



May 5, 2022

WHAT YOU NEED TO KNOW ABOUT Labor Policy and the Midterms

PRO POINTS

- **A Republican takeover of one or both chambers of Congress could upend President Joe Biden's goal of enacting sweeping changes to how workers are treated in the U.S.**
- **Republicans have already set their sights on Labor Secretary Marty Walsh and other Biden appointees who have carried out Biden's agenda, setting up the potential for oversight clashes.**
- **But some issues could draw bipartisan compromises, like workforce development.**

HOW WE GOT HERE

Biden has styled himself the most pro-labor president since FDR. He's appointed former union officials to top administration jobs, raised the minimum wage for federal contractors and ensured that projects funded by last year's bipartisan infrastructure deal will be subject to prevailing wage requirements.

The threadbare Democratic majorities in Congress have buoyed Biden's aims, but several of his priorities have already run aground as some centrist members have expressed reservations about raising the minimum wage and other substantive policy changes.

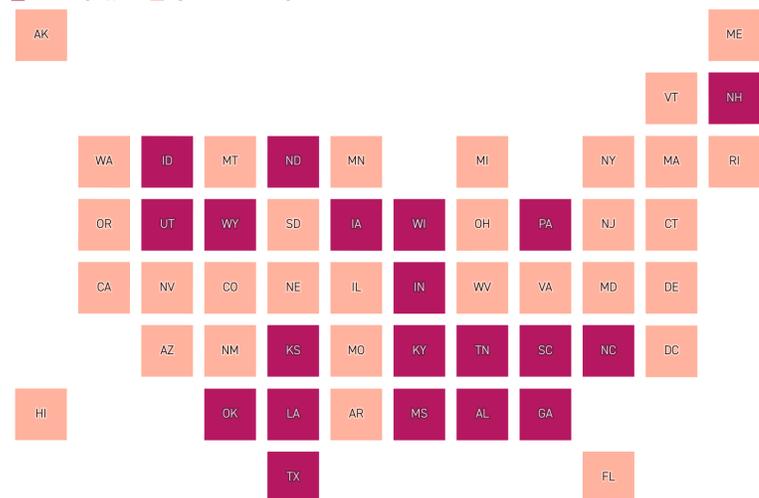
But those ambitions could be further pared back if Republicans take back control in one or both houses of Congress.

Biden campaigned on setting a \$15-an-hour minimum wage. But he's already faced headwinds selling it to Senate Democrats' moderate wing, and rising inflation is only making that task more difficult. It would be a nonstarter under Republicans.

\$7.25 federal minimum wage applies to 20 states

Minimum wage by state, as of Jan. 1, 2022

■ Federal wage applies ■ Higher than federal wage



Source: Department of Labor
Map: Annette Choi / POLITICO



It is safe to say that many of Biden's big-ticket items would be rejected out of hand by the GOP, particularly anything pertaining to labor unions, meaning that there is a lot of pressure on Democrats to push through what they can in the next few months.

For instance, organized labor continues to press hard for passage of the PRO Act — H.R. 842 (117) — which is the most substantial rewrite of federal unionization laws since the Taft-Hartley Act of 1947. The hope had been to hitch the legislation to Biden's now-stalled Build Back Better plan and, barring some revival by year's end, it could be years before the PRO Act has a chance of passing.

WHAT'S NEXT

Some of the president's labor-centric policies, like a vaccine-or-test mandate for large employers, have already met hostile reactions from the federal judiciary, and an increased reliance on unilateral actions will surely bring more court standoffs.

However, there are at least some areas with potential for bipartisan compromise, as the infrastructure deal showed. Workforce development may be one.

The House Education and Labor Committee spent months working on a revamp of the Workforce Innovation and Opportunity Act, the main vehicle for the federal government's workforce development system. However, those talks broke down and committee Democrats passed their own version in April. A version Republicans could back would certainly look different, but there is potential for deal-making.

Yet, those efforts could be complicated by hard feelings that stem from the GOP's increased oversight authority if they are in the majority.

Rep. Virginia Foxx (R-N.C.) is in line to chair Education and Labor under a GOP majority, and she has not been shy about her plans to scrutinize Labor Secretary Marty Walsh and other Biden administration officials.

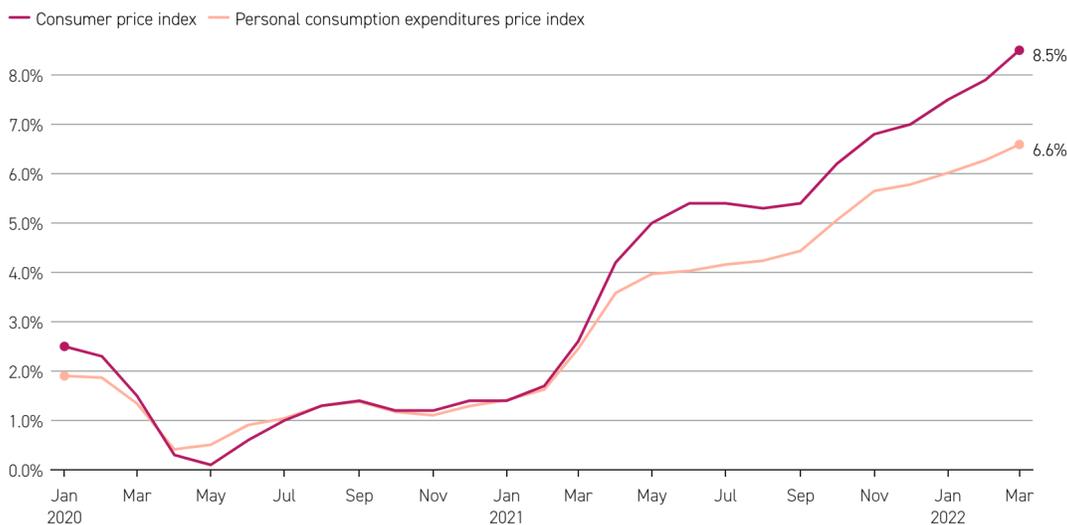
Foxx is deeply skeptical of Walsh's relationships with labor unions and has repeatedly denounced the administration's policy moves as being skewed in their favor. Expect a lot of demands for documents and the summoning of Labor Department leaders and others, which could bog down agency policymaking.

A Senate takeover could have even more consequences, as Republicans would then be able to roadblock Biden's nominees. The president's first pick to lead DOL's Wage and Hour Division failed on the Senate floor under a 50-50 Democratic majority, and it's hard to envision a nominee for that post who'd pass muster with Republicans in charge. Other posts requiring Senate confirmation could face long stints of acting leadership if vacancies arise as well.



Consumer prices see record yearly increase since pandemic began

12-month percent change



Source: Bureau of Labor Statistics, Bureau of Economic Analysis
Annette Choi / POLITICO

POWER PLAYERS

- **President Joe Biden:** Biden has pressed the limits of what a presidential administration can do on the labor front over his year-plus in office. He swiftly booted two Trump appointees at the National Labor Relations Board and installed his own, drastically shifting the agency's priorities as it oversees organizing fights across the country. His administration also issued wide-reaching Covid-19 policies through the Labor Department's Occupational Safety and Health Administration and other agencies, though the courts have hamstrung some of those moves. He is likely to face intense congressional scrutiny under a Republican Congress.
- **Virginia Foxx:** The North Carolina Republican is no fan of labor unions and the sway they hold with the Biden administration. As the top Republican on the Education and Labor Committee, she has laid the groundwork for many lines of inquiry, should Republicans grab the gavel. That said, she is a big proponent of workforce development and apprenticeship programs — something to which the White House may be receptive.
- **Richard Burr:** Another North Carolinian, Burr is retiring at year's end. That will open up Republicans' top spot on the Senate HELP committee, regardless of whether the GOP is in the majority. A firebrand like Sen. Rand Paul (R-Ky.) would be a departure from the genial Burr, and Sen. Mike Braun (R-Ind.) is the ranking member of the Employment and Workplace Safety subcommittee.
- **Joe Manchin:** The Democratic senator from West Virginia has been a thorn in the side of Biden and the rest of the Senate Democratic caucus. Manchin supports the PRO Act, but not eliminating the filibuster to pass it. Nor does he support raising the minimum wage to \$15 an hour. His policy preferences will play a big role in what passes in the remainder of 2022 — and what will be left to depend on the results of the midterms.