STATE OF CALIFORNIA

FRANCHISE TAX BOARD

PUBLIC MEETING

CALIFORNIA TAX LANDSCAPE AND THE GIG ECONOMY

TUESDAY, OCTOBER 1, 2019

12:34 P.M.

GERALD GOLDBERG AUDITORIUM

9646 BUTTERFIELD WAY

SACRAMENTO, CALIFORNIA

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I N D E X

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A P P E A R A N C E S

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State Controller
(Chairperson of the Board)

MALIA M. COHEN
Chairperson
Board of Equalization

IRENA ASMUNDSON
Chief Economist
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Economic & Statistical Research Bureau

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A P P E A R A N C E S   C O N T I N U E D

PANELISTS

VIKRUM AIYER
Vice President of Global Public Policy &
Strategic Communications
Postmates
(Item 5)

JOE BANKMAN
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(Item 6)

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Low-Wage Work Program, UC Berkeley Labor Center;
Senior Researcher
UC Berkeley Institute for Research on
Labor and Employment
(Item 2)

KAREN BROSI
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(Item 5)

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(Item 4)

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Cochair
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UC Berkeley
(Item 4)

ANNETTE RIVERO
Gig Workers Rising
(Item 5)

A P P E A R A N C E S   C O N T I N U E D

PANELISTS CONTINUED

MIKE ROBINSON
Mobile Workers Alliance
(Item 6)

RENEE RODDA
Vice President
Spidell Publishing
(Item 6)

ALLEN ZAREMBERG
President and Chief Executive Officer
California Chamber of Commerce
(Item 6)

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PUBLIC PARTICIPANT

JAMES COUNTS, CPA

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SACRAMENTO, CALIFORNIA

TUESDAY, OCTOBER 1, 2019, 12:34 P.M.

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CHAIRPERSON YEE: Good afternoon. This is the scheduled time for the meeting of the Franchise Tax Board.

Would the board liaison please call the role to determine if a quorum is present.

MS. CASEY: Member Cohen.

MEMBER COHEN: Present.

MS. CASEY: Member Asmundson.

MEMBER ASMUNDSON: Present.

MS. CASEY: Chair Controller Betty T. Yee.

CHAIRPERSON YEE: Here.

At least two members or their designated representatives being personally present, there is a quorum, and the Franchise Tax Board is now in session.

At this time, I would like to ask that you all rise and please join me in the Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRPERSON YEE: Thank you.

The public has the right to comment on each of our agenda items today. If there are any members of the public who wish to speak on item, please come forward during the public comment portion of the agenda.

At this time, I will open up this hearing. And first let me thank the Franchise Tax Board staff for the work in assembling, I think, a very thought-provoking agenda this afternoon on the gig economy as it relates to California tax compliance.

And I would like to also offer my colleagues an opportunity for opening remarks.

But let me just say that, you know, I look at this issue and I realize it's really fun to be doing tax policy and tax administration these days. And I think for those of us who do this as a profession, as a discipline, it's a dynamic environment.

And we have seen how dynamic it's been in the past, where sometimes the tax laws don't keep up with changing things in society and in our economy, but, certainly, as we look at new ways of transacting business, new products in the marketplace, changing lifestyles, and -- and how we view families today. And, certainly, today, the focus with respect to the changing nature of work. We are just really grateful to have this time, this afternoon, to focus on what the gig economy means and certainly to have this be a hearing meant to level-set relative to the issues around the gig economy, how to understand it from a tax compliance perspective, the context with respect to other attendant issues.

Now, the objective of this hearing, really, is to identify outstanding questions for -- from a tax administration and tax compliance perspective.

I will just say, at the outset, this is not a hearing to re-legislate AB 5. I know there are a lot of interests here who were either supporters or opponents of that legislation. That is not the venue. That's not the purpose of this venue today. AB 5, as you know, was signed by the governor and, in fact, probably adds to our list of questions about how we are going to implement the legislation going forward.

So with that, I want to welcome everyone. Thank you for the robust attendance. I particularly want to thank our presenters and our panelists today, who are going to be giving firsthand experiences and perspective to the board with respect to how we ought to treat the gig economy and, actually, really, in the more platform-based economy and the larger issue of different ways of work today and tax compliance here in California.

With that, I would like to invite Member Cohen to provide any opening remarks that you may have.

MEMBER COHEN: Thank you, Controller Yee. Good afternoon, ladies and gentlemen.

AUDIENCE MEMBERS: Good afternoon.

MEMBER COHEN: It's good to be here with you once again. I just first want to open up with some -- some remarks of just how grateful I am. I think this a timely issue. I want to acknowledge Controller Yee for suggesting that the Franchise Tax Board examine the gig economy, I think it's an absolutely phenomenal and appropriate venue for us to begin to dissect and discuss and, most importantly, learn what some of the experts have -- what some of the experts have to present to us, whether it's research, whether it's trends that are -- that they are able to present to us. So this is an opportunity for all of us to learn and I welcome that.

I also want to thank the FTB staff for their excellent briefing and documents. Thank you very much. Selvi Stanislaus, your staff has been absolutely professional.

And for a tax -- tax perspective, you know, this is a timely issue. If we are not in the gig economy ourselves, we know someone that is actually actively working in the gig economy. And what's interesting is how the gig economy intersects with women, that are heads of household, with communities of color. And all of these details and, I think, nuances are going to come out in today's hearing.

And it's a reality that we all have to face. The gig economy is a shifting paradigm. How it started out, back in 2007, is different than how it is presenting today. And it's presenting new challenges, particularly for those of us that love tax administration.

So I'm excited to be here today. Again, looking forward to the presentation.

And also, welcome to our esteemed presenters.

Thank you.

CHAIRPERSON YEE: Thank you, Member Cohen.

Member Asmundson.

MEMBER ASMUNDSON: As an economist, one of the interesting things is that oftentimes our models don't work very well when faced with reality. And so I'm really looking forward to the discussion today and learning more about how things actually work on the ground and how we inform our decisions in the future.

Thank you.

CHAIRPERSON YEE: Thank you very much. Thank you.

Let us proceed, then, to item number 2 on our agenda today. And I am very pleased to introduce Dr. Annette Bernhardt, who I have the pleasure of hearing present before the Future of Work Commission, of which I am proudly a member. And she is going to provide us with a presentation on just what exactly is the gig economy. And I think if it's similar to the presentation we had at the Future of Work Commission, I think it's going to dispel a lot of, kind of, preconceived notions about what the gig economy is. Dr. Bernhardt is the director of the Low-Wage Work Program at the U.C. Berkeley Labor Center and a senior researcher at the U.C. Berkeley Institute on Labor and Employment.

Thank you very much for being with us.

MS. BERNHARDT: Hi. Good afternoon, everybody. Oh, there we go.

First, let me say thank you so much to FTB and then to the board, in particular, for the opportunity to speak with you today.

I come to you as a researcher who's been studying the changing nature of work for almost twenty years. And then, also, as a principal investigator of a joint project between the U.C. Berkeley California Policy Lab and the FTB to analyze California taxpayer data to shed light on the gig economy. So I'm delighted to be here and share with you what we know and what we don't know about gig work.

I would like to start with a brief background on the confusion about gig work. If you have been following the press or even talking with friends that you know, everybody is using different terms. Even when they use a term "gig work," they mean a lot of different things by it. But as you can see up here, there's tons of different terms that we're using to try to describe what is changing in work in America.

And as a result, you are seeing very different estimates of how many gig workers there are in the U.S. Some studies say as few as 600,000. Some say as few as 55 million.

And I want to sharpen up. There's really two sources of confusion that are leading to very different understandings of what is gig work and how many gig workers there are. One is that we are often conflating different types of work; and, second, we are conflating different ways that workers use independent contracting.

So let me talk about the first one.

We have really concluded that the best way to go about research -- doing research in this area is to put aside the labels and talk about different types of employment. And, of course, in the U.S., there are two types of paid employment. There are employees and there are independent contractors. And as we all know -- and this has been a topic of discussion -- those two groups are treated very differently under employment and labor laws, under our social insurance programs, under how we provide workplace benefits.

Under employees, I'm highlighting that there are both regular W-2 workers and there are contracted W-2 workers. These are workers who may be working for subcontractors, for franchises, or temp agencies. And the reason why I flag this is, they are still W-2 workers. And sometimes when people talk about the gig economy, they are also talking about those workers, which is not right or wrong. I am just saying, it's important to be very clear about who we're talking about.

Under the group of independent contractors, we have traditional independent contractors, and then, of course, we have the workers who are working for the new on-demand labor platforms like Uber, like TaskRabbit, etc. A lot of the discussion has focused on the platforms, but I will share with you that the majority of independent contractors are not working for platforms and are not using electronically-mediated ways of finding work.

So the upshot for us, in terms of research, is that it's really important to focus on understanding the full universe of independent contractors, not just the platform workers in particular.

The second source of confusion has been how workers use independent contracting. This is a graph for the whole United States. And it looks at all of the sources of income that workers have. And you can see that 87 percent of workers in the U.S. in 2014 still just earned wages. They were W-2 workers; 7 percent only did self-employment work; and another 6 percent, though, mixed the two.

And I highlight this because I think a lot of the debate about gig work has been in a binary mode, like either you are a W-2 worker or you are a gig worker when, in fact, there are a lot of people combining both types of work. And that becomes very important in terms of how -- in terms of our research and how we understand what these workers want and need.

So the upshot here, for us, is research should -- sorry -- focus on all the ways that workers generate income, not just their main job.

Okay. So with those basics out of the way, here's some few things that we know -- that we think we know about independent contracting, with the proviso that there's a lot that we don't know.

The first that I think will resonate with this audience is that independent contractors do lots of different types of work, for a wide variety of earnings. It is not just Uber drivers. And you can see here a wide range of occupations, from janitors, to real estate brokers, to doctors. Some folks are earning very low wages. Some are earning high wages. It is really important, I think, both from a policy perspective and for FTB to understand the great diversity in this workforce. It is as diverse as the W-2 workforce.

The second thing that we know is that the percentage of workers at any given time who use on-demand labor platforms is actually a pretty small percent of the workforce.

In a given month in the U.S., about 1 percent of the workers use an on-demand labor platform. The large majority are in transportation. About two-thirds of users are active three months or less.

And labor platform income equals about 20 percent of annual income, although during active months, actually, platform income ends up being much more important to people, and that's especially when they are using it to replace income.

And then third, independent contractors. Contrary to what you may have heard, independent contracting is not replacing W-2 jobs.

This is a -- sort of a complicated graph, but basically the upshot is, the percentage of workers who work for wages and the percentage of workers who just work for self-employment has pretty much stayed the same in our economy. The uptick has really been people using things like the platforms, often for supplemental income.

So that's what we know.

But, you know, I'm representing the research community here. And I will share with you, we need much better data and research in this area. There's a whole set of us who are trying to figure out how do we leverage different forms of data, especially tax data, to learn more. So we need better data on prevalence and trends over time, including especially tax data and company administrative data.

We need to better understand how and why workers use gig work as supplemental income. Again, this is a group that people have not paid enough attention to. And I think we're potentially here seeing the privatization of the safety net. We really want and need to understand what is going on with people's jobs that they are needing to supplement it with gig work. We need a better understanding of how gig workers use -- whoops. How workers use gig work throughout the life cycle, including into retirement. We need better data on earnings that accurately take into account costs. This is a very big issue that I'm sure you folks have talked about.

And then we need research to document variation in job quality outcomes, and I would say especially misclassification. It is very hard to estimate how common misclassification is. This is an area where we have almost no data, and I think we need to do a lot of innovative thinking.

So that's a pretty big research agenda.

So let me tell you -- in my remaining time, let me tell you about the state of current research here in California and what we know in California.

And, here, I am going to be talking about the project that the California Policy Lab is doing with the California Franchise Tax Board. And I just want to say, we are enormously -- all of us in our project are enormously grateful to the FTB and especially to the really amazing FTB staff, who have been figuring out this brave new thing we're trying to do, which is, how does the state agency work with university researchers, using highly confidential data. And I would just say, it's been a pleasure to work with the staff, some of whom are here today.

The goal of the project is to analyze individual taxpayer data, to shed light on independent contracting in California, including on-demand platform work. We are looking at individual taxpayer data for the years 2012 to 2017. We have got information on wages and salaries. We hope, soon, to have information on 1099 income. And we have information on other sole proprietor income. It's a massive project. As you can imagine, these are massive amounts of data that we are processing. And we're very excited. We feel like we're really breaking new ground here, in terms of in forming public policy in California with you.

Our Phase 1 questions are: How many independent contractors are there in California? Have the numbers increased over time? These are big questions that everybody has been debating. How do workers combine independent contracting with regular -- with regular work? Is independent contracting supplemental or for main employment? What is the income demographic and industry profile of independent contracting? These are a lot of the things we don't know very much about. And then which industries rely the most on independent contracting? Where have we seen the biggest increases -- increases, if at all?

And I will flag, we are just early days. So I am only going to be able to show you a little bit of what we've been finding, but these are the questions that we are aiming for.

So before I show you some tables, I want to flag -- the tax data are incredibly important to answer questions about gig work, but they are not perfect. And the reason, as I'm sure you all well know, is the problem of non- and underreporting of sole proprietor income.

The IRS audit shows significant nonreporting and underreporting of the income by sole proprietors, and I think you all have done your own studies.

There's a new study out in 2019, which has been enormously useful to us, which looked at national data but did some breakouts for California. And they estimate that 13 percent of 1099 recipients did not file taxes in 2016. And then of the 1099 recipients that did file taxes, 38 percent did not file a Schedule SE. I -- we don't know if they filed it -- if they reported it on their Schedule C, but this study just looked at Schedule SE. So that is -- is -- is telling us that there's a lot of the nonreporting and underreporting.

Unfortunately, right now, in our data, we don't yet have complete 1099 data. So all the results I'm going to show you now just rely on Schedule C. But I want you to remember that there's income beyond what's reported on Schedule C, that is clearly relevant here to this question of measuring gig work.

So on the question of how prevalent -- how many independent contractors are there in California, I've got two tables up here. The left-hand table is from our project. And you can see, the big orange "incomplete" does not yet include 1099 data. We estimate that in 2016, about 86 percent of workers in California were still -- only were W-2 workers; around 8 percent only did independent contracting. They only reported income on Schedule C. And then a little bit more than 6 percent had a mix of both types of income.

The Collins study -- et al. study -- that I mentioned that just came out, does have 1099 data. They use somewhat different measures, but you can see that their estimates of these same numbers, the number of workers who are W-2 only has declined a little bit to 80 percent. And then the other two categories are around 10 percent.

So, clearly, this is the reason why we're very obsessed with getting access to 1099 data, but, stepping back, I think the upshot for you is, number one, the majority of workers in California are regular W-2 workers; and that there is a sizable number of people who mix and match W-2 income and independent contracting income, and that is really important to pay attention to.

So little is known about that third group, people who mix and match. And so the question is, how are they combining income?

So we took a look at just the group that is mixing W-2 income and independent contracting income, and this is a graph that shows, of the total amount of income that they have, what percent is coming from independent contracting?

And you can see, the majority of people are way down at the bottom of the distribution, meaning they mainly have W-2 income, and then they have a little bit of sole proprietor income. And the median share of sole proprietor income is 14 percent. So, you know, roughly, on balance, these workers, most of their income is coming from their main W-2 job, and then maybe 14 percent is coming from the supplemental income.

I don't want to overdraw the point here. There's a lot of people who mainly rely on sole proprietor income, but I think this is important to get a picture of these mixers. And I would say, you know, the typical modal scenario here is, they are supplementing their income, and they are probably doing it just for three or four months out of the year. And, you know, maybe 15, 20 hours a week when they really need the additional income or want the additional income. So that's important to keep in mind when thinking about that third category.

This is probably, in my mind, one of the most important slides that we have, that we're going to be doing a lot more research on. This is, again, looking at the same three categories we've been looking at, but by -- by where in the wage distribution people are.

So if you look at the first column we took every -- all Californians, their -- their total earnings. We divided them into deciles. And at the very bottom, number one, you can tell people are earning very little, and that ranges all the way up to decile 10, where they are earning a lot.

If you look at the second column, it's true, all across the wage distribution that the majority of workers are still W-2 workers.

However, if you look at the third column, it is clear that low wage workers have a much higher incidence of relying on -- only on Schedule C income. And that's a very dramatic difference in this distribution.

If you look at the third column, you know, the different -- the different groups of wage -- of wage bins are pretty much the same in terms of whether or not they are mixing W-2 and Schedule C income. It's a little bumpy.

But it's the last column that is really interesting to me. And that's, of the people who mix W-2 and independent contractor income, how important was that independent contractor income to them? And you can see that, for low wage workers, it was very important. It constituted 40 percent of their total earnings, as opposed to high wage workers; maybe it constitutes 6 percent of their total earnings.

So the upshot from this table -- and I think we want to do a lot more to understand what's going on here -- is that independent contracting plays a very different role for low wage workers than it does for higher-income workers. And I know that's a particular concern to you all, and should be to all of us, as we continue to think through what are the policies and strategies we need to respond to these new forms of work.

And then to finish -- so I just wanted to give you a quick look at what do we know about the extent of platform work in California? And California is actually pretty much like the rest of the country. This is not coming from our research but is coming from a very good set of studies by the JPMorgan Chase Institute.

And most recently, they estimated that in a given month, 1.3 percent of the workers use an on-demand labor platform in California. It's a little bit higher in San Francisco and L.A.; I think maybe 1.7 to 2 percent. The large majority, again, are in transportation. So this estimate is very much in line with other studies.

The magic number that everybody wants, which is what -- how many of them actually are there, we would really need 1099 data to estimate that accurately.

I will share one final other finding from the JPMorgan Chase Institute study, which is that they -- they looked at, over time, how quickly is on-demand platform work growing. And what they found is that in cities that were first-adopter cities, like San Francisco and Los Angeles, the growth rate of platform work has actually been slowing down.

It's in the cities like in -- in the Midwest, where -- where they are just starting out, that you are seeing fast growth. And I think that's -- that's the kind of trend we actually also need to keep an eye on. You know, are the growth rates starting to level out? Are markets starting to get saturated? Because even though this is a sector that has been growing quickly, I think it's unlikely to expand infinitely.

So I think I will stop there in the interest of time. I'm happy to answer any questions, but, again, it's been a pleasure to share with you some of what we know in this area.

CHAIRPERSON YEE: Great. Thank you very much, Dr. Bernhardt.

Questions, Members?

Yes, Member Asmundson.

MEMBER ASMUNDSON: Can you tell us a little bit about -- you mentioned that you don't have complete data, and fewer people file taxes. Most -- I am assuming that that's mostly going to come at the lower end of the distribution.

Can you tell us a little bit how you would nuance it for those omissions?

MS. BERNHARDT: Can you repeat the last question?

MEMBER ASMUNDSON: So how would you nuance some of these statistics for the omissions at the lower end of the distribution?

MS. BERNHARDT: Yeah. I think -- so just to be clear, when we are able to get -- incorporate 1099 data into our analysis, and we are trying to, like you said, nuance this analysis of nonfilers and the people who aren't reporting, we will definitely be running it through the lens of -- of where people are on the wage distribution and see if that's more common among low wage earners or higher wage earners.

We are also interested to see if some of that nonfiling is because people have very small amounts of money on their 1099. Just because there's a 1099, you know, if it's a MISC, and it's less than 600, then they actually don't need to declare it, right?

And then the question I'm interested in is, can we find -- is there a pattern where people who only recently started to do this platform work, are there -- they more likely either to not file or not declare it? And, you know, I'm sure you will hear more about this in later panels, but, certainly, when we're on the ground and talking to workers, folks who have just started, they have never seen a 1099 before, they don't know what to do with it, and end up -- and end up ignoring it.

So those are the types of patterns, I think, that we would look for.

CHAIRPERSON YEE: Thank you.

Other questions?

MEMBER COHEN: I have a question.

CHAIRPERSON YEE: Yes, Member Cohen. Please.

MEMBER COHEN: Thank you.

Thank you for your presentation. And maybe I missed it, but can you tell me where the CLP project and the Collins report, what is their data source? What's their dataset that they are using?

MS. BERNHARDT: Excellent question.

Sorry. I should have made that clear. It is national tax data.

MEMBER COHEN: National tax data.

Okay. And what does that -- what makes up national tax data?

MS. BERNHARDT: Well, so they are doing the project with the IRS, and they have exactly the same type of records we have, but nationally. So they have all of the tax filings. They have the reporting forms like the W-2 form, the 1099 form, etc.

You should know, there is an explosion of new research right now going on this year, of researchers getting -- finally getting access to tax data, individual tax data, to answer these questions. And this I think of as probably the best study that we have right now. And what we are hoping to do here in California is both replicate some of their findings, but also, I think, go deeper. I'm very interested in looking at industries, like which sectors are relying on independent contractors, etc.

MEMBER COHEN: What leads you to believe that there is underreporting?

MS. BERNHARDT: Mainly the audits that the IRS has done and I believe the FTB has done as well. You know, compliance with tax -- with tax declaration requirements is very high for W-2 workers. They get a W-2 form, it's very clear, and their 1040 form, you know, what you are supposed to do with it.

When you get into independent contracting -- you know, one thing people don't know is that about half of independent contractors are not 1099 workers. They are working for cash. They are consumer-facing. They are not getting reporting forms at the end of the day. And, you know, the less documentation there is of pay, the more incentive there is not to declare income.

MEMBER COHEN: So I'm curious to know -- though your research, kind of, I guess, deals in the softer side of analytics -- how do we know that these employees are getting the 1099 form? How do we -- how do we identify whether or not they are being educated that they must file, let alone coached through how to file correctly?

And I would imagine that you have got a whole workforce of, perhaps, speaks English as a second language, right? So how do we -- how do we reach this particular demographic?

Now, I recognize that might be a difficult question for you to answer because you are dealing with the hard-core numbers, but maybe there's something you may be able to extrapolate from your research.

MS. BERNHARDT: Yeah. So -- so, one, we don't know. I think you will -- you may be hearing from some service providers. There's a whole slew of new service providers who are trying to, you know, work with 1099 workers, give them ways to record their income, and then report it.

But I actually -- one of the things -- one of the things that we've been saying to state tax agencies is, I actually think states should be investing and doing their own original surveys of independent contractors on the ground, at a very nuanced level, to answer questions exactly like this: Where are the barriers to compliance? Who -- who is being reached? Who is not being reached? I think questions around what role is independent contracting playing in your work life? I think it plays a very different role for low wage workers versus high wage workers, right? I think the low wage workers, it's clearly a way to put food on the table, and particularly during times of unemployment.

There's so many substantive -- actually much more interesting and important questions, like what you are raising, that are not going to be answered by these types of tabulations of tax data. And I think, actually, the State has a role to play in helping to facilitate that type of research.

MEMBER COHEN: Thank you. I can appreciate your answer, and I figured that would be the case, but I thought, because you are an academic and this is your area of expertise, that you might have been able to glean some -- some -- some understanding.

Question: On page 19, the CPL study, what year is that? You note that using the Collins study has 2019 data. I am just curious, is that also 2019 for CPL?

MS. BERNHARDT: So that is an ongoing study. So that is the one that we are doing, and we started, I believe, last November. So we're very much in the early stages, and we are running, at least at this point, another year and a half.

MEMBER COHEN: Okay. That's all I have. Thank you.

CHAIRPERSON YEE: Thank you, Member Cohen.

Thank you, Dr. Bernhardt. I think that was a wonderful, just, level-setting of what we are actually trying to grasp --

MS. BERNHARDT: My pleasure.

CHAIRPERSON YEE: -- and I really appreciate the overall, overarching presentation. Thank you.

MS. BERNHARDT: Thank you.

CHAIRPERSON YEE: So as we move on to item number 3, what we will discover -- Member Cohen, your questions are exactly spot-on with respect to how we are going to grapple with these compliance issues. But the gig economy is not anything new to the FTB.

And so our next panel will focus on the gig economy and tax compliance, past, present, and future. And we have Shane Hofeling, who's an assistant chief counsel with the Franchise Tax Board on deck first with -- followed by Richard Geck, FTB administrator, and then Susan Maples, who will provide us with the Taxpayer Rights Advocate's experience with workers of the gig economy.

Good afternoon, everyone.

MR. HOFELING: Good afternoon, Members of the Board and guests. My name is Shane Hofeling, and I'm an assistant chief counsel in the FTB's Legal Division. My fellow presenters and I are very excited to present about the gig economy and tax compliance today.

MS. MAPLES: Good afternoon, Board Members. My name is Susan Maples, and I am the Taxpayers' Rights Advocate. My office coordinates our department's Education and Outreach Program, along with having FTB's small business liaison. Over the last four years, we've been looking at the gig economy for areas of opportunity in tax administration, as well as to reduce potential taxpayer burden.

MR. GECK: Good afternoon. My name is Richard Geck. I'm an administrator in FTB's Audit Division.

Over the last two and a half years, I've had the opportunity to study the gig economy, and I'm glad to be here discussing some of the highlights of what myself and my colleagues have found.

MR. HOFELING: In our presentation today, we are going to cover the FTB's perspective of the gig economy, including recent developments, findings from our Taxpayer Advocate, Susan, and the recap of a 2017 research study. In addition, we will discuss the reporting requirements surrounding the gig economy as well as additional research findings. We will cover the compliance challenges that exist for workers in the gig economy and we will recap our current outreach and education efforts.

So in September of this year, the California Legislature passed Assembly Bill 5, or otherwise known as AB 5. The stated purpose of AB 5 was to prevent the misclassification of workers as independent contractors, rather than employees, by codifying the 2018 California Supreme Court decision in Dynamex. AB 5 creates a rebuttable presumption that a worker is an employee of a hiring entity rather than an independent contractor, for the purposes of the Labor Code, the Unemployment Insurance Code, and for wage orders of the Industrial Welfare Commission.

Governor Newsom signed AB 5 into law in September 18, 2019, and it becomes effective January 1st, 2020.

However, before we go over the new Dynamex standard, as it's become known, it's important to understand what the law was prior to AB 5 and prior to Dynamex.

Prior to AB 5 and Dynamex, the standard to determine the classification of the worker was known as the Borello test. The California Supreme Court, in Borello, provided a ten-factor test to determine if a worker was an employee or an independent contractor, by looking at the degree of the hiring entity's control or the right to control the worker. If the hiring entity has the requisite degree of control of the worker, then the worker would be considered an employee.

Now, as previously mentioned, AB 5 codified the worker classification set forth in Dynamex. This creates a presumption that a worker is an employee. However, the hiring entity can rebut this presumption by satisfying what has become known as the ABC test. The

ABC test holds that a hiring entity must show, A, the worker is free from control and direction of the hiring entity; B, the worker performs work that is outside the course of the hiring entity's business; and, C, the worker is normally engaged in an independently established business in the same nature of work that is being performed. In order to satisfy the ABC test, the hiring entity must meet all three of these factors. If any of one of three factors are absent, the presumption will not be rebutted, and the employee will still be classified as an employee.

AB 5 also provides for an exemption from the Dynamex standard for certain industries and professions. For any entity that is specifically statutorily exempt from Dynamex, the Borello ten-factor test will continue to apply to determine if the classification -- or the proper classification of a worker. However, absent the statutory exemption, the Dynamex standard will apply to all hiring entities effective January 1st, 2020.

MS. MAPLES: Thank you, Shane.

And now I'm going to discuss some of the challenges we believe gig workers face.

As the Taxpayers' Rights Advocate, one of my responsibilities is to create an education and outreach program that includes information that addresses the most common errors made by taxpayers and industries and how to correct those errors.

As we began looking at the gig economy, it became apparent to us that there were significant gaps in information that could lead to errors by gig workers when contemplating their tax returns. To make matters worse, there wasn't just one type of nonwage income being earned. It could be income from rental activities, personal services, ride sharing, or from selling products. Deductions and expenses were also anything but universal.

Looking at the information that was currently available, it was easy to see why many gig workers did not understand how to report income or even if they had a tax filing requirement. Many workers also didn't understand that absent withholding, they should make estimated tax payments to avoid an unpleasant surprise when filing their tax return.

We first looked to see what types of education and outreach was already available to these folks to determine where we needed to start, fill in, or add to existing resources. We found some good information on the IRS website, but it was limited.

A quick search of other websites indicated that there was plenty of information out there about independent contractors in the context of running or owning a traditional business and receiving documents like 1099s for payment of services. There was also plenty of information about business expenses.

The problem we saw with gig workers was that they often didn't see themselves as small businesses. They usually started out by trying gig work, knowing that it was easy to quit, with little or no investment. This greatly differs from the preparation that occurs before starting a traditional business: For example, having things like a business plan, good recordkeeping, or hiring a bookkeeper, and understanding the tax implications of being a business owner.

To close some of these gaps in education, our small business liaison contacted various gig economy platforms, including platforms in the ride sharing, personal services, and hospitality industries to offer our services to form constructive partnerships. Our goal was to provide targeted education and outreach to this industry.

This included offering to provide brochures and pamphlets as part of a getting-started package that each platform could hand out or make available to new gig workers. We also offered to provide presentations about California filing requirements for gig worker participants at the platforms' main locations.

Unfortunately, despite our attempts with various platforms, serving various markets, it was difficult to find the right people to talk about the individual tax obligations of independent workers. As a result, we were unsuccessful with this effort, but we continue to be open to forming partnerships with platforms, having a goal of tax education for those involving gig -- involved in gig work.

As part of our Compliance Action Committee, I shared my experiences with the department. In the fall of 2017, a management development program team was assigned to research this issue, and Rich is going to share with you more about what they discovered.

MR. GECK: I was part of the team tasked with the primary goal of conducting an informal research study of the gig economy and detailing the primary players involved, what information is available for both gig workers and the FTB, what are the potential tax implications, and what opportunities exist for FTB to help address any current or potential tax compliance issues.

In conducting our initial research, the team found that there was no universal term or definition for the "gig economy." The IRS's website refers to this activity as the "sharing economy"; still, others call it the "on-demand economy"; "freelancer economy"; "peer-to-peer economy," among others, and the definitions of each vary depending on who you ask.

We focused on the term "gig economy" and the definition that encompasses internet-based transactions involving short-term rentals, as well as purchases of goods and services usually requested and paid through a mobile app, that involves three primary parties: The customer is the person or company that purchase the services like a ride, food delivery, handiwork, or professional work; customers might also buy products through a shared marketplace, for example, purchasing homemade jewelry; and they may also enter into short-term rentals of houses, clothes, and cars.

The platform, which is often accessed through the mobile app, connects the customer with the gig worker, and the platform facilitates the payment between the parties through its app or website.

Finally, there is the gig worker. They are the individuals who provide the ride, deliver the food, host the rental house, or sell the product.

The primary reporting form for payments received by gig workers has historically been the 1099-K. Subject to the thresholds, platforms may or may not have a requirement to provide a 1099-K to either the gig worker or tax agencies.

Form 1099-K must be provided by the platform to a gig worker when annual gross payments exceed $20,000 and more than 200 transactions occur in a calendar year.

When the 1099-K was introduced in 2011, it was created, in part, for people who ran their business through online marketplaces such as eBay and Amazon, and the gig economy, as we know it today, didn't exist. That may explain why these thresholds are in place and why, in many cases, gig work doesn't result in a 1099-K being issued.

To put the 1099-K in perspective, the form covers a wide range of transactions that may or may not be a part of the gig economy. There are two main categories of transactions: Payment card and third-party network. Payment card transactions have no thresholds, so any payment amount will require a 1099-K. However, third-party network transactions are subject to the 20,000 and 20-transaction [sic] threshold. Platform payments to gig workers are generally considered third-party network transactions and are subject to the 1099-K thresholds.

In our research to determine the information available to gig workers and what these workers know about reporting their gig income, we came across a report that provides some useful information. A 2016 report titled "Shortchange" by Caroline Bruckner of the Kogod Tax Police Center includes survey results conducted through the National Association of the Self-Employed, or NASE. 68 percent of respondents did not provide -- did not receive a 1099-K or 1099 Miscellaneous from their platform company; 34 percent didn't know whether they were required to pay quarterly estimated payments; 47 percent were unaware of any available deductions, expenses, or credits they could claim to offset tax liability; 43 percent did not set aside money for taxes on that income or were unaware as to how much they would owe in taxes; 35 percent were unclear regarding records they would need to keep, to properly identify and report taxable income on their returns.

Keep in mind that the survey respondents all identified themselves as self-employed small business owners. For gig workers that haven't made the realization they might be a business owner, the numbers almost assuredly will show less awareness of tax compliance requirements.

Let's take a look at some 1099-K data. We identified 100 platforms and reviewed 2016 California

1099-K data. We found FTB received 1099-K data for 12 percent of them. Within that 12 percent, half issued less than 55 1099-Ks. This shows that for 88 percent of the platforms we reviewed, California received no 1099-Ks. Our assumption was that this is due to the 1099-K thresholds. A 2019 report from the Treasury Inspector General for Tax Administration, otherwise known as TIGTA, appears to support our assumption.

In February of 2019, the TIGTA report was released and contained a detailed study of the gig economy with the focus on improving self-employment tax compliance.

Figure 8 of the report shows how thresholds can significantly affect the number of 1099-Ks issued. First, TIGTA identified three platform companies that did not strictly follow the 20,000 and 200-transactions thresholds. Instead, these platforms issued 1099-Ks to all of their gig workers in tax year 2016.

The total number of 1099-Ks issued by those three platforms was 2.4 million, totaling 10.7 billion in gross payments. You can see that when TIGTA assumed the 20,000 threshold, the number of 1099-Ks that would have been issued drops to 130,000, totaling 4.9 billion in gross payments. That would mean about 2.3 million fewer 1099-Ks in the hands of gig workers and tax agencies if those platforms used a $20,000 threshold.

Keep in mind, it's not only the $20,000 annual payment threshold that can greatly affect the number of 1099-Ks; it's also the 200-transaction threshold. For instance, if a gig worker had annual gross payments of a hundred dollars from a platform, but only had 50 transactions, there's no requirement that a 1099-K be provided.

MS. MAPLES: From a taxpayer's perspective, usually it isn't until after the tax year is over that they begin to contemplate how they are going to prepare their tax return and the information and documents that they will need.

When taxpayers lack specific tax documents that tell them things like how much they earned, it makes this process that much more difficult and confusing. If they didn't receive a tax document, they may even wonder, was it really taxable to begin with. As a result, taxpayers are already at a disadvantage determining the correct amount of tax owed. Many don't know whether their income should report -- be reported as Schedule C business income, Schedule E, rental real estate, or simply as other income on the front of the return.

Similarly, depending on the type of income earned, learned gig workers may be entitled deductions for business expenses that may reduce the amount of taxable income. However, not having the documentation to calculate or support these expenses may also serve to discourage them from reporting the underlying income.

Gig workers may also assume that if they don't receive a tax document, the government doesn't know about the income that they have earned. This can lead to using gig work for under-the-table cash, and some may justify this as an acceptable supplement to W-2 earnings where taxes are paid.

Finally, many gig workers may not qualify for free tax preparation due to their business income, and, as a result, they may have to pay more expensive tax preparation fees or try to self-prepare tax forms and schedules that are often more complex and confusing.

MR. GECK: To understand the importance of having tax information as it relates to accurately filing and paying the correct amount of tax, we reviewed the results of the IRS's tax gap research conducted for tax years 2018 through 2010. When taxpayers do not receive any tax documents, the rate of misreporting on the tax return was 63 percent. Keep in mind that most gig workers aren't receiving tax documents.

As the results show, when at least some tax documents are received, the error rate goes down to 19 percent. And, ultimately, as more information is received, the percentages go down to 7 percent, and then adding withholdings makes the result 1 percent.

So receiving a 1099-K, as opposed to not receiving a 1099-K, could, in theory, have the effect of increasing the compliance rate by 44 percent. Some states have enacted legislation to address the information reporting gap left by the federal 1099-K thresholds. In 2017, Massachusetts and Vermont both enacted legislation lowering the 1099-K annual payments threshold to $600, regardless of the number of transactions.

There are other states that are looking at similar legislation and there have been proposals in Congress to address the threshold issue along with addressing other gig issues.

Based on the recent law changes in Massachusetts and Vermont, there's an expectation that gig workers in those states will have a clearer understanding of their filing obligations, and the self-compliance rate should increase. We will continue to follow the results in those states to see what the data ultimately shows.

MS. MAPLES: Now that Rich and I have explained the issues with understanding and reporting gig economy income, let's talk about what education and outreach efforts we are doing to help taxpayers and tax professionals minimize errors when it comes time to prepare the tax return.

Currently, nearly two-thirds of all personal income tax returns are prepared by tax professionals. We consider them our partners in ensuring taxpayers pay the correct amount of tax and file accurate tax returns. Therefore, many of our education and outreach events are geared towards tax professionals.

I think tax professionals would agree that providing more information to taxpayers about income and deductions makes it easier to accurately prepare a return come April 15th.

At small business fairs, we provide information about what it means to be a business. We cover the characteristics of various forms of ownership including the sole proprietorship. We present information about filing requirements, estimated taxes, and due dates. Our presenters are also on hand to answer questions and provide contact information for our small business liaison.

We also participate in a variety of taxpayer outreach events, including financial literacy events and events hosted by elected officials throughout the state.

In fact, in the past three years, we have participated in over 300 events. Many of those included discussions about the gig economy. As someone who is a frequent speaker at these events, I can honestly say the conversations changed over the past three years.

In the beginning, many tax professionals, like myself, weren't familiar with the gig economy and now, of course, most are. So discussions have evolved into more practical things like how to handle a gig worker who has limited records for deductions and income. What if the gig income is earned doing something where the taxpayer is not engaged for profit, but earning a little money from a hobby? What if the income earned isn't taxable? For example, if a home rental is for less than seven days and the taxpayer receives a 1099 for this income, even though it isn't taxable due to the federal rules, how does one report it on the return to avoid an audit, but indicate that it is a taxable income? And, finally, what compliance efforts, if any, is FTB contemplating for unreported gig income?

In order to be effective, our communication has to be proactive and needs to adapt to the rapidly changing gig environment. One of the communication tools we developed as part of our effort to provide tax help to gig workers is an FTB gig economy webpage. The webpage provides links to resources like the IRS Sharing Economy Tax Center, the California Tax Service Center, and our small business webpage, as well as other helpful information. This webpage allows FTB to highlight the most relevant gig information to workers as we continue to look for more opportunities to educate and ultimately increase self-compliance.

"Tax News" is another communication channel used to get important information out to those who need it. Our "Tax News" subscriber base is now over 31,000. Subscribers are predominantly tax professionals, but we also have businesses -- business owners, trade media, and other professional organizations that subscribe. We use this method of communication to share important and timely information with our practitioner community.

For many gig-related items in the past, the State has deferred to the federal government about treatment of income expenses on the return. However, given the increasing lack of conformity, it has become important for California to also address gig-related tax issues. "Tax News" is a monthly publication. However, occasionally, when warranted, we will send out tax -- urgent tax flashes to let subscribers know about time-sensitive information.

We also create "Tax News" live videos. We'll show an example of the video we did for the gig economy in just a minute.

Another way we provide information externally is through many social media channels. FTB uses Facebook, Facebook Live videos, Twitter, and YouTube. These methods of communication -- using these methods of communication, we are able to share timely information that also links in content from our partners in education, like the IRS.

In addition, our education and outreach section has a special Twitter account to publicize live event locations where FTB staff will be presenting tax information.

As we wind up our presentation, let's take a look at the "Tax News" live video on the gig economy with our small business liaison, Lucius Davis.

(Video presentation.)

MS. MAPLES: In summary, our efforts to educate taxpayers and tax professionals about gig economy issues takes many forms. As we look to the future, we will be ready to expand and change our strategy to meet the needs of our external customers.

That concludes our presentation. Thank you for your time.

CHAIRPERSON YEE: Thank you very much. Thank you very much for the comprehensive overview of FTB's ongoing work in this area and still-evolving work going forward.

Questions by members?

MEMBER COHEN: Yeah. I have just a couple questions.

CHAIRPERSON YEE: Please, Member Cohen.

MEMBER COHEN: Thank you.

I was surprised to learn that the FTB partnered with U.C. Berkeley. I wanted to know how long this partnership had been going on.

MR. GECK: I believe -- it's -- you know, I'm not the perfect person to answer that question.

Approximately two years, I believe. I would say.

MEMBER COHEN: I understand it's a new relationship, so --

MR. GECK: Well --

MS. MAPLES: It is a newer relationship with them.

MR. GECK: Right.

MS. MAPLES: Right.

MEMBER COHEN: So do taxpayers know -- I mean, how do you -- this is sensitive information. So what are you gleaning from the tax filing to help you develop a dataset, a picture, that's then transcribed or interpreted, analyzed, by the university, UCB, in partnership?

You know, I am filing my information. I didn't know that you were looking at it. So are you notifying taxpayers or is this just common -- a common understanding, that when you file, it's no longer private, personal tax information, that it's public.

MS. MAPLES: So I would like to say -- and maybe, Shane, you want to chime in -- I think that all of the data that's provided to the California Policy Lab is completely scrubbed. They went through a -- with our data and security disclosure section to make sure, and that when you file a tax return, that information does not become public. So in no way, shape, or form are anyone that is examining the tax return information able to identify the particular individual.

MEMBER COHEN: Do taxpayers have the right to opt out and -- and not participate in your -- in your study?

MR. HOFELING: So with the information that -- when we do these information-sharing agreement type of arrangements, we share aggregate data. So my understanding is, we would not share, like, Shane's data with you. It would be more aggregate data, as a whole.

MEMBER COHEN: So if I were to participate in a UC -- UCSF medical study, right, you have the opportunity to participate or not to participate. And so it sounds like you -- you are not really given an opportunity to opt in or to opt out. I don't --

MS. MAPLES: That is correct.

MEMBER COHEN: Okay. So my next question is, what -- what are -- what are the current tax filing, kind of -- what are they telling you? Okay. People are underreporting. I got that. But what else are they telling you? Are they telling you areas where you need to improve? Areas that we need to start to spend a little bit more resources on? I don't know. Is it more informational? Just -- just curious to know if there's any other...

MR. GECK: As far as the study that we're talking about?

MEMBER COHEN: The study. I mean, just period.

MR. GECK: Right.

MEMBER COHEN: I mean, you've been studying. It's a new study. So, I mean...

MR. GECK: We're -- I would say that we're in the process of trying to gather as much information as we can, to make the proper decisions and provide information when the time comes and the questions are asked about how we should be responding to certain situations. So...

MEMBER COHEN: So this topic of discussion is about past, present, and future.

So my question is -- is that, what are the tax filing telling us about the past? What are they telling us about the present? And where do you predict us to go in the future?

EXECUTIVE OFFICER STANISLAUS: Scott, do you want to come up here and address the questions? Yeah. Thank you, Scott.

MS. MAPLES: And while he's making his way up, I could just add that I think it's very difficult to tell what we -- what we are not seeing. I mean, we can look at the data that we do have and kind of make some assumptions. As Rich said, in his portion of the presentation, we looked at the hundred platform companies, and we can tell, based on looking at the company, whether or not they were filing the 1099-Ks. But we can't really tell when people don't report how much that income might be or, you know, things like that. It's very difficult to -- if they are not reporting, to get those statistics.

And so then we look at, you know, in terms of the education and outreach portion, of what resources are currently out there. And a lot of it for -- at least on my behalf, from the education standpoint, is actually talking to taxpayers, talking to people that are, you know, doing gig work, and kind of getting a better understanding of where they are getting their information and how those resources are getting to them.

Like, for example, if they are using web-based apps that you can download on your phone to track your own deductions and things like that. And just having those conversations when we are, like, at small business fairs. Talking to people that are, you know, doing -- because some of the folks in small business fairs also are using gig work to sort of supplement that until their traditional small business maybe gets off the ground.

So having those kind of conversations, at least from our perspective, or my perspective, in education and outreach, that's sort of how we get some information about people who are actually not filing, because we can't really determine that information from what we see by just looking at returns. Hopefully that's helpful.

MEMBER COHEN: Thank you.

MR. REID: I just want to make sure this is on. Go ahead and get a little bit closer. Hi. I'm Scott Reid. I'm the director of our Economic and Statistical Research Bureau.

And we are involved, our staff, with the Center for California Policy Lab on a number of research topics. We've been working with them for probably close to about two years. We first started working with them on the Earned Income Tax Credit and where additional outreach might be effective. And then our Compliance Action Committee, which is a group of folks within the Franchise Tax Board. We're looking at the gig economy from a compliance perspective as well as an educational perspective.

They bring to us some expertise in research, as well as free graduate student assistance, which help with the resources needed to answer some of these questions.

In particular, Susan was right. We do actually scrub the data so that no individual record can be identified. But we do provide microdata to them in order to be able to analyze taxpayer information.

MEMBER COHEN: So you are transmitting aggregated data, and then the university, they are analyzing it, and they disaggregate the data, and then they come up with the -- the trends, the projections, the dataset.

MR. REID: Yeah. And we're looking at it primarily from figuring out whether there are compliance issues or not and how we can target those in a way that helps educate taxpayers.

As you know, we are very interested in helping educate people before we go down a compliance path. And this is a subject that's been fairly confusing, as Susan identified, for a number of our taxpayers. And so the information, we hope, will help us target that effort in a productive way.

MEMBER COHEN: All right. Thank you.

My final question -- thank you, Mr. Scott.

My final question really is, is -- it's unclear to me -- so it's clear that people that should be filing the 1099-K are not filing it.

So my question is, whose responsibility is it to disseminate the form or to educate or to make sure that these filings are happening? Is it the employer or the company? Is it the worker? Is it the FTB? The IRS? Where does that responsibility lie?

MR. GECK: So to be clear, the way that the thresholds are set up, if you follow the regulation, more than likely, gig workers will not receive a 1099-K. That's what we are identifying. So it's not so much that anybody is not doing something that they should be doing. It's that the thresholds were set up prior to what we have today.

MEMBER COHEN: So it sounds like we need to be partnering with policymakers to kind of close the loop --

MR. GECK: Absolutely.

MEMBER COHEN: -- on how or whom we are communicating this, obviously, very important document that needs to be filed.

MR. GECK: Yes.

MEMBER COHEN: All right. Thank you.

Thank you.

CHAIRPERSON YEE: Thank you, Member Cohen.

And I think you hit the nail on the head with respect to -- I think just where some of the gaps are. And I think what we're going to hear is a common theme, and we are already starting to hear is -- certainly with this panel, the extent of the compliance issues that we have with the gig economy.

Who is subject to complying with California tax law? I mean, that, I think, is what we are trying to nail down with respect to what does the universe of -- of taxpayers look like or tax-filers look like? Whose responsibility is it to ensure compliance? I think it is a question, certainly.

And, I guess, given that -- and I know we're not here to talk specifically about the issues of AB 5, but I was wondering, because there is the ability to rebut the presumption by meeting the ABC text by the hiring entity.

So do you have any sense of what that process looks like in terms of who -- how that presumption is actually made by the hiring entity, and to whom at the State?

MR. HOFELING: So I would say it's still early in the application and we are still seeing the industry trying to figure out the Dynamex standard and how they meet that presumption. Ideally, the hiring entity would go through the process and go through the self-determination of that process and hopefully release that information when they make the determination if a worker is an employee or not.

CHAIRPERSON YEE: Okay. So do you believe that that needs further clarification? I mean, that process, now that AB 5 has been enacted?

MR. HOFELING: As far as from what we have seen is, the information that's out there is letting the hiring entities know what the process is. But I think we are always in favor of additional outreach and education to make sure every -- every player or every person in this process understands their own obligations.

CHAIRPERSON YEE: Okay. All right. I'm keeping a little mental checklist of outstanding questions that we had. All right.

Any other questions by members?

(No response)

CHAIRPERSON YEE: Okay. Seeing none, thank you very much.

MR. HOFELING: Thank you.

CHAIRPERSON YEE: Thank you.

Next, on item 4, we're going to have a presentation of some other recent studies on the gig economy and just two presenters who will offer highlights of them.

Dr. Sara Kimberlin, who is a senior policy analyst with the California Budget and Policy Center, as well as Dr. Michael Reich, a professor of economics and cochair of U.C. Berkeley Center on Wage and Employment Dynamics at the Institute for Research on Labor and Employment.

Just want to thank both of you for coming today and offering highlights from your studies and other perspectives on the topic of the day.

Good afternoon.

MS. KIMBERLIN: Thank you so much.

My name is Sara Kimberlin. I'm a senior policy analyst with the California Budget and Policy Center.

CHAIRPERSON YEE: Sara, I'm going to have you pull the microphone right up to you, so when you turn your head, we can still hear you.

MS. KIMBERLIN: Is that better? I hope that sounds better.

All right. I am with the California Budget and Policy Center, which is a nonprofit, nonpartisan organization focused on public policies that affect low and moderate income Californians.

What I am presenting today is taking a step back from data specifically focused on the gig economy and looking at the broader picture of how larger trends in the labor market and the set of trends provide a context for understanding gig work.

The information I'm presenting revolves around a recent report that the Budget Center published, which is available on our website as well.

So what I want to talk about today is a set of trends that we can see in the labor market over the past number of years, that highlight a shift in the contract between businesses and workers, such that workers have less economic security overall and shoulder more risk. So I will talk about a number of trends specifically for workers in California, including wage growth; pay disparities by race, ethnicity, and gender; workers' share of state income and the labor share of income;

access to employer-sponsored benefits; union representation; and then, of course, independent contracting, or gig work.

And, again, the goal here is to provide a broader context for understanding how gig work fits into this larger picture of labor market trends that affect workers in California.

So I want to start with talking about wages, and an important overarching trend that for low- and mid-wage workers, wages have been largely flat after adjusting for inflation over the past number of years, and this is at the same time that the cost of living in California has increased.

So if you look at the period since 1979, 1979 to 2018, the median wage or the wage for workers at the 50th percentile, where half of all workers earn more per hour and half earn less per hour, has been essentially flat. It has increased by just 1 percent after adjusting for inflation over that time period.

At the same time, high wage workers have seen a very large increase in their hourly -- in the hourly wage at the 90th percentile; wages have increased by 43 percent.

And workers at the low wage end of the spectrum, at the 10th percentile, have seen a small -- small increase of 4 percent over that time period. A lot of that increase happened in recent years and is -- can be attributed to the increase in the minimum wage.

And these hourly wage disparities and these different rates of growth translate into sizable income gaps over time as well. These gaps are particularly concerning because California's high cost of living in many areas, and particularly high housing costs, have been rising much faster.

So over the time period from 2006 to 2017, the median household rent increased by 16 percent, after adjusting for inflation, whereas the median hourly wage has basically remained flat. So this means that more and more workers are struggling to afford to cover their basic costs and make ends meet, as the cost of living is rising faster than their compensation is increasing.

It's also important to understand that these -- these trends affect different groups of Californians differently, and there are significant pay disparities that have persisted by race, ethnicity, and gender in our state. Workers of color, in general, tend to be paid less per hour than white workers, and women are paid less than men across the earnings distribution.

So one way of thinking about this that black and Latinx workers, in particular, but workers of color in general, are disproportionally represented at the lower end of the -- of the wage scale, where wages have stagnated. They are also typically paid far less than white workers.

So between 2016 and 2018, the median hourly wage for Latinx workers was just 60 percent of the median hourly wage of their white counterparts. And the median hourly wage for black workers was just 69 percent of that of white workers.

As I mentioned also, gender disparities also persist. Women in California are paid less per hour than men across the earnings distribution. The median hourly wage for women was about 85 percent of that of men between 2016 and 2018, and the gap was even larger among the women at the 90th percentile, or high wage earners.

So another trend to consider in this broad set of trends is that a declining share of the state income overall has been going to workers. When less income is paid to workers, that also contributes to rising inequality.

So if we look at California's private sector economy, which accounts for nearly 90 percent of California's total GDP, the private sector economy has grown by more than half since the beginning of the 21st

Century, but a declining share of that income has been going to workers.

Since 2001, the share of state/private sector GDP that goes to workers' compensation has fallen by 5.6 percentage points. And while worker share income has increased from its 20-year low point in 2010, it still has not recovered from its sharp decrease since its peak in 2001.

If we look at national -- this is state data for -- it's specific to California. If you look at national data that examines workers' share of net income generated only by private corporations, which represents a clear picture of how much income generated by businesses is paid to workers employed in those businesses; that shows a similar, sharp decline after 2001, which suggests that workers have less bargaining strength relative to their employers.

Another trend: California's workers' access to employer-sponsored -- California workers' access to employer-sponsored retirement plans has declined as well. And this is a challenge -- this is a problem because workers without access often struggle to secure adequate resources for retirement.

So as of 2018, fewer than two in five private sector workers ages 25 to 65 had access to a retirement plan sponsored by their employer, compared to more than half of similar private sector workers in 1980.

And, similarly, in -- more than two-thirds of public sector workers had access to an employer-sponsored retirement plan in 2018, but that is down from 83 percent in 1980.

And, again, this is troubling because many workers who do not have access to employer-sponsored plans just are unable to save for retirement at all due to limited resources, and social security benefits are certainly critical, but they are not enough to provide a secure retirement for many households.

In addition, there's been a shift in the types of retirement plans that are offered by employers. Workers -- or employers today are much less likely to offer defined benefit plans, which offer a guaranteed amount of money in retirement, that are employer-funded, typically. And they are much more likely to offer defined contribution plans like 401(k), where the risk and responsibility for securing adequate resources for retirement is largely shifted onto workers.

Union representation is also on the decline in California, and this is important because workers represented by unions tend to have higher wages and greater access to employer-sponsored health and retirement benefits. So if we look at the share of workers who are either members of unions or represented by union contracts, that has declined from 25 percent in 1984 to only 16 percent now, and the decline has been especially sharp among private sector workers.

And, again, this is important because union representation is associated with higher wages and more access to generous -- more generous employment-based benefits. And this is also particularly important for women, black, and Latinx workers as well as immigrants.

And finally, I want to talk specifically about independent contracting. As Dr. Bernhardt spoke about earlier, and our other presenters, a small but growing share of workers in California has earnings from gig work or independent contracting. We do need more data to fully understand the scale range and impact of the many different kinds of contingent work, of which independent contracting can be one for some workers.

I won't talk about these data in detail because they were presented in greater detail earlier, but these are the data showing the -- from the Collins study that was mentioned earlier by Dr. Bernhardt, the California-specific data showing the -- the percentage of workers in California with earnings from independent contracting with businesses.

So, again, it is a relatively small share of overall workers represented in -- in tax returns, but it has been growing in recent years, again, specifically as a result of more participation in online gig work, as you can see in the difference between the two lines there.

Again, I want to speak particularly about the Budget Center perspective on independent contracting, some of the issues that we think about in terms of a way -- a lens for thinking about the importance and relevance of this work.

For one thing, as noted before, it's not clear whether -- many workers combine W-2 work with gig work but it's not clear from the data currently available whether workers are using online gig work to cover gaps in employment or whether they are using it to supplement their incomes on the side.

And also, importantly, it's -- it would be important to understand more fully workers who are supplementing their income, why they are doing so: Whether they are saving for some extra money to spend, or whether it is driven in part by the fact that wages have stagnated over this number of years, and workers are struggling to be able to keep pace with the cost of living; this is a way that they can compensate for that.

These are questions that I think are -- are important to understand, moving forward.

And there are a number of questions that independent contracting raises related specifically to low and moderate income Californians and workers and specifically to public sector budgets and public supports.

So as Dr. Bernhardt mentioned earlier, there's a tremendous diversity in the independent contracting workforce. So when I speak about these issues, I want to emphasize, I'm phrasing them as questions because they would apply differently to different types of independent contractors, but they are issues that are important to consider when thinking about independent contracting through the lens of how it affects low and moderate income workers and households and how it affects the public sector supports and budgets.

So one issue -- one set of questions that independent contracting raises, it's about workers' economic security. Contractors lack guaranteed worker protections that are provided to employees, and these include the right to unionize and collectively bargain, minimum wage and overtime rules, family and medical leave protections, and discrimination protection.

Generally, these rights -- these types of rights are intended to ensure that workers have leverage to successfully negotiate for fair and adequate compensation. So these are issues that are particularly relevant to low wage workers working in independent contracting, and also to -- to workers who have experienced discrimination, where we can see that in the persistent disparities in compensation, so particularly women and workers of color.

Another set of questions that independent contracting raises about workers' economic security relates to the fact that contractors are responsible for managing a number of risks that employers generally manage for employees. So these include risks such as -- managing risks such as contributing to workers' compensation insurance, disability insurance, unemployment insurance, social security and Medicare, contributions and withholding for social security and Medicare contributions and income withholding.

And, again, these are issues that will affect different types of independent contractors differently, but they are especially issues that are relevant to low wage workers who are likely to have fewer of their own private resources available to -- to manage these risks.

And so while employers will manage these risks and contribute to insurance and hold insurance to cover many of these risks for employees, independent contractors are expected to either purchase their own private insurance or self-insure against these types of risks to manage these issues.

And that, in turn, leads to questions that independent contracting raises about public supports and public budgets.

So if contractors lack adequate private resources to manage these risks, such as injury, disability, unemployment, or retirement, then they may need to turn to public supports for income and health care and other basic needs. If that results in increased need for public supports, that can affect state, local, and federal budgets.

All of these trends suggest there are many challenges facing workers which also present an opportunity for state leaders. And as businesses assume less responsibility for workers' economic security, public policies need to respond. And there are many ways that policymakers can choose to respond.

Recent policies that state policymakers have put in place include things like raising the minimum wage, establishing and expanding the CalEITC, the State's Earned Income Tax Credit, establishing the CalSavers program, which allows workers to save at their workplaces. More is definitely needed to address the challenging trends that face workers, so addressing these trends, including wage stagnation, rising living costs, pay disparities, retirement insecurity, declining unionization, and various forms of contingent work, which can include independent contracting, in some cases.

And I think the takeaway that I will hope you will remember from this is just that gig work is one piece of a broader set of labor market trends that, together, point to a shift in the nature of work. Businesses are assuming less responsibility for helping workers achieve economic security, leaving workers to shoulder much greater risk than in the past, and causing the public sector to fill in where public supports are available.

And as the labor market shifts in these ways, it is important for public policies to respond to ensure that all workers who are helping to establish and build California's economic prosperity are able to share in the prosperity that they are helping to create.

Thank you.

CHAIRPERSON YEE: Thank you, Dr. Kimberlin, for really an extensive report and really trying to tie what we are talking about to some larger labor market trends.

Very, very instructive.

Are there questions, Members, for Dr. Kimberlin?

Yes.

MEMBER ASMUNDSON: I just have a comment, and I'm sorry that I did not mention this earlier when I saw the presentation. But you have that chart where you show the share of wage income that goes to people, starting in 1997, going up in 2001.

Unfortunately, I don't think that that's a very instructive timeline, because, in this 2001, a lot of that was due to bonuses to the top earners, and then, subsequently, the rules were changed about how bonuses could be given out, so that was probably an outlier and you probably shouldn't read anything into that trend. So minor point. I think that the point is very well-taken in terms of increasing inequality. There are other data series that probably would establish that better.

The other question that I had for you was, can you talk about a little bit about the ways in which the companies have been shifting out of the space and why they have been doing that? And also, if the government can't do everything, what should the social contract be in terms of what the companies should be doing?

MS. KIMBERLIN: I think you raise a number of really relevant and important questions.

Thank you for the pointer on the data. I do think that even outside of that peak, there still is a decline, but it is an important point to think about all of the different trends of how they fit together.

In terms of the reasons why companies have been shifting in these ways, I think there are a number of reasons and a number of different factors. There's an increase in emphasis and shareholder value and differences in the costs for providing different things. I think there are a number of different market-related factors and changes in the culture of businesses and the perceived goals of businesses.

So this is to say that it's not necessarily the case that -- that it's nefarious in any way, necessarily. I think -- I think it's helpful to think about this as shifts that are changing, and there's a responsibility to the public sector to look at how things are changing and adjust to make sure that workers are able to make ends meet and that they are able to -- that the state economy, as a whole, is able to take advantage of the -- the work that is done and make sure that all residents are -- are able to make ends meet.

I think the question of how the social contract should adjust, I think, is an open question, I think, that people are struggling with right now. I would see this, sort of, forum that we're here today as one piece of trying to understand how things are changing and what the options are for how the social contract can adjust and where there is a need for -- for shared responsibility between workers and employers and the public sector, to make sure that all of our residents in California are -- are able to thrive, given the ways that these systems and structures are changing.

CHAIRPERSON YEE: Member Cohen?

MEMBER COHEN: Yes. So much to digest and unpack here.

Okay. Independent contracting raises questions about workers' economic security. Prior to serving on the Board of Equalization, I served eight years on the San Francisco Board of Supervisors. And during that time was the time that we saw Uber and Lyft come into existence. And towards the end, we saw Bird and some of these other -- scooters, Jump bikes as well.

One of the things that I'm thinking about is, not only from the gig economy, the workers' perspective in terms of safety, doing injure -- injuries to themselves, repetitive injuries. You know, if you had an employer, you would have workers' compensation; you would be able to hold someone accountable if you work for the PUC or if you work for -- at the airport.

If you are working for yourself, I mean, like who do you -- who is held accountable? What concerns me is that it seems like it would be a burden on -- or the responsibility -- let me say, the responsibility would fall on local economies, local governments, local cities, wherever you are living in. So maybe you are going to a general hospital to receive treatment.

I don't know if you have any -- any opinions or anything that you can share with me, some of your thoughts or trends that you see addressing this, what I consider to be something in the foreseeable future.

MS. KIMBERLIN: I mean, I think the broader, basic issue that it raises is that, you know, in the cases that workers are -- do not have their own private insurance that is adequate to deal with these risks or their own private resources and savings available to deal with these risks, the -- they will likely need to turn to public supports and that's likely to -- many of these types of programs and supports are funded by a mixture of public sources, so local, as well as state, as well as federal.

So, for example, if they end up needing to access -- if a worker ends up needing to access Medi-Cal coverage in order to address an injury that they receive, when they are not covered by an employer-sponsored workers' compensation plan, then, you know, that affects state and federal support.

MEMBER COHEN: That's true. But here's a point and I -- the thought just popped into my mind: A lot of people are caught in the middle, right? So you need -- there are certain income requirements and thresholds that you have to meet or you can't make more money in order to qualify for many of the state programs, at least to the best of my knowledge. So that's a horrible place that I would imagine the majority of workers, based on the data that we have heard from the presentations this morning, where the middle income folks are kind of residing. The middle -- and the bottom.

MS. KIMBERLIN: Oh, absolutely. I think, yeah, aside from the impact on public sector services, definitely, you would expect to see an impact on the personal resources and the economic security of individuals who are using their savings or their private resources to cover the costs associated with things like injury or unemployment or those kinds of risks.

MEMBER COHEN: And just what I have heard anecdotally, people are not -- particularly those that are of retirement age are not in the gig economy just for fun, that they are actually -- they are trying to make their ends meet. And so I would imagine sustaining some kind of un- -- unexpected injury would really hurt their -- their local -- you know, I mean, their budget.

I want to talk about something. On page 19, you said, as businesses assume less responsibility for workers' economic security, public policies need to respond. That is like the ultimate teaser, Sara. Yes, I know that.

Okay. Do you have any suggestions on policies or ideas or are there other folks that are working on things? Like, what's happening to help us address that -- that -- that topic?

MS. KIMBERLIN: I mean, I think these changes -- these changes have been taking place in a lot of different aspects of the labor market, and I think they call for a lot of different approaches. There's also a lot of the different opportunities or ways to approach it.

So I mean, I think how one addresses the tax issues associated with independent contracting is certainly one piece of that puzzle. I think there are other pieces of it, as well, that relate to wage stagnation, that relate to worker's voice in being able to negotiate, that relate to access to benefits.

So, you know, I think there are a number of different specific policies. We outline some specific options in our -- in our full report that's available on our website.

But I think, also, this is a time, I think, when people are thinking about these issues and trying to come up with creative solutions with a set of different policy solutions that will account for all of these different changes and how they are affecting the workers and families in California.

MEMBER COHEN: My final question brings us back to slide 7. Workers of color are typically paid less than white workers. I feel like I -- I have known -- I have known this. I have seen it. But it's always startling to see the statistics or a pie or a bar chart glaring, looking at you.

And I am wondering if that has to do with the type of work that they are doing. Because, you know, I'm making some assumptions here.

In the previous presentation, we heard that white males tend to do more professional -- they think about being a lawyer or a dentist or an accountant. And you have more of what we commonly think of gig economy, Uber/Lyft drivers being immigrants, new folks this country, English as a second language, just more communities of color.

And I am wondering, how much is -- of this statistic that you presented has implicit bias factored into -- into this dataset?

MS. KIMBERLIN: You know, the -- the root causes behind pay disparities are complex. There are a lot of different ways -- there are differences in workers' characteristics at the point when they arrive at the workplace, and then there are also -- but there are still persistent disparities among workers who are similar to each other within the workplace.

And I think discrimination, both explicit and implicit, is really a contributing factor to both of those situations. So it is differences in education and training and industry and occupation. There are differences in those across race/ethnic categories and across gender categories that are, in part, driven by discrimination, implicit discrimination or explicit discrimination.

And then once workers arrive at the -- at the workplace, even among those who have similar characteristics, there's still additional disparities that cannot be fully explained by the differences in workers, independent, sort of, qualifications such as their level of education or their immigration status or their -- sorry, their immigrant status, or their -- or their years of work experience or age.

So I think it's a complex issue, and there are a lot of different points in the life cycle and places in the -- in peoples' lives where these structural factors play into contributing to the -- to the differences.

MEMBER COHEN: Thank you.

I appreciate your presentation because I think it brought a nice balance to the conversation. Certainly, labor perspective. When I think about AB 5 and when I think about some of the other movements that are happening around and in, within the gig economy -- and I think we're going to hear from other folks that are organizing, later on in the afternoon.

I'm curious to know, I mean, you heard the presentations this morning. And, Michael, this is also for you, but you can answer it when it's your time to talk.

What kind of feedback are you hearing? You know, you have a unique lens. And I would love to hear some of your thoughts around things that we should be thinking about. We have policymakers here at this table. And it sounds like there's some gaps. There's some policy opportunities for us to start to fill in.

Do you have any key takeaways that, from -- from your vantage point, that -- based on the information, the presentations, that you heard earlier in the day?

MS. KIMBERLIN: Well, I think it is really important to think about how gig work affects workers who are in different economic situations differently. So how it affects low wage workers differently from higher wage workers. It raises a different set of issues.

And I think it's also important to think about how it fits into the -- into the broader context and into the broader set of other work that other policymakers are doing and other aspects of the -- of the state and, more broadly, to understand that these -- many of these issues are related or interact in the way they affect workers' lives and the lives of their families. So I think it's helpful to think -- be thoughtful about how those -- how those different things interact.

MEMBER COHEN: Thank you.

CHAIRPERSON YEE: Thank you, Member Cohen, for the questions.

I guess Dr. Kimberlin, my question is what's next in terms of next research project? You have actually illuminated a number of issues, and even though we're focused on income tax compliance, we're focused on labor market trends, as your presentation well-elaborated upon, it seems to me, there's some broader economic impacts when you are looking at workers and, certainly, the decline in purchasing power of workers going forward.

And so I am wondering if you -- if the Policy Center was going to be looking at the issue more broadly as it relates to the impact on state -- on tax revenue generally. I can see that we're probably heading into an era where consumption patterns are going to change for many workers, and so maybe not a lot there to be able to define yet. But it just seems to me, this is just the beginning of a lot of interrelated issues. So just wanted to see if there were other research projects on the horizon.

MS. KIMBERLIN: And I can just say that these are -- this is a sort of span of issues or a theme that we are planning to look at moving forward and think about across the different areas that we work in. So we don't have a specific follow-up research project or report plan at the moment, but it's definitely informing the way we think about our work and other areas, such as different specific public -- public supports and systems, housing, issues facing working families, and a variety of other -- other focus areas and sectors.

CHAIRPERSON YEE: Okay. Good. Thank you.

And then, I think one of the questions that keeps coming up, and there's no, I think, immediate answer to it, but it seems, to me, one of the most legitimate questions might be, as we're looking at these -- this type of work, for the companies that are engaged in this kind of work, whether these are sustainable business models over time.

And I think, certainly, when you have outlined, you know, some of the growing disparities with respect to workers and where we are headed, that seems to be a question that keeps getting raised.

And I also will just note that I think we all just recently read about the U.S. Business Roundtable, certainly proclaiming that they are putting less of the focus on shareholder profit. And so I am hopeful that there could be some movement from the private sector as well, recognizing that some of the trends that you have outlined really don't point us in a healthy direction going forward.

Thank you very much for the presentation.

MS. KIMBERLIN: Thank you.

CHAIRPERSON YEE: Dr. Reich, good afternoon.

MR. REICH: Good afternoon. Thank you for letting me speak to you today.

So I'm a labor economist. I have been studying low wage labor markets since Lyndon Johnson was President, and I have been a professor of economics at U.C. Berkeley for almost as long, and I was the director, for 11 years, of the Institute for Research on Labor and Employment, which houses the Berkeley Labor Center and the Policy Lab and the center I am now chairing.

And I started studying the gig economy because I was asked by the New York City Taxi & Limousine Commission to come up with a policy for them that would raise the standard of pay for the drivers in New York City -- Uber and Lyft drivers, and not just those -- to at least the New York City's minimum wage, which was $15 as of last December 31st.

And, of course, it's not $15 if you are an independent contractor because you have compulsory taxes to pay, and, also, you do need some paid time off if you are a driver. You do need, for the sake of your body, to have some time off and, much less, for the sake of your family.

So here's a copy, which I will leave you, of the report that we wrote. And it had a big impact on a policy in New York City. And part of the reason it had a big impact is because we had all the data for all the companies. Every single ride, every single driver, for a very long period of time.

And that's exactly the opposite of the situation in California. So one of the things I'm going to be emphasizing is a need for better data. I know the Franchise Tax Board doesn't have a whole lot of leverage, say, over the Public Utilities Commission, which gets all the data from the companies. But it would be sure great if we could find a way to have more data available to the -- to the State, particularly in light of AB 5 and the kind of questions that have come up about what should be the pay standard. Besides just the minimum wage, what benefits should be included, how much will they cost, what about the employee benefit -- the employee business costs.

And also, what part of the work time should be paid? I am going to keep coming back to that question. It's an obscure question which turned out to be, to me, to be the central issue in New York City and I think it is in California.

And what I am referring to is when drivers are idle. When there are -- their app is on, and so they think they are at work but they don't have a ride yet and they are not going to pick up a ride. And if they are in midtown Manhattan or if they are downtown San

Francisco, they are cruising around. They are driving around, adding to greenhouse gas emissions, traffic, congestion, and so forth, but, also, they are not getting any income for that time.

And I think one of the big economics issues or labor economics issues is going to be, will that part of their -- the time when their app is on be -- be paid or not? And right now, there's a big divide between the companies, on the one side, and I think what would be good public policy. And that will be my main takeaway is how -- why that's so important and how to deal with it.

So -- also, my slides are way too many for the time I turned out to have. So I'm going to be going -- skipping a lot of them, including where this draws from. The preview -- the preview is basically the driver -- companies are saying that most of their drivers are there because it's an attractive side hustle, it's flexible, and so forth. They are satisfied with their pay.

An alternative view, which is the one that I came to, didn't start with when I came to New York City, is that most of the work is done by full-time drivers, even if most of the workers are very, very part-time. And that's because of the big disparity in the number of hours that there -- are worked. And also that they are, in fact, paid substandard rates. It's the equivalent of well below minimum wage.

And the companies' perspectives, by the way, is somewhat colored by the fact that they have access only to their own data. And many drivers work for more than one company; they are multi-app drivers. And we have data on all the companies in New York City and I think that's very important in -- just in interpreting what the companies are saying, vis-a-vis California.

So I have done -- I have pieced together some of the likely data that you would -- or estimates of how big this workforce is. And I am speaking, really, today just about Uber and Lyft, not -- not the other delivery companies, which I know much less about, and which are not covered by our report in New York City, and not about all the other platforms or the other parts of the gig economy.

Nonetheless, transportation sector is by far the biggest sector, and, of course, it's the most rapidly growing. And I guess I need some -- this is just to document that pay is pretty low. It fell between 2000 and 2010 or 2006, maybe, and it's been actually pretty stable since. Most drivers will tell you that pay has been falling, but it's not showing up in the survey data that we do have. This is from the American Community Survey conducted by the Census Bureau.

Although a lot of the drivers are -- work for a very small number of hours, as I will show you later, 10 percent of the drivers account for over 57 percent of income. That is even higher in other parts of the platform economy. That's a remarkable amount of concentration. It's much greater than the concentration in W-2 labor earnings.

And it kind of speaks to this point that I'm making, that if it's 10 percent get 57 percent, then maybe 20 percent get 67 or maybe 80 percent; that those are the people who are the full-time drivers doing most of the work and getting most of the income. So you have a kind of dual labor market situation. You have a lot of drivers who are driving more casually or part-time and they may need the money. It's not that they don't need the money, but most of the work is actually being done by full-time drivers.

Okay. Trips are -- 70 percent of the market is in nine metro areas. We're talking about the big cities. And most of that is -- is that -- it's concentrated in the downtown parts of the cities: Downtown San Francisco, downtown New York, and the relevant airports, and the same is true in Seattle. I have maps I could show you, but I will probably skip over it in order to save on time.

This graph showing you the tremendous growth in what's called the New York City FHV trips, which are for-hire vehicles in California and the rest of New York state. They are called TNCs, transportation network companies. They are also called ride share or whatever. So the green line -- see if I can get this -- I guess it's not going to work over there. Anyway, but the dark green line, the rising line, shows that in a few short years, the number of trips just in New York has gone to 800,000 per day, and while the number of Yellow drivers, Yellow trips, has declined somewhat.

This, I think, is still growing very rapidly in the entire country. And just doing some short, very quick, back-of-the-envelope calculations, I would think that probably the number of rides per day in California is about 4 million. It might be a lot more than that; it might be a little bit less. But this just as a rough order of magnitude, I think that's a lot of trips per day. There are 80,000 drivers in New York City compared to 13,000 taxi cabs, 80,000 FHV drivers.

So there -- I have some numbers coming up later about how many drivers there are in New York City -- I'm sorry, in California. This is just the concentration map.

So we looked at the actual level of driver pay. We asked about industry business model, that Betty Yee, you were just asking about. And we proposed a pay standard. It came out to $17.22. And then we looked at the effect of what such a standard would have on the drivers and consumers, service availability, wait times, and so forth.

And we had some data on who the drivers are. Probably two-thirds drive full-time. We had a detailed driver expense model, assuming that some of the drivers were driving a Camry or the equivalent, and that they were -- some of them were driving SUVs. We came out with an allowance or a business cost of about 63 cents a mile.

The IRS business mileage allowance is 58 cents a mile. This is going to vary from one part of the country to another, depending on -- especially on insurance costs and on fuel costs because those vary.

But we were pretty close. Uber, in its most recent statement, has offered to pay 30 cents a mile as part of this. So one of the big contested areas is going to be what -- what are business expenses going to be?

This has a lot of numbers on it, but the median after expense hourly pay was below $15 for 72.8 percent of the drivers. So we calculated how much the drivers would in -- would -- pay would go up. It would go up about 20 percent with the pay standard we were talking about.

Now I want to stop for a second in the numbers and just talk about a conceptual issue that, really, was one I had to grapple with in doing this study. And that is that one of the great papers written by Uber economists -- and there are quite a few -- showed that when pay did go up in different cities at different times -- for example, because of surge pricing -- that that led to a large increase in the number of drivers and in driving hours per driver. The increase in fares did not really reduce rides very much. It's what economists call inelastic product demand. But the labor supply elasticity was very, very high.

So what happened is that more drivers are chasing the same number of passengers and driver rides per hour fell even though driver pay per trip had gone up. And within eight weeks, driver pay per hour, not per ride, but driver pay per hour fell back to where it was before these increases went into effect.

So you can't just establish a pay standard and expect that pay will actually be sustainable at that level. You have to somehow deal with this labor supply, the elasticity problem, which is very different from what it was for taxi drivers, that hadn't been studied in an earlier period of research.

So what I kind of decided was that what's going on here -- let me skip some more slides -- yeah -- is that the companies actually like to have a lot of drive -- of cars on the street because it reduces the wait time for passengers, increases their market share for each company, and they are not paying -- they don't have hardly any incremental costs, A, because they are not paying the drivers, and they are not paying for the cars, and, in New York City, drivers have to acquire to do the business.

And so the actual utilization rate was 58 percent for both Uber and Lyft. It was higher for one of the other companies, from our data. That means that the idle rate or the cruising rate, if you want to call it, that was 42 percent. So 42 percent of each hour, the drivers did not have a ride and were cruising -- cruising around or maybe parked, if they were in a place where they could be parked.

So we came up with a policy where they would have to -- the drivers -- I'm sorry. The company could increase pay -- I'm sorry. I am getting ahead of myself. I am worried about the time, I guess.

Let me just skip this part and just say, we came up with a policy that would increase utilization rate, and which has, in fact, worked very well, and it's increased the alignment between the company and the drivers in New York City. It has gone up by an amount we thought, and, in fact, fares have gone down during the pre-IPO period and then went up since, and they are about where they were before. So there's been very little change.

The companies have stopped adding new drivers -- I think it's the most important thing, because they are now better off when they increase the utilization rate. That is, when they have fewer extra cars on the street, they are still getting the same increase in ridership and services but now there's -- the companies and the drivers are better off.

So what does this have to do with California?

First of all, how many drivers are there? We don't really know. We knew the exact number in New York City.

Lyft recently claimed it has 275,000 drivers in California. I don't know if that means active drivers, who work at least four hours a week or maybe a half an hour a week or every week or not. But just doing some back-of-the-envelope, again, I came up with nearly 600,000 distinct drivers in the state, which would be roughly similar to the California populations of New York City. So it checks. But, really, this is guesswork. We need the data. This is just a map showing concentration in San Francisco.

And, here, this is a couple more calculations that I made about how many of the drivers in California are full-time. Maybe one-fourth are, and they probably account for 80 percent of all the trips. Not as many are full-time as in New York City, but they still are a large percentage of all the work.

A pay standard, obviously, under AB 5, if they become employees, requires $15, some paid time off. Hopefully, the usual benefits here. They would add about 30 percent to labor costs.

Is this consistent with the business model? Yeah, because they can raise prices, but, more important, because they can raise utilization rates.

Will they raise utilization rates? That's the question that the driver -- the companies refer to the idle time as P-1, when the driver doesn't have a ride yet; P-2 is when they are going to pick up a ride that they do have; and P-3 is when they have a passenger in the car.

This chart is showing you that P-1, at the bottom, is 30 to 33 percent of total miles driven in two California cities in this national study. This is based on Uber and Lyft's own data -- own data they provided to us this transportation consulting company. But of total time, that probably means amount of miles. That probably is way above. That's a -- net number is too low. It's probably 40 percent. Very similar to New York City, in other words.

And so the question is, should the companies pay for wait time, for the idle time, the P-1? They have said they will not. But if you do not, then the companies -- the companies do not have to pay for it, as when the workers are employees, if that's not counted as their work time, then the companies will continue to have incentive to flood the streets and roads with more and more cars. If they do have it, if they do have to pay for that time, the incentive will reverse. It will be much more like the policy we came up with in New York City.

And what I fear is that California will try to raise -- create a pay standard for its drivers; they will raise their expectations. But the increase, if P-1 is not counted as working time, paid working time, then driver pay per hour will go back to where it was, and there's going to be a lot of resentment, frankly, from the drivers.

So a good policy would say pay for the wait time. I don't know what the law says or what the tax implications of that are, obviously.

Flexibility issue. Just one minute on -- I have on that. The companies say the drivers will lose flexibility. They will have to work very rigid shifts. That's not the case, certainly, in the law. And there is an example from the company called Deliv, which has 14,000 drivers across the U.S., and does deliveries for retail, big retail businesses, where they are on employee model, and the -- and the drivers bid on shift blocks of two hours or more, in advance, each week. So there is flexibility.

The tradeoff here between, kind of, the security of being -- the protections that you get from being an employee and flexibility seem to be a lot less than what the companies have been saying.

Obviously there are tax implications here, but I'm not going to tell you what they are. That's for you guys to figure out.

I think we need -- we really need the data that should -- I should say here, we have one takeaway here. It's this -- my concern is over the P-1, or idle time, where the drivers think they are at work. They can't do just whatever they want, or most of them whatever they want, and this very modest tradeoff between security and flexibility.

Thank you.

CHAIRPERSON YEE: Thank you, Dr. Reich.

Questions, Members?

MEMBER COHEN: Yes.

CHAIRPERSON YEE: Member Cohen.

MEMBER COHEN: Thank you.

In one of your slides, pages -- in the beginning of the deck, actually, I think you skipped over it, but there's a -- you captured the one question I have: Will drivers lose flexibility with the higher pay standard if they are employees?

MR. REICH: Yeah. And that's what I am kind of -- summarized here. And they -- there's nothing in the law that says the drivers cannot choose their own hours. And, indeed, in a survey that's being done by one of my colleagues at Berkeley, that relates to the irregular work shifts and whether drivers -- workers can -- how they have to deal with the shifts that keep changing, the survey that they did of retail workers and call center workers, low wage workers, in other words, found that 33 percent of those workers had some say over their hours, jointly, with the employer. 51 percent had no say, but 15 percent had complete say.

Now, I don't know when they have complete say, whether that means you can come to work at night, you know, or not. Probably not. Maybe you can come to work an hour later or maybe your hours might not be totally flexible. But there is some room for flexibility already in many companies. And that's kind of what -- where I would see this.

And if you want to work part-time, well, a company like UPS, which has 360,000 employees, has -- about half of them are part-time, and they are very -- you know, they don't mind taking part-time employees.

MEMBER COHEN: Okay. Thank you.

CHAIRPERSON YEE: Thank you.

Yes, Member Asmundson.

MEMBER ASMUNDSON: There was some research done about how women tend to make less money on some of these ride sharing apps because they restrict where they are willing to go and also they tend not to drive as aggressively.

Can you talk a little bit about how that disparity might change if some of these policies were adopted?

MR. REICH: Yeah. That -- you are referring to the study by Cook and Rebecca Diamond at Stanford and so on. They found -- they actually found a very small difference in pay; it wasn't that great. But they had such a large number of rides in their Uber data -- this is from Chicago -- that they could say, oh, yeah, it had to do with the women were driving more slowly or more carefully or whatever, or different cars or whatever.

I'm not so confident of that study, in part, because it only had data on Uber. And I am guessing that quite a few of the drivers were probably also driving for other companies. So I -- I'm not sure I want to put too much into it.

But you are right, that if they were employees and they were paid a wage, then that would apply both to women and to men. So -- or minorities and whites or whatever. You know, young and old. And so that would probably lead to more pay equalization.

CHAIRPERSON YEE: All right. Thank you.

Other questions, Members?

(No response)

CHAIRPERSON YEE: Thank you, Dr. Reich.

Thank you, both, very much for highlighting your studies and ongoing look at this issue. And particularly very happy about the experience in New York, informing us with respect to, particularly, the data gaps that we have. So thank you for the great work there and bringing that forward.

MR. REICH: Yeah. Can I just say that the data -- that you need a lot of data for tax compliance purposes. But the data that's needed for policymaking is much -- much smaller size. It just needs to be a sample for representative weeks. You don't have to have all the data we had in New York City.

CHAIRPERSON YEE: All right. Good. Thank you. Thank you very much.

At this point, we are scheduled for a short break and we will make up the time that we're over. Why don't we take a break until 2:45.

Let's see. I want the audience to please be aware, if you leave the secured area during the break, you will need to go through security again. So there are restrooms located to the left of the entrance of this auditorium within the secured area and additional restrooms located in the town center outside of the secured area.

So we will reconvene at 2:45. Thank you.

(Break taken in proceedings)

CHAIRPERSON YEE: Good afternoon. We will bring the meeting back to order.

And our next item is Item 5, and this will be the first of two panel decisions. And for this particular panel, we are going to be focused on the challenges and opportunities for tax compliance in the gig economy. And I am very grateful to the panelists we have here this afternoon.

And I would like to just briefly introduce each of them and offer them some time to just share some perspectives and, perhaps, firsthand experiences around this topic. And we will then open it up to the board members for questions.

So let me first start by introducing Annette Nellen, who -- actually, I'm not going to introduce you in order, probably -- in order of the agenda.

Annette Nellen, who's the professor and director of the Masters of Taxation Program at San Jose State University. She's a familiar face to so many of us and has been such a wonderful partner in the public policy sphere with many of us working in this space.

Thank you very much for being here, Annette.

We then have Karen Brosi, who is a Certified Financial Planner and enrolled agent. Thank you for being here. Certainly, the tax practitioner perspective is very important to us here, at the Franchise Tax Board. And as was stated earlier, we value you as a partner with us, as it relates to tax compliance.

We also have Vikrum Aiyer, who's the vice president of global public policy and communications at Postmates. Thank you, Vikrum, for being here. We definitely look forward to your perspectives.

And Annette Rivero, who's here with us from Gig Workers Rising. And we thought it was important to have a worker perspective. Certainly, many of the challenges that have been identified seem to fall on the workers. And so we definitely want to hear what your experience has been, but, as well, helping to inform us with respect to some of the ongoing work that we need to do, whether it's data, whether it's looking at different processes, whether it's a different kind of outreach and education. So we very much appreciate you being here.

So I thought maybe we would go in agenda order and ask Professor Nellen to start us off, because I think you probably will have the broadest view with respect to how we ought to be looking at some of the challenges and opportunities.

MS. NELLEN: Thank you for having us here and thank you for having me mere.

In my work on this particular topic, I would say that it actually dates back to the mid '80s. I actually was a revenue agent with the IRS and worker classification was totally a big issue. I have continued to deal with this area, even as a faculty member doing research in this area, and, of course, that was a natural move into the gig economy, looking at how those issues play out. And would the gig economy, and so much focus on that, be the time that we finally address this decades-long issue of worker classification, which really got punted on by Congress back in 1978, with this section 530. So there are really long-standing issues of the multitude of classification systems, the confusion, a lot of subjective factors, as opposed to maybe moving to more objective factors.

And I have worked, over the years, for, you know, either drafting or critiquing proposals on the work of classification. And my -- my research, as a faculty member, which I am able to do as a faculty member, have really focused on how we can -- you know, I run this 21st Century taxation blog, which I started many years ago, as a fellow of the New America Foundation -- and really looking at how can tax systems better reflect the way we live and do business today and follow principles of good tax policy.

And this is still one area where there's great need for improving all of this, and I think also -- I think everything being touched on here -- also pins down to -- something really lacking is this broad knowledge of the tax law and basic taxes among all the population. It is a topic that's very important but is never covered in K-12 education.

So thank you.

CHAIRPERSON YEE: Next, Karen Brosi.

MS. BROSI: Yes.

This is a topic that has been near and dear to my heart, not only as a practitioner, but I also write and teach other tax practitioners continuing education. And so we have been addressing this for a number of years in our tax practitioner communities of capturing the workers or the -- and those who are engaged in the gig economy.

And it's on a couple of levels, because, as you have heard from staff at the FTB earlier, it's an issue of -- of, actually, do they know they need to report the income; that there is no check and balance, as there is with a W-2 wage earner receiving a W-2. They know they have to do something about that and report their taxes.

I -- and -- and it's sort of across the board. My practice is in Palo Alto. I don't necessarily deal with unsophisticated taxpayers in my practice, and, yet, just this year, a taxpayer engaged in a part of this gig economy, that we haven't talked a lot about here today yet, which is, you got a spare room in your house? You got a garage? Go online and rent it out and earn some more money that way.

That's sort of a definition of the gig economy, that you don't really need any training. You don't really need any special equipment that you don't already have. You don't need any special education. And you can start today and earn money.

And so this is a not-unsophisticated taxpayer, who I said to her, "Any other income that we need to be looking at this year?"

And she said, "No." She said, "Well, except for when we rented the house out, but we didn't get anything on that, so I don't have to report that income, right?"

Now, a sophisticated taxpayer, who is asking me that question, and translate that to -- I translated that to the general gig economy worker, who is not as educated as this client of mine was, who is not as sophisticated as this client of mine is. They don't stand a chance to meet tax compliance. They just don't know. And the help is not available out there for them.

CHAIRPERSON YEE: Very good. Thank you, Karen.

Vikrum Aiyer.

MR. AIYER: Thank you for having us.

From the platform company perspective, I think there's a lot for us to consider, and I think, Controller Yee, what you pointed out to at the top in terms of the BRT analysis, that businesses ought to look at other motivations beyond just revenue and the bottom line, is definitely an ethos shared at Postmates, where we don't believe that the business of our business should really just be business.

We fundamentally recognize that when workers on our platform are able to earn, on average, about $18.34 per hour, that our relationship with those workers should not end just at that transaction-based level; that our relationship with those workers is really motivated by the fact of what you just laid out, that with the power of an internet connection and an idea, not only can anyone be their own boss, but people can hop online, start learning, and in the instance of Postmates, get paid money into their bank accounts within 55 minutes. Very different than the two-week paystub otherwise governed under the California Labor Code.

So while we are proud of that low barrier of entry to work, we also recognize, there's a lot we need to do, as companies, to make sure that not only are we not implicit in a loss of revenue to the State, but we're training workers, educating workers, on the tools of how to navigate this form of work. But, then, also, that we work with organizers, with labor unions, and the State to consider a new framework of rules around this form of work.

And I think that putting aside, you know, the legislative session of this past year, this is really, really important for a company like ours, because it's only when we are able to talk to labor in the state, talk to workers in the state, do we understand new ways that we can invest in those workers.

You know, some of those examples for us, at this company, include that we found out that most -- and, you know, Sandra [sic] Harris has spoken about this on the campaign trail. Most of -- most Americans cannot afford a medical expense, unpaid medical expense that's $400, in this country. So instead of a semi-regular payout to workers on the platforms, we instituted something called "instant deposits," which allows you to get paid within minutes -- this is a very important alternative to payday lending and predatory lending -- that we've invested in, as a company, at Postmates.

Separately, we know that at least 40 percent of all Postmates are actually looking for full-time work, but their shortcoming and pitfall to that is the fact that only 20 percent of them have college degrees or accredited community college degrees.

So we started working with different upscaling organizations, starting with an organization called JVS in the Bay Area, in which we're using U.S. federal Department of Labor grants to pipe in Postmates into actual classes and upscale initiatives for late stage and continuous adult learners outside of the K-through-12 system, not because we felt that this was the thing that Postmates is always about. Let's be honest, Postmates is really just a burrito delivery service when you are lazy, on a lazy Sunday. But when we recognize that our workforce is interested in connecting to this type of work, we feel that, outside of that $18 per hour relationship we have with them, we have a captive audience of mobile workers that we can actually attach these different experiments and see how they scale up when they are stitching together multiple jobs.

Lastly, I will just say that workers' compensation has come up a lot this afternoon, and one of the biggest fears that we have is because of these companies not having a certain relationship with their worker, that workers weren't covered on the job. And so that is why -- I'm proud to say -- starting on October 1, Postmates will be offering free fully-paid-for accident insurance for anyone who is delivering on the platform for up to $1 million worth of damages or concerned bodily or equipment or otherwise.

I mention all of these steps not to give you a commercial for Postmates, not to say that we are the best actor since sliced bread. I think what we do is -- I mention this because there is a lot we can learn from workers, and we are taking steps in this state to try and institute and enact policies that reflect those interests.

At the same time, we are a business. We have a fiduciary responsibility, as been mentioning earlier. And so our goal today, and in working with the State of California, going forward, is always to be compliant with the law, but make sure that, how can we balance the structure of how that business model works, so, that way, we can be both work proworker and proinnovation, and we have about five ways in which we think we can do that on the tax compliance side.

But I will stop rambling there and share that when we get into the questions.

CHAIRPERSON YEE: Okay. Thank you very much.

Ms. Rivero, thank you very much for being here.

MS. RIVERO: Thank you for having me.

All right. Well, I am an Uber and Lyft driver.

I have been driving for two years. I'm a mother of five. I live in San Jose. I am also an aspiring business owner and a leader of a driver community desperate for change. And that is Gig Workers Rising.

Today I'm here to talk to you about a little bit of my story. I started in medical billing. I worked very hard for 13 years. I became a supervisor, of some sorts, at Stanford, when I realized I wanted to be a manager. I couldn't do that without a bachelor's degree. So I was trying to figure out a way to go back to school when another manager mentioned she had started working for Uber and was making more money there in a day than at her job.

And so I decided that was my window of opportunity, and so I left my job hoping to go to school, making enough money doing Uber to do that.

It didn't work out. The pay cuts came very quickly. Within a year, I had to stop going to school, and I am deep in debt, and I struggled to find time to spend with my children.

When I started working for Uber and Lyft, I could make $300 in about six hours; whereas, now, it's about $100 for six hours. And to make matters worse, these days, I wake up at 6:00. I take my kids, drop them off by 7:15. I work throughout the day until I have to pick them up at 3:45. I take them home, I feed them, I make sure that they are fed. I make sure they start their homework, and then I am back on the road. And I don't come home until about 10:00 or 11:00. And in between then, I am doing some of my notary work, which is a business that I'm starting.

And -- but today I'm here. I'm sacrificing some much-needed income to explain to you the problems and issues that I personally have filing taxes every year.

And you have to think about what it takes to run a business and managing the data that you are collecting every day, in order to tell that financial story at the end of the year. And it first starts with the cost of providing a service or the cost of purchasing a product to resell. And beyond that, you have to be able to tell, what did you sell that product for, and what were the expenses that incurred during the time you were running your business.

Unfortunately, I have no control over all of that data. It's in an app and it's closed away from me. I do not have access to it. When I go on to the app at the end of the year to file my taxes, if I have not made over $20,000, I do not get a 1099. And because everyone seems to be a little concerned about what that looks like, I do have a copy of what we get. You may not be able to see it very clearly, but this is what we get. It's very vague.

And if you don't know anything about taxes and if you don't know anything about expenses, you have no idea what you are looking at. And it's very hard to interpret into a tax form.

Even though I have a 1099 -- because I'm working enough -- I can't validate any of those numbers for an auditor. If they were to come to me and ask me, well, how did you come up with this number, I cannot validate it. I cannot tell you where the numbers are from. I cannot go into the -- the platform and show you an address and calculate the miles for you. It's impossible.

There -- it takes five steps just to get to all of the information on the Lyft platform for one ride. So for every single ride, I have to go through five steps.

So, you know, I could call Uber and Lyft and perhaps try to get some information, but it's very difficult to talk with them. They don't have a very good support system for us. So resources are limited.

I am extremely excited to hear about some of the things that are going on from the speakers today, and I will definitely be sharing that with my fellow drivers.

And I think that's about all I have.

CHAIRPERSON YEE: Thank you, Ms. Rivero.

So Members, we wanted to just open this panel up for questions because, you know, we have a number of different perspectives that are represented on this panel, and so I would entertain questions.

Yeah. Member Asmundson.

MEMBER ASMUNDSON: So, you know, we have heard a lot of perspectives in the sense that working in the gig economy, working for these apps, is often seen as a very transitional thing. We don't have a lot of data about that.

You know, Vikrum, if you have any additional data about, sort of, how long people participate as workers with Postmates, that would certainly be useful.

Annette, if you have -- sorry. Ms. Rivero, if you have any information about, sort of, how long people, sort of, like, work to go back to school and then to graduate from this to something with more regular hours, that would also be a helpful perspective, I think, for everyone, if you would be willing to share.

MR. AIYER: Yeah. I am happy to share the data I have today, and if there's anything else we can provide, we can definitely submit anything else offline.

One thing I think is really important for us to consider just at the top is that, first of all, no one should be in that scenario that you are in. The fact that there's skyrocketing health care costs in this country, flat wages, working hard just to, like, accrue more debt, our companies, our businesses, can and must do better. And I think that that is a commitment that we want to give the state of California.

One important distinction, when we think about tax compliance and, just, regimes of laws around these businesses, is that there is a pretty major difference between the ride sharing model -- what you saw Dr. Reich speak to on the Uber and Lyft side -- and the delivery model. And in the same way that, you know, a lot industries are not monolithic, I would caution the State to assume that all tech companies in this space are monolithic.

What we have actually done in the last year is work -- my colleagues, Vignay (phonetic) and Cynthia, (phonetic) worked with the CDTFA to, for the first time, codify a definition what it means to be a -- what we're calling a delivery network company, a DNC. That speaks very closely to the fact that this is not interstate commerce a Teamster job might cover. This is not picking up goods from a warehouse. This is really just picking up goods locally from a retailer in your community that you or I otherwise would have gone to that store shelf for -- to pick up those goods. So that's the nature of the work.

The -- the capacity of how the work is performed is that unlike Uber and Lyft, you can't -- you don't have to have a car to deliver for Postmates -- you can walk; you can bike; you can drive -- which means that the mode split is actually quite different in different sectors.

So in New York, for example, 80 percent of all Postmates deliveries are actually performed by bike. In Los Angeles, huge urban topography, most of our Postmates are performing those deliveries by car.

That being said, that makes it difficult when you talk about taxation and reimbursement for expenses, for us to identify the Kelly Blue Book value of your expenses if your expenses were sneakers and a day of walking, or a shared bike, if you use one of these shared mobility services, or, you know, another form of transportation. It doesn't mean we shouldn't try, but that's one thing I wanted to flag.

More specifically to your point, 85 percent of all Postmates deliverer -- drivers, sorry, are on the platform for about three to five hours per week. Additionally, we think that this is a very important --

and this is what Ms. Brosi -- am I pronouncing that correctly? Yeah, Ms. Brosi spoke to -- is a low barrier of entry to work. Because you are not going through the traditional W-2 job background check, we are able to onboard workers onto the platform safely, but with a very different attitude and contemplation than if they were to apply for another job.

This means that on the Postmates platform, we really do allow individuals to start earning for nonviolent drug offenders in this country and this state.

In the state of California, I would say that 28 percent of all Postmates drivers identify as Latinx and 24 percent of all Postmates drivers identify as black in this country or in this state. And so, I think, for us, to make no assessment or judgments about communities of color and their access to jobs or earnings, by having a low barrier of entry to work, we actually end up capturing a lot of people who actively tell us, in our customer service department, that this is a means of working because they are not necessarily certain, particularly our immigrant population, if they had passed a background check, or, even worse, risk their family being on the radar of another government entity if they were to submit their social security through a background check.

I will add one -- one last component to that, and that is that when it comes to our workforce -- we are talking about, in the state of California, that, for Postmates, a little under 200,000 careers that are on the platform. I mentioned, most are only working three to five hours per week. Most also turn off the platform within four to six months.

And I know Dr. Bernhardt spoke to a very low rate of workers filing these 1099 forms. And that is also because most of our owners are threshold earners, meaning that they save to a very specific point in time -- whether that's rent, a purchase, or something else in their life, prescription medicine -- and then once they have saved on that platform, they tend to turn off the platform.

And I think that's why you -- you heard me lead with our investment in a lot off those career development resources, because we are not there to assume that they want to be Postmates for life, nor do they want to be Postmates for life.

At the risk of rambling too much, I did want to just quickly just say that, from a tax perspective, we do have about five steps that I think we need to take as a state and as a country when it comes to this form of compliance.

The first is, with regards to the legislation that was just passed and signed by the governor, one overarching concern that not just companies have, but workers would have, is that the IRS, federally, still has a multifactor test for who is determined to be an IC versus an employee. And under the IRS standards, Postmates is correctly classifying those workers as independent contractors.

So come next year or in future years, we're going to have a scenario in which there might be an expectation of a W-2 form in the state of California, and, yet, a 1099 form with the IRS. That is a clarification, regardless of your politics or your policy beliefs on this issue, or in my company, that we do need to resolve to make sure that state revenue is being captured correctly.

The second is in terms of the underreporting of 1099 miscellaneous work -- or forms. Professor Bernhardt spoke to this earlier, but one issue that we see as a company is not for a lack of trying. We actually issue 1099 miscellaneous forms to our workers at the $600 and above threshold.

But it's also because we have a lot of younger people on the app that are on the platform for different reasons. If you can imagine, as silly as an excuse as this sounds, an 18-year-old filling out a form, that misses a character key stroke of their e-mail address or changes their e-mail address quickly, or says, "Screw this, I'm no longer on e-mail, I don't want to be bothered by my family," means that we are not able to connect that 1099 form to them, particularly with the younger audience, hypertransitionary, and so they are moving often, so those addresses are hard to keep down.

And, lastly, going back to the point about having undocumented immigrants earning on the platform, a high concern about social security information being passed through and an inability to capture that work.

So when we think about the right form of classifying workers, we also want to think about the populations that may accidentally be lost in the shuffle due to this low barrier of entry to work.

The third area is in terms of small businesses. I believe, Ms. Cohen, you may have mentioned this earlier, but this notion -- I'm sorry. It was Ms. Maples on a prior panel, said that most ICs don't see themselves as small businesses. They make the missteps that you mentioned with your client in Palo Alto.

I think that's also informed by the fact that the

State of California has a very different patchwork for who are independent contractors and when you need to sign up for a business license registration. You would have to sign up for a business license in the city of San Francisco and the city of Oakland, even if, on a commute between both cities, as an Uber driver or a Lyft driver, you cross the city jurisdiction lines.

I think what the State can -- the industry and workers can genuinely benefit from and encouraging that mentality about seeming like you are a small business owner, is, perhaps, by creating one statewide framework for a business license registration happens, data is collected and given to the State and remitted by the work, maintained by us, as companies, but you don't get inconsistently penalized.

And this is something that we are actually talking to Congress about. There's a bill that was introduced last year called the New Gig Act that actually contemplates adjusting the 1099-K threshold down from 20,000 to a lower amount, so, that way, we don't run up into the issue that we talked about earlier.

Postmates has been -- was in -- testifying in front of Congress last week on this. I think this is something that we would want to do. We would be open to withholding and remitting taxation on behalf of the worker so as to minimize the lack of confusion for drivers of any kind. But in exchange to do that, we automatically trip employment classification lines in different jurisdictions outside of California. So I think working through or contemplating legislation that might do that, to the benefit of the State and the worker, is certainly something that Postmates would love to talk through.

And then the last area, the fourth area, is something that you mentioned, which is a technological problem, which is being able to actually track mileage and expenses.

We actually work with an outside organization called Stride Health that allows -- when you have your smartphone -- the accelerometer in your phone that generally picks up what direction you are moving, is able to then track those resources into mileage, and then give you an itemized readout of that mileage year over year for your every April or spring tax filings.

I think we need to do more of that. I do think that we can invest in more education for workers in this regard. While we are proud we provide that service for workers, I think the FTB resources that were outlined is definitely something we can consider being put into our application so, that way, workers can see it, and that's certainly a commitment from us overall.

I will just conclude by saying, I think this problem of tax compliance is something that companies can and have taken steps to enforce around, but that definitely comes with us working with the State and being able to work with workers and identify what their needs are on the education side, but not starting from a presumption that companies, despite what political debates might offer, are intentionally starting from a place of misclassification but are really just trying to reconcile a world view that is -- that is competing with dueling regimes and tax laws in different jurisdictions.

CHAIRPERSON YEE: Thank you very much, Mr. Aiyer. That -- really appreciate your comprehensive thoughts and observations and, certainly, some of the proactive steps that Postmates is taking.

So I wanted to ask Professor Nellen a question.

Mr. Aiyer actually raised the question that seems, to me, we have to get a little bit of a handle on, and that is discrepancies between federal and state tax compliance requirements. And I mean, it seems to me, if we're going to, kind of, come to grips with what the State has to do relative to tax compliance, that we have got to understand, currently, what's required by the IRS and -- and probably some attendant policy changes we may need to pursue at the federal level. But any -- any kind of thoughts on that piece?

MS. NELLEN: Well -- well several things. You are also getting at the part about the 1099 versus W-2 going forward.

But so far as the federal and the state, certainly, one thing, before I forget this, trying to get information out to the worker --

CHAIRPERSON YEE: Yeah.

MS. NELSON: -- I think the tax agencies could -- could do more with the right information. For example, when the person is hired, a W-9 form would be collected by Uber or Lyft. I think that should go right off to the IRS and the Franchise Tax Board, who then can immediately check, has this person ever filed a Schedule C before, a sole proprietor form or the equivalent?

If not, then send them a package, I think, both by e-mail and by actual mail, with very clear explanation; you know, walking them through -- a video -- I mean, today -- "Oh, I need to know how to do something. I will find a YouTube video on it," and do that, and really help them to see what -- what needs to be done, and then they will be waiting for that Schedule C to be filed.

And one more step in a policy perspective is, once that return is filed, I would actually say, let's have the government drop $500 or something into their retirement account to start as well.

So far as tax differences, there really aren't many, but there will be, starting January 1st, as was just noted, with the fact that some of these folks who don't -- they are presumed to be an employee, under the California law, starting January 1st. So unless they meet the ABC test, some might not meet that, so they'd be, then, classified as employees, assuming they are actually continuing to work. Some might not be, you know, hired in an employment status.

But if they are continuing that -- in that same category of work, at the federal level, unless they change the practice -- because maybe the employer might think, okay, you'd be -- I have to treat you as an employee for California. Maybe I will take this opportunity to change my business model, and I will start exercising more control over you, making you an employee at the federal level, as well, under a different standard of the common law. So that could happen.

Another approach would be, you know, we'll just keep the separate classifications, and then the employers have to be very careful that they are just not, you know, nonchalantly, kind of, putting folks into a federal qualified plan, for example, of retirement, only to have the IRS say, they are not an employee. They shouldn't be in the plan. Now you have just disqualified the plan.

So there's really a lot of work for all employers, and it's not just business. I mean, that would be nonprofits. Also, the government hires contractors and they need to look at their contractors to see if -- what their classification is going to be for both the federal and state, what they need to do about that. But that will become one of the biggest federal tax difference between these categories of workers.

I think there should be maybe one that I would -- I would encourage the State of California to enact is to follow the model of Massachusetts and Vermont. California should just not wait for the federal government. Enact a legislation that would say the filing threshold is $600 for a 1099-K, because if the federal government wants to forgo that tax gap money, there's no reason for the State of California to do so. And we know that those forms can be issued.

So there's a few things. Thank you.

CHAIRPERSON YEE: Yes. All right. Thank you.

Questions by members?

MEMBER COHEN: I have some questions.

CHAIRPERSON YEE: Yes. Member Cohen, please.

MEMBER COHEN: Thank you.

I have a question for Ms. Vikrum Aiyer. In your onboarding process of your employees, do you have a briefing that covers their -- your -- I shouldn't say employees. I mean, your contract workers.

MR. AIYER: Our fleet.

MEMBER COHEN: Your fleet. I don't know the terminology.

But I am wondering, do you have a discussion with them about their tax responsibility and how to file? Do you give them a 1099 form? I am curious to know what exactly -- I am looking for some insight into the business.

MR. AIYER: Yeah. No. 100 percent.

So when you sign up for the platform, literally, through the onboarding process, when you are entering your name and information, we aren't inserting tax information at that moment, but once you are delivering on the platform, we do surface direct information to you about tax filings in three ways:

One is the offering up this resource that I mentioned in terms of our partnership with an external partnership called Stride Health, that actually allows folks to download this integration into their smartphone app, that they would otherwise use when they are delivering for Postmates, and then that will track mileage, which they can then use towards the end of the year, when they are --

MEMBER COHEN: So in no way do you talk or encourage them or educate them about the importance of filing their taxes on the income that they earn.

MR. AIYER: Actually, we do. We actually have ongoing education throughout the year. So we surface -- not just around tax season. But I would say a few times every quarter, just an FYI about taxation. That is a form of e-mail communications as well as in-app communications.

MEMBER COHEN: So these are push notifications when you say "in-app"?

MR. AIYER: That's right. Push notifications in-app.

I do think that the -- the second and third ways that we do is, we do issue a 1099 Miscellaneous form annually.

And then the third way is, we've been hosting -- my colleague, Claire (phonetic), has been actually hosting webinars with our fleet of Postmates, open to any Postmate nationwide to -- closer to tax season, in January, February, March timeframe, where we say, "Hey, anyone want to learn? Sit down with a tax expert."

We want to do more. Obviously, I think we should do more. I think the FTB resources are something that we ought to look at and do more in-app pushes on that.

I will say that one of the broader challenges is that because of this dance that needs to be played about classification on employee versus contractor, you can only come up so far to the -- to the sun, if you will, to explain, "You ought to pay attention to this." We cannot prescribe or mandate that they do something, but we can suggest that this would be, you know, better off for your long-term economic certainty.

MEMBER COHEN: I understand that. I am not looking necessarily for a prescription, but I wanted to know if there's any discussion at all.

MR. AIYER: Yeah.

MEMBER COHEN: And you being the vice president of Global Policy and Communications, you talk to other -- other platforms and other folks that are in this space on best practices? You seem to be, you know, unique in that way about your announcement about October 1st, offering accident insurance, about notifying push notifications. Are you unique in that space? Or are you -- is that just the common norm for these tech companies?

MR. AIYER: I would like to think -- I would like to think that we are certainly on the cutting edge of testing some of these new products and elevating standards. But to our peers' and competitors' credit, I think more and more of these nationwide conversations and conversations led by the State are pushing us to be better. Our peers and other companies and competitors are now unrolling or have been unveiling an accident insurance platform.

On the tax side, I think there has been -- our understanding is that different companies approach it in different ways in terms of how often they communicate. I think the webinar approach is pretty unique to Postmates, in which we have live human beings actually talking to anyone who wants to sign up digitally.

But I think the debate is elevating the standard, and -- and this dialogue, certainly, I think is something that we'll also be taking back to our peers about establishing additional best practices, as you all see fit.

MEMBER COHEN: Thank you.

Ms. Rivero, thank you for being here. I

completely can empathize with the sacrifice to be here.
When you are -- let me ask you, when did you start driving? What year?
MS. RIVERO: 2017.
MEMBER COHEN: In 2017. So relatively not -- not that long ago.
And when you were doing your onboarding process -- and you drive for both companies?
MS. RIVERO: I do.
MEMBER COHEN: Okay. So when you were driving and doing -- going through your onboarding process, were they similar or did they differ? And if they differed, in what way?
The other question I have does have to do with the taxes. Was there any discussion at all about what your responsibilities would be in order to file for taxes?
MS. RIVERO: With Uber, everything was done through the app. I didn't talk to somebody until I needed my car inspected. And the person just came out, looked at my car, signed the paper, sent me in, and this was pretty much it.
MEMBER COHEN: Okay.
MS. RIVERO: Any -- any information on my taxes comes at the end of the year. The app lets me know that

documentation is there. I can't recall if it says -- if it's telling me to file my taxes. But when you go on the page and it talks -- it has your 1099, it will tell you to reach out to a tax professional. It doesn't give any advice or information about that or education.

For Lyft, the only thing that -- they do give you, like, a little, introductory meeting, where you sit with other drivers and you are allowed to ask questions about how the platform works.

The only thing in relation to taxes that they do is they advise all drivers to apply for a business license. And I think that if every driver did apply for the business license, that's probably where they would find information about taxes and what the requirements are.

And they, too, will send just that push notification about your tax -- your 1099 is in, file your taxes. And on their page also, they say they cannot give advice; to reach out to your tax professional.

MEMBER COHEN: Thank you.

CHAIRPERSON YEE: Thank you.

Other questions, Members?

(No response)

CHAIRPERSON YEE: Let me -- Ms. Rivero, how have you filed your taxes in the past? Do you use an outside resource or do you do your own taxes?

MS. RIVERO: I do. And it was definitely -- there's a learning curve. You don't really know.

I think the second year I filed, I heard something about taxes for Medicare, and I freaked out because I didn't do that the year before. And then discovered that I used TurboTax so it's -- it's already addressed.

And, you know, so there's -- there's definitely a lot of discovery that happens, a lot of learning. And I think that this year, I -- I haven't filed yet because -- for last year because I'm a little concerned with the audits I've been hearing about. And so that's kind of how I learned about going in and extracting all the data and how much time it was going to take. You know, and I have spent so many hours doing it. And it's -- the information I'm collecting isn't even useful. You know, so I feel like I have wasted my time.

But, you know, if an auditor comes to me and asks me, "Well, how did you come up with all these numbers?", I will have no answer. I will have to -- I'm going to have to revert back to the way I did it the year before, and that is, just go basically off of what Uber and Lyft gave me and make a modest estimate of what my mileage should look like.

CHAIRPERSON YEE: And you don't have a business license, do you?

MS. RIVERO: I did apply for one.

CHAIRPERSON YEE: You did?

MS. RIVERO: Yeah.

CHAIRPERSON YEE: Okay. Okay.

MS. RIVERO: I also have one for my notary.

CHAIRPERSON YEE: Got it. Okay.

Ms. Brosi, as a practitioner -- and you have heard from Ms. Rivero and kind of what's possible through Mr. Aiyer -- so what would be helpful to you?

MS. BROSI: Well, from my perspective, it is about, as a practitioner, I live in fear that I won't uncover this information. That my clients -- you know, I train them as well as I possibly can to bring me everything. But as of the example of the client I gave in Palo Alto, who said, "Sure, that's all my income, unless you mean when I rented the house out this year" -- and she wasn't even considering that.

So it is about finding out from a practitioner's standpoint. But more than that, it is, from a practitioner's standpoint -- let me just tell you this, Annette. Taxes are hard. They are, like, way hard. Okay? And taxes for a business owner are particularly complicated. And as a result -- I have a tip for you for somebody you can talk to.

But as a result -- I can't help myself -- folks come into the gig economy with this perspective: "I can get up and running right away. I can earn money. I can get out and do it."

Nobody says to them, "Stop. You just became a small business owner, and the taxes relative to that are very complicated." There are differences between federal and California law, as I'm sure you are well aware. And the gulf, particularly when it comes to business taxes, is getting wider and wider in terms of nonconformity here in California.

So let -- okay. So they can use TurboTax to figure out how to get that federal return filed. Now what they don't know about how we don't conform here in California can, in many ways, very much harm them.

And so it is about -- the gig economy is designed to -- is, it seems to me, designed to leave people floundering, because nobody stops them and says, "Just because you can start a business today doesn't mean you should have, and here are all the things -- kinds of things that you need to know."

I don't know that that's the tax agency's responsibility, by the way.

I also don't know whether it's the platform's responsibility. Somewhere, somewhere along the line, the taxpayer has to be responsible. I hearken back to U.S. federal tax court cases, where a business owner has said -- fallen at the mercy of the court and said, "But I didn't know I owed that," or "I didn't know that wasn't deductible."

And the tax courts, in final -- finality have said, "You are a business owner, and a prudent business owner should know what constitutes doing business, and that includes paying your taxes."

CHAIRPERSON YEE: Very well. Thank you.

Professor Nellen, you have heard a lot so -- and you have suggested that there are many, many players that could really have a role in all this with respect to tax compliance.

So if we were to pursue, kind of, the next step, in terms of how to make things easy for Ms. Rivero, take in some of the steps that Postmates and Mr. Aiyer has talked about, what would you suggest that the tax agency do, like the Franchise Tax Board?

MS. NELLEN: Well, I think the Franchise Tax Board is -- is doing many things, is being aware of the issue; they started the website.

I think, though, because the knowledge among the whole population, even sophisticated business folks, on taxation is so low, sometimes you don't know what you don't know. So do they know how to go find that particular website, and will they know everything on there?

So I think some more detailed instruction -- because, obviously, we're going to have more self-employed entrepreneurs, and this is a model that will continue, though, California, obviously, is changing that a bit. But I think where you can find that would work better -- Ms. Rivero raises a good point about, can you trust what the platform told you?

I think hopefully, maybe, the Franchise Tax Board should have an agreement that if they pulled it off of the app, and they are aware that the app is actually recording their miles while they were actually driving, I think, though, again, being a business owner, you would need to know, oh, I can also deduct 58 cents per mile from when I go from the drop-off to the next pick-up. I don't think the app is always picking that up.

But I think maybe helping with the recordkeeping, saying, we trust that, you know, the app has been certified in some way, so you can trust that it said this is how many miles, because that's right. If anybody ever came to her in an audit and said, "Show me you actually drove. And what was the person's name, or anything." I mean, they -- she would not have that information, but really should not have to have it.

And I think we need to find ways for technology -- you can see how these apps work. This technology can make the tax compliance far easier. So maybe it's more tools on tax agency websites, where you can put in, this is what information Uber or Lyft is giving me; it's the miles I drove; this is the 1099-K, assuming you have one; here's things to watch; maybe a fee, something needs to be taken out of that.

Also helping with the estimated tax payments, the apps can do that. The IRS has one that they really pushed the withholding calculator. It only works if you actually are an employee and can adjust your cal -- your withholding and your paycheck. Maybe having something where it's easier for calculating your estimated tax, maybe having the app feed into that, so you can take care of that more -- more readily.

And then other issues, I think, where clarification could be used: We're talking about mostly Uber, Lyft, people who are doing the work right in the state. There are gig workers who are working virtually, like Amazon Mechanical Turk, and other ones, where they've also got sourcing issues of their -- if you source it, they need to figure out, do I even know where my customer was, because that's something that is -- is difficult for many businesses. But when you go onto the app, you have got this additional sourcing issue, which I don't think folks are really aware of. And it's difficult to get the information, among all the states, as to where do I now have all my tax obligations? Because some of my customers were in a different state because I was, you know, on the computer, serving these -- these clients. Elance -- many of these are actually virtual work being involved here.

So I just want to note, because we had more -- talking more about, I'm providing service to somebody in a state. That's just -- that's a lot easier to deal with, but some of these gig workers have more complicated issues.

CHAIRPERSON YEE: That's right. That's right. Great. Thank you. Thank you.

Any other questions, Members?

(No response)

CHAIRPERSON YEE: Hearing none, I want to just thank the panel and maybe just offer a couple of minutes for any parting thoughts. You have heard a little bit of engagement here.

But Ms. Rivero, anything that you would like to leave with us since the next step?

MS. RIVERO: I just want everyone -- like, I think this is a great conversation. Just remember that we're not just working on one app. We're working on two or more apps.

CHAIRPERSON YEE: Right.

MS. RIVERO: And I think the idea about feeding the information through one single app was brilliant, because it just -- when you are talking about, I'm talking an Uber ride and then I'm taking a Lyft ride and maybe I'm doing a Postmate delivery, you know, you are just -- it's a lot of time and different things that go into play.

CHAIRPERSON YEE: Thank you.

Ms. Brosi.

MS. BROSI: Taxes are hard. California state income taxes are really hard. And I know you don't write legislation. But holy cow, nonconformity is burying us in this state, and it will particularly bury those folks who are engaged in the gig economy.

CHAIRPERSON YEE: Good point.

Professor Nellen.

MS. NELLEN: I think some of the conformity will probably continue, because I don't think California will conform to the 199A since the rate adjustment. There's been talk about who should be helping these workers with their -- understanding their tax obligations.

And I think we want to be very careful on that discussion because we do live in a whole system of voluntary compliance. And I think when we start shifting some responsibility away from the taxpayer, that starts to crumble, and there are many instances where, at the federal level and other places, where we start to do that. But we do need to make it where it's just easier to get the information, because, yes, taxes are complicated, but we need to provide some way that people can get the information. I think, you know, at the tax agency is a starting point.

I would really love to see K-12 education do a big start on understanding this much better as well. That's just the reality we live in today.

Thank you.

CHAIRPERSON YEE: Thank you.

Mr. Aiyer.

MR. AIYER: I would just echo Ms. Rivero's point about the -- you know, working across multiple apps and contrast it with the statement that was made earlier about the gig economy and this form of work.

There's this assumption that you can work flexibly even in an employment capacity or if, you know, you are a nurse or you are a barista. But what you describe never before in American history, frankly, global history, have you been able to sign up for an 8:00 a.m. shift at a Starbucks, run across the street 30 minutes to work at Peet's, come back to the Starbucks, only then to say to your boss, "Hey, I have homework," or "I have a family matter. I got to leave but I will see you tomorrow." That's the level of autonomy and flexibility that you can have toggling across all the apps that Ms. Rivero mentioned.

And if it's that form of work that we're talking about, then exact and precise data, from us, as companies, for certain, but also from workers about how they are utilizing the apps, being shared out with -- with the State, I think, is going to be key, as opposed to presuming that you can have one form of tax regime based off of one form of an employment model to cover all of that.

And, then, lastly, I will say that companies like ours really should be engaging in more education. I think that was a great point. You will see more of that commitment from us, but if there is a way in which some of the conversations that were -- or some of the ideas that were put forth to really help ensure that there is data sharing also came with a declaration from the FTB that you -- that companies should be able to try and test out some of these conversations, some of these resources, some of these toolkits, put them in their apps, and see how that plays out, then we can also refine information with you and share data as to what trains are working, what type of information is going over their heads, and what kind of cadence we would need to make sure we're doing so in a really effective way, as working partners in the state.

CHAIRPERSON YEE: Great. Thank you very much.

Of course. Please, Member Cohen.

MEMBER COHEN: Just a parting thought that has occurred to me is, I would like to suggest that we consider hosting an interested party meeting or convening to -- begin a process that would allow us to interface with the companies and begin to address some of these issues that we've -- that we've heard.

CHAIRPERSON YEE: Thank you, Member Cohen. I think one of the outcomes of today will be to look at next steps. And while maybe not interested parties, I could see, probably, a handful of work groups that really need to be reconvened, first and foremost, really addressing some of the data gaps so that we have a better understanding of what we are actually working with.

And then, secondly, kind of realtime compliance issues that, obviously, are really creating a burden for our workers as well as our practitioners.

But I think Professor Nellen's point about, you know, just -- we have got so much just in terms of helping to get information out there that, you know, really, at all levels, we should be just thinking about how we can engage, you know, every public partner in getting this information out. So I think that's really more to our Taxpayer Rights Advocate's Office and some of the existing programs that we have got now.

I also think that one of the roles that government may play is, I've been thinking, just sitting here all afternoon, about a -- kind of a VITA-type tool for gig workers. There are so many aspects of, you know, what Ms. Rivero and workers like her are having to, you know, contend with, from -- and, particularly, being in business for themselves. And so Ms. Brosi, you mentioned some of those issues.

But there -- I don't -- I just would hate to see -- even though much of our tax systems is predicated on voluntary tax compliance, but, you know, really, the state and, certainly, FTB not doing our part, in terms of just being sure that we are getting the information out there as best as we can.

So thank you, Member Cohen. I think we have our work cut out for us on many fronts. And I want to thank the panelists for a very informed discussion. Thank you for coming and sharing your perspectives, and we look forward to our ongoing engagement.

And let me just say, with respect to all of these issues, this one was more particularly focused on tax compliance. But some of the presentations earlier today that are -- that are public will be forwarded to the Future of Work Commission as well. I think these are larger issues that are going to affect much more broadly beyond what we're talking about here. And so -- just so they have it in their compendium of issues to be addressed going forward.

So, again, thank you to our panelists for coming forward. We really appreciate the time that you spent with us. And thank you, Ms. Rivero, for giving up your day.

Okay. As we are getting set up for our next panel, we are now going to move into a little bit of a future-oriented conversation. Some of it was addressed by this last panel, but wanted to invite our next panel of experts to come up to talk about the future of the gig economy and state tax obligations. And many of them, having worked in this arena, that wanted to have them offer some more general perspectives, likely, and that hopefully will inform also the next steps that we will take.

I would like to introduce our panelists briefly:

We have professor Joe Bankman. Welcome back to the FTB. Been a long-time colleague of many of us at the Franchise Tax Board, with the State of California. He is a professor of law and business at Stanford University.

We welcome Renee Rodda who is here, who is the vice president of Spidell Publishing. Also a very, very key resource for us in terms of helping to ensure high levels of tax compliance.

Mr. Allan Zaremberg, who is the president and chief executive officer of the California Chamber of Commerce. Welcome.

And to Mike Robinson, who's with the Mobile Workers Alliance.

Thank you all for being here.

I think what I'm going to do is take this, maybe, a little bit backwards and start with Mr. Robinson with the Mobile Workers Alliance. I believe you have some interesting thoughts to share with us, that maybe the other panelists can comment on.

MR. ROBINSON: Okay. I've been driving for Lyft for the last four years in Los Angeles and the Inland Empire area. My wife and I live in Southern California and have seen our expenses steadily climb over the years, and it has gotten harder and harder to make ends meet.

I used to work for a manufacturing shop as a machine operator and was part of the machinist union. I built transmission coolers. I had good pay, benefits, and protection at work to make sure all -- we were all safe on the job and a voice at work through our union.

Over the years, I've seen manufacturing work decline. Someone told me that driving for Lyft was a good opportunity, so I started driving part-time. Five years ago, the company was bought by a rich investor based in China. I watched the automotive manufacturing outsource the kind of work that I do. My machine shop supplied the automotive industry. This combined with rumors that the new owner would soon shut down the factory and look -- and it led me to look for another job, but there aren't many machinist jobs left in Southern California.

At that point, I started driving for Lyft full-time. You always see ads for Uber for 1200 and Lyft, 800 a week, but they don't say what kind of hours you work. I drive for them 55 hours a week on average. I only take one and a half days off to rest. I drive around 10 to 12 hours a day. Your body gets stiff after driving that long. I'm always on the move when I am driving. I pack a brown bag lunch and don't even stop to eat. I eat when I am driving. I only stop for bathroom breaks, which is challenging, especially in Downtown L.A., but I am resourceful to have regular places to go. I have to drive longer hours to make the same amount of money as I did three years ago.

My income is hard to predict, as there are slow days and busy days. Fortunately, my wife has a real good job as an employee and she has a guaranteed, set wage and hours, and she gets workman's comp and disability coverage and payments into social security.

If I get injured or sick, we are out of work, out of luck. Because I don't have any of the protections that my wife has, I don't have sick leave so I take a day off. That means we will come up short that week. And after paying for our health coverage, most of our money is gone.

In terms of service in the gig work in California, the word that comes to mind is uncertainty. I had hoped we drivers would have a good job security, social security, sick days, overtime, all the protection that California employees have once AB 5 had passed and had went into effect. But I learned that the companies plan to fight AB 5 in the courts and through arbitration. They claim that we drivers aren't a core part of their business. That's absurd. That's what built their business.

They also plan to force ballot measures to categorize us as some new category that is not an employee. I don't have any idea what kind of protection that would bring to us. And I don't know -- that will affect my schedule, my earnings, or my protection that I might have if they are successful.

I enjoy driving for the public, but the uncertainty, it makes us concerned. I tell the drivers and other people that we got to stick together. We ought to become employees and want a union because that's the best way to fight for our rights and be protected.

I'm 59 years old. I think about my future and possible retirement I had. I'm really worried. Lyft is not paying social security. And I don't think I will have enough money saved to be able to retire because, after expenses, I make well below minimum wage. Gas alone cost 200 or more a week.

For taxes, Lyft gives us a discount on TurboTax, but it is a one-time use for federal or state tax. I still have to pay $99, and there's no training. Lyft does not give us tools to track our -- all the information we need to track to be able to file our taxes correctly.

I log into TurboTax and have to take time to make sure my personal software is tracking all the miles I drive and track expenses so I can claim against what I make.

For example, Lyft only gives me a report when we are driving to a passenger or a passenger is in the car. Waiting or driving to another location is not covered. When I have to drive a lot of miles, while waiting for a ride and returning from wherever I dropped them off. These are the things I am tracking. Other drivers may not have those resources. Lyft did not offer me any training on how to handle my taxes or track my expenses. They just gave me a 1099 that tells me what I made total, for the year, minus the service charges.

Everything else -- everything else is on me to figure out. I read things online and talked to other drivers and came up with my own system I use on my own.

I hope other drivers have figured this out. But I'm sure each driver uses a different method. It would be so much easier if the companies paid us like employees and paid and made all the deductions like other companies do for their workers. It would be helpful if the company would provide us with the same software that we could track our miles and time driving in the same way and track our expenses in the same way. Some basic training on how to file our taxes would help too. But, ultimately, in the future, I hope that we drivers find that Uber and Lyft finally treat us as employees, and we will have the protections we deserve.

I also want drivers to join us and are able to join a strong union together for living wages, safety on the job, and basic respect.

CHAIRPERSON YEE: Thank you, Mr. Robinson.

Let me -- and thank you for being here and giving up a day of work.

Mr. Zaremberg.

I guess your observations, obviously, among your members and where you see all of this going in the future, and then some thoughts that you glean from the testimony here today.

MR. ZAREMBERG: Yeah. Thank you for inviting me. And, you know, I know the title was the gig economy and taxes.

But I think it's important because the gig economy -- I think this discussion here, today, and the discussion in the legislature and the press hides the impact of the Dynamex decision in AB 5. There are millions of workers in California who have always been considered to be themselves to be independent contractors. They are impacted by the Dynamex decision. I think it's clear -- let me put it in perspective here, because you are talking about gig workers.

The facts in the Dynamex decision happened in 2004. The case was filed in 2005. The first iPhone was introduced in 2007. So it's a lot of people who have traditionally and historically been independent contractors, under a Supreme Court case from the 1980s that dealt with people who worked in the cucumber fields.

So I think it's important for you, in terms of understanding the tax consequences here, that there are a lot of people, a lot of the workers, who have traditionality filed taxes one way, that it -- may be impacted another way.

And I think it's quite clear, from the exemptions in AB 5, that say the ABC test doesn't apply to these certain professions, you should test them under the previous test, indicate that the ABC test doesn't apply to everybody. Doesn't fit everybody. Doesn't fit every profession, like a doctor in a rural hospital or nurses.

Well, some people got exemptions and some people didn't. And I think when you talk about the taxes, you talk about the confusion it's going to lead to for all these people that, probably, in terms of population, are more than the gig economy.

So these people who have historically -- so I think it's important for you to make sure that people understand that. What are their tax obligations? Is it different for me than it was last year? I think you are going to have a lot of confusion, a lot of people who don't understand, and are going to file the way they have always filed even though -- because they don't understand the ABC test, which, by the way, in most states where it's been applied, applies to workers' compensation and UI, not to wage and hour laws.

And there are exemptions in many -- Massachusetts, the attorney general chooses not to enforce business to business. Well, we don't have an exemption for that in California.

So how do you take this and you take this law and you say, all of you who have been traditionally independent contractors, under a test that was established for 35 years, may no longer be in that category if you don't have a lobbyist and an exemption.

So I think it's going to be incumbent upon our taxing authorities to make sure that people understand what their new obligations are, if they ever do.

CHAIRPERSON YEE: Thank you very much.

Ms. Rodda.

MS. RODDA: You know, I have to say that, coming from Spidell, where we have made a business out of educating tax professionals and providing research and taking these complicated laws, and bringing them to professionals in a digestible manner so they can understand how they work -- and I know how difficult that is for us to help tax professionals -- and I think looking at what that means in the future, to help individuals understand their tax burdens, shows how difficult this can be.

And -- I really think that, as the previous panel said, education and outreach is key in this area. And one of the concerns that I have is looking to options other than education and outreach. We do need to be very careful about legislating issues here in California, which takes us further out of conformity with federal law, because it truly gives people two sets of standards that they have to follow.

And I can tell you, that's difficult enough for tax practitioners. I mean, I make a living out of teaching tax practitioners the differences between federal and state law. So expecting this gentleman to understand those differences is a huge burden. And so I think, if we're looking at the future, I think focusing on education and outreach and finding ways to make it easier for these workers to understand their tax burdens is important, because if we do anything to take California further away from the federal rules, we're actually making things harder on them, rather than easier to comply with the tax laws.

And you know, we've had a lot of conversations at Spidell about converting someone from an independent contractor to a worker might -- or to an employee might benefit them in a significant way, on one end of the spectrum, but, on the other end of the spectrum, many of them have been taking the deductions, that Susan Maples was taking about earlier. And when we convert them to an employee, on the federal level, they have lost all of their miscellaneous itemized deductions for their unreimbursed employee business expenses.

So there is a balance there and, certainly, something that needs to be considered.

CHAIRPERSON YEE: Thank you very much.

Professor Bankman.

MR. BANKMAN: Well, I think what people have said so far shows that the average Lyft driver might have a more complicated tax return than the average Lyft vice president. That's insane, right? And you can hear the tremor in someone's voice as they talk about how overwhelming it is.

So what could we do to help them and help compliance? I'm going to throw out three things, which other people have mentioned. I don't know if there's any perfect answer here. One is, try to reclassify them as employees. That's what Mr. Robinson says. In many cases, that's going to be easier. It has other problems and other advantages.

Another thing that people have said repeatedly is, help them out and help the State out by taking the lead on reporting and maybe reporting withholding. If you don't have 1099s coming out, if you don't have reporting, you are really putting an employee almost in an impossible position. They have got to come up with all that data and all that money at the last minute. People just often don't do it. It's bad for them. It's bad for the State.

The other thing, which I am going to throw out, which is in the kind of -- only a professor would think of it, is something another professor thought of. Karen [sic] DeLaney Thomas, who teaches at UNC, and that is, you might have -- if we're going to keep people like

Mr. Robinson as an independent contractor -- something like a standard deduction for an industry. Because if he buys a computer and tries to figure out if he can deduct it, it's a really hard issue. And I think that's what Karen told us in the last panel. I bet most of us in this room would have problems figuring out, is it deductible? Is it depreciable? What if your kids use it?

If we could get a -- kind of a standard deduction for someone like Mr. Robinson, he could at least, on the deduction side, live easier as an independent contractor. All these things raise the issue -- or many of these things raise the issue that Ms. Rodda just said about state tax -- state and federal conformity.

CHAIRPERSON YEE: Great. Thank you.

Questions, Members?

Yes, Member Asmundson.

MEMBER ASMUNDSON: Joe, you mentioned doing a standard deduction, but we had also heard earlier that the experiences of people as gig workers are very, very different.

MR. BANKMAN: Yep.

MEMBER ASMUNDSON: So, like, can you say a little bit more --

MR. BANKMAN: Sure.

MEMBER ASMUNDSON: -- about how to square that?
MR. BANKMAN: Sure. If we think about what the standard deduction is, in general, for individuals, it is a one-size fits-all thing that helps some people and hurts others, right? It is just a plug figure you use. It's absolutely not perfect.
We get our choice, as individuals, to take the standard deduction or you can itemize, right? Now that's been, of course, eroded in many ways.
But if we gave Mr. Robinson something like that, at least if he or someone like him feels overwhelmed about tracking these expenses and figuring out in a computer, at least he can take something and isn't made to feel like a chump for not -- not following it up. So that's what I am thinking of on that score.
CHAIRPERSON YEE: Okay. Thank you.
Okay. Thank you.
So Professor Bankman, are there -- maybe to Renee as well. Are there any states that are kind of on the right path?
MS. RODDA: You know, I have to say, I have a hard enough time keeping track of California and staying on top of that. I know there are a number of states that are working --
CHAIRPERSON YEE: Working on it.

MS. RODDA: -- to stay on top of this issue, but I think it has been such a moving target. And -- and I do think that the information reporting and withholding is an excellent tool, because, as our prior panel said, if people don't have that information form, the 1099, they don't realize that they have a liability. Like Karen said, she has a very well-versed client, that without that 1099, thinks they don't have to report the income, and so I think that helps with compliance.

But as far as states, again, you want to watch for that nonconformity issue.

MR. BANKMAN: I agree with that.

CHAIRPERSON YEE: Yeah.

And maybe to Mr. Zaremberg and Professor Bankman. So we heard that gig workers are not replacing W-2 workers, and, yet -- but we are seeing an increase in gig workers. So what's your sense about the growth of the gig economy overall, in terms of the number of companies and, you know, this being a direction that companies -- more companies are moving into?

MR. ZAREMBERG: Well, you know, I think there's a lot of factors here and -- to be considered. When you say, is the -- is the economy moving in this direction, I think the first question is, did these opportunities ever present themselves? So as I think we heard outside, when -- the gentleman from Postmates was saying, well, here's somebody who could work for Uber three hours; go to Peet's, work for a couple hours; go to school and take classes; and, you know, then go home and take care of the kids or do whatever they wanted and do whatever they want that day. And if they don't want to work the next day, they don't have to.

I don't think those opportunities existed before. That's really the bottom line here.

So when you ask, is the economy moving in that direction, I think the question is, is the workforce moving in that direction?

That's the first question to ask.

And so does that create flexibility for people that didn't have flexibility? Although, like I said, when I opened up, there were a lot of people who always considered themselves to be independent contractors that are going to be questioned today, and whether or not you are going to question them, as to whether or not they should be independent contractors or whether or not they should be employees.

I think that's -- who is going to make that decision and how do you make that decision if there's not a wage and hour claim filed, if there's not a UI claim filed, if there's not a workers' comp claim, is that going to be up to you to make that decision as to whether or not they should continue to be independent contractors.

So when you asked that question, is the economy moving in that direction, I think there is certainly opportunities that the public, the worker, is moving in that direction, that didn't exist before. That's -- that's primarily the difference here.

CHAIRPERSON YEE: Professor Bankman.

MR. BANKMAN: One thing I will add to that is, you know, the studies we have seen often rely on tax data and they show that there is a movement toward the gig economy but it's less than you might think. But recall what Mr. Geck told us about the tax data. We're not capturing a lot of it because of the 1099s not going out, in some cases, unless you have over $600 and 200 transactions. So part of the gig economy that exists now is not being captured.

MR. ZAREMBERG: If I might add to that.

I think, you know, I use the reference that, you know, the iPhone wasn't even introduced until 2007. Well, the iPhone 1 in 2007 is a lot different than the iPhone 11 today. And, you know, whether or not -- and I think we have heard a lot of discussion here about whether or not there are ways to identify these problems and if people collaborate together to fix these problems. And I don't think that's the kind of discussion that's taking place.

The kind of discussions taking place, with all due respect to Mr. Robinson, who said, there is no hybrid. The discussion -- although he did say, and other people have said, well, it would help if you had one app where I could take care of my taxes and look at my job and do all those things. You know, those are the things that have to evolve. If -- if this is, as you have asked me, is this where the economy is going? Well, part of the economy is going. Not everybody. Not everybody, you know, is good for them to have a flexible workforce. They want to schedule their workers. They want to make sure they are there to be -- when the customers come in and not have that decision made by the -- by the worker. They want to make sure that the employer makes that decision.

If there is a chance here to say, well, for a certain segment of the economy, we can -- we can collaborate on a solution that adjusts the taxes, that makes it easier for them to pay it, so you don't have to have a situation where the worker's taxes are more complex than the vice president's is, as the professor said.

So I think that's what has to take place to recognize, to say, well, should they be an employee or should they be an independent contractor?

And what's interesting is, you know, even in AB 5, there's no definition of an independent contractor. There's a test. There's a test that was developed by the Supreme Court in the '80s, that dealt with two people who worked in the cucumber fields. So if you have a test to be able to say, what should you look at; who should it apply to; how should we make sure that everybody knows what the rules are; and we have a way to make it simple for them; collect their -- whether or not there are payroll taxes and whether it applies if you have federal taxes that are different than state taxes; if you were able to sit down and say, our goal here is different than just saying you are a worker, you are an employee, you are an independent contractor, we have problems, and we need to solve those. And had you been at the table, maybe there would have been a different discussion about what the consequences are for Mr. Robinson.

CHAIRPERSON YEE: Member Cohen.

MEMBER COHEN: Thank you.

Mr. Zaremberg, I'm not sure if you said this or not, but, certainly, a speaker talked about how the gig economy has been around for many years.

And what I am -- what I don't understand is how, in the '80s, in the '90s, in the '70s, you have barbershops and beauticians who have been operating as gig economy workers, when there wasn't -- when that wasn't the term. They were able to understand withholdings and file their paperwork, but it's like the new economy, the new wave of folks, primarily built on a technology platform, that seems to be having trouble.

And maybe this is also a question to the Franchise Tax Board is, we're collecting taxes from certain aspects and different aspects of the gig economy, but we're having trouble in other aspects of the gig economy.

And I am just trying to recognize -- reconcile this -- this -- this difference. I don't really see what did we -- what are we doing differently?

I don't know, Professor Bankman, if this is up your alley or not.

But what -- we're doing something different in terms of educating workers on how to withhold, how to report.

MR. ZAREMBERG: Can I just say something here? Because you mentioned two examples that are very good: Barbers and hairdressers. They are exempted in the bill, in AB5. They're exempted. You know why?

MEMBER COHEN: Yes, they --

MR. ZAREMBERG: Because they need to have a license. They need to have additional training.

What we're talking about here are people that the only license they need is a driver's license. The entry level to the job is different than what we -- what you essentially said is different. Doctors got an exemption. Real estate agents. You know, financial brokers. People who have traditionally been independent contractors, because they have a business license. They've been licensed. The barrier to entry here is much lower.

And so to Controller Yee's question, I think, very much so, what has changed? What has changed is the entry -- the barriers to entry for this type of work is much lower than what you put out as -- as different examples of who used to be independent contractors and are going to continue to be independent contractors.

MEMBER COHEN: Thank you for pointing that out. I didn't make that connection. I appreciate that.

MR. BANKMAN: I think that's part of the answer. It's a great question.

Part of the answer is actually, we never really have collected a lot of tax from some of the people that are in our service economy. They tend to be low income people. And when we do studies, I say "we," when the IRS, the FTB, does studies, if you get cash income from consumers, like many people in the service economy get, we know the rate of reporting is pretty low. So that raises a whole other set of questions that we're not really looking at here, but are related.

MEMBER COHEN: Thank you.

CHAIRPERSON YEE: Thank you.

Other questions, Members?

(No response)

CHAIRPERSON YEE: Okay. Let me, again, ask each of the panelists if you have some parting thoughts to leave with us, in terms of next steps.

Mr. Robinson?

MR. ROBINSON: Yeah. The next steps is, we want to become employees and we want to form a union. And that's what we -- we, like, have the -- our income tax withheld. That would make our job a lot more easier. And...

CHAIRPERSON YEE: Thank you.

Mr. Zaremberg.

MR. ZAREMBERG: No. I think you have, you know -- like I said, as I listened to the discussion, not just with this panel, but the previous panels -- I don't know if you were at the table. I don't think so. I don't recall many discussions about that.

And there's going to be further discussion about whether or not there should be additional exemptions. There's going to be discussions about business-to-business. And whether or not a discussion of what the tax consequences are, how it applies differently. You know, it should be -- you should have a seat at the table because the people that make decisions had no consideration of the issues that you are speaking to today.

CHAIRPERSON YEE: Thank you, Mr. Zaremberg.

Ms. Rodda.

MS. RODDA: I think, as far as looking to the future, discussions like today are exactly where we need to start, because having perspectives from across the different professional levels, the workers, economists, and really looking at everything that comes into play, I think, is a great way to start.

And, you know, one of the things that we, at Spidell, have always tried to do is work with groups like the Franchise Tax Board, the CDTFA and get information out to tax practitioners so that they can help their customers, their clients, be in compliance.

And I think looking at taxpayers as being customers of the tax agencies and finding ways for them to be in compliance and to help them is a great way to start the discussion.

CHAIRPERSON YEE: Thank you.

Mr. Bankman.

MR. BANKMAN: Well, thank you for having the panel. And thank you, Ms. Rivero and Mr. Robinson, for sharing your stories with us.

CHAIRPERSON YEE: Thank you.

Without -- seeing no more questions, let me thank the panelists for joining us today and leaving us a lot of food for thought.

And we will -- and Mr. Zaremberg, to your point, I think now, you know, with the heightened focus on these issues that are now coming up, I would suspect that we will engaging -- we will be engaging with our own legislators going forward. But, no, these are important issues and, certainly, are going to have consequences on very many personal lives around California.

Thank you all very much for joining us today.

Mr. Hofeling, I think we have some public speakers for the public comment section. Is that --

MR. HOFELING: If we have any public speakers that would like to address the board, we ask them to come up to the podium at this time.

CHAIRPERSON YEE: Okay. Are there any members of the audience who wish to address the board during public comment?

Yes, please come forward to the podium, and you will have three minutes to make your comments.

If you will introduce yourself for the record, please.

MR. COUNTS: My name is James Counts. I'm a CPA representing myself.

First off, I want to make -- and I mention it to the gentleman on the next-to-last panel, when we broke. It -- years ago, I was told by IRS that if a business filed a W-4 to report California wages, when they thought the worker was an IC, for federal purposes, that the IRS would consider that admitting to the IRS that worker should be an employee, because they used the IRS.

Now, I would suggest that FTB staff check with the IRS to see if that's still the policy, but that could be a major issue for California business getting -- reclassifying a worker here in California, under AB 5, if they don't know not to file a W-4.

And the IRS response was that they should be filing the 1099 with the California information and the Miscellaneous comment box.

So that -- point 1.

Another issue with the gig workers is, a lot of them, like Mr. Robinson, at the end, are used to working as an employee, and they don't perceive the -- realize that DI and the state income tax, they think in federal tax, and they are thinking maybe 25 percent is coming out.

I'm a CPA sole -- own my own firm. I consider myself in the 50 percent tax bracket. 50 percent of my profit goes out in taxes: 9.3, State of California; 15.3, because I'm paying both halves on social security; and then, currently, under the new tax law, 22 percent in federal tax, wherein the past, it was 25 percent.

So I don't think the gig worker is used to thinking, gee, whatever is left over, half of it's going to federal and state in taxes.

And I think that's a problem that, again, they need to be educated about, because they are shocked when they get their tax bills.

Thank you.

CHAIRPERSON YEE: Thank you very much.

Other members of the public wish to address the board?

(No response)

CHAIRPERSON YEE: Okay. Seeing none, let me just see if my colleagues have any concluding thoughts about the hearing today.

Yes, Member Asmundson.

MEMBER ASMUNDSON: This has certainly been fascinating, and I would like to thank everyone who spoke today. This is clearly going to be an ongoing issue. And so I look forward to learning even more information in the future.

MEMBER COHEN: Thank you.

I too just want to acknowledge the folks that have taken their time out of their busy schedules to come and present the information to us. Recognize the FTB staff that also have made an excellent presentation and for all of you that have been in the audience listening.

I am grateful of the Controller for her foresight in bringing this before us. I think that this is an ever-changing landscape and that we actually have a lot of work to do. I have heard several action items and look forward to being at the table as we discuss.

CHAIRPERSON YEE: Thank you. Thank you, both, to both of you.

Ms. Stanislaus and Mr. Hofeling, I think what I would like to do is to see whether we can do -- not here, but a recap of the issues that have been raised.

I think next steps are probably going to be, as Ms. Cohen suggested, probably a little less formal than the interested parties. But some working groups that really can do deeper dives on some of the issues that we have heard about today.

I will say that, you know, there's a lot to understand about what's happening in the gig economy.

And Mr. Zaremberg, the question I posed about whether, you know, this is something that is going to continue to grow and that this happening with respect to more of -- if we are going to see more of this in the economy.

Clearly, I think workers -- there are many workers who require more flexibility. I mean, the demographics of who is participating in the gig economy, I think, is a diverse array of Californians.

And so I'm not going to speculate on what the underlying reasons are for their participation in the gig economy. But I also will say that I think companies have actually looked at this as a business model, going forward; that there are some objectives to be achieved by having workers work in this way.

And so some of that played out when the legislation was going through, that -- so I think our challenge is, you know, really, how do we put all of these, kind of, competing objectives together to be sure that the workers aren't hurt at the end of the day from a tax perspective.

And so I think, obviously, the idea -- the very idea of what constitutes a workplace today is evolving. And I think it's our job, as a tax agency. Member Cohen serves on the Board of Equalization, but we're really trying to stay updated with all these changes and make sure that, certainly, our taxpayers aren't going to be penalized for our not doing our job in terms of getting information out there. Certainly, preparing for the challenges.

I think there are opportunities, also, that we can look at. That -- I think the resonating messages today was clearly education and outreach will be critically important in terms of helping workers and the business owners, the hiring entities navigate tax reporting and compliance.

And then, obviously, we're in California and the role of technology can't be understated in terms of how to facilitate all of this happening for all parties.

So I want to thank, again, the Franchise Tax Board staff for really doing a lot of work in coordinating this hearing. I want to thank all of our presenters today. Just a lot of food for thought.

Wonderful perspectives.

And this is really the beginning. And some of the broader issues that were raised today, I will be forwarding to the Future of Work Commission for some broader consideration.

So with that, and seeing no other members of the public coming before us, this hearing is adjourned. Thank you all very much.

(Proceedings concluded at 4:14 p.m.)

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CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings were reported in shorthand by me, Kathryn S. Swank, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of October 2019.

/s/ Kathryn S. Swank
KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061