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THE CURRENT**

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Host: Fred Dews, Office of Communications, Brookings

Guest: Molly Reynolds, Senior Fellow, Governance Studies, Brookings

DEWS: Welcome to The Current, part of the Brookings Podcast Network. I'm your host, Fred Dews.

Over the weekend in bipartisan votes, the U.S. House of Representatives passed four bills in a \$95 billion foreign aid package with monies going to aid Ukraine, to the Indo-Pacific region to counter China, to offensive and defensive weapons to Israel, and to humanitarian aid for Gaza and elsewhere. And one of the measures would seize Russian assets and force a sale of TikTok from its Chinese owner or face an app store ban in the U.S.

Before and now after the vote, Speaker Mike Johnson, Republican from Louisiana, faces a challenge to his speakership from the right flank of the House GOP, a potential repeat of last year's ouster of Speaker Kevin McCarthy. Here to talk about the process of how this all played out and what to look for next is Molly Reynolds, senior fellow in Governance Studies here at Brookings.

Molly, welcome back to The Current.

REYNOLDS: Thanks for having me.

DEWS: As always, exciting times in Congress. Speaker Johnson had resisted putting any of these bills, especially those related to Ukraine support on the House floor for a vote until late last week. What changed his mind?

REYNOLDS: Yeah, it's a good question. I think one helpful way to think about this in the context of assistance to Ukraine is that substantively, and certainly from the perspective of the Ukrainians, this was must pass legislation. It's really important to get this U.S. assistance out the door to support the Ukrainians in their continued fight against Russian aggression.

But it didn't have a sort of hard deadline in the way that some of the other things that we've seen Congress work on this year did. So, thinking about things like the series of measures that the House and the Senate worked through over the past several months to keep the U.S. government funded. If they hadn't acted on those, operations at federal agencies would have temporarily ceased. And so that, there was an action forcing mechanism in the form of a firm date. And that didn't quite exist in the same way for Ukraine aid.

I think the other thing that's important to think about is kind of the political dynamics here. And I think there's a good argument that Speaker Johnson had to kind of exhaust a range of other options before he went ultimately to the one that they used last week. And we can talk more in detail about the sort of four bills, how they got packaged together.

And then lastly, I think eventually he was starting to feel more and more pressure from the members of his conference who do support additional assistance to Ukraine. I think he was feeling additional pressure from them to actually bring something to the floor and if he didn't do it, they might have worked with Democrats to use a different procedural option that went around the speaker to do it. And so, kind of the confluence of those factors I think brought us to where we are today.

DEWS: I do want to dive more into that process question, Molly. But first, since I have you and it's always a masterclass when we talk to you on The Current, can you explain why the Speaker of the House has so much power to drive the agenda, to drive what's going to get onto the House floor?

REYNOLDS: Yeah, so the power that rests in the hands of the speaker to determine what the House is going to consider, that's been a sort of evolution over time in the history of the of the U.S. Congress. And we've seen in the past about 30 years, so really since the Republican Revolution in 1994, we've seen a rise in the speaker's power. We sort of talk about this as the centralization of power in Congress. The same is true in the Senate. We see much more power being vested in the Senate majority leader as well. There are differences between the two chambers. That means that it's easier for the Speaker to exert that influence on the floor than it is for the majority leader in the Senate.

But as the parties in Congress have become more polarized and more different from each other, there have been reasons for kind of the individual members of the two parties to want to give their party leaders more power, to want to give them power to sort of structure the agenda in the way that's gonna be maximally beneficial for their party and try and be as unhelpful as possible to the other party to try and secure electoral advantage.

And then, once rank and file members have ceded that power to the speaker, it's really hard to get it back. Once they've vested power in more central actors in the chambers, those actors don't want to give it up. And we only see them give it up in circumstances where some group within the party tries to stand up and say, no, there's too much power in the hands of party leaders. Sort of a faction tried to make that happen a little over a year ago in the context of Kevin McCarthy and his efforts to get elected Speaker.

One of the lessons from what happened with the foreign assistance package last week is that in some circumstances, even when you devolve some power out of the hands of the Speaker and into other parts of the coalition, that doesn't always rule the day. You can, as we did in this case, see sort of bipartisan coalitions emerge when there are intransigent holdouts within the majority party, even in this world where they have managed to extract some power back from the Speaker.

DEWS: I think that's one of the most fascinating things about House coalitions and legislating in the House today is this idea that if a bill would only make it to the floor and just be put up for a vote, a lot of these bills would have bipartisan support as these four bills did across party lines. But there's this thing called the Hastert rule, right, which well, you can explain what the Hastert rule is. And it seems like Speaker Johnson violated it in all four cases this time.

REYNOLDS: Yeah, so the Hastert rule is actually—we call it a rule, it's not written down in the formal rules of the House. And so, it's probably better described as a practice that dates to when Denny Hastert was Speaker of the House. And the idea is that a Speaker trying to kind of respect the opinions of the members of his party should not bring something to the floor of the chamber unless it's going to get a majority of the members of his own party voting for it. So, a majority of the majority.

And it's been pretty clear for a while that all four parts of this package, this foreign assistance package that moved last week, particularly the part that provides additional assistance to Ukraine, which has been kind of the longest simmering piece of the four, that the votes were there for the substance. All four components of this package got more than 300 votes on the floor ultimately of the 430 something current members of the House with the current roster of vacancies. So, it was clear that the support was there if only they would get to the floor.

But as you mentioned, there were lots of Republicans who were not in favor of bringing particularly the piece related to Ukraine to the floor. And so, Johnson had to kind of go a less common procedural route. It's not unprecedented. One of my biggest lessons from watching Congress is that there's very little that's never happened before. There's very little new under the sun. But Johnson did have to rely on Democratic support at two key places where usually a Speaker does not rely on minority party votes.

The first of those was in what we call the Rules Committee. So, if the Speaker of the House is the person who gets to decide what is going to come to the floor of the House, the Rules Committee is an important tool in the Speaker's arsenal for actually making that happen. And so, when something big and consequential like a measure providing large amounts of foreign

assistance is going to come to the floor of the House, usually it goes through the Rules Committee. And the Rules Committee has a super majority of members of the majority party. And in practice in recent decades the bill will come to the Rules Committee, they will debate which if any amendments are going to be allowed to be offered when it's actually on the floor of the House. They'll decide are there other things that we need to stipulate in terms of the terms for debate?

And then the Rules Committee, again, in recent practice, all of the members of the majority party vote for the rule, all of the members of the minority party vote against the rule in committee. It goes to the floor, and then all of the members of the majority party vote for the rule on the floor, and all of the members of the minority party vote against it. And those are just really key tools that, again, the Speaker has to set the agenda.

We call this sort of the Speaker's procedural majority. If he doesn't have the votes from the members of his own party to actually make this happen, even if ultimately some number of them vote against the underlying bill, it's been seen in recent decades as their job, part of their job as members of the majority party to take these procedural votes with their party leadership in order to be able to effectuate what the majority party leadership wants to do in terms of setting the agenda.

What happened last week was a departure from both of those norms. So, in the Rules Committee, the rule for these measures got nine votes. Five of them were from Republicans. Four of them were from Democrats. And so if those Democrats had not voted with the Republicans, which is really unusual in recent decades, the last time we had a similar situation where members of the minority party voted with the majority to get something out of the Rules Committee, it hasn't happened since we sort of started keeping track of this in 1995.

And so that was a a break in norms on the part of Democrats to get around some of these intransigent Republicans. There are a couple of intransigent Republicans on the Rules Committee because they got put there by Speaker, then Speaker McCarthy last year in order to, as part of his negotiations to shore up support in his quest to be Speaker.

And then once the bill came to the ... once the rule came to the floor for a vote there, it also got got votes from Democrats that it needed to pass. There were 55 Republicans who voted against the rule, again, setting those terms for debate. And so, and again, that is not unprecedented, but is unusual in this era of really strong party discipline.

DEWS: here was actually a fifth bill, and that was around US-Mexico border security, and it required to pass two-thirds vote. It did get a majority vote because every Republican voted for it. Most Democrats voted against it. But why would that bill require two-thirds vote to pass?

REYNOLDS: We're doing a real master class here, Fred. So, most substantive legislation that goes through the rules committee, but there's another avenue that a Speaker can use to bring things to the floor. And that's something called suspension of the rules. And it means that rather than having amendments offered to a bill rather than going through a number of other

sort of procedural steps, the Speaker can choose to not send something through the rules committee, but the kind of cost then is that it has to be under the rules of the House, it has to get two-thirds majority support in order to pass.

And so, historically, in kind of recent decades, we've seen the suspension process used for things that have brought bipartisan support, things that we would in some cases call mostly symbolic. In some cases, they do make substantive change, but they're not big, sweeping pieces of legislation. And so, it's much faster to move them through this alternative process, and they can clear that higher vote threshold.

What has been an interesting evolution in this Congress is that the Speaker has actually had to use the suspension of the rules process to move a number of pieces of substantive legislation because there are these hard-line Republicans on the Rules Committee who were put there by then-Speaker McCarthy and because that faction, sort of the House Freedom Caucus and its allies, has demonstrated the willingness to try and vote down special rules for other things on the floor when they are unhappy about the substance of the underlying bill. So, we've seen Speaker Johnson in a number of situations use the suspension route to move things that he knows have broad bipartisan support.

This time, rather than trying to move the four bills in the foreign assistance package via suspension, he went through Rules, but ultimately to get through Rules, he did have to rely on Democrats, again, in a departure from recent norms.

DEWS: Molly, I'm gonna cast my imagination back to the 1970s. I'm just a bill. Yes, I'm only a bill and I'm sitting here on Capitol Hill. Old school, we would expect legislation to be introduced and be assigned to some committee, say the House Foreign Affairs Committee, and they'd debate it and maybe they'd pass it, maybe they wouldn't, and then it would go to the floor. Does that still happen anymore?

REYNOLDS: Yeah, so I actually think this package is a really good illustration of something that's increasingly common in the House and the Senate, which is, so we've been talking about how there are four pieces to this package. One involves providing additional assistance to Ukraine, one additional assistance to Israel, one assistance to sort of the Indo-Pacific region, and particularly to Taiwan. And then the fourth is kind of a little bit of a catchall item that contains a number of different provisions. You mentioned the provisions related to seized Russian assets. There's a piece in there called the Fend Off Fentanyl Act to combat fentanyl trafficking. That's also where the language requiring divestment in TikTok is.

And a number of those pieces that are in that fourth bill did go through committee as standalone bills. So, the Fend Off Fentanyl Act went through the Senate Banking Committee where it received sort of deliberation in committee. The House Energy and Commerce Committee had considered a TikTok divestment legislation and actually reported out a divestment bill with an overwhelming bipartisan majority.

And so, one of the things we see now in Congress is that sometimes pieces of legislation will get deliberation and committee. Committees will work on them. And in that sense, we still have some of that dynamic from kind of the older what we might call textbook legislative process.

But where the process has really changed is in how do they come to the floor, how do they get passed on the floor. And much more often now, we see these disparate pieces of legislation, even if they've been worked on in committee, there are often reasons why they get packaged together into a larger piece of legislation and all get passed together. Sometimes that's simply because it is particularly the Senate, there are that bills often have to overcome than they're used to be. And so it just is simply easier to do more things at once.

And often it's a matter of coalition building, that maybe there are some folks who really care about the fentanyl pieces. Maybe there are some folks who really care about the TikTok pieces, so on and so forth. And if you bring them together into one bill, sometimes that can help you sort of get over the finish line or at the very least, you only have to build that coalition to clear the hurdle in the House, clear the 60-vote hurdle in the Senate, you only have to do it once.

And so that's a really, I think, common dynamic in the contemporary legislative process where we still do see committees working on things. And one of the bigger departures is how those things even that committees work on sometimes get processed on the floor.

DEWS: So, now these four bills go to the Senate. What happens next?

REYNOLDS: So, we're recording this on Monday morning. The Senate is currently scheduled to take its initial procedural vote on the package on Tuesday. And then if that vote carries, and that's a vote at a 60-vote threshold, if that carries, there are up to 30 additional hours of time. It will be up to the opponents of the package to kind of sustain that full 30 hours. And so, if either they don't want to or there's just agreement to move more quickly, I think we would expect the Senate to have passed this measure by midweek.

DEWS: So, let's finish up on the politics of this, Molly. Last year, of course, the right flank of the GOP conference ousted Speaker Kevin McCarthy. A few of them, even last week, threatened to do so again, oust Speaker Johnson over these bills, especially the Ukraine piece. It seems pretty easy for one member of the House to offer a resolution to, I think it's called, "vacate the chair." So, why is that and what would the process look like in this case going forward?

REYNOLDS: Sure, so sort of the way this works is that basically, we talked before about how generally the Speaker has a lot of control over what happens on the floor, but there are some particular, what we call questions of privilege that any member can raise. One of them involves offering a resolution declaring the Office of the Speaker vacant. We sort of shorthand this as the motion to vacate, but more formally, it's a resolution declaring the speakership vacant.

And for a long time, that was something that any member could offer. When Nancy Pelosi became speaker after the 2018 midterms, there was a change made to the rules around offering this motion to vacate to make it harder to do, harder for any single member to do on

their own. When Kevin McCarthy in January of 2023 was negotiating with the hardline holdouts in his conference around getting elected speaker, he made a concession to go back to the easier approach, the process by which any one member could do it. And then sort of that's what we saw happen to him in September of 2023. That was the first time that someone had been removed a Speaker using this particular mechanism.

You're right that some Republicans have threatened to do the same to Mike Johnson. I think the circumstances are a little bit different here than they were for Kevin McCarthy. And I think they're a little bit different for a couple of reasons. The first is that the amount of time it took Republicans to coalesce around a new Speaker last fall after ousting McCarthy, it took several weeks. And there are lots of Republicans who are not eager to revisit that experience.

I also think that the calculation is different for Democrats now than it was for McCarthy. I think that is true both in that by the time McCarthy was ousted by, and that was basically a group of hardline Republicans voting to oust him along with all of the Democrats. At that point, McCarthy had managed to anger basically every element of the Democratic caucus. They found it difficult to trust him. They were unhappy with the way in which he had walked away from the deal related to raising the debt limit that he had negotiated with President Biden. And so, there was not a lot of appetite among Democrats for voting to save McCarthy as Speaker.

I think now with Johnson, one of the key differences is that Johnson just facilitated something that was quite important to many Democrats, which is providing additional assistance to Ukraine. So, I wouldn't go as far as to say sort of that was the sort of quid pro quo, but I do think that it just means the politics are different, that Mike Johnson did just sort of satisfy something that was really important, is really important to many Democrats. And so, we may see him face a vote from the floor, but I think it's less likely that he's actually ousted than it was for Kevin McCarthy last year.

DEWS: All right, well, let's leave it there. Molly, thanks as always for sharing with us your expertise and insight on these matters and we'll come find you the next time we need to have a master class on what's happening in Congress. Thank you.

REYNOLDS: My pleasure. Thanks for having me.