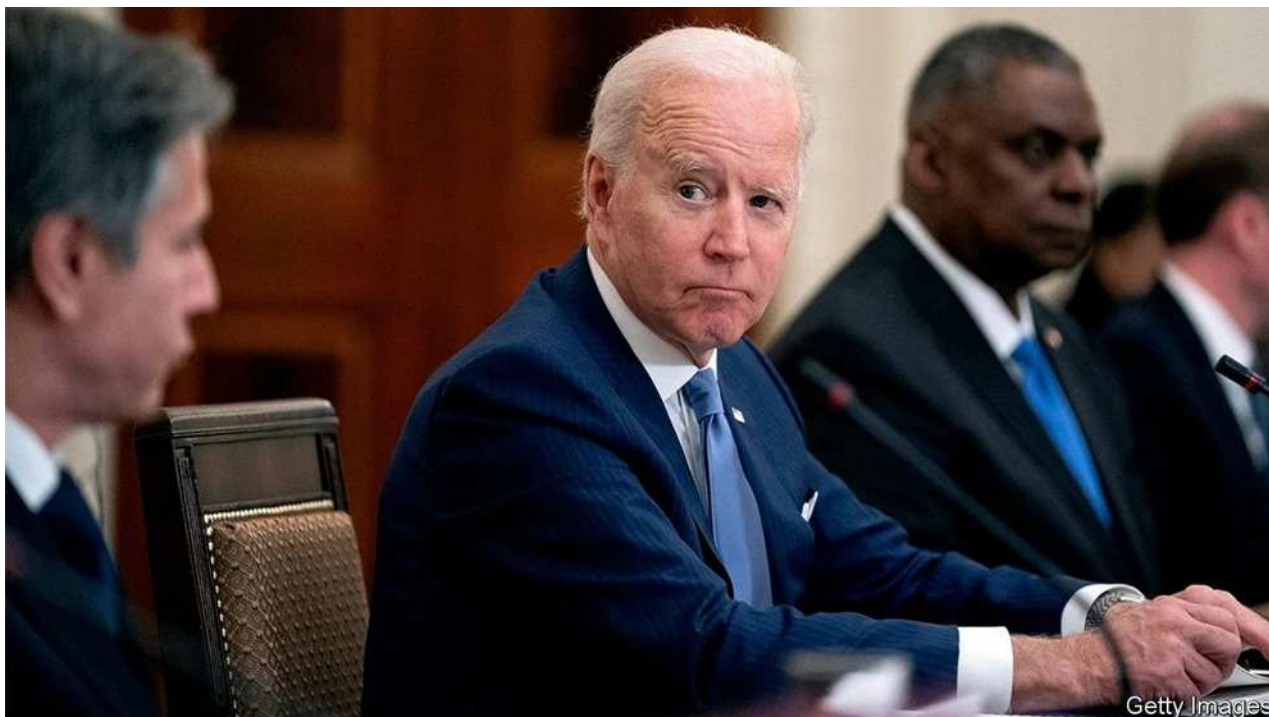


# After a heady start, Joe Biden's legislative agenda has hit a wall

**E** [economist.com/united-states/2021/06/13/after-a-heady-start-joe-bidens-legislative-agenda-has-hit-a-wall](https://economist.com/united-states/2021/06/13/after-a-heady-start-joe-bidens-legislative-agenda-has-hit-a-wall)

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## Look at Joe not go

## Blame factionalism and the filibuster

### United States

AFTER 100 DAYS in office, Joe Biden looked ruthless and Rooseveltian. He had just passed a \$1.9trn rescue package despite painfully narrow majorities; his administration was triumphantly preparing future plans to spend trillions more on climate, infrastructure and safety-net expansions. Since then, however, little has happened, and the prognosis looks murky.

When mathematicians confront a system of equations, they sometimes find that there is no solution set—the equations are simply inconsistent and cannot be resolved. The various constraints on governance—Democratic squabbles over the importance of bipartisanship, the brutal mathematics of thin margins, unrelenting opposition from Republicans—are starting to resemble such a system. What seemed merely like a risk at the start of Mr Biden's term now looks increasingly like reality: the president's ambitious legislative agenda could be rendered a largely theoretical exercise.

The dominant constraint on Mr Biden's aspirations has always been the filibuster—an arcane rule in the Senate that requires 60 votes to advance most legislation. Democrats hold 50 Senate seats; assuming party unanimity, the administration thus needs ten Republican votes. Mr Biden will be hard-pressed to find them for his plans to spend more than \$4trn and raise taxes on businesses and the wealthy.

That leaves three plausible options. The first is to negotiate his proposals down to nubs of their initial incarnations, which risks losing the support of Democrats' left flank. The second is to squeeze the agenda into a "reconciliation" bill that is primarily budgetary, and immune to a filibuster. That would probably require excising some important regulatory provisions, such as a clean-electricity standard or a minimum-wage rise. It also risks losing moderate Democratic senators hopelessly bent on bipartisanship. The third option—abolishing the filibuster through a simple majority vote—is hostage to moderates' unshakeable belief that ending the filibuster would somehow destroy the Senate.

On infrastructure, Mr Biden seems to be pursuing the first path. Joe Manchin of West Virginia, the most conservative Democrat and thus the pivotal swing vote in the Senate, insists on cutting a bipartisan deal. The White House pursued one in earnest, negotiating for weeks with Senator Shelley Moore Capito, the Republican senator from West Virginia. Those talks collapsed on June 8th. The White House has now pivoted to negotiating with a separate bipartisan group of senators—which may also prove a long slog with little hope of success.

This strategy shows that Mr Biden was sincere in his early pledges to seek bipartisanship and "unity". But it has also required winnowing down his plans, which initially had two components: the American Jobs Plan, which married traditional infrastructure funding with enormous climate-change spending, and the American Families Plan, which aimed to create a European-style welfare state, including a generous child allowance, universal pre-school and paid family leave. Each component aimed to spend more than \$2trn over the next decade, according to costing work done by the Penn Wharton Budget Model, largely (though not completely) balanced by undoing the Trump-era tax cuts and raising rates on investment, high earners and business.

If there were an obvious path to get this all through Congress, the president would already have taken it. Mr Biden had little compunction about pushing his rescue package through reconciliation and passing it largely unscathed on a party-line vote in the Senate. Moderates acceded during an emergency, but are much less enthusiastic about using reconciliation for ordinary legislating.

Looking at the concessions already forced provides useful foreshadowing. Ms Capito's final counter-offer was for \$330bn in additional spending—not even 20% of the first half of Mr Biden's proposals. The president, for his part, had offered to cut proposed spending to \$1trn, and suggested taking the corporate-tax rise (from a current rate of 21% to a proposed 28%) off the table. The offer being crafted by the new group, which may still fail to attract ten Republican votes, is reportedly \$579bn in additional spending, without any tax increases. Discussion of the families plan has fallen entirely by the wayside as the negotiations over the jobs plan has proven intractable enough.

Even if the negotiations yield some compromise bill, factional and centrifugal forces loom. Climate-conscious Democrats seem poised to bolt. (Republicans have been adamant that “core infrastructure” ought not to incorporate greenery.) “An infrastructure package that goes light on climate and clean energy should not count on every Democratic vote,” wrote Martin Heinrich, a senator from New Mexico not known as a progressive firebrand. Others, too, are sounding rebellious. “No climate, no deal,” insisted Senator Ed Markey of Massachusetts. Progressives in the House of Representatives, where Democrats have only a bare majority, also have sufficient numbers to torpedo legislation they deem insufficient.

Much of the rest of Mr Biden’s agenda looks even more endangered. The “For the People Act”, also known as “HR1,” which Democrats see as their answer to state Republicans’ tightening of voting rules and to the existential threat to democracy posed by Trumpism, looks dead. Mr Manchin in effect killed it when he wrote in a newspaper column in his home state that he would not support it (not because of any of its manifest flaws, but because it was too partisan). He again rejected calls to further weaken the filibuster, as the impatient within the party had been pushing him to do. Among the ironies engendered by the filibuster is that a simple-majority vote is sufficient to confirm a Supreme Court justice with the power to strike down legislation, but insufficient actually to pass any.

Mr Manchin promised instead to whip up support for HR4, the John Lewis Voting Rights Advancement Act, a more limited bill than HR1 (which devoted much of its space to the somewhat ancillary concern of drawing up a public-financing scheme for elections). Even this strategy is suspect. Earlier introductions of the legislation have been co-sponsored by only a single Republican senator, Lisa Murkowski of Alaska—which leaves the administration nine votes short.

### **A mausoleum of ambition**

Chuck Schumer, the Senate majority leader, suggested that he will force a series of votes in the coming month. Part of the reason, no doubt, is the political gain to be had in next year’s midterm elections by forcing Republicans to vote down popular measures on the record. Substantively, however, Mr Schumer may wind up with only a legislative graveyard to show for his efforts. Besides the doubtful future of voting-rights legislation, a compromise gun-control bill is looking unlikely after talks broke down between John Cornyn of Texas and Chris Murphy of Connecticut.

That is not to say that nothing will pass. The Senate recently approved a relatively undiscussed \$250bn bill aimed at improving competitiveness with China through industrial-policy investments in semiconductors, among other sectors. A surface-transportation bill, which would spend \$547bn mainly on roads, bridges and the like, might soon pass with a smattering of Republican support. Bernie Sanders, who chairs the budget committee, aims to start the reconciliation process in the coming weeks. But that will get only some of Mr Biden’s agenda through, and nothing at all on voting rights, gun control or immigration.

Whether a stalled legislative agenda imperils the Democrats is unclear. Parties in power tend to suffer from a metronomic swing against them in mid-terms. Given their small margins in both chambers, even small losses would put them in Republican control. If herding Democrats is hard enough for the White House, legislating with a Republican leader would make the president's priorities nearly impossible to achieve in the second half of his term. Typically, the minority party attacks unpopular legislation, such as Obamacare or Mr Trump's tax cuts. Mr Biden's American Rescue Plan showered people with stimulus checks and other benefits, making it less effective as a Republican bugbear. The majority party also fares better when the economy is growing. A successful vaccination campaign and high projected growth rates may mitigate whatever repercussions Mr Biden could face for failing to enact his full agenda.

Whatever the consequences, Congress may soon revert to its old behaviour: legislating only out of necessity when pushed against an artificial deadline (eg, averting a governmental shutdown or increasing the debt ceiling). That would indeed be a reversion to normalcy—just not one that Mr Biden will appreciate.