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# CONGRESSIONAL TESTIMONY

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## Leveraging the Infrastructure Investment and Jobs Act

Testimony before

**The House Small Business Committee**

United States House of Representatives

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Chair Velázquez, Ranking Member Luetkemeyer, Members of the House Small Business Committee. Thank you for the opportunity to testify on the Infrastructure and Jobs Act. My name is Joel Griffith. I am a Research Fellow in Financial Regulations at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

### **Introduction**

Businesses of every size—especially smaller businesses—are struggling with supply chain issues, rising prices, and a shortage of people willing to work. The Biden administration

insists these problems are transitory, scapegoating the businesses and blaming the pandemic and the war in Ukraine for our economic woes.<sup>1</sup>

The mismatch between supply and deficit-driven demand contributes to the steepest rise in prices in 40 years-- from the grocery store, to housing, to the gas pump. The supply chain crisis has been exacerbated by this administration's "war on energy," including shuttering pipelines,<sup>2</sup> closing off swaths of

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<sup>1</sup> The Heritage Foundation, Fact-Checking the Media's False and Misleading Claims Blaming Americans for Rising Prices, Supply Chain Crisis, November 18, 2021, <https://www.heritage.org/press/fact-checking-the-medias-false-and-misleading-claims-blaming-americans-rising-prices-supply> (accessed March 29, 2022).

<sup>2</sup> David Blackmon, "Why Biden's Killing Of Keystone XL Was An Energy Security Blunder," *Forbes*, March 10, 2022, <https://www.forbes.com/sites/davidblackmon/2022/03/10/why-bidens-killing-of-keystone-xl-was-a-big-energy-blunder/?sh=13b0bf4f13fd> (accessed March 29, 2022).

the nation to drilling,<sup>3</sup> and even threatening oil executives with prison for providing the gasoline American business and families depend on.<sup>4</sup>

In recent months, prominent media commentators and various media outlets have taken up this false attack on the very people suffering from the bad decisions being made in Washington. Meanwhile, the administration refuses to acknowledge the primary culprits: ill-advised COVID restrictions here and across the world that throttled production and shipping, record government spending financed by the Federal Reserve that stoked demand, and labor force suppression from poorly targeted government transfer payments, shuttered schools, and diminished childcare options. Exacerbating the problem—particularly in California—are organized labor groups refusing to embrace common sense port operations adjustments and a continued slew of environmental regulations slashing the number of available trucks.

Proposals for even more government spending, labor regulations such as the PRO Act, harsh environmental regulations on energy production, and massive tax hikes on businesses risk further shocks. Artificially stoking demand while crippling production is a recipe for both shortages and higher prices.

### **Calls to Expand the Role of the Small Business Administration Ignore the Reality:**

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<sup>3</sup> Lisa Friedman, “Biden Administration Halts New Drilling in Legal Fight Over Climate Costs,” *The New York Times*, February 22, 2022, <https://www.nytimes.com/2022/02/20/climate/carbon-biden-drilling-climate.html> (accessed March 29, 2022).

<sup>4</sup> Katelyn Caralle, “We should put them in jail!” Joe Biden wants to prosecute fossil fuel executives for environmental damage—but doesn’t mention son Hunter who helped run Ukrainian natural gas giant,” *Daily Mail*, December 30, 2019, <https://www.dailymail.co.uk/news/article-7837265/We-jail-Biden-wants-prosecute-fossil-fuel-executives-environment-damage.html> (accessed March 29, 2022).

### **Small Businesses are Being Serviced by the Credit Markets.**

It’s a misnomer that credit markets are not providing funds to small businesses. Most small businesses are saying they are generally not looking for more credit.<sup>5</sup> Only three percent of respondents in a January 2022 National Federation of Independent Business (NFIB) survey reported their borrowing needs were not satisfied. Only 1 percent reported financing as their top business problem. The survey also reported, “Only a net 2 percent reported their last loan was harder to get than in previous attempts (up 1 point).”<sup>6</sup> In past economic crises, 37 percent have reported financing and interest rates as a top concern.

Proposals to expand the SBA’s lending or bond guarantee programs do nothing to counteract these destructive policies and only serve to benefit politicians from the appearance of providing assistance to businesses.

### **The primary factor behind the enormous economic disruptions are the ill-advised COVID restrictions here and abroad.**

Contrary to conventional wisdom, the pandemic itself did not ‘shut down the world.’ Government lockdowns shut down large parts of the world. Companies were forced by governments to abide by oppressive

<sup>5</sup> William C. Dunkelberg and Holly Wade, NFIB Small Business Economic Trends, NFIB Research Center, January 2022, <https://assets.nfib.com/nfibcom/SBET-Jan-2022-Final.pdf> (accessed February 8, 2022).

<sup>6</sup> Ibid.

<sup>7</sup> Peter St. Onge, “Blame Government, Not COVID-19, for Supply Chain Collapse,” The Heritage Foundation, October 18, 2021, <https://www.heritage.org/transportation/commentary/blame-government-not-covid-19-supply-chain-collapse> (accessed March 29, 2022).

restrictions, driving many out of business. Erratic, unpredictable, arbitrary decisions by government bureaucrats made planning even for the short-term nearly impossible. Onerous distancing and capacity restrictions on processing plants crippled production.

Bad government policy set in motion the economic turmoil, skyrocketing inflation, and supply chain havoc Americans are experiencing, and new government policies continue to worsen the crisis.

As evidenced by the disparate economic performance in states, those that reopened society quickly or refused to impose shutdowns from the start enjoyed a much better economic environment. The Federal Reserve State Coincident Indexes—an approximation of state GDP—vividly illustrates how variant the economic recovery is based on states.<sup>8</sup> This index suggests economic output at the end of 2020 was actually greater than pre-pandemic in eight states which did not endure crushing, long-lasting shutdowns, such as Florida and South Dakota. This contrasts starkly with states such as Hawaii, Michigan, Rhode Island, and Massachusetts which remain more than 10% smaller than pre-pandemic. Overall, by the end of 2020, the 10 states with the fewest restrictions in place<sup>9</sup> averaged 4.7 percent unemployment—while the 10 states with the most restrictions averaged 7.1 percent unemployment.<sup>10</sup> Los Angeles suffered from 11.1% unemployment and NYC 8.6%—cities where draconian restrictions and an army of

compliance officers continued to push tens of thousands of businesses out of business.<sup>11</sup> Meanwhile, unemployment in numerous communities in Alabama, Idaho, Iowa, Nebraska, South Dakota, and Utah was close to 3% or less by the end of 2020.

Politicians who advocated for shutdowns and pervasive economic restrictions pushed millions of those who are unemployed or financially underwater off an economic cliff, while blaming the pandemic for the millions slipping “through the cracks.”

### **Record amounts of government spending financed by the Federal Reserve also contribute to the problem.**

While governments hampered the supply of goods and services, a tsunami of government spending contributed to the rise in demand—including future demand as households stockpiled income from both wages and government COVID-19 relief checks. Without a doubt, Federal Reserve policy is contributing to the very large burst of inflation. The federal government has used the Fed as a piggy-back, “selling” trillions in debt for newly ‘printed’ money that then floods into the economy, driving inflation while bribing resources and workers away from businesses that desperately needed them.

### **The unprecedented labor shortage in the United States—with an employment gap of**

<sup>8</sup> Federal Reserve Bank of Philadelphia, State Coincident Indexes, <https://www.philadelphiafed.org/-/media/frbp/assets/surveys-and-data/coincident/coincident-revised.xls> (accessed March 29, 2022).

<sup>9</sup>Adam McCann, “States with the Fewest Coronavirus Restrictions,” WalletHub, January 26, 2021, <https://wallethub.com/edu/states-coronavirus-restrictions/73818> (accessed March 29, 2022).

<sup>10</sup>U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics Data Series, December 2020,

<https://www.bls.gov/web/laus/laumstrk.htm> (accessed March 29, 2022).

<sup>11</sup>U.S. Bureau of Labor Statistics, Unemployment Rate in Los Angeles-Long Beach-Anaheim, CA (MSA) [LOSA106URN], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LOSA106URN> , (accessed March 29, 2022). U.S. Bureau of Labor Statistics, Unemployment Rate in New York-Newark-Jersey City, NY-NJ-PA (MSA) [NEWY636URN], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/NEWY636URN> , (accessed March 29, 2022).

**about 4.7 million workers—is contributing to supply-chain issues and rising prices.**<sup>12 13</sup>

Early in the pandemic, governments forced many businesses to shutter completely or dramatically reduce operations. Many of these employees hardly ‘elected’ to stop working. Instead, their jobs disappeared due to governments criminalizing their employment. Meanwhile, schools in many parts of the nation closed their doors for much—if not all—of the academic year or imposed spontaneous, unpredictable interruptions. This made employment difficult for many parents. In addition, many of those formerly working in the childcare industry left. Generous federal unemployment bonuses<sup>14</sup> combined with state unemployment benefits resulted in the majority of unemployed Americans earning more off the job than on the job—acting as a powerful disincentive to returning to work, especially when combined with multiple federal stimulus checks. This specifically impacted warehouse,

retail, and the hospitality sectors. Private vaccine mandates and a threatened federal mandate pushed others out of the labor force. In short, misguided government policies shrank the number of people willing or able to work.<sup>15 16 17</sup>

As a result of so many dropping out of the labor market, the availability of workers is incredibly tight. Businesses across nearly every industry in the United States are desperate for workers and have expanded their pay and benefit packages.<sup>18</sup> The number of unfilled jobs remains at record levels, with 11.3 million unfilled jobs in May 2022—more than 1.9 jobs available for each of the 5.95 million unemployed workers.<sup>19</sup>

The National Federation of Independent Business (NFIB) reported that 50 percent of business owners were unable to fill open positions in June—more than double the 22 percent historical average.<sup>20</sup> Accordingly,

<sup>12</sup> Rachel Greszler, “What Is Happening in This Unprecedented U.S. Labor Market,” Heritage Foundation Backgrounder No. 3677, December 8, 2021, <https://www.heritage.org/jobs-and-labor/report/what-happening-unprecedented-us-labor-market>.

<sup>13</sup> Rachel Greszler, Joel Griffith, Elizabeth Hanke, Tori Smith, and Katie Tubb, “Inflation: Policymakers Should Stop Driving It and Start Fighting It,” Special Report No. 252, The Heritage Foundation, January 20, 2022, <https://www.heritage.org/sites/default/files/2022-02/SR252.pdf> (accessed March 29, 2022).

<sup>14</sup> Rachel Greszler “9 Reasons Why Federal Unemployment Bonus Subsidies Need to Go,” The Heritage Foundation, June 10, 2021, <https://www.heritage.org/jobs-and-labor/commentary/9-reasons-why-federal-unemployment-bonus-subsidies-need-go> (accessed March 29, 2022).

<sup>15</sup> Rachel Greszler, “More Bad Policies and Government Spending Will Worsen Labor Shortage,” The Heritage Foundation, October 13, 2021 <https://www.heritage.org/jobs-and-labor/commentary/more-bad-policies-and-government-spending-will-worsen-labor-shortage> (accessed March 29, 2022).

<sup>16</sup> Rachel Greszler, “Why has employment been so slow to recover?,” *The Washington Times*, March 9, 2022,

<https://www.washingtontimes.com/news/2022/mar/9/why-has-employment-been-so-slow-recover/> (accessed March 29, 2022).

<sup>17</sup> 5 percent of unvaccinated adults surveyed said they would leave their jobs if their employers required them to get a vaccine or get tested weekly. Considering that the unauthorized Occupational Safety and Health Administration (OSHA) mandate would apply to an estimated 84 million workers, this could require employers to fire—and attempt to replace—up to 4.2 million workers. Liz Hamel et al., “KFF COVID-19 Vaccine Monitor: October 2021,” Kaiser Family Foundation, October 28, 2021, <https://www.kff.org/coronavirus-covid-19/poll-finding/kff-covid-19-vaccine-monitor-october-2021/> (accessed March 29, 2022).

<sup>18</sup> Rachel Greszler, “An Unprecedented Labor Shortage,” The Heritage Foundation, June 22, 2022, <https://www.heritage.org/jobs-and-labor/commentary/unprecedented-labor-shortage> (accessed July 26, 2022).

<sup>19</sup> News release, “Job Openings and Labor Turnover Summary,” BLS, July 6, 2022, <https://www.bls.gov/news.release/jolts.nr0.htm> (accessed July 26, 2022).

<sup>20</sup> NFIB Jobs Report, June survey through June 3, 2022, <https://assets.nfib.com/nfibcom/2022-June-Jobs-Report-FINAL-003.pdf> (accessed July 27, 2022).

businesses are increasing compensation, and therefore their costs. According to NFIB, 48 percent of business owners reported raising compensation in June (near the 50 percent record high of just a few months ago), and 28 percent plan to raise compensation in the next three months (near a record high).<sup>21</sup> Ultimately having to raise compensation from government-induced inflation rather than from productivity gains may force some to go out of business.

### **Federal and state policies, especially in California, compounded problems.**<sup>22</sup>

Despite being in the midst of the pandemic, labor, and supply chain crisis, states [continued to enact or allow policies that exacerbate the economic pain. For example, California](#) continued a phase-out of older diesel trucks. Organized labor in California continued to resist modernization in favor of inefficient modes of operation while refusing to fully expand their hours to alleviate the backlog. With such high labor costs (roughly three times the national average for port workers) and the union’s unwillingness to operate on a 24/7 schedule similar to all other major ports in the world, it would make sense to increase automation, but the union has fought hard against that—including securing a provision in the bipartisan infrastructure package to prevent any funds from going toward automation.<sup>23</sup>

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<sup>21</sup> Ibid.

<sup>22</sup> Rachel Greszler, Joel Griffith, Elizabeth Hanke, Tori Smith, and Katie Tubb, “Inflation: Policymakers Should Stop Driving It and Start Fighting It,” Special Report No. 252, The Heritage Foundation, January 20, 2022, <https://www.heritage.org/sites/default/files/2022-02/SR252.pdf> (accessed March 29, 2022).

<sup>23</sup> Eric Boehm, “America’s Ports Need More Robots, but the \$1 Trillion Infrastructure Bill Won’t Fund Automation,” Reason, November 9, 2021, <https://reason.com/2021/11/09/americas-ports-need-more-robots-but-the-1-trillion-infrastructure-bill-wont-fund-port-automation/> (accessed March 29, 2022).

After sitting up to weeks on boats, containers of goods can wait weeks longer for the select few trucks and truckers that California’s environmental and labor laws allow into the state, only to be transported to California’s border where the remaining 70 percent of trucks in the United States are free to come and transfer the goods across the rest of the country. All this adds time and hassle, backing up the supply chain further, and raising the costs of the goods themselves.<sup>24</sup>

Labor costs and bottlenecks could increase further if the Teamsters’ Union convinces the Biden Administration to change the definition of employee so that businesses cannot hire independent truckers to transport their goods but must instead make do with the much smaller supply of expensive unionized truckers.

Long-standing government policies that limit how goods can be transported have exacerbated port delays, largely occurring at the adjacent Ports of Los Angeles and Long Beach. In particular, the Merchant Marine Act of 1920, commonly referred to as the Jones Act, mandates that any goods shipped by water between two points in the United States must be transported on a U.S.-built, U.S.-flagged vessel with a crew that is at least 75 percent American.<sup>25</sup> This law drives up shipping

<sup>24</sup> Rachel Greszler, “California’s ‘Pro-Worker’ Law Is Killing Jobs Left and Right,” The Daily Signal, January 8, 2020, <https://www.heritage.org/jobs-and-labor/commentary/californias-pro-worker-law-killing-jobs-left-and-right> .

<sup>25</sup> Nicolas Loris, Brian Slattery, and Bryan Riley, “Sink the Jones Act: Restoring America’s Competitive Advantage in Maritime-Related Industries,” Heritage Foundation Backgrounder No. 2886, May 22, 2014, <https://www.heritage.org/government-regulation/report/sink-the-jones-act-restoring-americas-competitive-advantage-maritime> .

costs<sup>26</sup> on average by 270 percent<sup>27</sup> as this regulation excludes 99.8 percent of the world's shipping capacity from transport between states.<sup>28,29</sup> The sheer cost of interstate water transport due to the Jones Act often makes it more affordable to ship goods from Asia than between states. For example, in October 2021, millions of pounds of Alaskan seafood were being blocked from coming into the United States via Canada due to the Jones Act.<sup>30</sup>

### **What can be done:**

Congress and the Biden administration should get the federal government out of the way by cutting red tape, by stepping away from massive tax-and-spending legislation that seeks to micromanage the economy, and by saying “no” to unions and activists who want to cripple our economy.<sup>31</sup>

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26 Federal Reserve Bank of New York, “Report on the Competitiveness of Puerto Rico’s Economy,” June 29, 2012, <https://www.newyorkfed.org/medialibrary/media/regional/PuertoRico/report.pdf> (accessed December 9, 2021). For example, according to a Federal Reserve Bank of New York report, the cost of shipping a 20-foot container from the East Coast to Puerto Rico is about double the cost of shipping to nearby islands that are not subject to the Jones Act

27 U.S. Department of Transportation, Maritime Administration, Comparison of U.S. and Foreign-Flag Operating Costs, September 2011, <https://www.maritime.dot.gov/sites/marad.dot.gov/files/docs/resources/3651/comparisonofusandforeignflagoperatingcosts.pdf> (accessed January 10, 2022), quoted in John Frittelli, “Shipping Under the Jones Act: Legislative and Regulatory Background,” Congressional Research Service Report for Congress, updated November 21, 2019, <https://crsreports.congress.gov/product/pdf/R/R45725> (accessed December 9, 2021). According to the Congressional Research Service, “A 2011 study by the U.S. Maritime Administration (MARAD) found that in 2010, the average operating cost of a U.S.-flag ship was 2.7 times greater than a foreign-flag ship, but MARAD estimates that this cost differential has since increased.”

28 InfoMaritime, “World Merchant Fleet and Top 15 Shipowning Countries (2021\*) Data,” August, 22, 2021, <http://infomaritime.eu/index.php/2021/08/22/top-15-shipowning-countries/> (accessed December 13, 2021).

- Acknowledge the misguided nature of the COVID-19 restrictions enacted by national, state, and local governments against people freely creating, working, shopping, and engaging.
- Repeal the Jones Act which drives up shipping costs, makes it more difficult to transport goods that are important to the food sector, and impedes access to affordable domestic energy. This is particularly noticeable in states such as California, where very limited pipeline infrastructure means California’s gasoline must be transported from refineries to demand centers by way of expensive and artificially scarce ships and crews.<sup>32</sup>
- Do not force workers into unions. Enable more flexible contract work by using a common law basis for

29 Colin Grabow, “The Progressive Case for Jones Act Reform,” Cato Institute, September 7, 2021, <https://www.cato.org/study/progressive-case-jones-act-reform#failed-law> (accessed December 10, 2021). The cost of a U.S.-built ship is “four to five times more costly than those constructed abroad,” according to Colin Grabow, policy analyst at the Cato Institute, and “the shipyards that build these vessels are so uncompetitive that few commercial ships are actually built.”

30 Editorial, “A Jones Act Fish Story, Chapter 2,” *Wall Street Journal*, October 3, 2021, <https://www.wsj.com/articles/a-jones-act-fish-story-chapter-two-alaska-shipping-bayside-canada-11633030744> (accessed December 7, 2021).

31 Peter St. Onge, “Why Biden’s Infrastructure Bill Will Likely Only Worsen Supply Chain Crisis,” The Heritage Foundation, November 17, 2021, <https://www.heritage.org/budget-and-spending/commentary/why-bidens-infrastructure-bill-will-likely-only-worsen-supply-chain> (accessed March 29, 2022).

32 Patrick Terrell, “Permanent Repeal of the Jones Act Would Be a Winning Response to COVID-19,” The Heritage Foundation, April 7, 2020. <https://www.heritage.org/trade/commentary/permanent-repeal-the-jones-act-would-be-winning-response-covid-19> (accessed July 26, 2022).

independent contractor status. Abandon legislation and regulations that restrict work such as California’s AB5 law and the similar federal PRO Act.

- Remove welfare work disincentives such as monthly child payments detached from work. End COVID-19 benefits policies that discourage work by the able-bodied.
- Eliminate Section 232 tariffs on steel and aluminum imports. Eliminate tariffs on manufactured goods imports including cars, trucks, and parts. Eliminate Section 301 tariffs and antidumping and countervailing duties on chassis so truckers can raise capacity.
- Repeal Davis-Bacon. This law forces contractors and subcontractors for federally funded construction projects to provide their workers with government-determined hourly pay and benefits.) Many federal infrastructure projects are tied to Davis–Bacon wages, which are about 22 percent higher than market wages.<sup>33</sup>

### **Conclusion**

Broadly available tax cuts benefit all Americans, especially the most vulnerable, through a strong [economy](#) that generates demand for workers and raises their wages through productivity gains. Institutional and local reforms are needed to enable residents of impoverished communities to seize

the opportunities created by a strong national economy.

State and local governments share a responsibility to eliminate artificial barriers to economic growth and affordable housing. Minimum wages, occupational licensing, and unreasonable zoning restrictions are three examples of policies to review. Regulations are costly to businesses and individuals, lower real incomes, reduce entrepreneurship, exacerbate income inequality, and increase the price of consumer goods.<sup>34</sup>

Lastly, failing public schools contribute to a relative lack of education, marketable skills, and other forms of human capital. This directly impacts earnings capacity. To better equip the next generation to prosper, parents should be enabled to select educational alternatives for their children. Many of the underperforming public schools are located in economically deprived areas with a disproportionately large minority population.<sup>35</sup> Elevated numbers of students drop out before graduation; many graduates lack proficiency in basic reading, writing, math and specialized skills.<sup>36</sup>

The government granted education monopoly fails millions of students who are subsequently unable to effectively compete in the labor market. Education choice options that allow students and parents to choose the best school for them, have been shown to help the poorest students attain better outcomes over

<sup>33</sup> Rachel Greszler, “Why Congress Must ‘Cancel’ the Davis-Bacon Act,” Washington Times, April 5, 2021, <https://www.washingtontimes.com/news/2021/apr/5/why-congress-must-cancel-the-davis-bacon-act/> (accessed January 10, 2022).

<sup>34</sup> Dustin Chambers, Patrick A. McLaughlin, and Laura Stanley, “Regulation and Poverty: An Empirical Examination of the Relationship between the Incidence of Federal Regulation and the Occurrence of Poverty across the States,” Mercatus *Working Paper*, April 2018, <https://www.mercatus.org/system/files/chambers-regulation-poverty-mercatus-working-paper-v1.pdf>.

<sup>35</sup> Duncombe, Chris. “Unequal Opportunities: Fewer Resources, Worse Outcomes for Students in Schools with Concentrated Poverty,” Commonwealth Institute, October 26, 2017, <https://www.thecommonwealthinstitute.org/2017/10/26/unequal-opportunities-fewer-resources-worse-outcomes-for-students-in-schools-with-concentrated-poverty/>.

<sup>36</sup> *The Condition of Education 2018*, National Center for Education Statistics, U.S. Department of Education, 2018, p. 4, [https://nces.ed.gov/programs/coe/pdf/coe\\_cnb.pdf](https://nces.ed.gov/programs/coe/pdf/coe_cnb.pdf).

government assigned schools.<sup>37</sup> Over time, the opportunity gap between minorities and the rest of the nation will close due to enhanced educational quality. This will translate into greater income and wealth accumulation.

A full recovery requires a full reopening across the world and an unleashing of our fossil fuel energy resources here at home—a stark

contrast to printing more fiat currency, government borrowing, and government spending programs.

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<sup>37</sup> Jason Bedrick and Lindsey M. Burke, “The Next Step in School Choice,” *National Affairs*, Winter 2015,

<https://www.nationalaffairs.com/publications/detail/the-next-step-in-school-choice>.