, national, state and local interests of the chauffeured ground transportation industry. Our membership includes owners and operators of shuttles, sedans, buses, and limousines as well as the associated suppliers, manufacturers, and re-

gional and state associations. NLA owners are primarily small businesses—69% operate 1–10 vehicles and 96% operate fewer than 50 vehicles. Working together, NLA members continue to redefine and improve the industry every day.

As leaders in the industry, NLA members put our drivers and passengers first, advocating for strong worker protections and safety measures. We are deeply concerned with the negative impacts TNC business practices have on public safety and on their drivers. As TNC's have grown in size, they have been unwilling to self-regulate and follow industry best practices. It is beyond time for Congress to step in and ensure the future of TNC's includes stronger protections for drivers and safety guarantees for passengers.

Our members are devoted to the driver Duty of Care and our Passenger Bill of Rights, which ensure that our passengers are provided the safest, highest quality service possible. We take these duties seriously, and believe that TNC's like Uber and Lyft have failed in their responsibility to those who drive their vehicles and patronize their service—to the detriment of their drivers, the public, and the broader transportation industry.

SAFETY ISSUES

For too long, TNC's have allowed unvetted drivers onto our roads, and Congress must act now to ensure TNC safety. We are starting to see progress. NLA is pleased that Congress is now taking action and NLA strongly supports Sami's Law, introduced by Rep. Chris Smith, Senator Ben Cardin and a bipartisan, bicameral group of cosponsors. As an industry, we hold ourselves to the highest standards and are deeply concerned by unsafe actors in ground transportation. Sami's Law is a strong step in the right direction.

As you are well aware, the lack of regulation and oversight of TNC safety places our communities at risk, and there have been far too many tragedies related to TNC's for Congress to remain silent. Sami's Law takes several definitive steps to increase passenger safety and involves state Departments of Transportation who have proven oversight capability. The bill would help prevent future tragedies involving criminals posing as TNC drivers and improve confidence for passengers that they will make it home safely wherever they may be in the country.

In addition to the identification requirements and regulation by State DOTs, we applaud Sami's Law for commissioning a GAO study on the potential effectiveness of fingerprint background checks in reducing the prevalence of assault and abuse perpetuated by TNC drivers on passengers. A study will quantify and shed light on the scope of the problem, which has not been studied closely despite pervasive evidence. We hope this study will be a first step towards implementing stronger background check requirements for TNC drivers. The current lack of any real verification that Uber and Lyft drivers are safe is simply unacceptable. NLA members conduct thorough, fingerprint background checks on all of our drivers. It is simply too risky to entrust unvetted individuals with the safety of passengers in what is clearly commercial passenger transportation. We urge Congress to ensure TNC passengers are afforded this same level of protection.

COMMERCIAL INSURANCE

One of the many ways the TNC companies increase risk to both their drivers and their passengers is that they do not require commercial liability insurance on the vehicles that transport their customers. It's fairly common in our industry that companies carry \$1.5 million in commercial liability insurance on EVERY vehicle in their fleets to protect both our drivers and our passengers. NLA strongly encourages the committee should require commercial liability insurance on all TNC vehicles, just like it's required in other modes of commercial passenger transportation. Personal auto insurance may not cover a claim for a for-hire transportation event. While there is a business-use exception that permits an employee to use their own vehicle for business use while enjoying coverage, this expressly excludes vehicles that are themselves the business. If a driver is seeking passengers, waiting for a passenger, or returning from a trip, most personal auto insurance carriers will not cover an accident. This gap in coverage passes significant risk onto the public, with thousands of under-insured vehicles on the road. These for-hire vehicles operate in interstate commerce, and congress should require these commercial vehicles to carry commercial insurance, just like the rest of the ground transportation industry.

WORKER MISCLASSIFICATION

By far the most egregious abuse on workers committed by the TNC Companies is worker misclassification. TNC's like Uber and Lyft have established a clear em-

ployer-employee relationship with their drivers, yet refuse to classify them as such. As an industry, NLA members have evolved over time from primarily a contractor-based model to the employee model we use today. As a result, our members see less employee turnover, while their employees are happier and provide a better service to our customers. We are proud to pay our employees well and provide them with benefits they deserve. TNC's have exercised employer control over their drivers in a variety of ways, including:

- Company handbooks that dictate dress code, use of car stereo, maintenance of an umbrella, etc.
- Publishing "Rules of the Road," dictating specifics about how to perform work
- Retaining the right to terminate the services of the driver
- Dictating where to park or wait for the highest traffic levels
- Retaining disciplinary powers.
- Dictating standards of maintenance, condition, and cleanliness of the vehicle, use of GPS, and smoking

For years, NLA members have advocated for stronger protections against TNC worker misclassification. We are pleased that state courts have found in favor of workers, and that large states like California have begun to take action. In April 2018, the California Supreme Court established a three-part test for determining contractor status:

- The worker is *free from the control and direction* of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
- The worker performs work that is *outside the usual course* of the hiring entity's business; and
- The worker is *customarily engaged in an independently established trade, occupation, or business* of the same nature as the work performed for the hiring entity.

In September 2019, the California state legislature passed and Governor Newsom signed into law AB 5, which enshrines the three-part test into law. By doing so, California will ensure drivers will have access to overtime, minimum wage, sick leave, family and medical leave, and unemployment insurance they are currently denied. We strongly urge congress to pass federal legislation that guarantees such benefits to all drivers, regardless of where they operate.

Mr. Chairman, Ranking Member and members of the Committee, the NLA is extremely thankful that you are conducting this hearing. It's certainly your purview to properly review and regulate commercial passenger transportation and we look forward to working with you to update the transportation laws and address the range of abuses of TNC companies. The mere fact that the TNC companies won't even bother to show up to a hearing about their own industry is proof that they operate in blatant disregard for Congressional Authority and the laws of our land. We urge you to do your work to address that fact. Thank you.

APPENDIX

QUESTIONS FROM HON. PETER A. DEFazio TO HON. KAREN FREEMAN-WILSON,
MAYOR, CITY OF GARY, INDIANA, AND PRESIDENT, NATIONAL LEAGUE OF CITIES

Question 1. On December 6, Uber released long-awaited safety data in its “US Safety Report.”¹ Among other findings, Uber reports receiving roughly 6,000 reports of sexual abuse to varying degrees between 2017 and 2018.

Mayor Freeman-Wilson, what are your initial reactions to Uber’s report and these findings?

ANSWER. In response to rising concern with safety incidents and deaths in their vehicles, Uber’s U.S. Safety Report [https://www.uber-assets.com/image/upload/v1575580686/Documents/Safety/UberUSSafetyReport_201718_FullReport.pdf] offers a small insight into the national safety challenges that our residents face every day on the nation’s roads. Offering near 4 million trips, Uber must be responsible for the safety of their customers, and they lay out specific steps to make safety improvements which is delayed yet encouraging. We must all commit to riders’ safety, and rideshare providers must be part of the community that takes proactive steps to achieve this. Unfortunately, the cycle of using public shame to spur Uber’s responsible actions is not new to cities, and we encourage Congress to continue to appropriately uphold safety practices and encourage cities and states to use their regulations to ensure safe rides for everyone.

Question 2. Considering that the role of law enforcement largely falls to local governments, is Uber’s safety report useful to cities? Are there ways to make it more useful?

ANSWER. Cities have widely recognized that our ability to protect our residents proactively is through appropriate levels of verification and registration for drivers providing services in our areas, but both state overreach and industry objection have limited our ability to do so in many areas. As Uber’s U.S. Safety Report [https://www.uber-assets.com/image/upload/v1575580686/Documents/Safety/UberUSSafetyReport_201718_FullReport.pdf] states, “background check requirements and other driver eligibility limitations in the US vary considerably by state and even by city.”

We are encouraged to see that Uber’s In-App Emergency Button connects riders and drivers directly to 911 because it would alert local enforcement more quickly. Also, they indicate that: “In some cities, trip details and location can be shared automatically with first responders, or riders and drivers can send a text message to 911.” While helpful for more quickly locating the user, they acknowledge this feature is not universally available, and these app-based systems work only if a user: retains control of their phone, is able to get through security on their phone under duress and is able to find this feature within the app under duress.

To improve the Uber safety report in the future, we would recommend more than a static report. We would recommend Uber address the climb in safety incidents by opening all safety reporting and in-app safety triggers to local law enforcement as they occur through a protected database and to make their staff available to review trends with law enforcement and discuss specific incidents in depth along with possible preventions. Uber should also accept reasonable local licensing restrictions for public ridesharing in light of recent concerning incidents and make fundamental business process updates to meet or exceed local and state standards. Future reports should address the outcomes of their meetings with “law enforcement officials, road safety organizations, and more than 200 gender-based violence prevention experts ... to innovate on new approaches that will raise the bar on safety in ride-sharing.” We hope to hear specific steps Uber is taking as a business to heighten

¹ https://www.uber-assets.com/image/upload/v1575580686/Documents/Safety/UberUSSafetyReport_201718_FullReport.pdf

standards for drivers through their learning using corporate processes and training practices.

QUESTIONS FROM HON. ELEANOR HOLMES NORTON TO HON. KAREN FREEMAN-WILSON, MAYOR, CITY OF GARY, INDIANA, AND PRESIDENT, NATIONAL LEAGUE OF CITIES

Question 3. Mayor Freeman-Wilson, you describe preemption of local TNC regulations as creating problematic “blanket regulations.”

Why do you feel that local governments, rather than States or the Federal government, are best equipped to set TNC regulations?

Question 3.a. What are some examples of these one-size fits-all laws?

ANSWER (3 & 3.a.) Local governments orchestrate most aspects of public transportation in their areas and are closest to their residents, equipping them to handle many aspects of rideshare regulation including appropriate levels of service, limitations or incentives for pick-up and drop-off, ensuring safe service and incident response. Each city’s ability to intentionally and nimbly manage local services using a tailored approach remains essential.

Specifically concerning ride-share companies attempts to legally differentiate themselves at the state level as a “technology company,” not transportation company, in order to avoid providing American with Disabilities Act (ADA) accessible vehicles for people who use wheelchairs or motorized scooters in localized fleets nationwide. Cities will continue to stand up to provide accessible service and ensure fair competition among ride providers, whether they use more technology or less.

State governments are also restricting cities from effectively managing the TNCs operating on their streets through stifling preemption. Between 2015 and 2017, thirty-seven states passed preemptive laws preventing cities from managing TNCs [<https://www.epi.org/preemption-map/>]. Many of these laws prevent city governments from requiring that TNC drivers procure a license to operate in the city. Licenses allow city officials to keep track of who is driving in the city, more accurately track safety incidents, and ensure that city streets don’t become oversaturated. Licensing is a crucial tool for cities when it comes to managing streets and should be protected.

Some states, such as Nevada and New York, have created carve-outs to allow cities to impose more stringent requirements on TNCs. Others, such as Kentucky, impose a state-wide fee on TNCs for licensing [http://leg.wa.gov/JTC/Documents/Final%20Studies/TNC_PolicyGuideFinal.pdf]. While these are steps in the right direction, they still put the control in the hands of the state rather than with city leaders who have direct knowledge of what regulations and requirements are needed to optimize the effectiveness of TNCs and how to best protect their residents.

Question 4. How can Congress ensure a suitable floor for regulations on issues such as public safety, mobility, and impacts to transit while still giving cities the flexibility they need?

ANSWER. The National League of Cities appreciates Congress’ careful attention to safety regulations among all of the transportation services under their jurisdiction. Congress might consider using the history of seatbelt requirements to inform their goals to provide a regulatory floor, but most significantly Congress could define the ride-share model as public transit to ensure there is clarity and certainty of fair play among operators and that cities retain their existing authority to manage these services and providers at the local level.

QUESTION FROM HON. STEVE COHEN TO HON. KAREN FREEMAN-WILSON, MAYOR, CITY OF GARY, INDIANA, AND PRESIDENT, NATIONAL LEAGUE OF CITIES

Question 5. As mentioned in your testimony, communities are clearly interested in shared mobility solutions. They are looking for Complete Streets-type networks that make it possible to walk or bike in the city they reside. Our transportation network requires multi-modal solutions with integration across mass transit, buses, cars, scooters and other forms of transportation.

In your opinion, how is the ride sharing industry fitting into a 21st Century transportation system?

ANSWER. Cities have embraced the sharing economy and quickly updated their ordinances to accommodate these new transportation partners. With increased use of rideshare and scooters, cities are reimagining their zoning, parking, curb and sidewalk enforcement, and much more to manage the challenges along with the benefits. However, most communities are still seeking multi-modal solutions and service providers that can make sharing economical for their residents. Only 730 cities of our nation’s 19,000 communities across the U.S. have ridesharing so we anticipate

growth but also variations in vehicles shape, size, purpose and more to fit different communities.

QUESTIONS FROM HON. HENRY C. "HANK" JOHNSON, JR., TO HON. KAREN FREEMAN-WILSON, MAYOR, CITY OF GARY, INDIANA, AND PRESIDENT, NATIONAL LEAGUE OF CITIES

Question 6. As mayor of a legacy city, I know that concerns of transit access and equity matter a great deal to you. Though the presence of TNCs has skyrocketed in major metropolitan areas, more rural and suburban areas haven't seen the same availability of ride-hailing services.

At this time, do you think these ride-hailing services have helped, or further exacerbated the issue of transit equity?

ANSWER. Yes, only 730 cities of our nation's 19,000 communities across the U.S. have ridesharing, and many cities have been disappointed when they opened up conversations with new providers but haven't seen the follow through. Additionally, even where TNCs operate, there may be offering adequate but not extensive service. For example, the city of Gary has two TNCs that are readily available, and local bikeshare is available in our Miller Beach neighborhood for the recreation on the lakefront. Yet scooters have not been deployed in our community even after a number of promising conversations with providers. We also find that the wait for ride share in Gary can be much longer than other communities. Additionally, in Los Angeles, where they are offering a subsidy for providers to service new neighborhoods, they are not finding providers willing to take up their offer to spread services equitably. The full capability of new mobility is on the rise, but it is far from reaching all the places that want to see new services like micromobility and TNCs operating.

Question 7. TNCs often partner with state transit agencies to provide more connectivity to public transit options, aiding with first mile and last mile transportation.

Have you seen the success of such collaborations in Gary, Indiana, and would you recommend these programs be expanded nationwide?

ANSWER. Collaborations are a city's friend. We are eager to explore partnerships that work for both parties. The city of Gary facilitated a private ride share arrangement with UPS that currently allows local residents to commute to work daily. Arrangements like this are beneficial to employers and citizens alike, and I can envision more opportunities involving Uber, Enterprise and other TNCs. In the next transportation reauthorization, we welcome a robust conversation on first-and-last mile as part of the transit programs and expansion of the technology capabilities that make connecting, riding and getting to our destination that much easier and better for residents.

Question 8. As we look to reconfigure our nation's infrastructure network, we are remiss if we don't consider the growing issue of congestion. TNCs do threaten our ability to remedy the issue.

How should the role of TNCs in our transit network change, if at all, so we can tackle congestion?

ANSWER. Regional transportation planning is essential to improve service and reduce congestion, and local governments will continue to lead the way in embracing the best of the new services while managing the externalities being created. Regional planning benefits from being goal-centered and encouraging cross-boundary collaboration. Congress can also move actively to reduce congestion by ramping up investments that increase mobility and decrease congestion including sharing, multi-person transit of all forms, and regional congestion pricing as seen in Stockholm. All programs that have performance measures can be assessed for throughout and other mobility factors.

City leaders welcome Congress' shared investment in advanced technologies that can improve safety, reduce congestion and decrease costs within the transportation networks. It should be a federal policy to accelerate the testing, deployment and integration of advanced transportation technologies in partnership with cities. The federal government should consider ramping up research and development while increasing local pilots and demonstration projects of new technologies through federally-financed programs to provide the data needed for effective research and testing.

Question 9. What about at the federal, state, and local levels? What role can these entities play in working with TNCs to mitigate congestion?

ANSWER. The federal government is best positioned to provide incentives, common technology standards and policies to address and mitigate congestion while states can provide highway management and statewide strategy and funding. At the local

area, locals will continue to use customized strategies of incentives, technology enhanced choices and better service options to untangle traffic knots.

The most compelling strategy for potential federal policy change is related to regional congestion pricing models as seen in Stockholm. Transportation pricing provides local communities with an opportunity to better and more equitably manage their transportation network, while generating revenue that can be reinvested to support their local, multi-modal transportation systems. This should include the operation and maintenance of roadways, parallel roadways, and transit, biking, and walking infrastructure for those that want to avoid the cost or do not drive. Under current law, pricing programs can be approved by the U.S. Department of Transportation (USDOT) on a discretionary basis through the Value Pricing Pilot Program. The program has a limited number of slots, and the use of toll revenue from any congestion management program is restricted to use on highways (23 USC § 129). This limits the ability of local communities, that would seek to implement pricing, to allocate revenues to other more sustainable mobility options which move people in a more efficient manner than single-occupancy vehicles, such as biking, walking, and transit. Tolling to capture revenue is a one-trick pony, but regional reinvestment pricing models offer a fresh and innovative approach to reduce congestion and improve service.

QUESTIONS FROM HON. MIKE GALLAGHER TO HON. KAREN FREEMAN-WILSON,
MAYOR, CITY OF GARY, INDIANA, AND PRESIDENT, NATIONAL LEAGUE OF CITIES

Question 10. In Wisconsin, we have seen that as TNC rides increase, DUIs decrease. From 2015–2018, Madison, Wisconsin saw a 20% decrease in DUI incidents since Lyft began operating in the city.

Have you seen a similar trend in Gary, Indiana?

ANSWER. Cities strongly believe that data and comparisons among areas are incredibly valuable tools, and public operations should offer insights on how to improve and respond to trends. While Gary is likely not a comparable city in TNC service to Madison and these may not be linked trends, we know that with good data a city like Madison will be more prepared to make their next move and keep residents safe.

Question 11. According to a survey of Lyft drivers in Wisconsin, 34% of riders spend more at local businesses as a result of using TNCs; 47% of riders explore more areas of their city as a result of TNCs; and 38% of riders are more likely to attend community events as a result of TNCs.

Do you see a similar trend in Gary, Indiana?

ANSWER. We have not seen this trend in Gary, but the availability of multiple modes of transportation certainly has the ability to enhance mobility for residents for all of their needs.

Question 12. In your testimony, you mentioned the introduction of scooters which began last year. I have used scooters here in Washington, DC, but never in one of the small towns back in Wisconsin.

In your position as Mayor, do you see scooters as a net positive or a net negative for your City?

ANSWER. Gary is not using scooters widely yet, but we're seeing new transportation options for residents as a great step forward. It's clear from ridesharing and scooter growth that there was a need for more point-to-point service and while we must take the bad with the good, most cities report back favorably on new options moving to their hometowns. However, government has to have a responsible relationship with operators in their city, and we cannot and will not be able to

Question 13. Much of the discussion and witness testimony about TNCs has focused on major urban centers. But in a smaller city like Green Bay or Appleton, we don't have a lot of transit options.

What effects does the National League of Cities think that TNCs have had on rural communities?

ANSWER. Cities are optimists—we believe that while we may not see these new transportation entrants everywhere today, there is a shift in thinking and an interest from various providers and entrepreneurs to create the right solutions that can serve a large customer base outside the urban and suburban core. Small services providers like Tupelo Transit in Mississippi are using point-to-point transit service and mobile apps to improve service and reliability which is a jump forward for residents. Additionally, more than a dozen transit providers have explored shared service with TNCs to mixed success, but through testing and tinkering, new models are being vetted. However, Congress may be able to incentivize that shift faster to rural

areas by ensuring that more funding is available to transit providers and regions to test new ideas and bring models that work for smaller places.

QUESTIONS FROM HON. PETER A. DEFazio TO PAUL A. MILLER, LEGISLATIVE COUNSEL, THE TRANSPORTATION ALLIANCE

Question 1. On December 6, Uber released long-awaited safety data in its “US Safety Report.”¹ Among other findings, Uber received nearly 6,000 reports of sexual abuse to varying degrees between 2017 and 2018.

Mr. Miller, what are your initial reactions to Uber’s report and these findings?

ANSWER. Sadly, I’m not surprised. During my testimony I said the number of assaults reported in the press were just a fraction of what we believed the real number to be. In fact, if you read through Uber’s own report, they admit that the number could be higher. They also didn’t count various types of assaults in their reporting. We believe the number to be even higher than the 6,000.

Leaked information points to this being just the tip of the iceberg in terms of actual cases. A leaked internal Uber memo says that an internal team at Uber tasked to track incidents were “overworked, underpaid, and at times emotionally traumatized as they struggled under the burden of nearly 1,200 cases every week.”² How can we be sure they captured or were even able to keep up with the number of reports? Based on statistics on sexual assaults, roughly 3 out of every 4 sexual assaults go unreported based on study by RAINN in 2016.³ Based on these numbers, the number of unreported cases of sexual assault are in all likelihood much higher than Uber reports.

During my testimony, I said the number of assaults on passengers is an epidemic. The data reported by RAINN supports this assertion, as do Uber’s own numbers which is why we urge you and the Committee to request the General Services Administration (GSA) require all private sector companies and/or drivers receiving federal grants or participating in any federal contracts to transport passengers be required to pass a national FBI fingerprint-based background check. Public citizens have choices in choosing the safest transportation. Under GSA’s plan, government employees would not. They would be required to use contracted TNCs. We urge the Committee to not let government employees become easy targets for drivers who have not been properly vetted.

Question 2. Is Uber’s safety report useful? Are there ways to make it more useful?

ANSWER. It’s useful in the sense that instead of relying on those accounts reported in the press, we see that the problem is so much greater than publicly reported. We still don’t know the real number because of how Uber reported its findings. Since Uber deliberately did not include reported figures on a host of sexual misconduct incidents (from drivers exposing themselves to open solicitations for sex, for example) Uber doesn’t fully address the problem of safety in its report.

It seems as if Uber is trying to justify these horrific numbers by including the statistic of how many people are sexually assaulted in this country on an annual basis. Sexual assault in our country is absolutely a problem, but that is not the issue here. The issue here is how many incidents of assault there have been against passengers by their drivers. Uber spent 84 pages talking about how detailed and accurate their procedures are for protecting passengers, yet these so-called safety procedures have not proven to be effective based on the more than 6,000 assault complaints filed with the company.

The only way to make this report useful is for Uber to simply acknowledge their current policies have not been effective. Instead of fighting industry standards, it should join in it by supporting fingerprint background checks for drivers.

Question 3. As you may have seen, the Committee sent both Uber and Lyft written questions after they declined our invitation to testify at our hearing. One question we asked them was whether they support local authorities tracking incidents on hailed rides in order to provide law enforcement with better data to inform their public safety strategies. In turn, both companies touted their “robust processes” for collaborating with law enforcement.

Do you believe TNCs are engaging with law enforcement as much as they should be?

ANSWER. No. If Uber really had a “robust” process for combatting passenger assaults, it would not have 6,000 or more incidents on file by passengers. Uber’s track

¹ https://www.uber-assets.com/image/upload/v1575580686/Documents/Safety/UberUSSafetyReport_201718_FullReport.pdf

² <https://www.cnn.com/2019/01/21/tech/uber-investigations-unit-report/index.html>

³ <https://www.rainn.org/statistics/criminal-justice-system>

record has been to fight any effort in cities when confronted with these issues. Uber's constant refrain is that its third-party background checks are safe, yet their own report indicates otherwise. The study we cite in our original testimony, *One Standard For All*, points out that fingerprint background checks are 43 times more effective than third-party background checks. These numbers come from law enforcement. Uber's own SEC filing, before the company went public, acknowledges that they know there have been complaints about their third-party background checks being inadequate. Uber further admits that requiring fingerprint background checks would mean it cannot flood the streets with as many cars as possible, in an effort to capture greater market share. Safety isn't Uber's priority: market share is. In this same SEC filing, the company that performs Uber's third-party checks admits their processes do not expose all potentially relevant information and are limited to certain jurisdictions according to national and state laws.

The fact that Uber declined your invitation to appear before the Committee should tell you they know they are not doing enough. If they were, they should have been able to come before your Committee and provide detailed answers to questions on this topic. If they have "robust processes" in place to protect passengers, they should come to the Committee and defend themselves. We accepted your invitation because we know there is a problem and we want to work with the Committee on a commonsense solution. It is in our industry's best long-term viability to create policies that put passenger safety above market share.

Question 4. Are TNCs held to the same standard in cooperating with law enforcement that other transportation services are?

ANSWER. No. When a taxi driver is involved in an incident of the magnitude of sexual assault, that driver's license will be flagged by a relevant regulatory authority. The taxi company will be notified that the driver is suspended. The taxi company will not jeopardize its own license to allow that one driver back on the road. It's also important to note that the driver would then not be allowed to drive for any other taxi fleet. This is different from Uber and Lyft where, in well documented cases, drivers have been deactivated from one platform, only to then find work immediately on another rideshare platform. In one case, a Lyft driver was deactivated for an altercation with a local attorney, and then began driving for Uber. Days later, that same driver kicked a taxi driver to death in Chicago.⁴

Question 5. On a related note, Uber questioned the Transportation Alliance's (TTA's) criticism of their name-based background check system. Specifically, they called into question TTA's assertion that "name-based background checks are 43 times more likely to have errors than fingerprint-based checks."⁵

Do you have a response?

ANSWER. Yes, this is not a number we came up with. This comes from a study, *One Standard For All*, which we confirmed with the authors, that stated the figure of 43 times comes directly from law enforcement officials. In Uber's own SEC filing, their own background check company acknowledges their process is limited.

Question 6. The Committee also asked Uber and Lyft about their third-party background checks.

What do typical taxi and limo company background checks cover?

ANSWER. Taxicabs are typically licensed at the municipal level of government. Since it is the city that establishes the standards for taxicab drivers, regulations vary from jurisdiction to jurisdiction. In general, however, it is the city that reviews each taxi driver's criminal background check and determines if the driver should be granted a license to transport the public. And it is the city that will review an appeal to a rejected application. Many mid- to large-sized cities require drivers to submit their fingerprints for a national criminal background check of the FBI's database. Based on the applicant's criminal history, the city will determine if the applicant should be denied based on convictions for violent crimes such as rape, murder, kidnapping, etc. Limousines are typically licensed at the state level of government, with each state setting its own background check requirement.

Question 7. What specifically is not included in a fingerprint-based check that would otherwise be covered in Uber or Lyft's third-party check?

⁴ <https://www.businessinsider.com/lyft-deactivated-driver-who-later-killed-man-working-for-uber-2019-7>

⁵ Professor Matthew W. Daus, Esq. & Professor Pasqualino "Pat" Russo, Esq., *ONE STANDARD FOR ALL: CRIMINAL BACKGROUND CHECKS FOR TAXICAB, FOR-HIRE, AND TRANSPORTATION NETWORK COMPANY (TNC) DRIVERS* (2015), <http://www.utrc2.org/sites/default/files/pubs/Background%20Check%20Report.pdf>.

ANSWER. Fingerprint background checks don't lie, whereas third-party checks can be cheated. For instance, with a third-party check, the driver fills out the information on a computer. Anyone could be filling out the information.⁶ You cannot verify the online applicant is the real driver. Second, there are news articles that have detailed cases in which Uber's own drivers tell others how to avoid any background check by using someone else's account.⁷ Finally, Uber's and Lyft's background checks are limited in scope. Uber's background checks do not look at a person's full history. They only go back seven years and cover only certain jurisdictions. Uber's own background check company admitted in Uber's SEC filing that there are gaps in their checks versus a fingerprint background check.

Question 8. TNCs consider themselves to be a technology company, not a transportation provider. As such, the TNC regulatory framework is relatively novel and does not regulate TNCs with as firm a hand as it does traditional transportation providers.

Are TNCs held to the same safety standards as other forms of transportation?

ANSWER. First, it is a myth for TNC's to claim to be technology companies. This was done to try and avoid all liability if there were accidents or criminal activity by the drivers. Traditional taxis have been using technology and apps before Uber and Lyft existed and we have never been called technology companies. The only difference between the technology used by Uber and Lyft and many traditional taxis is our apps are mostly local and their app is national. Even Uber CEO Dara Khosrowshahi has stated plainly in a media interview a few months ago that his company is "much more than just the ride share company now, it is a transportation company."⁸

Second, Uber and Lyft have nowhere near the inspection of vehicle requirements like there are with traditional taxis. If there were, every Uber and Lyft vehicle would have to be examined by a mechanic, including an "under-the-hood" inspection.

Third, insurance has always been an enormous safety question. In its early years, Uber urged drivers to use their own personal insurance. The problem with this was that personal insurance policies state very clearly that a personal vehicle cannot be used for commercial purposes. The insurance has evolved to include "app on/app off" coverage, meaning that there is insurance that will cover you for when you have the app on and transporting a passenger. The problem here is how would you know when a driver has the app on or off? What if the driver is driving for both Uber and Lyft? Do both companies share in the liability if the driver is in an accident? There have been lots of questions around the insurance issue. You don't have those same types of questions and concerns with traditional taxis. Our industry carries full insurance, every minute of every day, which roughly 10 times the cost of what TNCs pay (annual insurance for a taxicab, for example, is typically over \$5,000). In a taxicab, passengers are protected under our policies whereas there have been numerous questions whether passengers are really fully covered under TNC insurance. The fact is, even fulltime TNCs pay a fraction of what traditional taxis do for insurance coverage, even though we provide the same services to passengers.

Question 9. What safety standards should regulators apply to TNCs? How does this vary between the local and Federal level?

ANSWER. We believe that TNC drivers should undergo a national fingerprint-based background check. These fingerprint background checks are kept on file with the National Crime Information Center (NCIC), so if a driver is arrested, there can be an automatic announcement of the arrest. Second, TNC vehicles should carry commercial auto liability insurance, and that TNC vehicles should be subject to initial and recurring inspections. We believe regulations are best carried out at the local or state level. However, we also believe strongly that the Federal government should not allow any company to secure federal passenger transportation contracts unless the drivers pass a fingerprint-based national criminal background check.

Question 10. Uber and Lyft's review process of reported incidents is largely internal and not directly collaborative with law enforcement.

Are TNCs' largely internal review processes akin to industry safety standards?

ANSWER. Absolutely not. When there is an incident involving a driver affiliated with one of our member fleets, the city and/or state regulators become involved. By contrast, TNCs are virtually left to monitor themselves. As we have now learned,

⁶ <https://www.cnet.com/news/uber-drivers-using-fake-identities-isnt-just-a-london-problem/>

⁷ <http://valleywag.gawker.com/uber-driver-heres-how-we-get-around-background-checks-1596982249>

⁸ <https://www.cnbc.com/2019/08/09/uber-ceo-khosrowshahi-talks-to-cnbc-after-q2-earnings-full-transcript.html>

each and every day eight more people (mostly women) using Uber will be sexually assaulted, heinous crimes that include rape. Self-regulation of public safety matters has proved to be a very dangerous policy for TNCs, with very real and unfortunate consequences for their passengers.

Question 11. Would TNCs be obligated to have different internal review standards if they operated as a transportation provider and not a technology company utilizing independent contractors?

ANSWER. This would only work if TNC's and taxis were viewed by all local and/or state jurisdictions in the same manner. There is a federal definition of TNC, which does include most traditional taxis. If all jurisdictions at the state or local level classified us all this way, then yes, they would be held to the same standards as traditional taxis are today. It's simply a myth to view Uber as a technology company. If Uber and Lyft are to be deemed technology companies, then the same applies for taxis, since we use the same technology (apps). Our member fleets have been using app-based technology to connect passengers with vehicles even before Uber or Lyft existed, yet our fleets have never claimed to be tech companies. Simply put, we—taxis, limos, Uber, Lyft and anyone supplying drivers to transport passengers for a fee—are all for-hire passenger transportation companies. As noted above (see footnote #8), Uber's own CEO has bluntly stated that his company is a transportation company.

QUESTION FROM HON. ELEANOR HOLMES NORTON TO PAUL A. MILLER, LEGISLATIVE COUNSEL, THE TRANSPORTATION ALLIANCE

Question 12. The Committee asked Uber and Lyft why they are opposed to fingerprint background checks. Each company referenced concerns that fingerprint-based background check databases are ineffective and may be discriminatory.

How would you address these two concerns?

ANSWER. This is a myth. Today's fingerprint background checks are quick, taking 48 hours to complete. If a person has a questionable record in their past that emerges through this process, they are not automatically prohibited from driving. For drivers receiving a license from a city or state (taxicab, limousine, etc.), it just means that there is a secondary process of review that looks at each incident cited in the background check, and the driver always has the ability to appeal a decision to withhold the license.

In its own safety report released in December 2019, Uber claims it rejected 76% of those who applied for background checks between 2017–2018. Those drivers rejected by Uber don't have the right to appeal their rejection to an impartial government agency for a more detailed review. Therefore, on the one hand, how can one say fingerprint background checks with an appeal to an impartial government agency are discriminatory and yet third-party checks with no appeal are not? In the vetting process that governs the vast majority of our members' fleets, there are clear legal and administrative means of appealing a decision on suitability afforded to drivers. For Uber's and Lyft's driver check, there is no independent review available to drivers.

Uber and Lyft have used the discrimination card from the beginning because they know there is an audience that will be sympathetic to their unsubstantiated claims and support their ineffective background checks. If this process is discriminatory, let's begin by looking at the 76% of Uber driver applicants who were disqualified based on their own background check process without the right for an impartial review.

QUESTIONS FROM HON. HENRY C. "HANK" JOHNSON, JR., TO PAUL A. MILLER, LEGISLATIVE COUNSEL, THE TRANSPORTATION ALLIANCE

Question 13. A rising concern with Transportation Network Companies (TNCs) is the strength of their background checks for drivers. This concern has been doubled by troubling reports like those from Eugene, Oregon, where drivers passed Uber and Lyft sanctioned background checks, but then failed law enforcement's background checks. It makes Americans not trust your companies. Do you believe fingerprint background checks are the remedy to this problem?

How are fingerprint checks different than those already being done? And why weren't they used from the beginning?

ANSWER. This is one of our greatest concerns. When a passenger is assaulted in any vehicle providing transportation service for-hire, it impacts all carriers. When you have 6,000 reported assaults on passengers by Uber drivers, the public isn't going to just feel unsafe riding in an Uber, they will feel unsafe in any vehicle for hire. It's for this very reason that our industry has been pushing so hard for finger-

print background checks. This isn't the magic solution that will eliminate all bad actors, but it will go a long way toward preventing serious harm.

Part of the challenge is that we aren't regulated at the Federal level, nor do we feel we should be. Each state and/or local jurisdiction may have different rules. Some require fingerprint background checks, but some—especially smaller jurisdictions—do not. When it comes to passenger safety, we do believe there should be one standard when it comes to background checks. For decades, our association has stood strongly behind, and advocated fervently for, the well-founded belief that safety starts with a fingerprint-based national background check. This would make the process uniform and effective, and would help prevent the staggering number of assaults reported to Uber by their passengers. There is a federal role here, especially as it relates to federal grants and contracts, for which we do support a fingerprint background check requirement.

Question 14. Do you believe TNCs should implement fingerprinting regardless of whether they receive federal transportation contracts?

ANSWER. Yes. We are pushing this to be the industry standard and, as stated above, have made that our clear position for decades. We are urging Congress to set the tone in this area by making it a requirement that any company receiving a federal grant or contract to provide passenger ground transportation be required to have its drivers pass a national fingerprint background check. We believe that once the federal government makes it a requirement, many more states and local jurisdictions will follow.

Question 15. You assert that TNC concerns over the expense of fingerprint checks and the possibility of discrimination are unfounded. But fingerprinting has historically subjected Black Americans to well-documented bias. Now, black men and women are statistically more likely to lose their jobs simply because the FBI has inaccurate data.

Do you consider this a risk for communities of color?

ANSWER. I don't. There is no evidence to prove that a person seeking to drive would be discriminated against because of race. Our industry is predominately made up of persons of color and yet we have not experienced problems getting drivers fingerprinted and licensed to provide passenger transportation service for-hire. Remember that the vetting process that governs the vast majority of our members' fleets, provides a clear legal and administrative means of appealing an adverse decision on driver licensing. Financial cost is also not an issue here, since the cost of a fingerprint background check is less than \$100. For any business owner, this is simply a reasonable business expense to operate a business in the safest manner possible.

Question 16. Should TNCs ignore these concerns of discrimination to implement this technology?

ANSWER. I don't think any concerns of discrimination should ever be dismissed lightly when they are legitimate. As I stated in my response to question 15, our industry is predominately made up of people of color, so I find it hard to understand Uber's claims of discrimination. Uber's claims cannot be supported when they admit to having rejected 76% of driver applicants between 2017–2018. The real question is how many of those drivers were people of color who were wrongly discriminated against because of these companies' own flawed background checks, which, as stated above, lack any clear legal or transparent appeals process.

QUESTIONS FROM HON. LLOYD SMUCKER TO PAUL A. MILLER, LEGISLATIVE COUNSEL,
THE TRANSPORTATION ALLIANCE

Question 17. Throughout the course of the hearing, Uber and Lyft drivers were repeatedly bashed as representatives from the taxi and limousine industry attempted to paint all drivers as responsible for the faults of a few bad apples.

To better understand the safety dynamics of all ride-sharing modes of transportation, can you provide statistics on the numbers of assaults, murders, and rapes that were committed by on-duty taxi or limousine drivers?

ANSWER. There are no reliable national statistics that accurately capture the whole of the industry. That is because there is no federal database that tracks sexual assaults according to various industries, including the taxicab industry. However, as a trade association that has represented the professional fleet operators of this industry for 103 years, transporting billions of passengers each year, we have never in our existence seen such an appalling and alarming number of sexual assaults. If such a high rate had existed, we certainly would have seen evidence of this in media reports covering such heinous crimes. Instead, it was only when Uber

and Lyft came into widespread use that we saw near daily media reports of such crimes.

Question 18. The hearing made clear to me that the taxi and limousine industry would like to level the playing field with TNCs with respect to federal regulations.

What regulations would you support eliminating or scaling back in order to improve competition among different modes of transportation?

ANSWER. We believe that fingerprinting of drivers should be a prerequisite to any company—whether Uber, Lyft, or any other private sector company offering passenger transportation for-hire—in securing any federal passenger transportation contract. But in terms of a level playing field, we believe that we should be allowed to compete fairly, and that righting one of the greatest imbalances in our industry in terms of insurance provisions is vital. There is no reason why an Uber driver working full-time should pay \$500 a year for vehicle insurance, when insurance for a full-time taxicab costs \$5,000 or more. Both vehicles and drivers perform the exact same function.

QUESTION FROM HON. MIKE GALLAGHER TO PAUL A. MILLER, LEGISLATIVE COUNSEL,
THE TRANSPORTATION ALLIANCE

Question 19. In my hometown of Green Bay, Wisconsin, the Brown County Tavern League has participated for two years in a partnership with Lyft Concierge—a program by which you can remotely request rides for anyone through Lyft. Don Mjelde, President of the Brown County Tavern League, notes that during Packers games, taxis are busy. A second form of reliable transportation is critical for safety. Some proposals to regulate TNCs would require a user to be physically present with a working cellphone when a TNC vehicle arrives. For example, you couldn't be at home buying a ride for your friend.

How can we work to allow Lyft Concierge to continue partnering with my home county while still addressing other safety concerns?

ANSWER. Nothing being proposed by us (like fingerprint background checks) would impact the program in Green Bay. In fact, implementing fingerprint background checks would make the program even more effective because passengers would have a higher certainty that they will arrive safely home. We agree safety has to be a top priority today. If local officials are going to partner with local transportation companies in their communities to provide their citizens with safe transportation options, they have to be exactly that—safe.

We would be happy to have a more detailed dialogue with you on this topic if you'd like, but what we are proposing would not have any impact on the current program in your community.

QUESTIONS FROM HON. PETER A. DEFazio TO LARRY I. WILLIS, PRESIDENT,
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

Question 1. On December 6, Uber released long-awaited safety data in its “US Safety Report.”¹ Among other findings, Uber received nearly 6,000 reports of sexual abuse to varying degrees between 2017 and 2018.

Mr. Willis, what are your initial reactions to Uber's report and these findings?

ANSWER. Uber's report comes as no surprise. As highlighted in TTD's report, *The Cost of Doing Business: Why lawmakers must hold the ride-hailing industry accountable as they undermine their workers and play by their own rules*, companies like Uber, Lyft, and Via have invested millions into ensuring their industry is subjected to as few regulations as possible. The inevitable result has been repeated safety incidents with no accountability or oversight.

Question 2. Is Uber's safety report useful? Are there ways to make it more useful?

ANSWER. Uber's safety report sheds important light on the lack of corporate culture focused on safety in this industry, and highlights exactly why the ride-hailing industry should be subject to strict federal, state, and local oversight. We should not count on the industry to self-report and self-regulate when it comes to the safety of their passengers and other road users.

Question 3. TNCs consider themselves to be a technology company, not a transportation provider. As such, the TNC regulatory framework is relatively novel.

Are TNCs held to the same workforce standards as other forms of transportation?

ANSWER. It is evident to us that companies like Uber, Lyft, and Via are not subject to the same workforce standards as other forms of transportation. These trans-

¹ https://www.uber-assets.com/image/upload/v1575580686/Documents/Safety/UberUSSafetyReport_201718_FullReport.pdf

portation companies masquerade as a tech companies and Uber has gone so far as to claim that their drivers are not core to their business model in order to skirt California's AB 5 law. While I think sober people recognize that this notion is a joke, the result is employees with no workplace protections, no right to organize, and wages that often are below minimum wage in the cities in which they are operating. In particular, as these companies continue to form partnerships with public transit agencies, we believe that Congress must hold them accountable.

Question 4. Would TNCs be held to a different standard if they were regulated as a transportation provider?

ANSWER. We believe they would, for the above highlighted reasons.

Question 5. What standards should regulators apply to TNCs? How does this vary between the local and Federal level?

ANSWER. First, we believe Uber, Lyft, and Via must correctly classify their drivers as employees. Denying their workers the basic rights that employees deserve may be core to their business model, but it is not core to the American ideals of receiving good pay and benefits in exchange for your time and energy. Second, while we have not weighed in on regulations in general, we believe that any recipients of Title 49 dollars in partnership with public transit agencies must be held to the same standards as transit operators, including drug and alcohol testing. Third, given the serious concerns about safety and equity surrounding these companies, we believe they must turn over safety and ride data to federal regulators under any arrangement with a public transit agency to ensure proper oversight and accountability.

QUESTIONS FROM HON. HENRY C. "HANK" JOHNSON, JR., TO LARRY I. WILLIS,
PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

Question 6. As you know, some TNCs assert that their drivers aren't employees of their companies, rather independent contractors that offer transportation services. This creates roadblocks to fair and robust wages, as well as good benefits for the drivers. Additionally, companies get to often circumvent any liability should problems arise because of a problematic driver.

Can you expound on the dangers of these companies shrinking from a responsibility to fairly pay their driving partners, and from issues that may jeopardize passenger safety?

ANSWER. We simply do not believe that employers should be allowed to misclassify their workers in the hopes of eking out a profit. The shareholders and wealthy venture capitalists who currently fund these companies must not stand on the shoulders of their drivers to keep their own heads above water. If they cannot even meet wage responsibilities under the law and still earn a profit, they should not be in business. This business model should not be acceptable to the American people and it should not be acceptable to lawmakers who represent them.

Question 7. Should more states introduce legislation similar to that of California's AB-5, how do you anticipate the labor practices of TNCs to shift, if at all?

ANSWER. We do believe AB 5 is a model for other states to follow and furthermore, we believe that Congress must immediately pass the PRO Act. We already know that companies like Uber and Lyft plan to invest more than \$100 million into fighting AB 5 in California. Their entire business has been built on defining and operating under their own regulatory structure, and we do not expect them to give that up.

Question 8. Uber and Lyft have historically used arbitration clauses with their so-called "contractors" in their employment contracts. This prevents ride-hail drivers from holding the companies accountable before a jury of their peers when the companies break the law. Sexual assault cases, wage theft, and antitrust violations would all be sent to arbitration, rather than federal or state court.

How do individual arbitration clauses keep drivers from having their cases heard?

ANSWER. A response was not received at the time of publication.

Question 9. Why do you believe Uber and Lyft have insisted on including these clauses in contracts with parties with considerably less negotiating power?

ANSWER. A response was not received at the time of publication.

Question 10. How have drivers been fighting these clauses?

ANSWER. A response was not received at the time of publication.

QUESTIONS FROM THE MAJORITY-SIDE SUBCOMMITTEE TO LYFT

Uber, Lyft, and Via were invited to be witnesses at the hearing and declined the invitation. Following are questions for the record from majority-side members of the subcommittee to Lyft, along with their answers.

*Please indicate whether any of the policies or protocols described in response to the questions below vary by State.

Government Regulation:

Question 1. Your company has been cited as supporting preemption of local TNC regulations. At the hearing, Mayor Freeman-Wilson, President of the National League of Cities, provided the opposite view, arguing for more flexibility for cities.

Do you oppose TNC regulation at the local level, and if so, why? Please provide specific examples of the types of local regulations Lyft opposes.

ANSWER. Lyft does not oppose regulation at the local level in principle, and in fact has worked extremely hard to be a partner to state and local governments in developing smart regulations designed to promote economic development, build strong cities and communities, and protect consumers and the environment. There have been instances where Lyft has opposed proposed regulations that it believes to be inconsistent with these goals.

For example, Lyft has opposed certain regulations that would impose excessive licensing requirements or operation fees on drivers because we believe that high barriers to entry threaten part-time economic opportunities for those seeking to supplement their income by driving. This is especially true for the 76 percent of Lyft drivers who drive fewer than 10 hours a week on our platform. Such requirements also can create confusion and uncertainty for drivers who operate in multiple cities and localities within a state. As another example, we have opposed certain data-reporting requirements that implicate the privacy of our riders.

Question 2. Do you support State level regulation, and if so, why?

ANSWER. Yes, Lyft supports efforts by states to develop statewide policies concerning TNCs, including the permitting and operation of drivers who use TNC platforms. The absence of a statewide regulatory framework can lead to a patchwork of inconsistent local regulations, as well as cause undue burden on drivers.

Question 3. How much money has Lyft expended to date, in total, opposing regulation of your company at the local, State, and Federal level?

ANSWER. Lyft focuses our resources at the local, state, and federal levels to engage government. We often support increased government action, although sometimes oppose it. In many cases, Lyft's efforts to partner with governments to develop regulations do not fall neatly into supporting or opposing, as there are instances in which Lyft has advocated for modifications of proposed legislation, and so we are unable to track spend specifically related to opposition.

Public Safety:

Question 4. The hearing highlighted the growing number of news reports of alleged assaults on passengers who utilize TNCs. At the hearing, Paul Miller, Legislative Counsel with the Transportation Alliance, noted that when a taxi driver is involved in an accident or alleged assault against a passenger, not only are local police on-site but the taxi commission conducts oversight as well. For TNCs, alleged assaults or crimes are not documented as TNC-related, even if reported to local authorities. The only comprehensive data source of passenger-reported assaults and other incidents against Lyft drivers resides with your company.

Do you support making the number of reported crimes perpetrated by drivers against passengers you have received publicly available?

ANSWER. Lyft maintains the information that drivers and riders report concerning safety incidents and provides that information to law enforcement to assist law enforcement in investigating whether a crime has been committed. We publicly report information concerning the inquiries we get from law enforcement in our Law Enforcement Request Transparency Report [https://lyft-assets.s3.amazonaws.com/helpcenter/Lyft_Info_Request_Report_2018.pdf].

In addition, Lyft reports information concerning safety incidents and driver deactivations to its regulators where required by state or local law. Lyft is supportive of regulators sharing this information with other TNC companies. For example, in Chicago, TNCs are required to report driver deactivations, and the Business Affairs and Consumer Protection agency shares information concerning safety-related deactivations with other TNCs.

Question 5. Do you support local authorities tracking incidents that occur on hailed rides in order to provide law enforcement with better data to inform their public safety strategies?

ANSWER. Yes, we support and defer to local authorities on whether and how to track rideshare- and taxi-related incidents.

Question 6. Do you track the type and frequency of passenger-reported crimes perpetrated by drivers you receive? If not, please explain why.

ANSWER. Lyft maintains information concerning all incidents that drivers and riders report to it, including rider reports regarding incidents with drivers, and provides that information to law enforcement to assist law enforcement in investigating whether a crime has been committed. In addition, we publicly report information concerning the inquiries we get from law enforcement in our Law Enforcement Request Transparency Report [https://lyft-assets.s3.amazonaws.com/helpcenter/Lyft_Info_Request_Report_2018.pdf].

Question 7. Please provide data on the total number of incidents involving alleged crimes against riders by drivers you have received, to date, broken down by type.

ANSWER. Lyft does not assign rider reports into categories of “alleged crimes.” When we receive a report concerning a safety incident, Lyft conducts an internal assessment to determine the appropriate response, including, for example, driver deactivation, and maintains the information collected in the initial report and gathered from our inquiries. As indicated elsewhere in this letter, Lyft also works cooperatively with law enforcement to provide information to assist in efforts to investigate any reported crimes concerning the incident.

Question 8. What is your specific process for reviewing alleged incidents of violence, assault, or harassment reported by Lyft passengers? What is your specific process for reviewing complaints and alleged incidents by Lyft drivers? What is your specific protocol for when and how to refer incidents to law enforcement?

ANSWER. We take every allegation of harassment very seriously and our dedicated Trust & Safety team investigates each incident and makes a determination based on the evidence available, such as statements from involved parties, past ratings, user feedback, and police reports where applicable. Throughout this process accounts are often deactivated in order to ensure the safety of the community.

Except where required by law, Lyft does not initiate reports to law enforcement because we believe it is imperative for individuals to have agency regarding how and with whom they share their experiences. It is our policy, in instances when an individual makes a report to law enforcement and law enforcement seeks information from Lyft, to respond to all valid requests, by providing information and data in accordance with applicable laws (including reporting rules and regulations) and with our privacy policy. These responses are handled by our dedicated Law Enforcement Response team, which also operates twenty-four hours a day, seven days a week.

Law enforcement can contact this team directly at LER@lyft.com when seeking assistance with their investigations. When law enforcement provides us with a valid legal request such as a warrant, subpoena or court order, we work with the requesting officer to ensure that all responsive records are provided as soon as possible. More information regarding Lyft’s law enforcement policies and procedures can be found on Lyft’s Help Center [<https://help.lyft.com/hc/en-us/articles/115012925607-Law-enforcement-requests>] and also in our most recent Law Enforcement Request Transparency Report [https://lyft-assets.s3.amazonaws.com/helpcenter/Lyft_Info_Request_Report_2018.pdf].

Question 9. What is your specific protocol to follow up with drivers who have been accused of harassment, assault, or violence? What is your specific protocol to deactivate a driver?

ANSWER. Both riders and drivers can report incidents to our dedicated Trust & Safety team, available twenty-four hours a day, seven days a week. We investigate each incident, including by collecting additional information from the involved parties and working with law enforcement where appropriate, in order to decide what action is needed. Lyft may put the involved users’ accounts on hold during its investigation. Where Lyft determines that the driver no longer meets our driver qualifications or otherwise believes that deactivation is necessary to protect the safety of the Lyft community or third parties, Lyft deactivates the driver.

Driver and Passenger Verification:

Question 10. During his testimony, Congressman Smith informed the Subcommittee that anyone can go online and purchase Lyft signage to place in their

cars in order to appear as drivers. A quick search on Amazon revealed several options of Lyft signage and lighting for under \$10.

Does your company trademark the Lyft signage and lighting features drivers use in their cars when working?

ANSWER. The Lyft emblems/placards and Lyft Amp that Lyft provides to authorized Lyft drivers (“Lyft Trade Dress”) are the only items drivers are authorized to display in their vehicles to identify as Lyft drivers. These materials are only provided to authorized drivers and are not made available for purchase. The Lyft Trade Dress bears the LYFT logo, which is Lyft’s registered trademark in many jurisdictions worldwide (including the U.S.) for a variety of goods and services, including rideshare. Lyft also has trademark and design patent filings specifically covering the Lyft Amp (the lighted device Lyft provides to qualifying drivers to display on their dash board). In addition, Lyft has filed trademark applications in several jurisdictions for the LYFT logo and LYFT wordmark covering lighting devices.

Question 11. If so, have you sought to enforce your trademark to control who can sell or use these signs? If not trademarked, please explain why.

ANSWER. Yes, Lyft takes a number of actions to control the use of the Lyft Trade Dress and prevent its sale. First, Lyft controls the distribution of the Lyft Trade Dress, limiting it only to authorized drivers, and does not make the Lyft Trade Dress available for purchase. Second, per its Terms of Service [<https://www.lyft.com/terms>] (see Section 11), Lyft prohibits drivers from renting, leasing, selling, or otherwise redistributing the Lyft Trade Dress, and from granting any third party any right, permission, license, or sublicense to use the Lyft Trade Dress, as well as other restrictions detailed in that section.

Lyft is aware that Lyft Trade Dress (as well as counterfeit Lyft signage and lights) has been offered by unauthorized third parties on Amazon and other online marketplaces. Lyft regularly engages with these online marketplaces and demands that they implement proactive blocking/filtering fixes to prevent the marketing or sale of these items. Several of the major marketplaces have taken action in response, including the implementation of filters, to help prevent the listing and sale of these unauthorized and counterfeit items. However, filters are not 100% effective, and unauthorized and counterfeit sellers are sometimes able to evade them by altering images, using typos and misspellings, and avoiding key terms. As a back-up measure, Lyft and its third-party professional brand enforcement vendor proactively monitor these marketplaces on a daily basis and send takedown requests to the platforms to immediately remove any offending items that they identify.

Additionally, Lyft has supported legislation in a variety of jurisdictions to increase the penalties for impersonating a rideshare driver.

Question 12. Do you require drivers to display signage in their vehicles when providing rides? If so, what are the exact requirements, where do drivers procure the signage from, and what oversight do you conduct to ensure drivers are displaying the required signage correctly?

ANSWER. Once approved as an authorized driver, drivers receive, either in person or via mail, a Lyft ‘Welcome Kit’ containing their Lyft emblems. For those drivers who rent a vehicle through Lyft’s Express Drive program, the vehicle already has a Lyft emblem in place. The Welcome Kit explains proper placement of the emblems and instructs that the emblems are legally required in many states. Additionally, information about emblem placement is provided on Lyft’s Help Center, available here [<https://help.lyft.com/hc/en-us/articles/115013082088-New-driver-welcome-kit#emblem>].

Lyft includes a photo of every driver in the app, so passengers can easily identify them, and we also show the make, model, license plate number, and color of the car in the app ahead of a passenger being picked up. After a ride is matched, Lyft sends two unique notifications to the passenger, urging them to check and confirm the license plate number before entering a vehicle.

Additionally, hundreds of thousands of drivers also have the Lyft Amp on their dashboards, which lights up to match the color shown in the passenger’s app, and it illuminates the passenger’s name upon entering the vehicle.

Question 13. Additionally, do you require drivers to verify that the correct passenger has entered the car? If so, what is the process required? If not, please explain why.

ANSWER. After arriving at the pickup location, drivers are required to acknowledge in-app that they have picked up the named rider. The driver sees the rider’s name and photo (if the rider has chosen to provide one), and then has the ability to cancel the ride if the appropriate passenger is not there. Driver acknowledgement

of pick-up is a necessary step that a driver must take before the driver can start the trip.

Question 14. How will you verify passengers when your vehicles are autonomous and there is no driver? Is the proposed solution when you utilize autonomous vehicles applicable to today's vehicles?

ANSWER. Our current testing and deployment of autonomous vehicle technology includes a safety driver who engages with passengers. While we cannot speak to the exact structure and make-up of future business models, we can confirm that passenger safety and verification is core to the development of our products.

Background Checks:

Question 15. During his testimony, Mr. Miller urged Congress to require industry standardized fingerprint-based background checks as part of any Federal contract awarded to TNCs. Lyft has actively opposed the use of fingerprint-based vetting.

Why do you oppose fingerprint-based background checks for Lyft drivers?

ANSWER. At this time, Lyft does not employ these types of checks because of their current limitations. In a fingerprint-based background check, an individual's fingerprint is searched across the FBI fingerprint database to determine whether there is a match and if so, to identify records associated with that fingerprint in the FBI's database. These records, however, are arrest records, and frequently do not include information about the disposition of the arrest (i.e., whether charges were brought or whether any conviction resulted). Moreover, according to a GAO report¹, the fingerprint database itself is incomplete and not fully up-to-date. Many states have estimated that 50% or less of their arrest records lacked final disposition, and the FBI has noted that it is not possible for states to have 100% complete records. That is why we believe that the Lyft background check approach is more comprehensive and thorough than fingerprinting.

Further, looking at arrest records disproportionately disadvantages minorities and communities of color who are more likely to come into contact with the police. In fact, former U.S. Attorney General Eric Holder wrote [<https://drive.google.com/file/d/0B953p-cRQOA0a1Aya3JiRHJrSIEwYnlJUUdtS0ZWcnZpRUpz/view?usp=sharing>] that, "requiring fingerprint-based background checks for non-law enforcement purposes can have a discriminatory impact on communities of color. With nearly 50 percent of African-American men and 44 percent of Latino men arrested by age 23 nationwide, the practice of denying work based on law enforcement records with incomplete and inaccurate information disproportionately disadvantages people who have been arrested."

The National Employment Law Project (NELP) [<https://www.nelp.org/publication/wanted-accurate-fbi-background-checks-for-employment/>] estimates that more than 600,000 workers a year could be harmed in their job search when the FBI background check excludes post-arrest information that may benefit applicants in their search for employment. As noted above, arrest records often are not updated with disposition information reflecting whether the individual was charged, tried, or convicted, with the effect of making some applicants look as if they have been involved in criminal activity, when in fact they have not. Thus, in addition to the limitations on the completeness and accuracy of information derived from fingerprint-based background checks, there is a concern that such checks could have a disparate impact on minority communities, and therefore be inconsistent with Lyft's value of upholding diversity in our driver community.

Question 16. How much has your company spent on lobbying activities to oppose local initiatives to require fingerprint-based background checks by police, such as in Austin, TX?

ANSWER. At this time, Lyft does not use or support the use of fingerprint-based background checks because of the limitations and concerns described above—which include concerns that go to Lyft's core principles and its fierce commitment to fighting for better opportunities for people.

Lyft has advocated for its beliefs on this issue, including by investing in its efforts to educate lawmakers and the public on the deficiencies of fingerprint-based background checks, in Austin and elsewhere.

It is important to note, however, that we did return to Austin in 2017, and since then have been operating successfully with our traditional name-based background checks, working in partnership with city officials.

Question 17. How much do the third-party background checks you currently utilize cost?

¹ <https://www.gao.gov/assets/670/668505.pdf>

ANSWER. Lyft utilizes several third-party partners to screen applicants and drivers. The pricing of these contracts is negotiated, highly sensitive, and provides information about these partners that is trade sensitive and confidential.

Question 18. How much does a comprehensive fingerprint-based background check cost?

ANSWER. As set forth above, Lyft does not use fingerprint-based background checks. In the context of its purchase of name-based background checks, pricing is negotiated between the parties. Because Lyft does not use fingerprint-based background checks it has not negotiated pricing for such checks, it is not in a position to provide information on actual costs for this type of check, and would expect that costs would vary depending upon the scope and volume of the services. However, to be clear we oppose fingerprint-based background checks for the reasons described above. Cost has never been a factor in our decisions to not pursue these types of checks.

Question 19. Would the cost of fingerprint-based background checks for every Lyft driver currently operating in Austin be greater or less than the amount you paid for lobbying activities in Austin to oppose the regulation?

ANSWER. Lyft's concerns with fingerprint-based background checks for driver candidates are not rooted in the cost of these background checks to the company. As addressed above, at this time, Lyft does not employ or support these types of checks because of their current limitations and the concerns they raise in relation to Lyft's core principles. For this reason, we felt it was important to invest in lawmaker and community education in Austin and elsewhere to advocate regarding our strong concerns with requiring fingerprint-based background checks for TNC drivers.

In addition, we believe that our existing approach—using initial and annual name-based checks provided by Checkr and ongoing monitoring provided by First Advantage—provides a comprehensive and thorough framework for applicant-screening and driver-monitoring, and one that is far superior to the information available from fingerprint-based checks.

Question 20. What specifically do the third-party background checks you utilize cover, and what specifically is not included that is covered in a fingerprint-based check?

ANSWER. Lyft's background check is a comprehensive name-based criminal screen, which uses an applicant's personally identifiable information ("PII"—name, date of birth, Social Security Number) to search for criminal history. Based on the applicant's Social Security Number, Lyft's provider, Checkr, locates prior address history and aliases from credit header data and other public records. Checkr then conducts a National Criminal Records Check, which is a name-based search of a multi-jurisdictional database that combines publicly available and purchased criminal records compiled from a variety of state, county, and other proprietary sources. Using the applicant's PII, address history, and any data from the National Criminal search, Checkr conducts a County Criminal Records Check—searching all felony, misdemeanor, and pending criminal records for all relevant counties associated with the applicant. In addition, information is gathered from a State Criminal Records Check, a Federal Criminal Records Check, a Sex Offender Registry Check, and a Global Watchlist Records Check, which searches various domestic and international government watchlists including the FBI's Most Wanted Lists, Interpol's Most Wanted Lists, and other sanctions lists.

Active drivers are all re-screened and must undergo this Checkr background check at least every year. In addition, since April 2019, all active drivers have been enrolled in Lyft's continuous criminal monitoring program with First Advantage. This product uses a different national criminal records database, as well as national arrest and warrant databases, to search for new criminal records and immediately notify Lyft of disqualifying convictions and pending cases.

In contrast to Lyft's comprehensive and multi-tiered criminal screening processes, fingerprint-based background checks are generally limited to a search of the government (FBI) fingerprint database. The database is intended for use by law enforcement to aid with investigations. It is not well-suited to assess eligibility for contractorship. The database is reliant on the FBI's timely receipt of fingerprint information from states and municipalities; and there are significant gaps in this as many states fail to report all records or fail to do so in a timely manner. In addition, fingerprints are often linked to records that show an arrest, but are missing the final disposition of the case. This means a fingerprint-based background check may not show that the arrest never led to charges, or that the charges were later dismissed or resulted in acquittal. Also, fingerprint background checks will not find

criminal records where fingerprints were either not taken, were lost, or otherwise not filed with the record.

Driver Wages:

Question 21. Several Members raised the issue of employee classification and driver wages at the hearing. In his testimony, AFL-CIO Transportation Trades Department President Larry Willis stated that many drivers who work for ride hailing companies make less than the minimum wage of the city they are operating in. Your company's own estimates claim that Lyft drivers make an average of closer to \$21 per hour.

Are your average reported wages of \$21 per hour net of any expenses a driver is responsible for under your business model? Please provide a list to the Committee of all expenses, such as vehicle maintenance and fuel, for which Lyft drivers are responsible, as well as an itemized list of fees your company collects from driver fares.

ANSWER. Our national average hourly earnings has actually increased and is now \$29.47 per hour² gross when drivers are booked, including tips. Booked time is calculated from the time a driver accepts a ride request to the time the driver drops off a passenger. Expenses vary depending on when, where, and how much someone drives. See below for average per mile expenses, which comes to approximately \$5–6 per hour. Additionally, tips on the Lyft platform are \$2.36 per hour on average. Drivers have earned well over \$500M in tips [<https://blog.lyft.com/posts/500-million-in-tips>] since Lyft's start.

Driver Expenses³

Mileage Based Depreciation	\$0.05
Gas	\$0.12
Repair & Maintenance	\$0.13
Total	\$0.30/mile

LYFT FEES

Lyft does not collect any fees from driver earnings. Driver pay is calculated based on the time and distance of a ride. Drivers receive a base rate when they start the ride, and can collect bonuses and tips on top of that. This provides drivers with a consistent earnings experience regardless of what the rider pays.

Classification:

Question 22. In the lawsuit *Jessica Harris v Uber*, Uber's defense argued that they are not a transportation company, but rather a technology company with independent contractors.

Does Lyft consider itself a transportation or technology company?

ANSWER. Lyft is regulated in most jurisdictions as a "Transportation Network Company," or "Transportation Network Provider." The word "network" is the pillar that distinguishes us from transportation companies. We are not simply a taxi dispatcher with an app built on top. The software that powers our platform, managing a double-sided marketplace (i.e. network) by dynamically meeting supply and demand in real time, is extraordinarily hard to build and maintain. It's why we employ over 2,000 software engineers and developers whose job it is to keep the rideshare platform running and improving every day.

The platform itself *is a technology*, and a very sophisticated one. That network technology is the innovation that our company pioneered. It powers everything that separates us from a transportation company—from enabling drivers to decide when, where, for how long, and for whom they drive, to tearing down barriers for communities long underserved and without historical access to affordable, reliable transportation options. The platform technology is the source of the flexibility that drivers demand, and the accessibility that riders have come to love and depend on.

Question 23. If every driver on your platform quit tomorrow, how would you continue to provide service for your customers?

²Lyft, *Sharing the Ride with Lyft* [<https://medium.com/sharing-the-ride-with-lyft/what-you-can-make-driving-with-lyft-f9a840cc20d9>], Laura Copeland April, 2018

³Zoepf, *The Economics of Ride Hailing: Driver Revenue, Expenses and Taxes*, MIT CEEPR Feb, 2018. Note, we remove insurance cost from their Repair & Maintenance & Insurance cost because insurance is a fixed cost. Our Repair & Maintenance figure is in line with "AAA's Your Driving Costs 2019"

ANSWER. The truth is that drivers *can* quit and *do* quit driving on our platform all the time. Our driver marketplace is highly fluid, and that is because drivers like the ability to choose when, how and where to work. If drivers on our platform are not satisfied, they can drive for other platforms, or not at all; they have a wide range of choices and can change platforms or log off with the tap of a screen. We have to compete to attract drivers to our platform every day, just like we compete for riders. That's why we work hard to show drivers that we've built a reliable, flexible, platform for earning when and where it works for them. It's why we strive to provide drivers on our platform with the best customer service, the best software product, and the best earning opportunities in our industry. Because the product we have built has provided tremendous value for riders and drivers both, we welcome discussions with legislators and regulators about how to provide meaningful new legal frameworks that both protect drivers and their earnings, and guarantee their ability to work with the flexibility that our platform provides.

Question 24. If your business model is dependent on drivers generating a profit from ride hailing services, how do you justify classifying drivers as independent from your company?

ANSWER. On the Lyft platform, 91 percent of drivers drive fewer than 20 hours per week, 76 percent drive fewer than 10 hours per week, and the median driver spends just 10 weeks of the year driving with Lyft. Our drivers choose to work with us as a supplement or alternative to traditional jobs with scheduled shifts and set locations. Consider parents who want to work flexible schedules while children are in school; students who want to earn money in between classes; retirees who drive for a few hours a week to supplement fixed incomes and for social interaction; or military spouses and partners who frequently relocate.

Drivers have the freedom, flexibility, and control to choose when to work, how much they work, how often they work, where to work, and ultimately whether to log on at all. Drivers tell us this is what they value most about Lyft. Once on the platform, a driver never has to accept any ride request and is never penalized for declining any given ride request. Nor are there any required work minimums. Drivers are also free to work for multiple rideshare platforms *at the same time*, and many Lyft drivers choose to do so, something nearly impossible to do in a traditional job.

Rideshare drivers have told us repeatedly that they do not want to lose this freedom, flexibility, and control, and many would stop driving if forced into the confines of a traditional job that they have already chosen to avoid. As stated above, Lyft is a Transportation *Network* Company and it is in the business of managing and improving the double-sided marketplace that its platform technology pioneered. This double-sided marketplace connects—and facilitates transactions between—riders looking for rides, and drivers in the business of providing them. This is true of any platform like ours that has to build a double-sided marketplace. eBay, for example, could not exist without both buyers *and* sellers. But that fact neither addresses nor resolves the question of whether eBay sellers are employees of eBay. It is why such a fact is not given great weight by federal employment classification analyses. For that reason, several federal agencies, including the DOL and NLRB⁴, have asserted that drivers who choose to drive on a network platform like ours are doing so as independent contractors.

Transit Partnerships:

Question 25. At the hearing, Mr. Willis noted that according to Uber's public filings, they are seeking new revenue streams, including partnerships with public transportation agencies.

Is Lyft pursuing partnerships with public transportation agencies as a new revenue stream?

ANSWER. Use of the Lyft platform to access public transportation has always been part of Lyft's complete revenue stream, as Lyft riders have long used our services organically to facilitate transportation to and from the nearest public transit station. As noted, 25% of all our rides nationwide are within 100 meters of a public transit station.

In 2018, we began to introduce mixed transportation trip-planning capabilities in our app, including providing access to public transit routes and timetables—providing people more options than ever to get around. Today, riders can seamlessly request a Lyft as a first- or last-mile solution during their transit journey.

⁴ https://www.dol.gov/whd/opinion/FLSA/2019/2019_04_29_06_FLSA.pdf
<http://apps.nlr.gov/link/document.aspx/09031d4582bd1a2e>

We have partnered with transit agencies over the past four years, either directly at an agency's request, or by winning a formal RFP process. The circumstances under which these partnerships have come about have been when transit agencies have approached us with their needs.

Question 26. What specific types of partnerships does the company envision with public transit agencies? Does this go beyond providing first mile/last mile service, paratransit, or late-night service? Are you seeking Federal transit funds to provide these services?

ANSWER. Our Transit Partnerships team is comprised of transportation planners and service planners who work with public transit agencies to better understand local needs and co-create bespoke programs to support an agency's mobility goals. Lyft does not seek Federal transit funds to provide these services.

Lyft is focused on helping transit agencies respond to solve mobility gaps in their communities. We share this Committee's goal to help empower local transit agencies to respond to challenges with innovative solutions.

QUESTIONS FROM THE MAJORITY-SIDE SUBCOMMITTEE TO UBER

Uber, Lyft, and Via were invited to be witnesses at the hearing and declined the invitation. Following are questions for the record from majority-side members of the subcommittee to Uber, along with their answers.

*Please indicate whether any of the policies or protocols described in response to the questions below vary by State.

Government Regulation:

Question 1. Your company has been cited as supporting preemption of local TNC regulations. At the hearing, Mayor Freeman-Wilson, President of the National League of Cities, provided the opposite view, arguing for more flexibility for cities.

Do you oppose TNC regulation at the local level, and if so, why? Please provide specific examples of the types of local regulations Uber opposes.

ANSWER. Uber supports regulation—whether at the local or state level—that is in the best interests of TNC riders, drivers, and the broader community. We do not oppose all regulation at the local level. For example, Uber has been working directly with local and regional regulators and transit authorities on our electric JUMP Bike and Scooter products, and with our products designed to encourage riders to take existing public transit. Instead, we evaluate all proposed laws that would affect the TNC industry on their merits. Uber undertakes a case-by-case evaluation of all proposed legislation, and cannot categorically list the types of regulations we oppose. However, there are instances where Uber has opposed local regulations that, in our view, do not serve the best interests of TNC riders, drivers, and the broader community. For example, Uber recently announced its opposition to a proposed measure in the City of Chicago that would impose a \$3.00 fee on TNC rides within certain parts of the City without equitably applying those fees or fully considering the impact on communities with already limited access to transportation options. In addition, Uber opposed regulations in New York City that cap the number of for-hire vehicles that may operate in New York City, which we believe will ultimately hurt transportation access in the outer boroughs while failing to meaningfully address congestion in Manhattan.

Question 2. Do you support State level regulation, and if so, why?

ANSWER. Generally speaking, TNCs such as Uber are regulated at the state level, and Uber has supported state-level regulation. Regulation helps to protect consumers, empower drivers, and unlock opportunities for the wider industry. Because the rules governing transportation services in most states were put in place prior to the emergence of ridesharing technology, Uber has argued that new laws and regulations are necessary to support new technology and new models.

Statewide regulatory frameworks can be a better conceptual fit for TNC drivers than municipal or county-level regulatory frameworks. This is because TNC drivers frequently take trips that cross city or county lines. It can be extremely complicated for drivers to comply with a patchwork of regulations that often emerge when cities and counties adopt their own regulatory frameworks. For example, prior to the enactment of a statewide framework in the State of Florida in 2017, drivers who operated in South Florida had to comply with three distinct regulatory frameworks in Miami-Dade County, Broward County, and Palm Beach County, each with dozens of different requirements, even though the work they provided and local considerations were nearly identical. Another reason states seemed to quickly claim oversight of our industry was because auto insurance is typically regulated at state levels, and many state legislators chose to make policy on our nascent industry to en-

sure drivers and riders would be protected with standards around liability coverage, among other consumer protections.

Statewide regulatory regimes can also be a better conceptual fit for TNC riders. Without a statewide regime, it may be infeasible for TNCs to offer technology in more rural and remote parts of states. This is because the costs of compliance with dozens of municipal regulatory regimes can outweigh the benefits of extending technological reach to areas where there are few riders and drivers. The adoption of statewide regulatory regimes therefore enables TNCs to expand the reach of its technology to more rural and remote areas, which have historically had little to no access to for-hire transportation or other transit options. For these and other reasons, 46 states and the District of Columbia have enacted statewide regulatory regimes for TNCs.

While we believe that statewide regulatory regimes are generally preferable, Uber has worked collaboratively with cities on TNC regulations. Uber has supported regulations that protect riders by enabling access to safe, reliable and affordable transportation at the touch of a button—regulation that empowers drivers by providing flexible economic opportunities built on existing skills, and regulation that improves cities by authorizing ridesharing services, which requires fewer, fuller, and more efficient vehicles than existed prior to ridesharing. In addition, these regulations have led to increased transportation access to historically underserved areas by providing a platform that aims to lower barriers and remove obstacles. We at Uber aspire to democratize mobility and work.

Specifically, Uber has supported regulations that:

- Require TNC drivers to undergo a robust background check process with defined standards set out in law;
- Ensure that key safety information is communicated to a rider via the app before a trip occurs, including the license plate number and photo of the driver;
- Provide pricing transparency to riders by requiring TNCs to either show riders an upfront price or explain its fare methodology before a trip occurs;
- Require insurance coverage that far exceeds the requirements for the taxi industry in most US jurisdictions; and
- Prohibit TNC drivers from engaging in any type of discrimination.

Question 3. How much money has Uber expended to date, in total, opposing regulation of your company at the local, State, and Federal level?

ANSWER. While Uber reports its lobbying expenditures in many jurisdictions throughout the country, it is not required to delineate as part of a lobbying activity report whether it has expended money “supporting” or “opposing” a particular proposal. Frequently it is the case that Uber supports some aspects of a proposed bill and opposes other aspects of it, thus making such a calculation impossible. It is also often the case that Uber may support a proposal at one time and then oppose the proposal after it is amended during the legislative process.

Public Safety:

Question 4. The hearing highlighted the growing number of news reports of alleged assaults on passengers who utilize TNCs. At the hearing, Paul Miller, Legislative Counsel with the Transportation Alliance, noted that when a taxi driver is involved in an accident or alleged assault against a passenger, not only are local police on-site but the taxi commission conducts oversight as well. For TNCs, alleged assaults or crimes are not documented as TNC-related, even if reported to local authorities. The only comprehensive data source of passenger-reported assaults and other incidents against Uber drivers resides with your company.

Do you support making the number of reported crimes perpetrated by drivers against passengers you have received publicly available?

ANSWER. Uber has independently committed to publishing a safety report this year that will include data on reported incidents of sexual assaults and other serious safety incidents that occur in connection to the Uber platform¹. It is worth noting that both riders and drivers may be reported as the perpetrators of such safety incidents in connection with the Uber platform.

As part of that process, we’ve worked with the National Sexual Violence Resource Center and the Urban Institute to develop and implement an open-source Sexual Misconduct and Violence Taxonomy globally and have been working with other companies to encourage shared adoption. The taxonomy provides a way to classify incidents reported to us with greater precision and consistency. Prior to this, no uni-

¹Tony West, *Turning the lights on*, Uber Newsroom (May 15, 2018), <https://www.uber.com/newsroom/turning-the-lights-on/>

form industry standard for classifying reports of sexual assault and misconduct existed.

Uber believes that if we confront the issue of sexual violence and count it consistently, we can make more progress to end it. We hope this report can help other companies deliver best practices beyond to prevent sexual violence.

Question 5. Do you support local authorities tracking incidents that occur on hailed rides in order to provide law enforcement with better data to inform their public safety strategies?

ANSWER. We are committed to supporting safety in our communities and we are always looking to partner with local authorities and law enforcement to help improve public safety. In some jurisdictions, we are required to report certain incidents to local regulators. We evaluate each proposal to determine whether it is tailored to meet the policy purpose and protect individual privacy interests.

In addition, we have implemented robust processes to assist law enforcement during investigations. We have a team of former law enforcement professionals (e.g., former police officers, FBI, Secret Service, and other trained security professionals) who are on call to work with police 24/7 to respond to urgent needs and walk them through how we can assist in an investigation. This team also works to proactively educate law enforcement about how to reach us and get the information they need through valid legal processes, and engages them regularly. The team also receives and manages these requests.

In March 2017, Uber launched a law enforcement web portal to make the process of obtaining information in guidance with the law easier, faster and more secure for our partners in law enforcement.² This portal enables police to gather critical information securely and quickly when and where they need it most. The portal enables requests to be initiated either from a desktop in an office or on a mobile device in the field.

We've also published Guidelines to make clear how we work with law enforcement.³ For example, Uber ensures that any disclosure of information is consistent with our internal policies and applicable law. Uber also works to provide information as soon as possible (i.e., within an hour) for emergency and exigent requests, and, for a standard request, we aim to provide information in 14 days or less.

Question 6. Do you track the type and frequency of passenger-reported crimes perpetrated by drivers you receive? If not, please explain why.

ANSWER. We believe transparency fosters accountability. However the decision to publish a safety report was a challenge, in part because data on safety and sexual assaults across society generally is sparse and inconsistent. In fact, as the first company to voluntarily report on this information, there is no data to reliably or accurately compare reports against ridesharing drivers versus taxi drivers or limo drivers, or Uber versus buses, subways, airplanes or trains. And when it comes to categorizing this data for public release, no uniform industry standard for reporting has existed.⁴

But we decided we can't let all of that hold us back. So we worked with experts in the field to develop a taxonomy to categorize the incidents that are reported to us, whether reported by a rider or a driver. We've open-sourced this methodology and made it available to all in order to encourage others in the ridesharing, transportation and travel industries, both private and public, to join us in taking this step. For example, TripAdvisor is using the taxonomy to help guide a study of safety-related incidents reported in reviews left by travelers using their platform.⁵ By providing a roadmap, we feel that we can help bring more accountability and therefore improve safety for travelers overall.

Question 7. Please provide data on the total number of incidents involving alleged crimes against riders by drivers you have received, to date, broken down by type.

ANSWER. We have committed to publishing a safety report that will include data on reports of sexual assaults and other critical safety incidents in connection to the Uber platform. We've committed to releasing this report by the end of the year.

This has been an intensive and complex effort given that no uniform industry standard for categorizing and reporting this data previously existed. So we had to create one. Again, turning to experts, we worked with the National Sexual Violence

²Mike Sullivan, *Uber Shows How Tech Can Play an Ethical Role in Both Privacy and Public Safety*, Uber Newsroom (Oct. 11, 2017), <https://www.uber.com/newsroom/safety-and-security/>

³Uber Technologies, *Uber Guidelines for Law Enforcement Authorities—United States*, WWW.UBER.COM, <https://www.uber.com/legal/data-requests/guidelines-for-law-enforcement-united-states/en-US/>.

⁴<https://www.gao.gov/assets/680/678510.pdf>

⁵<https://www.nsvrc.org/blogs/tripadvisor-and-business-case-better-safety-information>

Resource Center and the Urban Institute to develop a system to categorize the incidents that are reported to us. We've made this methodology available to all.

Question 8. What is your specific process for reviewing alleged incidents of violence, assault, or harassment reported by Uber passengers? What is your specific process for reviewing complaints and alleged incidents by Uber drivers? What is your specific protocol for when and how to refer incidents to law enforcement?

ANSWER. As ridesharing options like Uber have grown quickly over the past several years and people are using them more regularly in their daily lives, we know that we have a responsibility to cooperate with law enforcement investigations, while also protecting the privacy of our users.

The types of incidents our team handles encompass a wide spectrum, and therefore there is no "one size fits all" approach to dealing with them. We review each case individually based on the information available to us.

We have a dedicated team—which was formed in July 2017—to address any urgent issues. We created this specialized team to handle more serious safety reports in an effort to implement targeted training and improve how we support riders and drivers in these difficult situations. We've elevated our training and designed a program centered on victims so we can approach these situations with even greater care.

We also have a global law enforcement team made up of former law enforcement professionals who have the expertise to handle requests from public safety officials during active investigations.⁶ They are on call to interact with law enforcement and share information quickly when time is critical.

If we believe an individual is a danger to themselves or others, we will take appropriate action that may include deactivation and helping to facilitate reporting to law enforcement. In the case of a sexual assault for example, we instruct agents to provide survivors with contact information that will allow them to reach law enforcement, as well as connect with crisis support services.

Not all survivors of sexual assault want to report to law enforcement or contact a crisis center. Both survivors and sexual assault advocacy experts have told us repeatedly that preserving survivors' choice is critically important; it should be up to survivors whether to share their stories, and that includes whether to report an incident to law enforcement.⁷ We do our best to respect a survivor's right to control with whom they disclose information. Several months ago, we started looking into the process of implementing a customer support protocol where we would advise that what is being reported may be a crime to give people the option to allow us to contact law enforcement on their behalf.

Over the last two years, we've enhanced our investigative responsive processes and Community Guidelines.⁸ Serious incidents such as sexual assault are reviewed by our specialized team with an eye towards a survivor-centric response, and our responses are developed with guidance from advocates in this space. We give significant weight to the statement given by a reporting party, as well as relevant facts that our investigation may reveal, and take action in accordance with the survivor's report and additional information we can collect through this careful review process.

In addition, in partnership with RAINN, we created educational videos that we send to riders and drivers if they are reported for issues such as inappropriate comments or flirting.⁹

Question 9. What is your specific protocol to follow up with drivers who have been accused of harassment, assault, or violence? What is your specific protocol to deactivate a driver?

ANSWER. As mentioned above, with any serious report of serious sexual misconduct, we immediately remove the person in question's access to the Uber app (i.e., rider or driver) while we review the matter, which includes speaking with both the rider and driver involved. We also work with police to support their investigation through the appropriate process.

As mentioned above, we created a specialized team in 2017 to handle more serious safety reports in an effort to implement targeted training and improve how we support riders and drivers in these difficult situations. We've elevated our training, designed a program centered on victims so we can approach these situations with even

⁶Mike Sullivan, *Uber Shows How Tech Can Play an Ethical Role in Both Privacy and Public Safety*, Uber Newsroom (Oct. 11, 2017), <https://www.uber.com/newsroom/safety-and-security/>

⁷@RALIANCEOrg, TWITTER (Sept. 25, 2019, 6:18 PM), <https://twitter.com/RALIANCEOrg/status/1177029586854588416>

⁸Uber Technologies, *Uber Community Guidelines*, WWW.UBER.COM, <https://www.uber.com/legal/community-guidelines/us-can-en/>

⁹Rape, Abuse & Incest National Network, *RAINN—Uber*, <https://www.rainn.org/uber>.

greater care. The types of incidents our team handles encompass a wide spectrum, and therefore there is no “one size fits all” approach to dealing with them.

We review each case individually based on the information available to us. We give significant weight to the statement given by a reporting party, as well as relevant facts that our investigation may reveal, and take action in accordance with the survivor’s report and additional information we can collect. In serious cases, like reports of sexual assault, Uber will permanently ban the account (driver or rider) based on a single report whenever it’s determined that the circumstances warrant such action.

In addition, in partnership with RAINN, we created educational videos that we send to riders and drivers if they are reported for issues such as inappropriate comments or flirting.¹⁰

Driver and Passenger Verification:

Question 10. During his testimony, Congressman Smith informed the Subcommittee that anyone can go online and purchase Uber signage to place in their cars in order to appear as drivers. A quick search on Amazon revealed several options of Uber signage and lighting for under \$10.

Does your company trademark the Uber signage and lighting features drivers use in their cars when working?

ANSWER. Yes, Uber has filed for trademark protection for signage and lighting features that Uber makes available to drivers for use in their cars.

Question 11. If so, have you sought to enforce your trademark to control who can sell or use these signs? If not trademarked, please explain why.

ANSWER. Yes, Uber has enforced its trademark rights against those who sell counterfeit signs and lights bearing Uber’s trademark. Uber has engaged the services of a vendor who seeks out such products being sold on e-commerce platforms and submits requests to the platform provider to remove the infringing products. This has resulted in the removal of thousands of counterfeit products from the online marketplace. Uber also reached out to the e-commerce platforms individually to request that they provide assistance to affirmatively block such product listings from going live in the first place.

Question 12. Do you require drivers to display signage in their vehicles when providing rides? If so, what are the exact requirements, where do drivers procure the signage from, and what oversight do you conduct to ensure drivers are displaying the required signage correctly?

ANSWER. Uber provides trade dress decals to drivers in all markets where required by applicable law or regulation. All rideshare drivers are required to comply with the regulations of the jurisdiction in which they operate. In jurisdictions with trade dress requirements, drivers may be subject to fines and other penalties for failure to display trade dress.

Trade dress decals are only sent to drivers who have successfully signed up with Uber after completing a background check, and shown that they meet all applicable internal and regulatory requirements to drive with Uber. Uber sends trade dress decals via direct mail to drivers’ home addresses, along with an informational bifold explaining how to affix the trade dress decal in a compliant manner. In addition, Uber provides drivers with information about the regulatory requirements of each jurisdiction in which drivers operate, including any applicable trade dress requirements.

Uber does not sell its trade dress decals or Uber beacon to anyone on any platform and Uber’s Terms of Service prohibit drivers from selling trade dress. Further, every driver who signs up with Uber agrees to comply with Uber’s Community Guidelines, which state, in part:¹¹

Never harm the business or brand by doing things like using Uber’s trademark or intellectual property without permission. Drivers should only use Uber trade dress that is distributed by Uber. The use of unauthorized or third-party items—such as lights, placards, signs or similar items bearing Uber’s name or trademark—may confuse riders who are trying to find their ride.

Question 13. Additionally, do you require drivers to verify that the correct passenger has entered the car? If so, what is the process required? If not, please explain why.

¹⁰*Id.*

¹¹<https://www.uber.com/legal/community-guidelines/us-can-en/>

ANSWER. Uber has introduced new features to help improve and raise the bar on safety for riders and drivers. For us, it starts with the basics: getting in the right car. Matching riders to the correct ride is essential to the core Uber service. Without a correct pairing, riders would not reach their end destination, drivers could not earn money through the Uber app, and Uber could not successfully connect the 16 million trips powered by our platform every day.

Uber encourages both drivers and riders to utilize the information provided by the Uber app to ensure they are getting into the right vehicle and picking up a confirmed passenger.¹²

As a rider, when an individual requests a trip through Uber, they always get these key details that uniquely identify their ride: the make and model of the car, the driver's photo, and the license plate. If their driver arrives and does not match the information provided, riders are asked to not get into the car and to notify Uber about the issue. We can disable the driver's account immediately until the issue is appropriately resolved.

Behind the steering wheel, Uber's real-time ID check feature periodically asks the driver to take a selfie before being able to log in to give rides.¹³ That selfie will be matched with the driver photo on file. If the photos do not match, the person will not be allowed access to the platform. Technologies like this can help ensure that the driver using the app matches the account we have on file.

Moving forward, Uber has developed new technologies that will continue to expand on these safety features, and set the standard for the ridesharing industry:¹⁴

- **RideCheck:** In September 2019, Uber rolled out RideCheck which is a technology that can detect a potential crash or an unexpected long stop and then sends a proactive check-in to both the rider and driver to offer assistance. Options are surfaced in the app that provide quick access to key safety tools so riders and drivers can take action and get the help that they may need.
- **Verify Your Ride:** To make sure riders get in the right car, they will soon be able to choose to receive a unique four-digit PIN to verbally provide to their driver. The driver will only be able to start the trip in the app once the correct PIN has been entered. Moving forward, Uber is also developing new technology that uses ultrasound waves to automatically verify the correct rider is in the right car, with no PIN needed.
- **Improved Real-Time ID Check:** In 2016, Uber announced Real-Time ID Check, which helps ensure that the driver behind the wheel matches the account in our system. We started with basic selfies, and our most recent enhancement prompts a driver to perform a random series of basic movements in real-time—blinking, smiling and/or turning their head—to add another layer of security.
- **On-Trip Reporting:** Riders no longer have to wait until after they get out of the car to report a problem to Uber. Soon, riders will see a “Report Safety Incident” option in their safety toolkit (the blue shield icon) that will let them report a safety issue during their trip. Uber's safety team will follow up after the trip. This is part of our efforts to encourage reporting by multiple, convenient channels for people to surface issues directly to Uber.

These new features build on the safety benefits that were already part of our platform, including:

- **Designated Driver:** Riders can push a button for a ride and avoid drunk driving.¹⁵
- **Driver/Car Information:** Riders are given the driver's name, photo, make and model of the car and license plate number when they request a trip.
- **GPS Tracking:** Each trip is GPS tracked so there is a record of the trip and pertinent information is included on the receipt and trip history. We are also able to share this information directly with law enforcement to aid investigations where appropriate.
- **Share Trip Feature:** Riders and drivers can share their trip so friends and family are able to follow them on a map in real-time, and know when they've arrived. Riders can also pre-program contacts who they will be regularly prompted to share their trip with.
- **Cross-Street Feature:** Riders can use cross-streets as pick-up and drop-off locations for an added layer of privacy.

¹²Wade Stormer, *Check Your Ride. Every Time. Everywhere.*, Uber Newsroom (July 23, 2019), <https://www.uber.com/newsroom/check-your-ride/>

¹³<https://www.theverge.com/2016/9/23/13030682/uber-driver-selfie-facial-scan-fraud-security>

¹⁴Dara Khosrowshahi, *An Operating System for Everyday Life*, Uber Newsroom (Sept. 27, 2019), <https://www.uber.com/newsroom/everyday-life-os/>

¹⁵Uber Technologies, *Impaired Driving—Community*, WWW.UBER.COM, <https://www.uber.com/us/en/community/safety/drunk-driving-prevention/>

- **Two-Way Feedback:** We have a two-way feedback system where riders and drivers can rate each other and provide comments. Serious issues that are reported are reviewed by our 24–7 support team.
- **Driver Hour Limits/Speed Alerts:** We limit the number of hours a driver can take trips on the app without going offline, and drivers can set up in-app alerts if they are speeding.
- **Safety Toolkit:** In May 2018, we centralized all key safety information and features for riders and drivers into one place in the Uber app. Riders can find safety tips and learn about driver screenings, insurance and our Community Guidelines.

Question 14. How will you verify passengers when your vehicles are autonomous and there is no driver? Is the proposed solution when you utilize autonomous vehicles applicable to today's vehicles?

ANSWER. Our self-driving vehicles are still under development and, where they are being tested on our test tracks and public roads, they are being operated with trained safety drivers. We are not, at present, offering rides to members of the public. When we offer rides to members of the public, we anticipate relying on some of the same approaches we use today, including providing the rider with the vehicle's license plate number, make, model, and any other visible identifiers. Currently, we are undertaking research on approaches to passenger identify verification for our self-driving vehicles, including PIN codes and in-cabin camera data.

Background Checks:

Question 15 (partial). During his testimony, Mr. Miller urged Congress to require industry standardized fingerprint-based background checks as part of any Federal contract awarded to TNCs. Uber has actively opposed the use of fingerprint-based vetting.

UBER'S COMMENT. Uber conducts millions of rigorous criminal and driving record screenings. While no background check is perfect, our process is thorough, fair and relevant to the work in question. We are always continuing to build and strengthen our screening process with the guidance of our Safety Advisory Board, and by introducing additional measures to improve safety.

Before a person is able to drive with Uber in the United States,¹⁶ we complete a screening process that requires an individual's full name, date of birth, social security number, driver's license number, a copy of his or her driver's license, vehicle registration, and vehicle insurance.

We work with Checkr, a third party background check provider accredited by the Professional Background Screening Association. Checkr runs a Social Security trace and checks the potential driver's driving and criminal history in a series of national, state, and local databases and court record repositories. These include the U.S. Department of Justice National Sex Offender Public Website, the federal PACER database, and several databases used to flag suspected terrorists.

Upon identifying a potential criminal record, Checkr sends an individual to review the record in-person at the relevant courthouse or, if possible, pulls the record electronically. These screenings use information that is maintained by national, state, and county level authorities, whose processes may vary by jurisdiction. By verifying potential criminal records at the source—the courthouse records—we can help ensure that we are checking the most up-to-date records available.

Beyond the initial screening, Uber proactively reruns criminal and motor vehicle checks each year, regardless of whether there is a legal obligation to do so. By conducting annual reruns everywhere in the U.S., and expanding beyond jurisdictions where we are legally required, we are committed to ensuring our screening standards are applied consistently and continuously across the country.

Moreover, since July 2018, Uber has been among the first to invest in screening technology that rapidly monitors and identifies new criminal offenses through a number of data sources.¹⁷ As an extension of Uber's screening process, this technology helps ensure there is continuous reporting of new reviewable events that occur between scheduled reruns. Consistent with our current criteria, if we are notified of a new disqualifying criminal charge or conviction and the driver no longer meets our standards or local requirements, the partner will be blocked from the app.

¹⁶In New York City, all drivers undergo the criminal portion of Uber's background check process, as described in this response. Drivers in New York City are licensed by the Taxi and Limousine Commission, which also runs its own driving record and criminal history checks on drivers.

¹⁷Dara Khosrowshahi, *Getting serious about safety*, Uber Newsroom (Apr. 12, 2018), <https://www.uber.com/newsroom/getting-serious-safety/>

For disqualifying pending charges, the driver will remain blocked from the app unless the charge is resolved.

Question 15 (con't). Why do you oppose fingerprint-based background checks for Uber drivers?

ANSWER. Fingerprint-based background checks should not be required for a number of reasons. First, the FBI and state databases that are utilized for fingerprint-based background checks have significant gaps that reduce their efficacy and can lead to discriminatory outcomes for communities of color. Second, as explained above, the process that Uber currently uses is thorough, fair, and relevant to the work in question.

The FBI maintains a centralized repository—the Interstate Identification Index (“III”)—to facilitate the sharing of criminal history among states. The III houses federal criminal history information as well as state criminal history information that the individual states voluntarily report to the FBI. The III and similar state-level repositories generate “rap sheets,” which are meant to summarize an individual’s criminal history. There are several structural flaws with the III and state repositories that make them incomplete and inaccurate sources. First, the repositories are often missing final disposition information (i.e., whether an arrest resulted in a conviction, acquittal, or something else). The federal repository is missing disposition data for about 50% of its arrest records.¹⁸ And state repositories do not fare much better. In fact, a 2016 Survey compiled by SEARCH—the national consortium for justice information and statistics—shows that 30 states self-reported that less than 80% of arrests in their state repositories have final dispositions and 17 states had less than 60%. Some states register well below 50%, including Mississippi (14%), Louisiana (20%), and Colorado (21%).¹⁹

Because of this gap, the entities that use fingerprint-based background checks to evaluate for-hire drivers often rely on rap sheets that show an arrest event without corresponding disposition information on whether the individual was ultimately convicted or acquitted. As the FBI stated in a 2016 report, “gaps in disposition reporting . . . negatively impact the quality of information shared for employment and licensing adjudications.”²⁰ While licensing agencies have different processes for evaluating applicants with an incomplete criminal history report, we are aware of at least some for-hire driver licensure bodies that put the onus on the applicant with an incomplete rap sheet to obtain a certified court record or other evidence showing they were not convicted.

Obtaining a record to show that an arrest did not lead to a conviction—in other words, to prove their innocence—often requires traveling to a courthouse or arresting agency in another county or state.²¹ And if an arrest did not result in charges, there is likely no court record available; in that instance, the individual must seek the record from a prosecutor’s office or police department or file a motion to expunge the entry on their rap sheet.²² These additional barriers are problematic for anyone. However, they are particularly problematic for minority communities—especially the African-American community—whose members are arrested at rates far greater than their representation in the general population.²³ As former Attorney General

¹⁸ See Ellen Nakashima, *FBI wants to exempt its huge fingerprint and photo database from privacy protections*, Wash. Post, June 1, 2016, https://www.washingtonpost.com/world/national-security/fbi-wants-to-exempt-its-huge-fingerprint-and-photo-database-from-privacy-protections/2016/05/31/6c1cda04-244b-11e6-8690-f14ca9de2972_story.html (reporting that the FBI’s figures show that 51 percent of all arrests in FBI repository lack final disposition data).

¹⁹ U.S. Dept. of Justice, Bureau of Justice Statistics, *Survey of State Criminal History Information Systems, 2016*, Table 1, <https://www.ncjrs.gov/pdffiles1/bjs/grants/251516.pdf>; California State Auditor, *California Department of Social Services: Its Caregiver Background Check Bureau Lacks Criminal History Information It Needs to Protect Vulnerable Populations in Licensed Care Facilities, Report 2016–126*, March 2017, at 43, <https://www.auditor.ca.gov/pdfs/reports/2016-126.pdf> (finding that California Department of Justice is missing disposition reports for up to 40% of arrest records).

²⁰ FBI, Disposition Task Force Best Practices Guide, Preliminary Findings, April 2016, <https://www.fbi.gov/file-repository/disporev04082016tagged.pdf/view>, at 1.

²¹ Madeline Neighly & Maurice Emsell, National Employment Law Record, *Wanted: Accurate FBI Background Checks for Employment*, July 2013, <https://s27147.pcdn.co/wp-content/uploads/2015/02/Report-Wanted-Accurate-FBI-Background-Checks-Employment-1.pdf> at 18.

²² U.S. Dept. of Justice, Bureau of Justice Statistics, *Improving Access to and Integrity of Criminal History Records* (July 2005), at 15, <https://www.bjs.gov/content/pub/pdf/iaichr.pdf>.

²³ Brad Heath, *Racial Gap in U.S. Arrest Rates: ‘Staggering Disparity’*, USA Today (Nov. 19, 2014), <https://www.usatoday.com/story/news/nation/2014/11/18/ferguson-black-arrest-rates/19043207/> (reporting on 2014 study on 70 police departments across the United States that found that African-Americans are arrested at a rate ten times higher than those who are not African-American).

Eric Holder stated in a 2016 letter to Chicago officials considering a fingerprint background check proposal for TNC drivers:

Requiring fingerprint-based background checks for non-law enforcement purposes can have a discriminatory impact on communities of color. With nearly 50% of African-American men and 44% of Latino men arrested by age 23 nationwide, the practice of denying work based on law enforcement records with incomplete and inaccurate information disproportionately disadvantages people who have been arrested.²⁴

Congressional leaders have also raised concerns about using information from the FBI III for employment and licensing decisions. Specifically, in June 2015, Senators Leahy and Grassley wrote FBI leadership expressing their concern that employment and licensing decisions were based on a criminal history repository that was missing disposition information for 50% of arrest records, stating that it “unfairly penalize[s] current or prospective workers.”²⁵

A second structural flaw with the repositories used for fingerprint-based background checks is that they are missing some criminal events altogether. One reason is that these repositories typically only capture custodial arrest events, which are initiated with a booking and fingerprinting. Non-custodial arrests (i.e., arrests initiated through citations, summons, warrants, and indictments) often do not make it into the repositories or, if they do, not until years later. This issue has very significant practical consequences. For example, as of late 2018, the Commonwealth of Virginia’s state repository was missing more than 750,000 records, including more than 300 murder convictions, 1,300 rape convictions, and 4,600 felony assault convictions.²⁶ These issues are not unique to Virginia; they are prevalent in other state repositories.²⁷ And since the FBI III repository is based, in part, on state repository data, this issue also infects the III.

Over the past five years, over 100 cities, counties, and states have enacted laws governing TNC service. Many of these jurisdictions evaluated whether they should require TNC drivers to undergo fingerprint-based background checks and concluded that they should not. In particular, we call your attention to the proceedings conducted by the Maryland Public Service Commission in 2016 and the California Public Utilities Commission in 2017. The Maryland PSC conducted a three-month proceeding, with a multi-day hearing in which it heard from law enforcement, academic, industry, and background check experts. At the end of the proceeding, the PSC declined to impose a fingerprint background check requirement on TNC drivers, finding that Uber’s process (as stipulated in the PSC’s Order) was as “comprehensive and accurate” as the fingerprint background check process.²⁸ The California PUC similarly declined to require TNC drivers to undergo fingerprint-based background checks after finding that fingerprint checks would not add a “demonstratively greater level of safety.”²⁹

²⁴ Letter from Eric Holder to Alderman Anthony Beale, (June 2, 2016), <https://suntimesmedia.files.wordpress.com/2016/06/letter-to-alderman-beale-june-2-2016.pdf>.

²⁵ Letter from Sens. Patrick Leahy & Charles E. Grassley to Hon. James B. Comey, FBI Director (June 26, 2015), [https://www.judiciary.senate.gov/imo/media/doc/2015-06-26%20CEG,%20Leahy%20to%20FBI%20\(Criminal%20History%20Record%20Information\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2015-06-26%20CEG,%20Leahy%20to%20FBI%20(Criminal%20History%20Record%20Information).pdf).

²⁶ Tom Jackman, *Va. Criminal database missing 750,000 cases used for gun and background checks, crime scene investigations*, Wash. Post (Oct. 28, 2018), <https://www.washingtonpost.com/crime-law/2018/10/28/va-criminal-database-missing-cases-used-gun-background-checks-crime-scene-investigations/>.

²⁷ U.S. Gov’t Accountability Office, *Criminal History Records: Additional Actions Could Enhance the Completeness of Records Used for Employment-Related Background Checks*, GAO-15-162, <https://www.gao.gov/assets/670/668505.pdf> at 21 (finding that 1.6 million dispositions in one audited state could not be linked to an arrest because fingerprints were not captured); Jeffrey Benzing, *Pennsylvania Police Fail to Fingerprint Thousands of Suspect Criminals*, Public Source (June 29, 2014), <https://www.publicsource.org/pennsylvania-police-fail-to-fingerprint-thousands-of-suspected-criminals/> (reporting that more than a dozen Pennsylvania counties were missing fingerprints in at least 20% of cases); Jennifer Sullivan, *State Database Missing Some Criminal Information Used in Background Checks*, Seattle Times (June 15, 2015), <https://www.seattletimes.com/seattle-news/crime/state-database-missing-some-criminal-information-used-in-background-checks/> (30% of records missing in Washington repository due to missing fingerprints, including DUIs, homicides, and rapes); U.S. Department of Justice, Bureau of Justice Statistics, *supra n. 19* at 20 (noting that “[t]hirteen states cite and release individuals without fingerprinting for all criminal offenses, including felonies”).

²⁸ *In the Matter of Rasier, LLC and Lyft, Inc.*, Case No. 9425, Order No. 87957 (Md. PSC 2016) (case docket available at <https://www.psc.state.md.us/>).

²⁹ *Decision on Phase III.B. Issue: Criminal Background Checks For Transportation Network Company Drivers*, Rulemaking 12-12-011, Decision 17-11-010 (Cal. PUC Nov. 13, 2017), <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M199/K073/199073743.pdf>, at 23.

Finally, we wish to respond to one point that Paul Miller of Transportation Alliance made at the October 16th hearing. According to Mr. Miller, “name-based background checks are 43 times more likely to have errors than fingerprint-based checks.” Mr. Miller bases this statement on a report prepared by taxi industry-affiliated advocates titled “One Standard For All,” which in turn cites congressional testimony about a 2007 audit finding that the TSA’s Terrorist Watchlist database had a 43% false positive rate. But the congressional testimony cited by the taxi industry advocates made clear that the high error rate was caused by data errors and other issues *unique to the watch list database*.³⁰ This testimony does not in any way support a sweeping claim that name-based background checks are 43 times more error prone.

Question 16. How much has your company spent on lobbying activities to oppose local initiatives to require fingerprint-based background checks by police, such as in Austin, TX?

ANSWER. Uber contributed approximately \$7.5 million to Ridesharing Works for Austin in 2016. Ridesharing Works for Austin was a political committee that supported a ballot measure opposing an Austin ordinance that required TNC drivers to undergo a fingerprint-based background check on top of other onerous regulations. That ballot measure failed.

Uber is not able to compile a figure for its political-related spending on efforts to oppose fingerprint-based background checks throughout the U.S. Under local and state lobbying reporting regimes, Uber is not typically required to itemize the amount it spends lobbying on legislative or regulatory proposals for fingerprint-based background checks. To the extent Uber is required to itemize the legislation or regulation it lobbies for or against, fingerprint-based background checks have often been part of broader legislative or regulatory packages, which means Uber has generally not specifically itemized lobbying activity related to fingerprint-based background checks as part of its lobbying disclosure reports.

Question 17. How much do the third-party background checks you currently utilize cost?

ANSWER. This information is proprietary and commercially sensitive information. We would be happy to work with the Committee to provide this information in a format that ensure it remains confidential. Uber’s opposition to fingerprint-based background checks is not based on the cost of those checks.

Question 18. How much does a comprehensive fingerprint-based background check cost?

ANSWER. The cost of collecting and processing fingerprints can vary as processing often includes a state fee and a federal fee.

Question 19. Would the cost of fingerprint-based background checks for every Uber driver currently operating in Austin be greater or less than the amount you paid for lobbying activities in Austin to oppose the regulation?

ANSWER. It appears that the cost to procure a fingerprint-based background check in Austin, Texas is \$25.³¹ The cost for all drivers in Austin to receive a fingerprint-based background check would be less than the amount Uber paid for lobbying activities to oppose the regulation. Uber’s opposition to fingerprint-based background checks, however, is not based on the cost of those checks.

Question 20. What specifically do the third-party background checks you utilize cover, and what specifically is not included that is covered in a fingerprint-based check?

ANSWER. Please see above for an explanation of our background check process. The third-party background check that Uber utilizes does not include a fingerprint component. In addition, neither Uber nor its background check vendor are authorized to access the FBI’s arrest-based repository, which is described in Answer 15 above.

Driver Wages:

Question 21. Several Members raised the issue of employee classification and driver wages at the hearing. In his testimony, AFL–CIO Transportation Trades Department President Larry Willis stated that many drivers who work for ride hailing

³⁰*The Progress and Pitfalls of the Terrorist Watch List*, Field Hearing before the H. Comm. on Homeland Sec., 110th Cong., 110–84 (2007) (Stmt. of Glenn Fine), <https://www.govinfo.gov/content/pkg/CHRG-110hhrg48979/html/CHRG-110hhrg48979.htm>.

³¹Texas Dep’t of Pub. Safety Crime Records Serv., Access & Dissemination Bureau, *Procedure for Review of Personal Criminal History Record Information*, WWW.DPS.TEXAS.GOV, <https://www.dps.texas.gov/internetforms/forms/cr-63.pdf>.

companies make less than the minimum wage of the city they are operating in. Your company's own estimates claim that Uber drivers make an average of closer to \$20 per hour.

Are your average reported wages of nearly \$20 per hour net of any expenses a driver is responsible for under your business model? Please provide a list to the Committee of all expenses, such as vehicle maintenance and fuel, for which Uber drivers are responsible, as well as an itemized list of fees your company collects from driver fares.

ANSWER. Uber wants to help drivers make informed choices, which is why we provide information to drivers about when and where are the busiest times and places to drive—with the goal of helping drivers maximize the amount of time they have a paying rider. For example, the app shows a Demand Heatmap of busy areas; however, drivers are under no obligation to act on this information.

Drivers who earn money by using Uber platform are responsible for the costs of operating their ridesharing business. These will vary by driver, and how they choose to use Uber (including whether to use a vehicle they already own, whether to buy, rent or lease a vehicle, etc). Someone driving a hybrid vehicle will likely incur lower fuel costs than someone with an SUV. Drivers may also incur additional costs in the course of running their business (e.g., parking tickets, cell phone expenses, optional 'rideshare insurance') but it's worth noting that Uber does not have visibility into these expenses. In some cities or states, there may also be additional regulatory expenses, such as licensing fees.

While it's true that these costs are borne by drivers, many of the costs are tax deductible. Uber provides information to drivers about their tax options and provides a tax summary that includes how many miles they have driven while online with Uber.³²

Uber also seeks to help drivers minimize their costs by partnering with third parties that provide discounts to drivers. For example, drivers can receive up to 6.5% cash back on gas purchases at Exxon and Mobil stations, and 25% off car maintenance with Car Advise.³³ And Uber has partnered with TurboTax to offer drivers free filing and discounts on other services.³⁴

There are third-party estimates of the costs of driving. For example, prominent ridesharing blogger The Rideshare Guy calculates the *cost per mile of driving at \$0.195* for someone who owns a Toyota Prius driving in San Diego, comprising per mile expenses of:³⁵

- Depreciation = \$0.061
- AAA maintenance estimate = \$0.06
- AAA tire estimate = \$0.01
- Gas = \$0.064

Drivers pay Uber a service fee, which varies from trip to trip. It's the difference between what a rider pays and what a driver earns on a trip, excluding tips, tolls, fees (including the booking fee), driver promotions, taxes, and surcharges. Uber's service fee varies in order to make upfront pricing work. Upfront pricing for riders is based in part on the estimated time and distance of the trip, but drivers earn based on actual time and distance. The service fee is lower if the trip takes longer than predicted. The same is true for Uber Pool if fewer riders than expected share the trip. Drivers still earn for the actual time and distance they drive, regardless of the rider price. To keep these commitments to riders and drivers, the Uber service fee varies from trip to trip.³⁶

Drivers earn a fare from riders for every trip they complete. Fares are based on preset rates for time and distance. These fares vary by city and product (e.g., UberX, Uber Black) and are visible to drivers at partners.uber.com. Drivers may also receive from riders: tips, reimbursements for tolls, and additional fees for long wait times or long pickups. Additionally, drivers may earn extra through promotions like Quest (e.g., Complete 20 trips a week, earn an extra \$50), as well as surge pricing, which is dictated by marketplace activity and consequently occurs in times and loca-

³²Uber Technologies, *Tax Documents for Driver-Partners*, WWW.UBER.COM, <https://www.uber.com/us/en/drive/tax-information/tax-documents/>.

³³Uber Technologies, *Uber Pro Beta Terms and Conditions* (August 1, 2019), <https://www.uber.com/legal/rewards-program/uberpro/us-en/>

³⁴Uber Technologies, *Free and easy filing with Turbo Tax*, WWW.UBER.COM, <https://www.uber.com/us/en/drive/tax-information/turbotax-partnership/>.

³⁵Harry Campbell, *How to Calculate Per Mile Earnings Instead of Per Hour* (Feb. 20, 2017), <https://therideshareguy.com/how-to-calculate-per-mile-earnings-instead-of-per-hour/>

³⁶Uber also notes that it collects several additional fees from drivers, which are paid 100% from riders and therefore do not affect driver earnings. For example, riders pay a booking fee, which Uber retains.

tions where demand is higher. Drivers can see their earnings for each trip,³⁷ as well as daily and weekly summaries both in the app and online.³⁸

A 2019 study by economists at Stanford University, using internal Uber data from January 2015 to March 2017, found that the median active driver on Uber received gross earnings of \$21 per hour spent on the Uber app.³⁹ This is the amount earned before subtracting the service fee that drivers pay to Uber, as well as any expenses drivers incur, such as fuel and vehicle maintenance as discussed in more detail below.

A 2018 survey of 1200 ridesharing drivers by the Rideshare Guy, a prominent TNC blogger, found average hourly earnings after Uber's service fee, but before other costs, of \$16.90 per hour.⁴⁰

Earnings vary significantly by region and are generally correlated with driver's business choices, local wages, and the cost of living. When comparing ridesharing earnings to alternative work options or minimum wages, it is more appropriate to look at average hourly earnings in a specific city, as a study conducted by Princeton Professor Alan Krueger does.⁴¹

It is also important to note that using all time online when calculating hourly earnings may underestimate earnings by overstating what is counted as 'working time'. There are three components to time online with Uber: time logged into the app before a trip request has been sent or accepted ('period 1'), time having accepted a trip request and while en route to pick up a rider ('period 2'), and time with a rider on trip ('period 3'). It is important to consider that, typically, period 3 is the only time in which a driver is earning. When online (i.e., in period 1), drivers have no obligation to take a trip and may never even receive a trip request if there are no riders looking for rides in their area; they can also unilaterally choose to ignore or reject trips offered to them. They may be at home, doing other work, logged into or taking a trip through another app, or on a personal trip across town while driving with the Uber app on. Similarly, as a traditional worker may commute to their job, and is not compensated for doing so, an independent driver on Uber may leave the app on while 'commuting' to where they want to drive.

Classification:

Question 22. In the lawsuit *Jessica Harris v Uber*, your defense argued that Uber is not a transportation company, but rather a technology company with independent contractors.

If every driver on your platform quit tomorrow, how would you continue to provide service for your customers?

ANSWER. Uber Technologies, Inc. is a technology company that creates technology-based marketplaces connecting marketplace actors in a variety of sectors. The Uber Eats technology connects restaurants with independent couriers able to deliver food to eaters. Uber Freight technology connects companies with freight shipments to independent truck drivers. Uber Elevate is developing innovative aviation technologies to facilitate the aerial delivery of goods and people in urban environments. Uber's Advanced Technologies Group is developing self-driving vehicle technology and software. JUMP technology connects people to electric bike and scooter rentals in cities around the globe. In all of these businesses, Uber is developing innovative technology to help facilitate the movement of people and goods.

Uber's ridesharing software creates a marketplace that is relied upon by two distinct groups. If every driver stopped using the Uber ridesharing platform tomorrow, riders would not be able to connect with drivers through the Uber app. Similarly, if all riders stopped using the Uber platform tomorrow, drivers would no longer be able to provide their ride services to any riders through the Uber app. This is the bilateral nature of all marketplaces, including technology-driven marketplace platforms (e.g., eBay, Etsy, Craigslist, Airbnb).

Question 23. If your business model is dependent on drivers generating a profit from ride hailing services, how do you justify classifying drivers as independent from your company?

ANSWER. It is common for marketplaces to derive revenue from transactions executed in the marketplace, including where the issue of employment is not controver-

³⁷ Uber Technologies, *How much can drivers make with Uber*, <https://www.uber.com/us/en/drive/how-much-drivers-make/>.

³⁸ *Id.*

³⁹ Cody Cook et al., *The Gender Earnings Gap in the Gig Economy: Evidence from over a Million Rideshare Drivers* (2018), <https://web.stanford.edu/~diamondr/UberPayGap.pdf>.

⁴⁰ Harry Campbell, *2018 Uber and Lyft Driver Survey Results—The Rideshare Guy* (Feb. 26, 2018), <https://therideshareguy.com/2018-uber-and-lyft-driver-survey-results-the-rideshare-guy/>

⁴¹ Cook, *supra* n. 39.

sial. For example, eBay charges sellers “final value fees” which are calculated as a percentage of the value of the item’s sale. Etsy has a similar fee arrangement for sellers engaging in its marketplace. Similarly, Uber charges drivers a per-transaction service fee in exchange for a driver’s use of Uber’s technology-based marketplace.

There are many reasons why drivers are classified as independent and not employees of Uber. Drivers unilaterally choose if, when, where and how to use the Uber app. There is no exclusivity, and many drivers find customers through multiple apps or offline dispatchers. There is no quality application process. There is no minimum commitment or obligation to work or to connect to the Uber app, and there are no required schedules or management. In the United States, 45% of drivers spend less than 10 hours per week on Uber. During the rest of their active time, they may be using other ridesharing applications, or engaging in work via other means.

Independence is not only the ability to choose if and when to work. It is also the freedom to change those decisions in real time. Individuals using Uber can log in and out of the app to suit their preferences or to adapt to unforeseen circumstances, like picking up a sick child from school. A 2019 study indicates that the value derived from such flexibility is quantifiable and the real-time adaptability is particularly valued by drivers.⁴² A 2018 survey conducted by prominent blogger The Rideshare Guy found that 75% of drivers do not want to be classified as employees, and prefer being independent contractors.⁴³ In fact, several previous rulings have found that drivers’ work is outside the usual course of Uber’s business, which is serving as a technology platform for several different types of digital marketplaces.⁴⁴

Transit Partnerships:

Question 24. At the hearing, Mr. Willis noted that according to Uber’s public filings, Uber is seeking new revenue streams, including partnerships with public transportation agencies.

What specific types of partnerships does the company envision with public transit agencies? Does this go beyond providing first mile/last mile service, paratransit, or late-night service? Are you seeking Federal transit funds to provide these services?

ANSWER. Over the last several years, Uber has recognized that technology can increase the effectiveness of public transportation. Uber has built lasting partnerships with public transportation agencies around the country and demonstrated how the use of Uber’s technology can reduce operational costs, extend the reach of transit, and improve service for all riders, including those with disabilities.⁴⁵ From contracting with the Massachusetts Bay Transportation Authority (MBTA) to create a technology platform for on-demand paratransit service in Boston;⁴⁶ to working with Pinellas County, Florida (PSTA) to create a technology platform to reach areas traditionally out of reach to conventional transit;⁴⁷ to collaborating with Denver’s Regional Transit District (RTD) to integrate public transit journey planning and payment options directly through the Uber app,⁴⁸ each partnership puts public transportation at its core to incentivize multimodal trips and to reduce the current dependency on private vehicles.

These engagements and integrations are representative of what part of Uber’s technology facilitates: expanding transportation access and providing riders and drivers with the best options available for every journey. For many trips, taking public transportation is faster and cheaper than any other form of travel, and we

⁴² M Keith Chen et al., *The Value of Flexible Work: Evidence from Uber Drivers*. Technical report, Nat’l Bureau of Econ. Research (2017), available at <https://www.nber.org/papers/w23296>

⁴³ Harry Campbell, *2018 Uber and Lyft Driver Survey Results—The Rideshare Guy* (Feb. 26, 2018), <https://therideshareguy.com/2018-uber-and-lyft-driver-survey-results-the-rideshare-guy/>

⁴⁴ *Eisenberg v. Uber Technologies, Inc.*, No. BS166561 (Cal. Sup. Ct. Feb. 21, 2017) (order granting petition to confirm arbitration award); *Gollnick v. Uber Technologies, Inc.*, No. CGC-15-547878 (Cal. Sup. Ct. Oct. 10, 2017) (notice of entry of order granting petition to confirm arbitration award); *Dorr v. Uber Technologies, Inc.*, No. BS172342 (Cal. Sup. Ct. Mar. 9, 2018) (order granting petition to confirm arbitration award); *Biafore v. Uber Technologies, Inc.*, No. BS172429 (Cal. Sup. Ct. Jul. 11, 2018) (notice of entry of order granting petition to confirm arbitration award).

⁴⁵ Uber Technologies, *Partnering with Transit Systems*, WWW.UBER.COM, <https://www.uber.com/us/en/community/supporting-cities/transit/>.

⁴⁶ Mass. Bay Transp. Auth., *On-Demand Paratransit Pilot Program*, WWW.MBTA.COM, <https://www.mbta.com/accessibility/the-ride/on-demand-pilot>.

⁴⁷ Pinellas Suncoast Transit Auth., *Direct Connect*, WWW.PSTA.NET, <https://www.psta.net/riding-psta/direct-connect/>.

⁴⁸ Regional Transportation District, *Uber Collaboration—RTD-Denver*, WWW.RTD-DENVER.COM, <https://www.rtd-denver.com/projects/uber-collaboration>.

want to give riders a seamless way to access that option within our app. Through our technology, Uber is helping to bring historical transit systems into the future by exposing transit systems to potentially new riders via our app and helping customers more easily take the train or bus. And we've already seen real-world progress.

Uber's journey planning feature, which enables riders to see many options—including public transit—in one place, has already helped nearly half a million riders complete a transit trip using the Uber app.⁴⁹ Given these positive trends, Uber plans to launch transit journey planning in ten more cities by the end of 2019, doubling our current number of cities. These encouraging numbers also extend to our transit payment integration partnerships, which provide Uber riders the ability to purchase their transit ticket in the Uber app. To date, Uber's ticketing option in Denver has sold over 12,000 tickets for the city's transit system, with 55% of users continuing to purchase their tickets via Uber the month following their first in-app purchase.⁵⁰

Moving forward, as the growing trends of mass urbanization and new shared mobility services continue to change cities' transportation landscapes, we aim to expand on our existing partnerships with public transit agencies by introducing multimodal trips—a combination of ridesharing, electric bikes and electric scooters, and public transportation—to create an optimal route for a consumer that can be more affordable than routes that do not incorporate public transportation.

The federal government has long played a leading role in improving transportation efficiency by promoting agile, responsive, accessible, and seamless multimodal service inclusive of transit through enabling technologies and innovative partnerships. Through its successful Mobility on Demand (MOD) Sandbox Demonstration program, the Federal Transit Administration (FTA) has revealed that innovations in shared mobility and mobility on demand can increase transportation effectiveness by ensuring that transit is fully integrated and a vital element of a regional transport network that provides consistent, reliable and accessible service to every traveler. Of the eleven initial grant winners, TNCs—including Uber—were partners in nine of the projects, indicating that transit agencies are increasingly contracting with TNCs to help facilitate first-and last-mile service to core transit routes, to connect on-demand paratransit access, to expand service to the community during time periods when it is less efficient to run fixed route transit, and to increase demand response options.

To date, the MOD Sandbox Program and the recently-announced Integrated Mobility Innovation (IMI) Program are the only sources of federal funding Uber has utilized, or applied for, to demonstrate how our technology can complement, expand, and improve existing public transportation operations. We hope to continue our work with Congress and the Federal Transit Administration (FTA) to build upon these programs to facilitate the widespread deployment of proven mobility solutions that expand personal mobility for all travelers.

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⁴⁹ Joe Rubino, *Uber and Lyft have made Denver a testing ground*, The Denver Post, Sept. 11, 2019, <https://www.denverpost.com/2019/09/11/uber-lyft-denver-testing-ground/>

⁵⁰ Carolyn Said, *Uber adds public transit to Bay Area app*, San Francisco Chronicle, Sept. 26, 2019, <https://www.sfchronicle.com/business/article/Uber-adds-public-transit-to-Bay-Area-app-14469895.php>