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Decentralized, Disruptive, and On Demand: Opportunities for Local Government in the Sharing Economy

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In response to Daniel E. Rauch & David Schleicher, *Like Uber, but for Local Government Law: The Future of Local Regulation of the Sharing Economy*, 76 OHIO ST. L.J. 901 (2015).

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I. INTRODUCTION

Daniel E. Rauch and David Schleicher's *Like Uber, but for Local Government Law: The Future of Local Regulation of the Sharing Economy* makes three predictions for how local governments will respond to the rise of the sharing economy.[1] The first prediction is that local governments will begin to subsidize sharing economy uses, a subsidy that the authors controversially argue should be modeled after sports stadium subsidies.[2] The second prediction is that local governments will seek to procure sharing economy services for low income residents that will be exacted from sharing firms at the issuance of permits and licenses to otherwise operate in the jurisdiction.[3] The third prediction is that sharing economy uses will revolutionize government contracting and the way that local governments own property.[4]

Two questions arise in considering these predictions: do the predictions have merit, and are there other predictions to make that are not captured by the

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[1] Daniel E. Rauch & David Schleicher, *Like Uber, but for Local Government Law: The Future of Local Regulation of the Sharing Economy*, 76 OHIO ST. L.J. 901, 905–06 (2015).

[2] *Id.* at 943–53.

[3] *Id.* at 953–59.

[4] *Id.* at 959–63.

authors' discussion? While the article's title frames the authors' predictions as focusing on the use of local government's regulatory authority, the great merit of this article may be that it is not about traditional regulation at all: instead, it encourages cities to look beyond those police power constraints imposed on sharing firm's business activities to think about how sharing economy uses can be harnessed to achieve urban policy objectives. As such, in responding to these three predictions, each will be re-envisioned within the context of the types of urban policy objectives they embody—economic development, redistribution, and propriety functions, respectively—in search of optimizing opportunities with sharing firms. After taking stock of each of these predictions, this response then offers several additional predictions for how local government can make the most of the sharing economy.

II. DECENTRALIZED ECONOMIC DEVELOPMENT

Local government subsidies are typically justified as an impetus to economic development that would, but for the subsidy, go elsewhere.[5] This is no small matter: by one account, over $80 billion in incentives is given to businesses by local governments each year.[6] Is there a reason for local governments to subsidize sharing firms with this kind of largess? The answer is yes, but for reasons that are wholly opposite to those proffered by Rauch and Schleicher.

Sharing firms offer local governments the opportunity to do something they have long sought but never been able to do well: coordinate a decentralized economic development strategy for both economic growth and infrastructure development. The centralized model of "city fathers" building up a city through large projects—convention centers, museums, and sports stadiums—along with the hotels and entertainment facilities to service them, has seldom gone well.[7] In almost every city, these centralized economic development strategies have been rife with backroom dealing and graft.[8] The land assembly for these massive structures often erased vibrant neighborhoods of minorities, with African-American and Chinese communities often taking the brunt of progress's wrecking ball.[9] The resulting projects have often been

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[5] Laura A. Reese & Gary Sands, *Evaluation of Economic Development Finance Tools*, *in* FINANCING ECONOMIC DEVELOPMENT IN THE 21ST CENTURY 31, 31 (Sammis B. White & Zenia Z. Kotval eds., 2d ed. 2013) (noting that economic development is "often a scattershot approach to growth that benefits a handful of recipients at high cost to local communities").

[6] Louise Story et al., *United States of Subsidies: Explore the Data*, N.Y. TIMES, http://www.nytimes.com/interactive/2012/12/01/us/government-incentives.html [https://perma.cc/TWE5-227D].

[7] *See generally* HEYWOOD T. SANDERS, CONVENTION CENTER FOLLIES (2014) (questioning why cities continue to invest in these facilities despite their limited or elusive return on investment).

[8] *Id.*

[9] *See, e.g.*, *id.* at 273, 330.

bland and sanitized cityscapes that destroy fine-grained urban fabric and, worse, necessitate ongoing city subsidy or specialized taxation to keep them operating. All of this in the name of civic pride.[10] This history of centralized economic development, while dubious from its beginning, survived because few cities have found viable alternatives. It is hard to see why Rauch and Schleicher would want to associate their proposed subsidies for sharing firms with this history.

But sharing firms offer cities the chance to do something remarkable, and antithetical, to how economic development has long been practiced: decentralize economic development activity and its commensurate infrastructure in a manner that is fluid and responsive to market needs. Prior to sharing firms and their platform-based technologies, such decentralization of economic development policy was largely impossible. But pairing platform-based services with other advances in data analysis and computing infrastructure, offers cities a new way forward.[11] This fits the future of local government itself, which in a few short decades will almost certainly be more horizontally structured as opposed to the hierarchical, vertical structures of today.[12] As cities seek to move towards networks of governance, sharing firms could lead the way in offering economic development opportunities beyond downtown, major corporations, and the city fathers.

Here are several examples of sharing firm projects worthy of local government subsidy. First, cities have long failed to provide adequate transportation options to suburban commuters. Park-n-Rides beside highways often sit empty; van pools elicit a special kind of cultural anathema. On the other hand, the platform-based uberPOOL pairs individuals with common locations and destinations together and has already proven immensely popular at making ridesharing easy and, moreover, branded it in a way people will use.[13] If widely implemented, such ridesharing platforms could dramatically reduce infrastructure costs, provide cheap transportation options in suburban areas for low income individuals, and assist with environmental emissions compliance.

Second, cities have long failed to bring the financial benefits of economic development activity, such as conventions, to the neighborhoods. Short-term rentals, such as Airbnb,[14] bring those visitors to parts of the city where visitors seeking authentic experiences are likely to shop at local stores and restaurants. Cities will need to resolve tensions inherent in bringing such commercial uses

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[10] *See, e.g.*, ROBERT A. CARO, THE POWER BROKER: ROBERT MOSES AND THE FALL OF NEW YORK 1–21 (1974); CHESTER HARTMAN, CITY FOR SALE: THE TRANSFORMATION OF SAN FRANCISCO 1–4 (2002).

[11] *See generally* JULIA ROOT, ROOSEVELT INST., NEXT AMERICAN ECONOMY THOUGHT BRIEF: URBAN PLATFORMS IN 2040 (July 2015), http://rooseveltinstitute.org/wp-content/uploads/2015/10/Root-Urban-Platforms-in-2040.pdf [https://perma.cc/8LHE-S9XC].

[12] *Id.* at 5.

[13] *uberPOOL*, UBER, https://get.uber.com/cl/uberpool/ [https://perma.cc/729P-YVDM].

[14] *See* AIRBNB, https://www.airbnb.com/ [https://perma.cc/LBD3-6KQ3].

to the neighborhoods; if they can do so, the economic impacts could be enormous. This could be especially true for marginal neighborhoods that exhibit the type of authentic experiences tourists often desire, but where the local population may not have sufficient density to otherwise support certain uses on their own.

Third, cities should consider how sharing firms can assist in creating cultures of connectivity. As AnnaLee Saxenian noted in her classic study of Silicon Valley, a community that creates opportunities for connections provides itself a regional advantage over those locations that rely upon traditional, hierarchical forms of governance.[15] Cities could encourage this kind of connectivity by "zoning in" sharing firm uses that provide alternative reasons to enter single-use, staid suburban locations such as office parks and single-family residential communities. Sharing firms that offer temporary use of offices at night or pop-up restaurants in a house on Saturdays present economic opportunities and a new serendipity of urban experience even far from the city's core.

Finally, local governments could consider subsidizing the infrastructure to access sharing firms. Many low income urban neighborhoods, as well as exurban and rural communities, continue to struggle with access to broadband Internet.[16] Subsidies that brought such infrastructure to those low income communities would facilitate their participation in the market opportunities the sharing firms provide.

Since it is decentralized economic activity that cities should subsidize with sharing firms, the authors' stadium analogy seems to belie the very promise of sharing platforms. Even if that were not the case, stadium subsidies do not have many of the benefits that the authors suggest they do. To tackle a few, stadium projects seldom override "political sclerosis"[17] and force local interests to get in line behind a major project. Take, for instance, the rise of the community benefits agreement (CBA) movement, which may be the most substantive new form of exaction to emerge in the last several decades.[18] CBAs trace their origins to the Staples Center stadium in Los Angeles, which resulted in numerous exactions to benefit the local community.[19] In many cities, CBAs are now de rigueur for any stadium, as well as any other city-subsidized project. Second, while stadiums can be sources of pride, a public

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[15] *See generally* ANNALEE SAXENIAN, REGIONAL ADVANTAGE: CULTURE AND COMPETITION IN SILICON VALLEY AND ROUTE 128 (1994).

[16] COUNCIL OF ECON. ADVISERS, ISSUE BRIEF: MAPPING THE DIGITAL DIVIDE 4 (July 2015), https://www.whitehouse.gov/sites/default/files/wh_digital_divide_issue_brief.pdf [https://perma.cc/ZA6V-ETHB] ("[T]here is substantial within-city variation in Internet adoption, and this variation is strongly correlated with household income.").

[17] Rauch & Schleicher, *supra* note 1, at 947.

[18] *See generally* Vicki Been, *Community Benefits Agreements: A New Local Government Tool or Another Variation on the Exactions Theme?*, 77 U. CHI. L. REV. 5 (2010).

[19] *Id.* at 8–11.

good of sorts as the authors argue, that fandom can turn to ire quickly when a team decides to up and leave.[20] For these reasons, most major cities now refuse to offer subsidies to sports stadiums; it is only those cities with faded luster and pride on the line—places like Cincinnati—that continue to pay such subsidies though often only under duress.[21]

A reticence to embrace Rauch and Schleicher's analogy to stadiums here may ultimately be an incidental gripe. The authors and I agree that cities should subsidize sharing firms: I simply argue that the subsidy should be to enhance decentralized economic development. Rather than reinforce the old ways of growing a city—one big downtown deal at a time—we should prioritize the busy entrepreneurialism of the distant quarters. Sharing firms help do that.

III. DISRUPTIVE REDISTRIBUTION

Sharing firms have, thus far, focused their attention on capturing the middle and high-ends of their respective markets. For instance, after Uber introduced its basic service, it introduced several levels of more upscale offerings—better cars, liveried services—that sought to capture the luxury end of the urban transportation market.[22]

Rauch and Schleicher argue that cities will increasingly seek to exact services, or in lieu fees, for low income communities from sharing firms by conditioning access to the middle and higher ends of the market.[23] Such exacted services for low income communities, they argue, could include "expanded operations in poorer areas, mandated discounts in such areas, or hiring advantages for workers from disadvantaged backgrounds."[24] The authors' argument helpfully frames how the types of exactions and fees often required by local governments for other permits and licenses might apply to sharing firms.[25]

The necessity of these exactions the authors foresee, however, may be significantly mitigated by factors not addressed by the article. First, it may be that existing laws already prohibit the failure to service low income and other vulnerable communities. For instance, in many cities, taxis cannot refuse to

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[20] *See, e.g.*, Bill Chappell, *St. Louis Fans' Ire, and Other Reactions to the Rams' Move to LA*, NPR (Jan. 13, 2016), http://www.npr.org/sections/thetwo-way/2016/01/13/462919835/st-louis-fans-ire-and-other-reactions-to-the-rams-move-to-l-a [https://perma.cc/4MTZ-PC92].

[21] Reed Albergotti & Cameron McWhirter, *A Stadium's Costly Legacy Throws Taxpayers for a Loss*, WALL STREET J. (July 12, 2011), http://www.wsj.com/articles/SB10001424052748704461304576216330349497852 [https://perma.cc/LQM2-734V].

[22] *See* UBER, https://www.uber.com/ [https://perma.cc/WK5E-5LRY] (describing multiple different services).

[23] Rauch & Schleicher, *supra* note 1, at 954.

[24] *Id.*

[25] *Id.*

pick up a person because of the color of their skin or where they want to go; in New York City, a taxi driver was recently fined $25,000 for refusing to pick up a black family and then immediately picking up white customers.[26] There is concern that many transportation network companies, such as Uber, are permitting drivers to discriminate in ways that are otherwise prohibited by taxis.[27] Similarly, hotels are not permitted to discriminate among guests that seek to stay at a hotel;[28] however, a recent study found that Airbnb hosts routinely discriminate against African-Americans in ways that would be illegal if done by hotels.[29] It seems almost certain that civil rights laws will eventually apply to sharing firms and regulate this kind of discrimination without the need for an exaction to do so.

Disability laws will also likely prove a means of providing a baseline service for low income and vulnerable communities. Cases involving blind individuals that were repeatedly denied rides on Uber are currently before courts alleging violations of the federal Americans with Disabilities Act, as well as state-specific disabilities laws.[30]

Other constitutional equal protection claims could surface where disparate treatment of low income or vulnerable communities arise. In addition, labor laws may offer some protections to low income individuals in the sharing economy by classifying them as employees rather than independent contractors.[31] In these ways, sharing firms' failure to service low income neighborhoods may become mitigated through application of existing laws that would circumscribe the need for exactions.

On the other hand, even if such claims proved victorious, low income communities will almost certainly continue to be underserved by sharing firms. Rauch and Schleicher argue that cities will most likely turn to

[26] Comm'n on Human Rights *ex rel.* Jordan v. Raza, No. 716/15, at 1, 3, 13 (N.Y.C. Office of Admin. Trials & Hearings July 27, 2015), http://archive.citylaw.org/wp-content/uploads/sites/17/oath/15_cases/15-716.pdf [https://perma.cc/T9GX-FA9G].

[27] Brishen Rogers, *The Social Costs of Uber*, 82 U. CHI. L. REV. DIALOGUE 85, 95–98 (2015) (discussing discrimination within the Uber platform, as well as other platform-based sharing firms).

[28] Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241, 243, 261–62 (1964) (finding a motel's refusal to rent rooms to African-Americans violated Title II of the Civil Rights Act of 1964, which was a proper use of Congress's power to regulate commerce).

[29] See Benjamin Edelman et al., *Racial Discrimination in the Sharing Economy: Evidence from a Field Experiment* 1, 4 (Harvard Bus. Sch., Working Paper No. 16-069, 2016), http://www.benedelman.org/publications/airbnb-guest-discrimination-2016-01-06.pdf [https://perma.cc/N2F4-NLBA] ("In a field experiment on Airbnb, we find that requests from guests with distinctively African-American names are roughly 16% less likely to be accepted than identical guests with distinctively White names.").

[30] *See* Nat'l Fed'n of the Blind of Cal. v. Uber Techs., Inc., 103 F. Supp. 3d 1073, 1077 (N.D. Cal. 2015).

[31] *See* Berwick v. Uber Techs., Inc., No. 11-46739, at 6–10 (Cal. Labor Comm'n June 3, 2015), http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1988&context=historical [https://perma.cc/SN4Y-TSUK] (holding Uber drivers are employees), *appeal filed*, No. CGC-15-546378 (Cal. Super. Ct. June 16, 2015).

traditional forms of exactions and in lieu fees. In some cases, that approach will be necessary. However, an alternative exists. Rather than cities seeking exactions, they could seek to grant eased access to this low end of the market, which is where disruptive innovation in markets begins. Clayton Christensen, who first gave form to disruption theory, recently summarized it as follows:

> "Disruption" describes a process whereby a smaller company with fewer resources is able to successfully challenge established incumbent businesses. Specifically, as incumbents focus on improving their products and services for their most demanding (and usually most profitable) customers, they exceed the needs of some segments and ignore the needs of others. Entrants that prove disruptive begin by successfully targeting those overlooked segments, gaining a foothold by delivering more-suitable functionality—frequently at a lower price.[32]

Rather than seek exactions from sharing firms or city ownership of sharing technologies, cities are likely to have better results by encouraging market competition that prioritizes easy access to low income communities for market competitors. While these markets are often overlooked, businesses seeking an entry into a market otherwise dominated by an incumbent firm are well aware that the low end of the market is the way to "disrupt" the entire industry. Cities can facilitate service to their low income communities by making them more accessible to such disruptive innovators.

To do this, cities need to ensure there is access to the Internet in low income communities. As noted previously, one way to do this would be to "hard-wire" broadband into these communities.[33] A riskier, but perhaps more fruitful, approach might be for cities to take a page from the playbook of the developing world, where low income individuals access the Internet through low cost smartphones.[34] A massive deployment of low cost smartphones to low income communities may invite competition for this large-but-low-margin market that would serve as the disruptive gateway for many innovators.

Even where exactions are used, they could be directed towards providing conditions of market disruption where incumbent firms fail to take the market opportunity. For instance, local governments could consider revising their zoning and other permitting processes to integrate exactions that would ensure low income communities have access to sharing firms. Inclusionary housing mandates, which often require ten to fifteen percent of large multifamily

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[32] Clayton M. Christensen et al., *What Is Disruptive Innovation?*, HARV. BUS. REV. (Dec. 2015), https://hbr.org/2015/12/what-is-disruptive-innovation [https://perma.cc/YT37-S96Z].

[33] *See supra* note 16 and accompanying text.

[34] *See* Sara Corbett, *Can the Cellphone Help End Global Poverty?*, N.Y. TIMES MAG. (Apr. 13, 2008), http://www.nytimes.com/2008/04/13/magazine/13anthropology-t.html [https://perma.cc/LDS3-PFH4].

projects to meet affordability requirements, could also require that a certain number of cars from car-sharing services be located on-site.[35] If the incumbent car-sharing firm does not wish to provide the car, the requirement provides an opening for a disruptor to seize the opportunity offered.

Encouragement of such market competition through exactions to benefit low income communities, coupled with access to online services that would never otherwise locate in a low income community, would prove valuable in fighting the cultural and market isolation often faced by low income communities.

IV. ON-DEMAND GOVERNANCE AND THE POST-TIEBOUTIAN CONSUMER VOTER

Rauch and Schleicher convincingly argue that sharing firms will revolutionize the way that local governments own property. For instance, they note that local governments are increasingly giving up automobile fleets in favor of car-sharing services.[36] New sharing firms now focus on helping local governments share expensive equipment used for a discrete period of time and for defined tasks—chipping roads, installing sewer pipes, snow ploughing, and the like.[37] Sharing firms are even being deployed as part of emergency preparedness plans.[38]

Where government benefits are a defined service offered for a discrete period of time, sharing firms have the potential to offer significant cost savings by permitting governments with staggered needs for such equipment to share the expenses of the equipment. Of course, many local governments already engage in forms of such sharing, typically in the form of intergovernmental agreements between cities within the same region or state.[39] Sharing firms seem destined to make this trend explode, which could have a substantial benefit on local government budgets presuming that contracting and labor laws could be navigated to permit such sharing.[40]

A more tenuous, but perhaps more profound question raised by the authors' discussion of local governments' proprietary functions is whether this type of procurement could ultimately lead to a post-Tieboutian world and the end of the consumer-voter. A hallmark of local government theory holds that, in choosing where to live, individuals act as "consumer-voters" that choose between local governments in a region on the basis of the jurisdictions' relative mix of taxes and services. The theory of the consumer-voter was first

[35] *See, e.g.*, *Inclusionary Housing Program*, S.F. MAYOR'S OFF. HOUSING & COMMUNITY DEV., http://sfmohcd.org/inclusionary-housing-program [https://perma.cc/9KGM-VRTX].

[36] Rauch & Schleicher, *supra* note 1, at 960.

[37] *Id.*

[38] *Id.* at 961.

[39] *Id.* at 959 n.316.

[40] *Id.* at 962.

posited by Charles Tiebout in his classic work, "A Pure Theory of Local Expenditures."[41]

Sharing firms could change the Tieboutian calculus if they increasingly permit local governments to offer more services on demand and without the sunk costs of purchasing infrastructure. Consider a scenario in which all local governments' services fall to a baseline mandated by state statute. As a particular individual or community decides it wants a service, instead of moving to another jurisdiction like a consumer voter would in the Tieboutian model, that individual or community instead purchases the service for a fee through a municipal sharing firm. Pressed to its limits, the model of municipal governance Rauch and Schleicher propose could eliminate Tieboutian sorting; instead of the consumer voter moving—voting with the feet—the consumer voter purchases the service from a municipal sharing firm, but just for as long as the service is desired, while otherwise staying in place.

In this digital age, cities have remained stubbornly tied to the feudal archaicisms of land and jurisdiction. It may be that sharing firms could deliver the on demand city, one increasingly freed of location. The outer limits of municipal sharing may ultimately be bounded by equity; the same types of equitable concerns that arise with fee-based provisions of government services could also arise in a sharing model. Subsidies to ameliorate such equitable concerns could be provided, though likely would not eliminate the equity issues altogether.

V. OTHER PREDICTIONS

In addition to Rauch and Schleicher's three predictions, I would add several additional predictions for how local governments should engage with sharing firms in the near future.

First, the sharing economy presents a number of new uses and services that do not fit within existing legal frameworks.[42] These sharing firms cannot live in the liminal zone between legal and illegal forever; eventually, these sharing firms must be legalized under negotiated terms or otherwise face enforcement. Rauch and Schleicher chose not to address this aspect of local government's response to sharing firms, but it remains central in the struggle local governments face right now. In fashioning a response, local governments will find that differing technologies require differentiated responses.[43] Nonetheless, local governments should contemplate an overarching, holistic approach to how it will respond to the new realities of platform-based technologies. This is a generational transformation, which presents an

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[41] Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416, 417 (1956).

[42] *See* Stephen R. Miller, *First Principles for Regulating the Sharing Economy*, 53 HARV. J. ON LEGIS. (forthcoming 2016) (manuscript at 3), http://ssrn.com/abstract=2568016 [https://perma.cc/PVY6-WEWS].

[43] *Id.* (manuscript at 1).

opportunity to reevaluate why laws exist, take from them what should remain, and leave the rest behind. For instance, a community may decide that "gig" workers[44] should have easier access to benefits, but may decide not to maintain licensing provisions for certain industries such workers frequent.

Second, in conservative states, local governments interested in regulating sharing firms will face pressure from State legislatures that will seek to limit local regulation of such firms. For instance, when the Democratic-led government of Boise, Idaho tried to impose basic registration requirements on Uber drivers similar to those it imposed on taxi drivers, the Republican-led Idaho state government enacted a first-in-the-nation law preempting all local regulation of transportation network companies, such as Uber.[45] Local governments, without regard to particular positions, will need to increasingly fight for the ability to regulate sharing firms, especially in states where sharing economy uses are valued by conservatives for their perceived ability to weaken labor and licensing standards.

Third, local governments should give thought to how sharing firms might control future technologies. For instance, though seemingly the stuff of science fiction, the large-scale deployment of autonomous vehicles appears to be just several decades into the future.[46] At that time, it may well be that all vehicles are shared through something similar to a car-sharing application like Uber, *sans* driver, or Zipcar.[47] How does such a future change the infrastructure needs of a local government and what steps should be taken to prepare for such a dramatic change? Local governments should be contemplating such a future now.

While the sharing economy remains a small part of the overall economy today,[48] platform-based applications are here to stay and will certainly grow in unexpected ways. The power of such platforms is primarily in facilitating the mass decentralization of economic activity, which will, in turn, fundamentally affect infrastructure needs of communities and the physical spaces in which we live. The most profound effects of sharing firms on local governments will build exponentially over the next several decades in alliance with other technological advances like the processing of Big Data and the evolution of

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[44] *See* Josh Zumbrun & Anna Louie Sussman, *Proof of a 'Gig Economy' Revolution Is Hard to Find*, WALL STREET J. (July 26, 2015), http://www.wsj.com/articles/proof-of-a-gig-economy-revolution-is-hard-to-find-1437932539 [https://perma.cc/UL84-RSNJ].

[45] H.B. 201, 63rd Leg., 1st Reg. Sess. (Idaho 2015) (adding IDAHO CODE § 49-3715).

[46] Press Release, General Motors, GM and Lyft to Shape the Future of Mobility (Jan. 4, 2016), http://media.gm.com/media/us/en/gm/home.detail.html/content/Pages/news/us/en/2016/Jan/0104-lyft.html [https://perma.cc/S9NY-P77N] ("General Motors and Lyft today announced a long-term strategic alliance to create an integrated network of on-demand autonomous vehicles in the U.S. . . . 'We see the future of personal mobility as connected, seamless and autonomous,' said GM President Dan Ammann. 'With GM and Lyft working together, we believe we can successfully implement this vision more rapidly.'").

[47] Zipcar, http://www.zipcar.com/ [https://perma.cc/2S5L-TVP6].

[48] Zumbrun & Sussman, *supra* note 44.

the Internet of Things.[49] Local governments should contemplate futures that seem like science fiction—autonomous vehicles, drones delivering packages, virtual city hall smart phone apps—and fashion governance that is more efficient, more responsive, and more equitable than ever before.

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[49] ROOT, *supra* note 11, at 1–2.