

A Familiar Target: Reforming the Appropriations Process in Congress

Craig Goodman
Assistant Professor
School of Arts and Sciences
University of Houston-Victoria
3007 N. Ben Wilson
Victoria, TX 77901
GoodmanC@uhv.edu

Abstract: In this paper, I start exploring the development of the appropriations process in the United States House of Representatives during the 19th century. The Ways and Means Committee had an extensive policy portfolio because of their control over revenues and expenditures, but the committee did not exercise complete control over the floor. In particular, the use of riders delayed the appropriations process and created numerous political problems and the House was forced into efforts to restrict their use.

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Introduction

Conflicts between Democrats and Republicans over the size and scope of the federal government are not new nor are disputes over how to pay for national commitments. As the nation faces a perilous financial future, members of each party have been advocates for different reforms that would improve the financial health of the United States. For example, the legislative battle over raising the debt ceiling during the Summer of 2011 resulted in the creation of a 12-member “supercommittee” that was responsible for finding \$1.2 trillion dollars in cuts or else the spending cuts would occur through sequestration and fall evenly on domestic and defense discretionary spending. Rather than rely on regular order, the annual appropriations process, Members of Congress sought alternative arrangements.

The willingness of Congress to rely on alternative procedures for managing the nation’s finances is not new. To contemporary observers of the appropriations process, the most well-known development was the passage of the Congressional Budget and Impoundment Control Act in 1974 that established a formal budgetary process. These reforms were needed because of weaknesses in the appropriations process in which the Appropriations Committees did not consider spending as a whole and lacked control over backdoor spending, such as Social Security and Medicare (Schick 1980). Following these reforms, Congress is required to adopt a budget resolution by April 15th that sets the broad parameters for federal spending and provides an overall target for how much money is available to the Appropriations Committees.

Despite the requirements, the budgetary process has not provided the clarity and guidance for the appropriations process as its supporters had hoped. In fact, the inability of the Senate to pass a budget resolution in more than three years has become a political issue on Capitol Hill. Schick (1980) noted that the Appropriations Committees served to guard

against waste and extravagance in Congress as well as controlling expenditures in the executive branch. The demise of these norms led to an increase in the number of earmarks so that Members could secure funding for favored projects and leaders could use the promise of earmarks as a mechanism for building coalitions to pass legislation.

The battles over policy and process in Congress are critical, but these battles have existed from the earliest days of the republic. One of the challenges that exists is there are no clear guidelines for how Congress is supposed to exercise its responsibility for spending and that has resulted in continual battles over process as well as substance. Most of the work on the appropriations process and/or budgetary process highlights the post-1974 reforms although Stewart's (1989) work on the establishment of the Appropriations Committees following the Civil War stands as an exception. In this paper, I will investigate the development of the Ways and Means Committee in the House of Representatives and explore some of the legislative efforts to restrict the use of riders on appropriations bills in the 19th century.

Historical Background

Article I, Section 9 of the Constitution provides Congress with responsibility for managing national expenditures and is the only mention of spending included in the Constitution (Schick 1980).¹ During the colonial era, settlers asserted that the power of the purse rested with the legislature and control over spending is one of the bulwarks of legislative power (Luce 1935). While no money may be drawn from the federal treasury except through the passage of an appropriations bill, the Constitution left the particulars to Members of Congress. The lack of clear guidance and the absence of restrictions have created opportunities for legislators to use the appropriations process as a means to an end.

¹ Depending on the definition of revenue, the Constitution does include language that all revenue bills should originate in the House of Representatives.

The complexities surrounding fiscal policy emerged during the First Congress as legislators debated the creation of executive departments. Treasury was created along with Foreign Affairs and War, but responsibility for managing the nation's finances was not clearly an executive responsibility (Fisher 1972). The House created a three-member Ways and Means Committee to prepare a report estimating the needed supplies for the coming year (Fisher 2003). Once the Department of Treasury was created, Ways and Means was abolished and the House relied on select committees to draft appropriations bills (Fisher 2003). Initially, the Secretary was directed to report to either branch of Congress, but members found that the relationship with Treasury (Secretary Alexander Hamilton) was too close.

In particular, the House did not want the executive branch to originate legislation and Hamilton eventually resigned.² Following his resignation, the House revived the Committee on Ways and Means to handle recommendations for taxes and appropriations, but Furlong (1968) reported that some committee members met with the Secretary of Treasury in order to conduct business as efficiently as possible. Oleszek (2011) noted that these were initially referred to as supply bills and were not supposed to contain any matters of policy; the only goal was providing specific sums of money for a fixed period of time. Initially a select committee, the House converted Ways and Means to a standing committee in 1802.³ It would take some time, but the Senate created a select Finance Committee in 1815 and converted it to a standing committee the following year (Fisher 1972).

² Fisher (2003) recounted that the House objected when Hamilton wanted to appear before the House and answer questions about the public debt. After rejecting his request, the House drafted a resolution accusing Hamilton of violating appropriations laws, ignoring presidential instructions, and failing to discharge essential duties. Hamilton was cleared on all charges in 1793, but continued to face criticism from the House.

³ Despite its status as a standing committee, Ways and Means did not exercise a monopoly on appropriations bills. For example, the Committee on Public Buildings reported an appropriations bill in 1819 and the Committee on Manufactures reported numerous tariff bills (Fisher 2003).

In the early 1800s, Congress handled the nation's finances relatively easily because customs revenues exceeded government expenses. Congress still relied on executive branch for estimates of annual expenditures that originated in the various departments of the executive branch agencies and departments. The Department of Treasury compiled all of these estimates into a "Book of Estimates" that was sent to Congress. Fisher (1972) explained that the estimates compiled in the executive branch were generally not related to revenues and there was very little focus on national goals. One notable exception was Albert Gallatin, Secretary of Treasury for President Thomas Jefferson, who wanted to reduce the national debt and eliminate excise taxes. During Gallatin's service, military and naval expenditures were reduced (Fisher 1972).

Despite receiving estimated expenditures separate from revenues from the executive branch, Congress was in a better position to produce better policy choices. In particular, the two committees responsible for fiscal policy, Ways and Means and Finance, were controlled both revenues *and* expenditures.⁴ The floor served as an additional check because the relatively small size of the chambers allowed for extensive discussion and close examination of the committees' work (Fisher 1972). For the first forty years, appropriations were confined to a single bill (McConachie 1973), but the House gradually provided separate bills for different responsibilities (Alexander 1916).⁵ While the floor could serve as a check on the committee, its wide range of policy responsibilities beyond revenues and appropriations meant that Ways and Means occupied a great deal of time on the floor and

⁴ When Ways and Means was created in 1802, the House voted to give the committee responsibility for conducting oversight of government spending. However, with responsibility for revenues and expenditures, Ways and Means was unable to fulfill its oversight responsibilities and the House created the Committee on Public Expenditures in 1814 to handle oversight of government spending (Fisher 2003).

⁵ Alexander (1916) explained that there was a separate bill for fortifications in 1823 followed by one for pensions in 1826 and rivers and harbors in 1828. In 1844, the House provided separate appropriations for post offices and deficiencies and for diplomatic relations in 1856. Finally, there was a separate bill for legislative, judicial, and executive expenses in 1857.

its chairman was designated as the “floor leader” and exercised some control over the agenda (Alexander 1916).

The relatively straightforward process for managing national finances grew strained because of a number of the developments. One drain was rivers and harbors bills that provided federal funding for a variety of infrastructure projects and President James K. Polk vetoed such bills in 1846 and 1847. In 1882, President Chester Arthur vetoed a rivers and harbors bill and remarked, “...as the bill becomes more objectionable it secures more support” (Fisher 1972, 95). Besides the rivers and harbors bills, pension fraud associated with the Revolutionary War and War of 1812 created numerous problems.

While the rivers and harbors bills resembled modern day transportation bills with earmarks directing funding to various projects in lawmakers’ districts, riders were a problem in the 19th century. Robert Luce (1935) noted that any system of lawmaking that requires a measure to have more than one approval creates an environment where a measure unlikely to receive the necessary support will find a “ride” on another measure more likely to win approval. Furthermore, he concluded that appropriations bills are common targets because of the need for money to fund government activities and the use of riders provided an opportunity for the House to push through laws that the Senate or the president might oppose (McConachie 1973). Despite a ban on riders in 1814, their use was not widespread during the earliest congresses (Luce 1935; McConachie 1973).

As the party system stabilized, the temptation to use riders increased because national expansion brought more competing interests into government and there were more frequent reversals of partisan control (McConachie 1973). Congress started facing more serious delays in the appropriations process because members were embracing legislative tactics to pursue their preferences. For example, Secretary of the Navy Levi Woodbury reported in 1833 that appropriations were usually two months late every short session and

four months late every fourth session (Fisher 1975).⁶ Representative John Quincy Adams (Whig-MA) suggested that the House avoid this practice by allowing nothing in appropriations bills except appropriations. Adams proposed that the Ways and Means Committee report bills within 30 days of the beginning of the session rather than delaying the reporting of appropriations bills because members were trying to insert various provisions (*Register of Debates*, December 10, 1835). Subsequent debate on the House floor revealed support for Adams's proposition although Representative Aaron Vanderpoel (Jacksonian-NY) believed that any requirements that applied solely to Ways and Means was disrespectful and the committee should not be singled out in such a way and Lewis Williams (Ant-Jacksonian-NC) thought that too many rules would hinder the legislative process. In contrast, Representative Horace Everett (Anti-Jacksonian-VT) wanted to provide the appropriations bills with privilege so they could be taken up before other pieces of legislation.

Much of the debate surrounding Adams's proposed change was procedural as several members, including the presiding officer, suggested that a select committee consider the matter. Adams argued on the floor that a select committee will not produce any change and he wanted a decision from the full chamber on limiting the use of legislation in appropriations bills. Initially, Adams's proposal lost, but the House adopted his instructions (Ways and Means must report within 30 days) to a select committee, 91-76. Adams amended his instructions that appropriations bills be in order unless a majority of the House votes otherwise and that motion was agreed to, but the *Register of Debates* does not include a vote tally.

⁶ The inability of Congress to complete annual appropriations in a timely fashion created problems and Congress authorized the president to transfer funds anytime for certain items in the military and navy budgets (Fisher 1975).

The Rules Committee recommended that no expenditures be in order if they were not previously authorized, but the House did not support the proposal (Fisher 2003). Representative Charles F. Mercer (Anti-Jacksonian-VA) offered an amendment to S. 42 that would distribute money to the states based on the most recent census figures. The House defeated the amendment 88-119, but Representative John Bell (Anti-Jacksonian-TN) offered a similar amendment to a fortifications bill, H.R. 756. The House approved Bell's amendment 114-92, but the Senate refused to accept the changes.

Responding to the frequency of riders, the House agreed to a rule that would keep out of general appropriations bills "...any expenditure not previously authorized by law" (Luce 1935, 426). However, Binder (1997) noted that this rule was part of a larger packet of rules changes considered by the House and the *Congressional Globe* did not record any debate on this rules change on September 14, 1837. This reform was too drastic and the House modified the rule in 1838 so that no expenditures could be included in appropriations bills "...unless in continuation of appropriations for such public works and objects as already in progress and for the contingencies for carrying on the several departments of government" (Luce 1935, 426). Stewart (1989) noted that House Rule 120, which governed amendments to appropriations bills, made it very easy to increase the salaries for federal workers and this was beneficial for political parties that thrived on patronage.

The reforms applied only to riders in the form of appropriations and House members continued to inject extraneous matters into appropriations bills. For example, Anti-Nebraska legislators added an amendment to the army appropriations bill forbidding the use of federal troops for enforcing territorial laws in Kansas (Luce 1935). Facing criticism in the House, supporters of the amendment argued that they were exercising the ancient right of Englishmen to impose conditions on making grants (Fisher 2003). The use of riders

remained widespread through Reconstruction and Luce (1935) reported that there were 387 riders to appropriations bills through 1875.⁷

The House changed the rules regarding riders in 1876 via the Holman Rule, which allowed for substantive amendments to appropriations bills that would retrench federal expenditures (Stewart 1989).⁸ This rules change allowed the existing process to work downward so that government spending could be reduced and Democrats seized the opportunity to direct amendments defunding federal election laws and the use of the army to protect voting rights in the South (Luce 1935; McConachie 1973). President Rutherford B. Hayes argued against the use of riders and believed that any measure should succeed or fail on its own merits (Luce 1935). In particular, President Hayes argued that the use of riders threatened to strip him of his veto power because the appropriations bills were central to the government's operation (Fisher 1979). The adoption of the Holman Rule also reflected partisan politics because the Appropriations Committee in the House of Representatives served as a mechanism for advancing the policy interests of Democrats (Kiewiet and McCubbins 1991; Stewart 1989).

The House returned to the 1838 rules regarding riders in 1885 with one exception: riders, either increasing or decreasing spending were not permitted, except for public works (McConachie 1973). Once a Democrat returned to the White House, Grover Cleveland, there was little need to allow the Appropriations Committee to exercise as much control over policymaking and the House voted to eliminate the Holman Rule (Kiewiet and McCubbins 1991). However, the rule was usually reinstated when the divided government

⁷ Alston, Jenkins, and Nonnenmacher (2006) explored one of the most infamous of these riders: the effort to increase congressional salaries retroactively during consideration of the legislative branch appropriations bill in 1873.

⁸ John Holman (D-IN).

occurred.⁹ Stewart (1989) concluded that divided government was not a perfect predictor of the reinstatement of the Holman Rule, but both parties generally saw the rule as weapon for Democratic House majorities to use against Republican presidents.

Data and Methods

Given the importance of the Ways and Means Committee for controlling revenues and expenditures prior to 1865 in the House of Representatives, I started by examining descriptive statistics involving the committee. Cooper (1970) described the historical practice of considering legislation in the Committee of the Whole before delegating responsibility to select committees to hammer out the final details of the legislation. The use of standing committees as gatekeepers would develop slowly in the 19th century.

Before the ratification of the Twentieth Amendment, there were generally two congressional sessions: a long session and short session. The long session would convene in December of the odd-numbered year and continue through adjournment sometime in the late spring or early summer. The short session would convene in December of the even-numbered year following the elections and stay in session until March and it was populated with legislators who were lame ducks because they were defeated or decided to retire (Goodman and Nokken 2004).

Garrison Nelson, David Canon, and Charles Stewart collected data on historical committee membership and I rely upon that data below in conjunction with NOMINATE data that Poole, Rosenthal, and McCarty have made publicly available. For each congress, I calculated the percentage of seats that the majority party held in the chamber. Using the committee data, I estimated the percentage of seats in each session that the majority party

⁹ The Holman Rule still exists and MacDonald (2010) investigated the use of limitation riders and found evidence that there was an increase in the number of riders that limited bureaucratic discretion during divided government. More importantly, these riders serve as a negative on the bureaucracy, but the riders cannot be used to force the bureaucracy to do anything.

held on the committee. I also examined the level of turnover on the Ways and Means Committee prior to the Civil War.

Figure 1 about here

The Ways and Means Committee was the epicenter of power in the House of Representatives prior to the Civil War. Given its prominent role in shaping policies related to revenues and expenditures, the majority party should have a strong incentive to control the committee. Cox and McCubbins (1993) describe a model of committee assignments based on the effect that the committee has on the party as a whole. The Ways and Means Committee in the post-World War II era had uniform externalities because it dealt with projects on a national scale and there was a heterogeneous group of interests seeking to lobby the committee. Given the responsibilities of Ways and Means prior to the Civil War, it is quite likely that both of these conditions applied.

Figure 1 shows the percentage of seats the majority party held on Ways and Means in each session of Congress compared the overall percentage of seats the majority party held in the House of Representatives between the 4th and 35th Congresses. There is a very clear pattern where the majority party routinely took a greater percentage of seats on Ways and Means compared with what we would have expected if the percentage of seats reflected the overall distribution of the chamber. During the first sessions (the long session), the majority party took a greater percentage of seats on Ways and Means 84.8% of the time and during the second sessions (short session), the majority party took a greater percentage of seats on Ways and Means 78.1% of the time.¹⁰

Figure 2 about here

¹⁰ It is not entirely clear why there would be a difference between the two sessions. The modal outcome is that the percentage of majority party seats was exactly the same in both sessions and that occurred 40.6% (N=13) of the time. In 37.5% (N=12) of cases, the percentage of seats the majority held on Ways and Means was greater during the first session than the second and in the remaining 21.9% (N=7) of instances, the majority party contingent on Ways and Means increased during the second session.

Turnover was much greater in the 19th century House of Representatives than it is today. Even with its central legislative role, there is clear evidence of a great deal of turnover on the committee. In almost every Congress, there are a higher percentage of House members serving their first term on the committee compared with the number of freshmen in Congress. While the party leadership in the 19th century was not particularly strong, the number of vacancies each congress did provide party leaders with an opportunity to place more loyal partisans on the committee, which is what Den Hartog and Goodman (2007) found.

Conclusion

In this manuscript I have started pulling the threads together on the appropriations process in the 19th century House of Representatives before the establishment of the Appropriations Committee in 1865. The 19th century House was a much less institutionalized body than it would become later in the century and while the Ways and Means committee controlled an impressive policy portfolio, it was not yet the dominant actor that it evolved into in the 20th and 21st centuries (Polsby 1968; Groseclose and Stewart 1998). In some ways, the majority party controlled the Ways and Means committee by ensuring control over a sizable number of seats, but there was a great deal of turnover on the committee that would limit the ability of members to develop expertise on the wide range of policies that fell into the committee's jurisdiction.

The material I presented here is largely descriptive and lacks the development of formal hypotheses. However, sketching the broad parameters of the appropriations process before the Civil War provides a roadmap for future research and a more fully developed accounting of how Congress raised and spent money in the 19th century while grappling with the desires of legislators to advance their own policy initiatives through appropriations bills. The first step in the process involves collecting detailed information on each

appropriation bill(s) during each fiscal year. Once I can identify each of the appropriations bills, I can start developing a database of all riders that were offered to appropriations bills and as Luce (1935) documented, the estimated number was not insignificant. At the macro-level, I intend to conduct analyses similar to Kiewiet and McCubbins (1991) and investigate the percentage of riders that succeeded in Congress and whether riders were more common during periods of divided government (Stewart 1989; MacDonald 2010).

In addition to the macro-level analyses, I plan to investigate which members of the House offered these amendments. This provides an opportunity to explore the dynamics of majority party control of the House during this period. Given that many of these riders were controversial, I expect that more partisan and/or more ideologically extreme members of Congress are willing to offer these amendments. In many respects, it provides legislators with an opportunity to engage in position-taking (Mayhew 1974) that might be valuable for their political careers.

While the appropriations process in the House of Representatives was the primary topic in this paper, I plan to extend the analyses to the Senate as well. There are a number of key differences between the two chambers in terms of rules especially the fact that the Senate does not require that amendments be germane to the legislation. Luce (1935) cited Senator Charles Thomas (D-CO) who argued in 1913 that 50% of the objectionable legislation occurred in the form of riders. Furthermore, Luce noted that there were 296 riders in the 65th Congress (1917-1919) and 223 riders in the 66th Congress (1919-1921) and concluded that for senators, pragmatism outweighed principles. While the Senate might have been thought of as a check upon the House of Representatives (Wiris and Wiris 2004), Schiller (2006) investigated the efforts of senators to maintain their electoral coalitions back home. On paper, senators might have opposed the use of riders and complained about

efforts by the House forcing them to accept unattractive policies, senators faced similar circumstances and the use of riders could help them achieve political goals.

Figure 1: Stacking Ways and Means in the House of Representatives

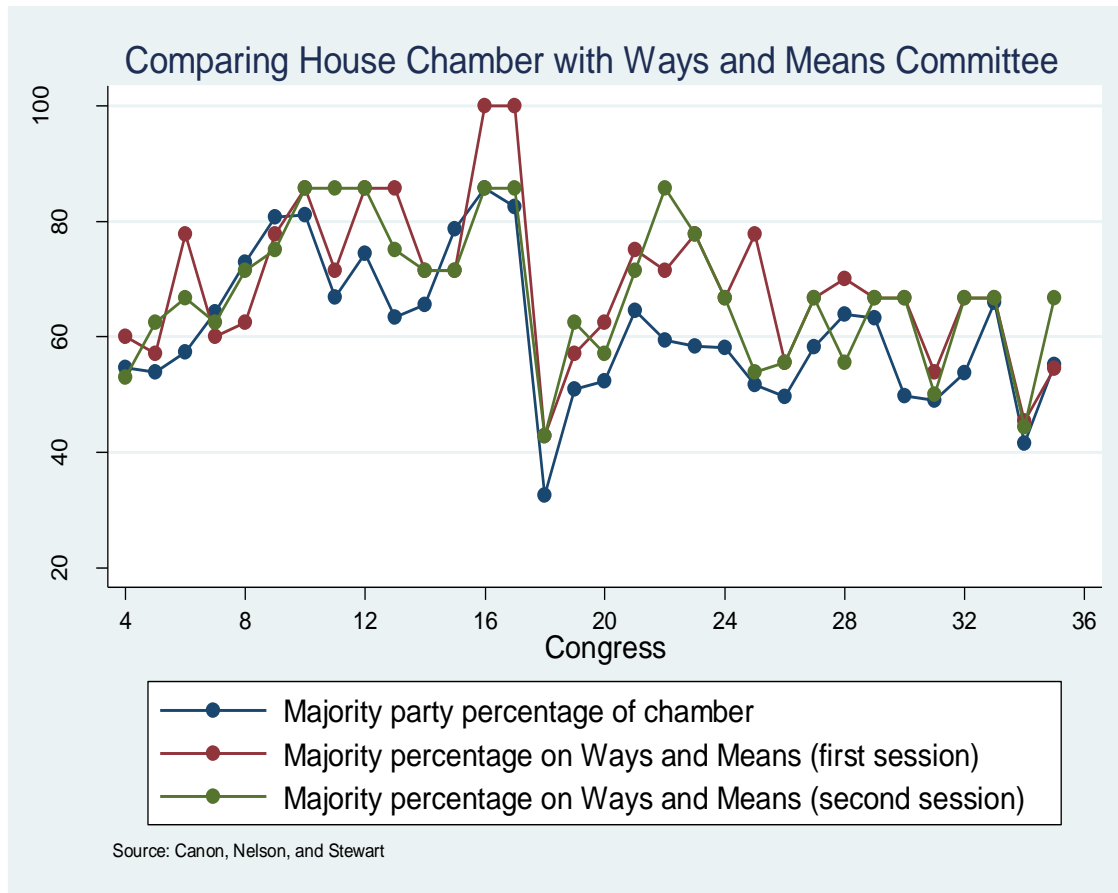
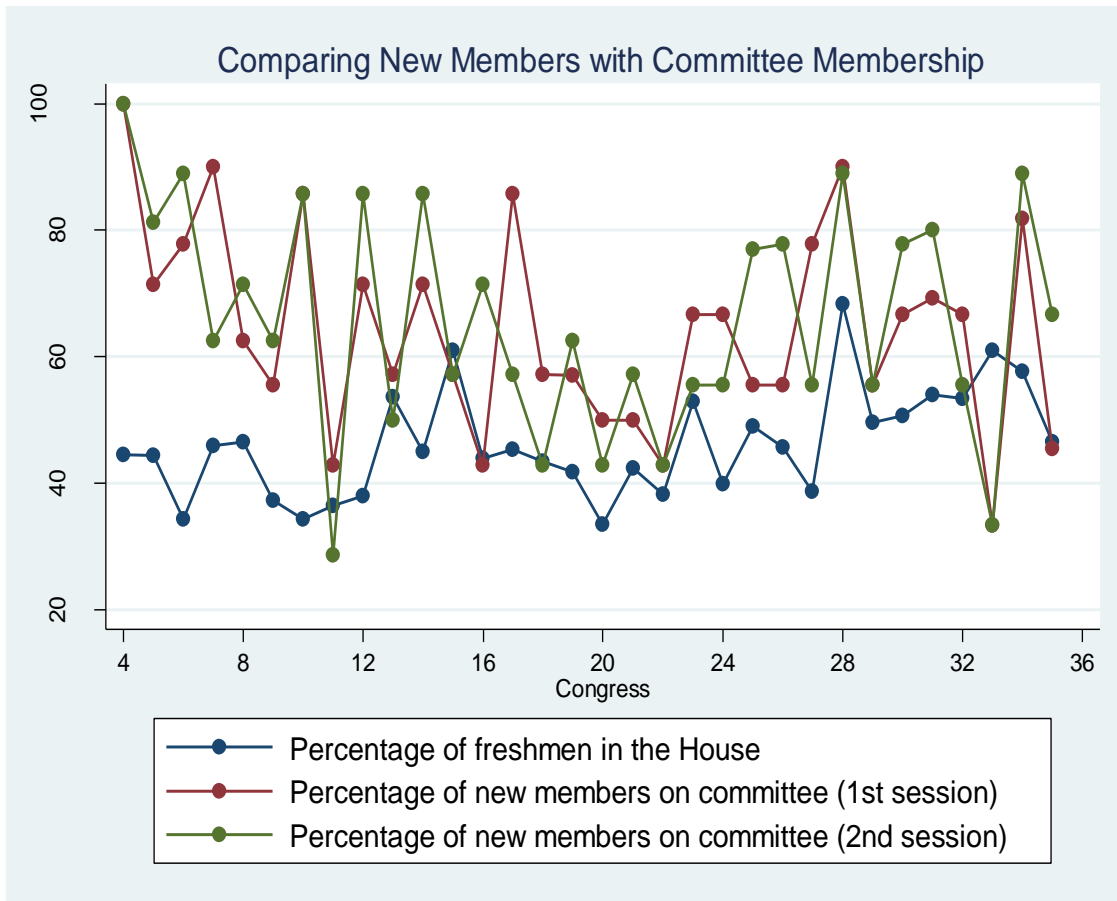


Figure 2: Freshmen Members of the House Compared with New Members of Ways and Means



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