

## The Hastert rule is severely limiting Speaker John Boehner's ability to negotiate a compromise over the shutdown.

*In response to Newt Gingrich's tumultuous term as House Speaker in the 1990s, his successor, Dennis Hastert, took a much more consensual leadership style, bringing no bill to the House floor unless supported by a majority of the majority party. This informal arrangement is now known as the 'Hastert Rule'. [Joshua Huder](#) and [Marian Currinder](#) look at how the strict adherence to this rule by current Speaker John Boehner has led to the two most recent Congresses being the least productive since the Civil War, and is a direct cause of the current deadlock over the government's funding bill and the debt limit. They argue that if Boehner really believes in keeping the government open, he may have to set aside the Hastert Rule for the time being.*



House Speaker John Boehner's current predicament is as challenging as it is familiar. Once again, he is caught between placating House Republicans, and passing legislation that can survive the Democratic-controlled Senate. With funding the federal government and ending the shutdown at stake, he must decide whether to lead his party by adhering to the Hastert Rule, or forge some sort of compromise with Democrats and effectively break the rule.



Understanding Boehner's dilemma requires understanding the Hastert Rule's origins. First, the rule is not really a rule. It cannot be found in the rules or the precedents that govern House floor procedure. The term is derived from a practice that former House Speaker Dennis Hastert adhered to when bringing bills to the floor. In short, nothing comes to the floor unless it is supported by a majority of the majority party. The practice started as an informal pledge but over time developed into a procedural norm.

The rule made sense during Hastert's speakership (1999-2007), as the party that he and his leadership team inherited was divided. In the wake of Speaker Newt Gingrich's tenure, the Republican conference needed a team-player who could bring a diverse and unhappy majority together. Gingrich's aggressive, top-down style of leadership splintered the Republican conference and eventually cost him the speakership. He shouldered most of the blame for the 1995-96 government shutdown, and pursued impeaching President Clinton despite broad public disapproval. After Republicans fared poorly in the 1998 election, and amidst rumors that his speakership was in jeopardy, Gingrich resigned from Congress.



Hastert as Speaker during the 108th House of Representatives. Credit: Wikipedia

In the wake of Gingrich's tumultuous rise and fall, Dennis Hastert was elected Speaker. His leadership style was a welcome contrast to that of his predecessor. Where Gingrich would boldly take positions without his conference's consent, Hastert consulted with members before deciding a path forward. He listened closely to his colleagues

and sought out positions that a majority of them would support. Eventually, Hastert's approach evolved into a party principle.

As Speaker, Hastert applied the rule uniformly—even on bills that he supported but a majority of his members did not. In this way, he fostered greater party unity and a more team-oriented approach to legislating. Use of the rule has become an expectation, and today it often determines which bills are brought to the floor for consideration.

In theory, the rule makes good political sense for speakers who are comfortable with a more consensus-driven approach to legislating. But as the current Congress's inability to pass a funding bill demonstrates, the same rule that can unite a party can also severely limit a speaker's ability to negotiate a compromise. Almost any bill that a majority of House Republicans support, the Democratic controlled Senate opposes. The ideological distance between House and Senate majorities has obstructed passage of most significant legislation this Congress and last. This is the primary reason that the last two congresses have been the least productive since the Civil War. And based on the number of roll call votes taken in the House this year, the 113<sup>th</sup> Congress is on pace to be 35-percent less productive than the 112<sup>th</sup> Congress.

On some policy issues, Boehner has chosen to abandon the rule and rely on House Democrats to pass pressing legislation. In the 112<sup>th</sup> Congress, he passed two omnibus spending bills and the 2011 Budget Control Act with Democratic votes. And this year, he relied on Democratic votes to pass the Violence Against Women Act (VAWA) and the Hurricane Sandy Relief Bill. Taken together, these bills account for a very small percentage of total votes. However, Boehner's decision to deviate from the rule his conference expects him to follow has damaged his reputation within the party. The question today is whether he is willing to risk defying the will of his majority to get a funding bill passed.



Speaker of the House John Boehner Credit: Gage Skidmore (Creative Commons BY SA)

The various spending measures, the VAWA, and the Hurricane Sandy Relief bill are different from the funding bill for several reasons. Most had strong bipartisan support in the Senate, which made it easier for Boehner to justify violating the rule and bringing those bills to the House floor. The fact that the Senate-passed funding bill (which Boehner is under increasing pressure to bring to the House floor) was voted out on party lines complicates the situation. Just one Republican Senator (Mark Kirk) voted for final passage, and all Senate Republicans voted to defund Obamacare. Without cross chamber pressure, it will be harder for Boehner to justify bringing a clean funding bill to the floor.

Another issue is timing. The VAWA and the Hurricane Sandy Relief bill were by all means consequential, but neither had firm deadlines. The funding bill and the yet-to-be-considered debt limit measure have deadlines that come with serious economic and political consequences. This puts Boehner in an even more precarious position.

The Hastert Rule has been the procedural and philosophical standard of Republican House majorities since 1999. Speaker Boehner obviously does not want to bring bills to the floor without a majority of his majority's support, but to what end? If Boehner believes keeping the government open and operating is a good idea—and reports indicate that he does—then adherence to the Hastert Rule (in this instance) may be a bad idea.

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*Note: This article gives the views of the authors, and not the position of USApp— American Politics and Policy, nor*

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