

| Can We Institutionalize More Comprehensive [Oversight in Federal Budgeting?](#)

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Deleted: Reviews in Federal Budgeting

**Statement of Dr. Paul L. Posner,  
Director of Graduate Public Administration Program  
School of Policy, Government and International Affairs  
George Mason University**

**For**

**“Spending on Unauthorized Programs”**

**Hearing before**

**The Committee on the Budget**

**United States Senate**

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## **Statement of Paul L. Posner**

Chairman Enzi, Ranking Member Sanders and other Members of the Committee,

I want to thank you for inviting me to share my thoughts with you on Congressional budget reform. I commend the Committee for taking on this important and challenging project. The growth of unauthorized programs that is highlighted today is one manifestation of the challenges Congress faces in keeping up with oversight and updating of funding authorizations at a time of polarization and gridlock.

It goes without saying that these same trends have significantly hampered the capacity to budget in the Congress. Looking back to the Congressional Budget Act of 1974, the process largely succeeded in addressing one problem by rebalancing power between the President and Congress. Armed with its own highly credible budget office, Congress became a contestant in an annual battle for fiscal position and positioning. However, since that time, the budget process has become embroiled in polarized politics, barely able to keep the government open and financed. When it does achieve this very minimalist goal, it does little beyond providing an allowance for discretionary appropriations. And these ceilings have become increasingly symbolic statements rather than politically realistic targets to guide appropriations decisions. Budgeting has become less an arena to solve fiscal and policy problems together and more of a staging area where positions are taken for primary constituencies and other audiences far removed from running the government.

The challenge you face is how to reimagine a budget process that can enable the Congress to achieve three important objectives: (1) set fiscal policy likely to keep the nation's economy on a sustainable course, both for today and the longer term; (2) allocate resources to assure that scarce resources are used to support the highest priorities; and (3) ensure that government is equipped to deliver public

services in the most efficient and effective way possible. I am well aware that the venture you have undertaken has to not only satisfy public policy objectives, but also must ensure that whatever process reforms are proposed gain sufficient political support.

I would add that you aren't alone in this venture. A number of veterans of the budget process have been working over the past year through a National Budgeting Roundtable co-chaired by Stuart Butler, now of the Brookings Institution, Maya MacGuinness, President of the Committee for a Responsible Federal Budget, and myself. With seasoned former officials like Alice Rivlin and Rudy Penner, we collectively launched a multi-year effort supported by the William and Flora Hewlett Foundation designed to bring in new ideas from academic fields like political science and behavioral economics as well as experiences of other nations struggling with fiscal challenges. My testimony draws from some of the papers and briefing sessions we have held so far.

### **Allocating scarce resources: the inescapable challenge for budgeting**

In my testimony today, I will address how we might improve our capacity to make tradeoffs among competing claims for limited resources. Budgeting is centrally about how to make hard choices. Unlike other policy areas like social security or criminal justice, we have to make these choices every year. As we have learned, failure to do so comes with the high price of shutting down the government.

Ideally, a budget process should facilitate informed tradeoffs among competing objectives, programs and tools of government. Former Congressman Charles Stenholm best described the competition that the congressional budget process was intended to inspire: "This process will require many tough choices as priorities are set among worthy programs. But essentially, all programs will be together in the same boat, competing for priority status as we seek to determine how best to allocate the revenues coming into the U.S. Treasury."

I am concerned that the congressional budget process has strayed far from the vision of Mr. Stenholm and other guardians of the fiscal commons. The tradeoffs and hard choices that budgeting requires are far more difficult to achieve under our current political system than the one we had when the Congressional Budget Act was passed in 1974. The virtual fish bowl of media and interest group coverage makes forming coalitions and winning necessary concessions far more difficult and even politically hazardous for members and presidents alike. The disappearing middle in Washington removed the ballast that is often so essential to bring about fiscal order from the political cacophony that is Washington today.

The disintegration of budgetary norms and processes has left us with these legacies:

--**Delays and stalemates** - Congress has failed to adopt a budget resolution nine times since the 1974 Act. We have largely been operating government on temporary continuing resolutions for most years since the 1970's. The GAO issued a report on the costs of the debt limit for the economy, noting that the uncertainty associated with the 2013 debt limit passage increased federal borrowing costs as borrowers avoided affected Treasury securities, raising their rates.<sup>1</sup> Simply put, the budget process has been unable to insulate itself from the rising levels of polarization that have gripped the nation at all levels of government. Thus, the failure to budget has become a metaphor for the underlying national disenchantment with government itself.

--**Slippage in implementation of Congressional budget goals** - The Congressional budget process built in a tension between the whole and the parts of budgeting. Like the public they serve, Congress often reflects ambivalence between its support for broad fiscal constraints and its support for many of the spending and revenue programs of the government. Thus, for instance, discretionary spending ceilings in

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<sup>1</sup> Government Accountability Office, *Debt Limit: Market Response to Recent Impasse Underscores Need to Consider Alternative Approaches*, GAO-15-476, July, 2015.

the budget resolution lose their appeal when translated to specific appropriations cuts and other actions. The result is either the failure to pass appropriations bills under regular order or the use of “gimmicks” to sidestep the constraints. The expansive use of emergency spending can provide room beyond the caps for certain discretionary spending, while exemption of certain legislation from the PAYGO scorecard enables new mandatory programs to increase deficits.<sup>2</sup>

--**The asymmetrical focus on discretionary spending** in the budget process. This part of the budget often bears the disproportionate impact of fiscal targets and constraints, while existing tax and spending entitlements continue to drift upward with no regular review and little or no limits. Discretionary spending has declined from 9.3 percent of GDP when the Budget Act was passed in 1974 to less than 7 percent today, while mandatory programs have doubled during the same period to 13.5 percent of GDP. Tax expenditures, which function much like spending programs, are estimated at 8 percent of GDP, exceeding discretionary spending, and yet escape regular review. Deficit reduction plans can achieve greater savings in a more balanced way if they are applied against a broader base including spending and tax entitlements. While cutbacks are never easy, they are likely to be perceived as more fair if levied against all claims in the budget affecting all major stakeholders. Fiscal history tells us that stakeholders are not likely to accept the legitimacy of cuts if they are singled out, raising fears that their sacrifice will be exploited by champions of other budgetary claims.

--**Limits on policy tradeoffs** – the current budget process is highly balkanized, with high walls separating programs in discretionary, mandatory and tax expenditure sectors. Related programs for such federal policies as higher education assistance or low-income housing are splintered across this fragmented budgetary landscape. While the budget resolution discusses the 19 budget functions that provide a mission oriented framework integrating related programs across the budget, these

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<sup>2</sup> See Committee for a Responsible Federal Budget, *The Better Budget Process Initiative: Strengthening Statutory Budget Enforcement*, June 25, 2015.

potentially helpful categories are not, in fact, used to prompt appropriators or authorizers to consider how to allocate scarce resources across these competing programs. The inventory of duplicative and overlapping programs compiled periodically by GAO is one reflection of rampant fragmentation across the federal landscape in programs addressing common goals.<sup>3</sup>

### **The Eclipse of Funding Authorizations**

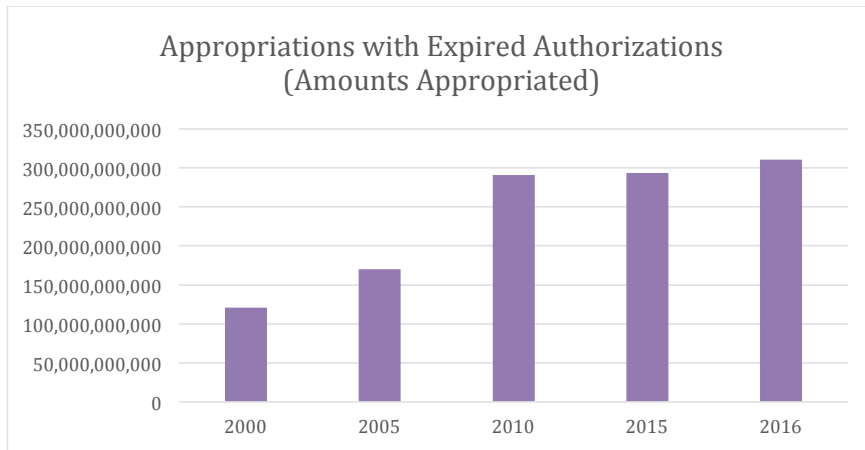
The growth of discretionary spending with expired authorizations has been chronicled in reports by CBO over many years.<sup>4</sup> It is instructive to examine the trends reported over time. The following chart shows the trends in expired authorizations funded in appropriations since 2000.

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<sup>3</sup> Government Accountability Office, *2015 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap and Duplication and Achieve Other Financial Benefits*, GAO-15-404SP, April 2015

<sup>4</sup> The Congressional Research Service has suggested that even when the specific authorization of appropriations expires, some programs and agencies may still be regarded as authorized if they retain underlying statutory authorization for the program. Jessica Tollestrup and Brian T. Yeh, *Authorization of Appropriations: Procedural and Legal Issues* (Washington, CRS, September 9, 2014)

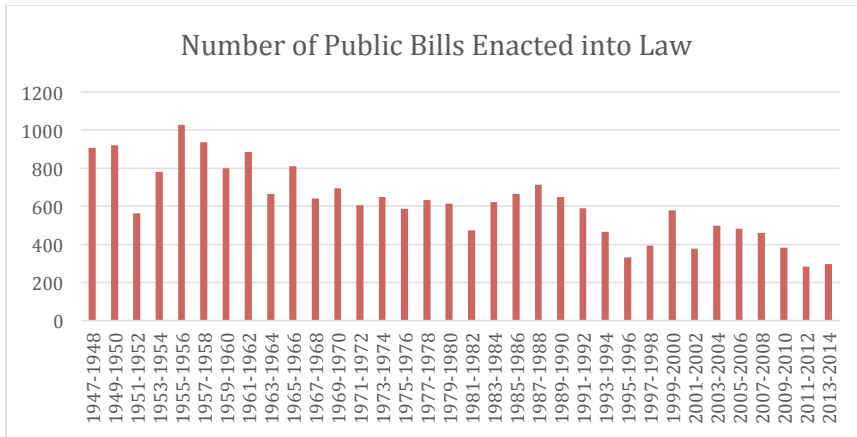
**Figure 1**



There are many reasons for this trend, but this undoubtedly reflects the increasing polarization of the Congress itself. Simply put, it is more and more daunting for authorizing committees to contemplate taking legislation to the floor in a Congress where legislation that once garnered large majorities is increasingly at risk of being trapped by partisan gridlock, reinforced by the expanded use of filibusters and other procedural obstacles. Indeed, studies show that there has been a long term decline in the enactment of public laws over the past 60 years.<sup>5</sup>

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<sup>5</sup> See Jacob R. Straus, “Comparing Modern Congresses: Can Productivity be Measured?” in Congressional Research Service, *The Evolving Congress*, report prepared for the Senate Committee on Rules and Administration, December, 2014, pp. 217-245



Trends in the congressional budget process itself may also be responsible for this trend. At one time, authorizers were eager to pass authorizations of appropriations as a signaling device to influence appropriators. However, the advent of discretionary caps meant that appropriations were increasingly driven by overall 302(a) and 302(b) limits established in budget resolutions and by the appropriations committees.

I share the view that the role of authorizing committees in periodically renewing and reviewing programs is healthy for the budget and for public policy in general. Studies have shown that finite authorizations have prompted committees to engage in a much needed periodic updating of legislation and priorities.<sup>6</sup> Moreover, authorization terms prompted committees to schedule oversight hearings geared to the planned expiration of programs. By doing this, Congress creates a schedule for when a given policy will be considered and systematically steers the management of public programs by changing the resources and tools available to policy implementers. Whether it be periodic surface transportation, farm or higher education programs, the defined authorization period served the purpose of

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<sup>6</sup> Thad Hall, *Authorizing Policy* (Columbus, Ohio: Ohio State University Press, October 2004).



sustaining the relevance of authorizers as a central policymaking and review institution for the Congress.

Finding an institutional fix to reinstitute the incentives for authorizing committees to reauthorize appropriations, however, is no simple matter. As Toelstrup says, the responsibility for authorizations is decentralized in both House and Senate. Each committee makes idiosyncratic choices driven by funding history, legislative challenges and changes in the environment.<sup>7</sup> The failure to reauthorize funding provisions may be related to problems gaining a majority for changes, or it may reflect a consensus that the committee does not feel further changes are necessary. Even though the explicit funding provision may not be updated, the underlying organic enabling statute typically remains in effect. Stronger restrictions on considering unauthorized appropriations could very well be considered. While this could prompt additional hearings and oversight, it may lead to a backlog of programs that fail to pass through the polarized gauntlet that Congress has become. This could either inspire further ad hoc efforts to include unauthorized provisions in appropriations or inspire authorizers to seek permanent funding authorizations that do not expire or require subsequent committee review. Given the fact that authorizations have diminishing influence on cap constrained appropriators in any case, a stronger provision could, in effect, prompt Congressional authorizers to walk back from finite authorizations of appropriations.

### **The Role of the Budget Process**

While much of the responsibility for resource allocation and program review rests rightly on the shoulders of authorizers and appropriators, the congressional budget process itself has largely been missing in action when it comes to oversight, program review and reallocation. The Budget Committee indeed has broader

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<sup>7</sup> Jessica Tollestrup, “ Spending on Unauthorized Programs”, statement before the U.S. Senate Committee on the Budget, February 3, 2016.

perspectives that are important, and different from those of the authorization and appropriations committees.

The most recent CBO baseline report illustrated that the federal budget is on a deficit trajectory, with rising debt to GDP ratios over the longer horizon. While spirited disagreement abounds on what the nation's fiscal policy should be, these figures suggest that fiscal policy conflicts and concerns will preoccupy the congressional budget process for years to come. As Congress struggles to address fiscal issues, the budget process should not only set a single number for discretionary spending, but should provide guidance to other committees of Congress about how to consider priorities across programs and tools.

As we think about priorities for using resources, it has become more apparent that the important goals and objectives of policy cut across the narrow confines of programs, budget accounts, bureaus, and congressional committees. For instance, nearly one half of the budget authority for homeland security is provided by numerous agencies outside the Department of Homeland Security. Indeed, most of the major missions of government transcend the boundaries of the federal government itself, requiring partnerships with state and local governments, nonprofit organizations and private for profit firms. GAO's work points to systemic fragmentation and overlap across government agencies and programs serving common objectives.

A performance assessment process may help lay the groundwork for making choices that not only address macro fiscal goals but also promote improved performance by reexamining existing program commitments. Ideally, such a process would consider the entire portfolio of federal programs and activities addressing similar goals and outcomes, including mandatory and discretionary spending as well as tax expenditures. It would take advantage of the information on goals and performance Congress mandated be developed when it passed the Government

Performance and Results Act Modernization Act, and take advantage of the Act's requirements for consultation with Congress when policy objectives are established.

This kind of necessary, but all-too-rare cross cutting review and reexamination generally does not take place within the confines of appropriations or authorizing committees. Rather, the budget committees were established precisely to lead and coordinate crosscutting assessments of budgetary choices. The Budget Committee not only has a government-wide perspective, but also uses budget functions as building blocks for the budget resolution. Functions and subfunctions serve as proxies for broad missions or goals that can be the foundation for systematic performance assessments of the myriad of programs and tools addressing each mission. Moreover, the annual budget focus gives these Committees a routine responsibility that can be coupled to the process for setting policy goals and assessing performance in relation to those goals.

#### **A Portfolio Approach to Reexamining the Base**

The process that is well suited to the Budget Committee's unique perspective and scope is a portfolio budget review. Most federal policy objectives are supported by a portfolio of funding tools and programs cutting across both executive agencies and committee jurisdictions. Such a review would examine all programs related to a common budget subfunction or objective, whether they be funded through discretionary spending, mandatory programs or tax expenditures. Established congressional institutional and budget practices make it harder than necessary to trade off between related discretionary spending, mandatory programs and related tax expenditures that all contribute to funding higher education, child care, job training, low income housing, and research and development. A process that was organized by goals and associated spending and tax expenditure portfolios would review older claims and programs to either reduce the deficit or to free up resources to fund emerging priorities and programs.

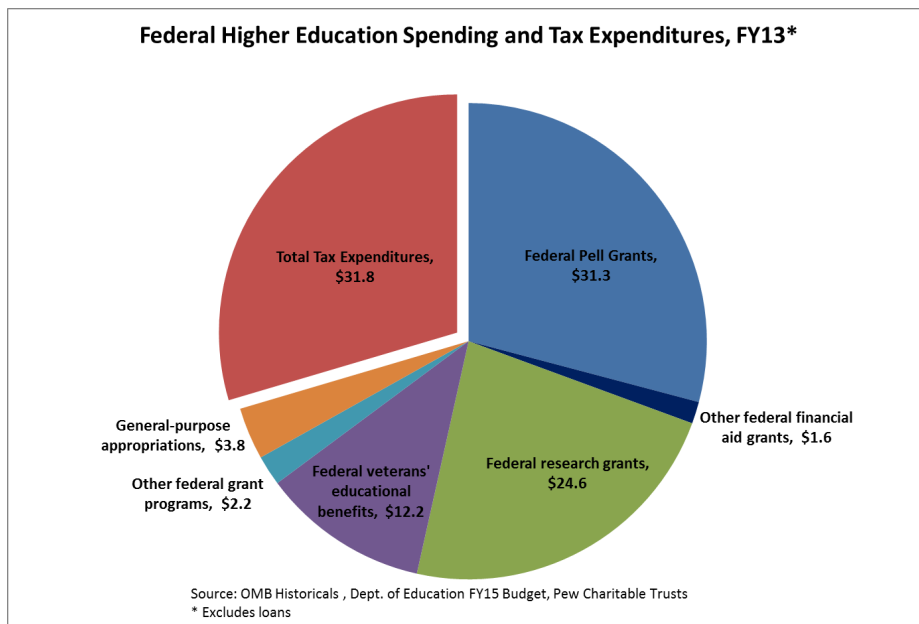
Most nations in the OECD now use a comprehensive spending review process to periodically consider broader policy areas in the budget process. Many nations have learned from the Netherlands, which has been doing these reviews for at least twenty years. The 2010 spending review examined 20 topics and was designed to produce options to reduce spending by 20 percent over four years. So-called Interdepartmental Spending Reviews have been ongoing since the early 1980's, featuring a review of policy arenas that cut across ministries. These initiatives have often included not only Finance and line ministry staff but also outside experts and have led to significant savings over the years.<sup>8</sup>

My colleague, Steve Redburn, and I have developed a paper applying portfolio budgeting to the area of federal aid for higher education.<sup>9</sup> The federal budget provides an array of separate grant and loan programs and tax expenditures to help students pay for college, including special programs for veterans. The chart below shows the composition of federal activity - federal spending for higher education will exceed \$75 billion, slightly more than the States are expected to spend for their public higher education institutions, with an additional \$30 billion of tax expenditures provided through eleven discrete programs in the tax code. These figures do not include federal loans, which now have a total volume of \$700 billion, even though such programs turn a profit annually for the federal budget.

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<sup>8</sup> OECD, *Reallocation: The Role of Budget Institutions* 2003

<sup>9</sup> Steven Redburn and Paul Posner, *Portfolio Budgeting: How a New Approach to Resource Allocation Could Yield Better Decisions*, Washington, National Budget Roundtable, July, 2015



While federal aid has grown, the myriad of subsidies has not been considered holistically, but rather has grown up in an ad hoc fashion, incubated in different congressional committees and federal agencies. It is ripe for review. In many ways, U.S. higher education is the envy of the world. At the same time, many questions have been raised about how effectively the current system of federal grants and loans is contributing to access by those who otherwise would not attend college and whether the increasing reliance on debt is reducing the personal economic returns that otherwise would accrue to those receiving federal support. Questions have been raised about whether federal subsidies are incentivizing states to reduce their own aid for students and inducing universities to raise tuition. Other questions revolve around whether the range of options and interactions among student loan

and grant programs make them hard to understand and challenging for students to calculate how best, when, and where to use them.<sup>10</sup>

The selection of areas for review and performance improvements could be accomplished in the Congress either by the leadership in consultation with the President or by this Committee as a part of the congressional budget process. The existing budget functions and subfunctions could be used as a basis for determining crosscutting policy areas, as intended when they were folded into the congressional budget process.

The budget committees can take the lead in fostering broad based portfolio reviews of major functions or subfunctions. They can do this on their own through task forces, similar to performance based reviews done by task forces of the Senate Budget Committee in the previous decade. The Budget Committee can also do this by working through authorizing and appropriations committees, commissioning portfolio reviews in concert with these committees. Such reviews can be triggered by reconciliation instructions, with committees expected to report savings to be integrated by the budget committees in a reconciliation bill. Alternatively, the authorizing committees themselves could make decisions about which areas are ripe for portfolio reviews through the views and estimates process.

The Executive Branch could be engaged in a collaborative effort to undertake a series of selective portfolio reviews. The President and Congress could reach agreement about those areas to be assessed in each budget year. Congress could help ensure that areas that are ripe for reexamination, such as those up for reauthorization, would get attention in the executive review process. Such a process would require the Congress to articulate its oversight and reexamination priorities

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<sup>10</sup> U.S. Government Accountability Office, *Student Aid and Postsecondary Tax Preferences: Limited Research Exists on Effectiveness of Tools to Assist Students and Families Through Title IV and Tax Preferences* GAO-05-684, July, 2005

centrally and the President to invite Congress to help determine priorities to guide the executive program assessment process.

I don't need to tell this Committee that the performance assessment process I am suggesting will not be easy. There is no low hanging fruit in the federal budget. In fact, performance based assessments of the base of groups of programs will entail the prospect of greater conflict. This new role will require the Committee to gain the support of other leaders in the Congress as well as the Administration. It will be important for this process to be highly selective in its reviews, to avoid being overwhelmed by the sheer amount of work as well as the likely political reaction. Nonetheless, the potential rewards are substantial. Performance assessments carry the promise of transforming the budget process into a more strategic and forward looking vehicle for setting the nation's priorities.

### **Conclusion: Transforming the Budget Committees**

Budget process reforms present risks and opportunities for the Congress and this Committee. The agenda for budget process reform I have laid out would place new demands on the federal budget process in general and this Committee in particular. I am well aware that these emerging roles are even more challenging for a budget process that has trouble simply passing a budget resolution and securing a full year's appropriations for the agencies. Yet the fiscal challenges and the need to update our priorities both call for major new activities and functions that can best be performed by the Budget Committees.

Strengthening Congress' capacity to budget will call for stronger leadership within the Congress and from the President as well. This Committee will be challenged to assert a more proactive role in setting priorities, reviewing government performance and shifting how we budget for the long term. This is a tall order, particularly during a period of polarization that has come to define today's politics.

It may be time to rethink the nature of the budget committees. Established in 1974 as new committees alongside an established committee structure, the budget committees have increasingly been tasked to take on government-wide leadership without sufficient influence over other committees to do the job. Accordingly, some have suggested that budget committees be transformed into leadership committees, comprised of the chairs of the major committees of each house.<sup>11</sup>

An old adage in management suggests that form should follow function. The original design of the 1974 Budget Act contemplated a less ambitious role for the budget committees. Powerful committees were at hand to trim their sails, Yet over time, the budget process has had to adapt to serve new functions – reconciliation, new scoring rules implementing new budget legislation and greater demand for more complex analysis of long term and dynamic economic effects of proposed legislation have all changed the scope and stakes of the congressional budget process. The Budget Committees are at a threshold moment and need to adapt to meet the emerging needs of the Congress and the nation for a revitalized budget process.

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<sup>11</sup> Philip G. Joyce, “Strengthening the Budget Committees: Institutional Reforms to Promote Fiscally Responsible Budgeting in Congress”, paper prepared for the Federal Budget Reform Initiative, Pew Charitable Trusts, January, 2011.