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# CONGRESSIONAL TESTIMONY

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## The Supply Chain Crisis and the Implications for Small Businesses

### Testimony before U.S. Senate Committee on Small Business and Entrepreneurship

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Chair Cardin, Ranking Member Paul, Members of the Senate Committee on Small Business and Entrepreneurship.

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#### Introduction

Supply chain issues in conjunction with rising prices continue to yield empty shelves, production bottlenecks, and delivery delays. 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>1</sup> closing off swathes of the [nation to drilling](#),<sup>2</sup> and even [threatening oil executives with prison](#) for providing the gasoline American business and families depend on.<sup>3</sup>

The Biden administration has falsely insisted these problems are transitory while blaming the pandemic and scapegoating the businesses

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<sup>1</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).

<sup>2</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>3</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).

trying to fix the problems<sup>4</sup>—and now the war in Ukraine.<sup>5</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, flooded 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 yet 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.

**The primary factor behind the supply chain issues are the ill-advised COVID restrictions here and abroad.**<sup>6</sup>

Contrary to conventional wisdom, the pandemic itself did not ‘shut down the world,’

<sup>4</sup> In particular, this *New York Times* piece laid the blame for the state of the economy, the labor shortage, supply chain problems and inflation not on irresponsible policy choices in Washington, but at the feet of hardworking Americans trying to support their families. Neil Irwin, “Who’s to Blame for Rising Prices?,” *The New York Times*, November 16, 2021, <https://www.nytimes.com/2021/11/16/briefing/inflation-biden-approval.html> (accessed March 29, 2022).

<sup>5</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).

government lockdowns shut down large parts of the world. Companies were forced by governments to abide by oppressive 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>7</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>8</sup> averaged 4.7 percent unemployment—while the 10 states with the most restrictions averaged 7.1 percent unemployment.<sup>9</sup> Los Angeles suffered from

<sup>6</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).

<sup>7</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>8</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>9</sup> U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics Data Series, December 2020,

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>10</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 supply chain 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**

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

<sup>10</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).

<sup>11</sup> Rachel Greszler, “What Is Happening in This Unprecedented U.S. Labor Market,” Heritage Foundation Background No. 3677,

**about 4.7 million workers—is contributing to supply-chain issues and rising prices.**<sup>11 12</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>13</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

December 8, 2021, <https://www.heritage.org/jobs-and-labor/report/what-happening-unprecedented-us-labor-market>.

<sup>12</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>13</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).

shrank the number of people willing or able to work.<sup>14 15 16</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. The number of unfilled jobs remains at record levels, with 10.6 million unfilled jobs in November 2021—more than 1.5 jobs available for each of the 6.9 million unemployed workers.<sup>17</sup>

The National Federation of Independent Business (NFIB) reports that 48 percent of business owners were unable to fill open positions in November—more than double the 22 percent historical average.<sup>18</sup> Accordingly, businesses are increasing compensation, and therefore their costs. According to NFIB, 44 percent of business owners reported raising compensation in November (a 48-year record high), and 32 percent plan to raise compensation in the next three months (a record high).<sup>19</sup>

<sup>14</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>15</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>16</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>17</sup> News release, “Job Openings and Labor Turnover—November 2021,” BLS, December 8, 2021, [https://www.bls.gov/news.release/archives/jolts\\_01042022.pdf](https://www.bls.gov/news.release/archives/jolts_01042022.pdf) (accessed March 29, 2022).

<sup>18</sup> NFIB, “Labor Market Challenges Breaks 48-Year Record as Biggest Issue Impacting Small Businesses,” November survey through

### **Federal and state policies, especially in California, compounded global shipping problems.**<sup>20</sup>

California matters because it receives nearly half of all containers coming into the United States. Yet, in the midst of the pandemic and supply chain crisis, 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>21</sup>

Consequently, in the World Bank efficiency rankings,<sup>22</sup> the California ports were among the least efficient on earth—behind even those of Mombasa, Kenya, and Dar es Salaam, Tanzania.<sup>23</sup>

November 29, 2021, <https://assets.nfib.com/nfibcom/2021-Nov-Jobs-Report-FINAL.pdf> (accessed date March 29 2022).

<sup>19</sup> Unfilled job openings total 11.3 million—more than 1.8 jobs for every unemployed worker.

<sup>20</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>21</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).

<sup>22</sup> “The World Bank and IHS Markit Container Port Performance Index 2020 Report,” World Bank Group and IHS Markit, (2021), <https://ihsmarkit.com/Info/0521/container-port-performance-index-2020.html> (accessed December 16, 2021).

<sup>23</sup> Lisa Baertlein, “California Ports, Key to U.S. Supply Chain, Among World’s Least Efficient, Ranking Shows,” Reuters, October 20, 2021, <https://www.reuters.com/world/us/california-ports-key-us-supply-chain-among-worlds-least-efficient-2021-10-20/> (accessed January 10, 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 President James P. Hoffa 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 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>

<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>.

<sup>26</sup> 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

<sup>27</sup> 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."

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

<sup>29</sup> 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."

<sup>30</sup> 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).

<sup>31</sup> 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).



- 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. The Jones Act 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.
- Do not force workers into unions. Enable more flexible contract work by using a common law basis for 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.

A full recovery—including a functioning supply chain-- 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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