112TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
112–

THE HAMP TERMINATION ACT OF 2011

MARCH --, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BACHUS, from the Committee on Financial Services, submitted the following

R E P O R T

together with

______ VIEWS

[To accompany H.R. 839]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 839) to amend the Emergency Economic Stabilization Act of 2008 to terminate the authority of the Secretary of the Treasury to provide new assistance under the Home Affordable Modification Program, while preserving assistance to homeowners who were already extended an offer to participate in the Program, either on a trial or permanent basis, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "The HAMP Termination Act of 2011".

SEC. 2. TERMINATION OF AUTHORITY.

Section 120 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5230) is amended by adding at the end the following new subsection:

"(c) TERMINATION OF AUTHORITY TO PROVIDE NEW ASSISTANCE UNDER THE HOME AFFORDABLE MODIFICATION PROGRAM.—

"(1) IN GENERAL.—Except as provided under paragraph (2), after the date of the enactment of this subsection the Secretary may not provide any assistance under the Home Affordable Modification Program under the Making Home Affordable initiative of the Secretary, authorized under this Act, on behalf of any homeowner.

"(2) PROTECTION OF EXISTING OBLIGATIONS ON BEHALF OF HOMEOWNERS ALREADY EXTENDED AN OFFER TO PARTICIPATE IN THE PROGRAM.—Paragraph (1) shall not apply with respect to assistance provided on behalf of a homeowner who, before the date of the enactment of this subsection, was extended an offer to participate in the Home Affordable Modification Program on a trial or permanent basis.

"(3) STUDY OF USE OF PROGRAM BY MEMBERS OF THE ARMED FORCES, VETERANS, AND GOLD STAR RECIPIENTS.—

"(A) STUDY.—The Secretary shall conduct a study to determine the extent of usage of the Home Affordable Modification Program by, and the impact of such Program on, covered homeowners.

"(B) REPORT.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report setting forth the results of the study under paragraph (1) and identifying best practices, derived from studying the Home Affordable Modification Program, that could be applied to existing mortgage assistance programs available to covered homeowners.

"(C) COVERED HOMEOWNER.—For purposes of this subsection, the term 'covered homeowner' means a homeowner who is—

"(i) a member of the Armed Forces of the United States on active duty or the spouse or parent of such a member;

"(ii) a veteran, as such term is defined in section 101 of title 38, United States Code; or

"(iii) eligible to receive a Gold Star lapel pin under section 1126 of title 10, United States Code, as a widow, parent, or next of kin of a member of the Armed Forces person who died in a manner described in subsection (a) of such section.

"(4) PUBLICATION OF MEMBER AVAILABILITY FOR ASSISTANCE.—Not later than 5 days after the date of the enactment of this subsection, the Secretary of the Treasury shall publish to its Website on the World Wide Web in a prominent location, large point font, and boldface type the following statement: 'The Home Affordable Modification Program (HAMP) has been terminated. If you are having trouble paying your mortgage and need help contacting your lender or servicer for purposes of negotiating or acquiring a loan modification, please contact your Member of Congress to assist you in contacting your lender or servicer for the purpose of negotiating or acquiring a loan modification.'.".

PURPOSE AND SUMMARY

H.R. 839, the HAMP Termination Act, would terminate the authority of the Treasury Department to provide any new assistance to homeowners under the Home Affordable Modification Program (HAMP) authorized under Title I of the Emergency Economic Stabilization Act (12 U.S.C. 5230), while preserving any assistance already provided to HAMP participants on a permanent or trial basis. The bill also provides for a study by the Treasury Department to identify best practices for how existing mortgage assistance programs can be applied to veterans, active duty military personnel, and their relatives.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 839, the HAMP Termination Act, was introduced by Congressman Patrick McHenry and Chairman Bachus to terminate new mortgage modification activities under the HAMP. Created under the auspices of Section 109 of the Troubled Assets Relief Program (TARP) enacted in 2008 (P.L. 110-343), HAMP is a federally-funded mortgage modification program that provides financial incentives to participating mortgage servicers to modify the mortgages of eligible homeowners.

As the signature piece of the Administration's overall Making Home Affordable initiative on foreclosure prevention, HAMP has been both costly and ineffective. According to the Treasury Department, as of February 3, 2011, the Administration has obligated $29.91 billion to HAMP, although thus far it has only disbursed $940 million. Overall, the Administration has obligated $45.63 billion of TARP dollars to the Making Home Affordable initiative, which also includes the Hardest Hit Fund and the FHA Refinance program.

By any objective measure, HAMP and these other programs have failed to produce their promised results. The Administration originally projected that Making Home Affordable would help 7 to 9 million homeowners, yet foreclosures have remained elevated and the number of assisted families has fallen far short of promised levels. For example, in 2009, an estimated 2.8 million Americans had their homes enter foreclosure. In 2010, that number rose slightly to 2.9 million. Currently, 2.2 million mortgages in the United States are 90 days or more delinquent and around 13 percent of the loans outstanding in the market are delinquent in some way.

HAMP itself, which was initially projected to modify 3 to 4 million loans, has only started 1.47 million trial modifications in its two years of existence. Of those loans trials, only 521,630 loans have been transitioned to a permanent status and remained active. Meanwhile, more than half of the trial modifications started – involving 792,529 loans – have ended up being cancelled. HAMP's lack of success has been so pronounced that the *New York Times* noted in a January 2010 editorial that HAMP has "raised false hopes among people who simply cannot afford their homes".

Additional concerns have been raised about the benefit to participants of a mortgage modification program that gives borrowers a false sense of hope as they struggle to keep their homes. The Special Inspector General for the Troubled Asset Relief Program (SIGTARP) has testified before Congress that HAMP is a program that “benefits only a small portion of distressed homeowners, offers others little more than false hope, and in certain cases causes more harm than good.” That harm comes from having borrowers provisionally make reduced loan payments during a trial period, only to be told that they owe back payments, interest, and fees, sometimes in one lump sum, should they be rejected from the program before attaining permanent status. For some borrowers, that reversal constitutes their last gasp, as their increased indebtedness and tarnished credit rating preclude them from qualifying for a private-sector proprietary loan modification program which might have helped them retain their home.

Finally, in addition to its high cost and poor track record, HAMP has also been plagued by poor administration and resistance to proper oversight since its inception, placing taxpayers at risk. For example, the Government Accountability Office (GAO) has cited the Treasury Department for having not “fully implemented all of our prior recommendations to increase the transparency, accountability, and consistency of the program.” The Congressional Oversight Panel for TARP has noted that “despite repeated urgings from the Panel, Treasury has failed to collect and analyze data that would explain HAMP’s shortcomings, and it does not even have a way to collect data for many of HAMP’s add-on programs.” SIGTARP has added that HAMP “has been beset by problems from the outset and, despite frequent retooling, continues to fall dramatically short of any meaningful standard of success.”

Continued government intervention and bailouts only prolong our current economic crisis and ensure that the housing market will continue to struggle. The market needs to find its own footing free of government intervention and manipulation so that we can get on with a full recovery. HAMP, for all its good intentions, has thus far impeded that process and prolonged our economic woes. Thus, Congress should enact H.R. 839 to immediately end this costly, ineffective, injurious, and poorly run program.

HEARING

The Subcommittee on Insurance, Housing, and Community Opportunity held a hearing on March 2, 2011 entitled “Legislative Proposals to End Taxpayer Funding for Ineffective Foreclosure Mitigation Programs.” The following witnesses testified:

- The Honorable Neil M. Barofsky, Special Inspector General for the Troubled Asset Relief Program, Office of the Special Inspector General
- The Honorable David Stevens, Assistant Secretary for Housing and Commissioner of the Federal Housing Administration, Department of Housing and Urban Development
- The Honorable Mercedes M. Mãrquez, Assistant Secretary, Community Planning and Development, Department of Housing and Urban Development
- Mr. Matthew J. Scirè, Director, Financial Markets and Community Investment, U.S. Government Accountability Office
- Ms. Katie Jones, Analyst in Housing Policy, Congressional Research Service, Library of Congress

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on March 9, 2011 and ordered H.R.839, the HAMP Termination Act, as amended, favorably reported to the House by a record vote of 32 yeas and 23 nays, (Record vote no. FC-19).

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record vote on the motion to report legislation and amendments thereto. A motion by Chairman Bachus to report the bill, as amended, to the House with a favorable recommendation was agreed to by a recorded vote of 32 yeas and 23 nays, (Record vote no. FC-19). The names of Members voting for and against follow:

Record vote no. FC-19

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)			
Mr. Hensarling	X			Ms. Waters		X	
Mr. King (NY)				Mrs. Maloney		X	
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas	X			Ms. Velázquez		X	
Mr. Paul	X			Mr. Watt			
Mr. Manzullo	X			Mr. Ackerman		X	
Mr. Jones	X			Mr. Sherman		X	
Mrs. Biggert	X			Mr. Meeks		X	
Mr. Gary G. Miller (CA)	X			Mr. Capuano		X	
Mrs. Capito	X			Mr. Hinojosa		X	
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)		X	
Mr. McHenry	X			Mr. Baca		X	
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. Marchant				Mr. David Scott (GA)		X	
Mr. McCotter	X			Mr. Al Green (TX)		X	
Mr. McCarthy (CA)	X			Mr. Cleaver		X	
Mr. Pearce	X			Ms. Moore			
Mr. Posey	X			Mr. Ellison		X	
Mr. Fitzpatrick	X			Mr. Perlmutter		X	
Mr. Westmoreland	X			Mr. Donnelly		X	
Mr. Luetkemeyer	X			Mr. Carson		X	
Mr. Huizenga	X			Mr. Himes		X	
Mr. Duffy	X			Mr. Peters		X	
Ms. Hayworth	X			Mr. Carney		X	
Mr. Renacci	X						
Mr. Hurt	X						
Mr. Dold	X						
Mr. Schweikert	X						
Mr. Grimm	X						
Mr. Canseco	X						
Mr. Stivers	X						

During consideration of H.R 839, the following amendments were considered:

1. An amendment offered by Mrs. McCarthy of New York, no. 1, providing that termination does not apply to those who submitted an application or made a verifiable request to the servicer for a modification before March 1, 2011, was not agreed to by a recorded vote of 24 yeas and 31 nays, (Record vote no. FC-16).

Record vote no. FC-16

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)			
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)				Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez			
Mr. Lucas		X		Ms. Velázquez	X		
Mr. Paul		X		Mr. Watt			
Mr. Manzullo		X		Mr. Ackerman	X		
Mr. Jones		X		Mr. Sherman	X		
Mrs. Biggert		X		Mr. Meeks	X		
Mr. Gary G. Miller (CA)		X		Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa	X		
Mr. Garrett		X		Mr. Clay	X		
Mr. Neugebauer		X		Mrs. McCarthy (NY)	X		
Mr. McHenry		X		Mr. Baca	X		
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann		X		Mr. Miller (NC)	X		
Mr. Marchant				Mr. David Scott (GA)	X		
Mr. McCotter		X		Mr. Al Green (TX)	X		
Mr. McCarthy (CA)		X		Mr. Cleaver	X		
Mr. Pearce		X		Ms. Moore	X		
Mr. Posey		X		Mr. Ellison	X		
Mr. Fitzpatrick		X		Mr. Perlmutter	X		
Mr. Westmoreland		X		Mr. Donnelly	X		
Mr. Luetkemeyer		X		Mr. Carson	X		
Mr. Huizenga		X		Mr. Himes	X		
Mr. Duffy		X		Mr. Peters	X		
Ms. Hayworth		X		Mr. Carney	X		
Mr. Renacci		X					
Mr. Hurt		X					
Mr. Dold							
Mr. Schweikert		X					
Mr. Grimm		X					
Mr. Canseco		X					
Mr. Stivers		X					

2. An amendment offered by Mr. Grimm, no. 3a, requiring the Secretary of Housing and Urban Development to study the usage of the HAMP for members of the armed forces, veterans, and gold star recipients, to the amendment offered by Mr. Green, no. 3, allowing for the continuation of the program for members of the armed forces, veterans, and gold star recipients was agreed to by a recorded vote of 32 yeas and 24 nays (Record vote no. FC-17).

Record vote no. FC-17

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present

Record vote no. FC-17

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)			
Mr. Hensarling	X			Ms. Waters		X	
Mr. King (NY)				Mrs. Maloney		X	
Mr. Royce	X			Mr. Gutierrez			
Mr. Lucas	X			Ms. Velázquez		X	
Mr. Paul	X			Mr. Watt			
Mr. Manzullo	X			Mr. Ackerman		X	
Mr. Jones	X			Mr. Sherman		X	
Mrs. Biggert	X			Mr. Meeks		X	
Mr. Gary G. Miller (CA)	X			Mr. Capuano		X	
Mrs. Capito	X			Mr. Hinojosa		X	
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)		X	
Mr. McHenry	X			Mr. Baca		X	
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. Marchant				Mr. David Scott (GA)		X	
Mr. McCotter	X			Mr. Al Green (TX)		X	
Mr. McCarthy (CA)	X			Mr. Cleaver		X	
Mr. Pearce	X			Ms. Moore		X	
Mr. Posey	X			Mr. Ellison		X	
Mr. Fitzpatrick	X			Mr. Perlmutter		X	
Mr. Westmoreland	X			Mr. Donnelly		X	
Mr. Luetkemeyer	X			Mr. Carson		X	
Mr. Huizenga	X			Mr. Himes		X	
Mr. Duffy	X			Mr. Peters		X	
Ms. Hayworth	X			Mr. Carney		X	
Mr. Renacci	X						
Mr. Hurt	X						
Mr. Dold	X						
Mr. Schweikert	X						
Mr. Grimm	X						
Mr. Canseco	X						
Mr. Stivers	X						

3. An amendment offered by Ms. Maloney, no. 4, allowing for the HAMP to continue operating after the date of enactment until 500,000 additional loan modifications have been made permanent, was not agreed to by a recorded vote of 23 yeas and 32 nays, (Recorded vote no. 18).

Record vote no. FC-18

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)			
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)				Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez			
Mr. Lucas		X		Ms. Velázquez	X		
Mr. Paul		X		Mr. Watt			
Mr. Manzullo		X		Mr. Ackerman	X		
Mr. Jones		X		Mr. Sherman	X		
Mrs. Biggert		X		Mr. Meeks	X		
Mr. Gary G. Miller (CA)		X		Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa	X		

Record vote no. FC-18

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Garrett		X		Mr. Clay	X		
Mr. Neugebauer		X		Mrs. McCarthy (NY)	X		
Mr. McHenry		X		Mr. Baca	X		
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann		X		Mr. Miller (NC)	X		
Mr. Marchant				Mr. David Scott (GA)	X		
Mr. McCotter		X		Mr. Al Green (TX)	X		
Mr. McCarthy (CA)		X		Mr. Cleaver	X		
Mr. Pearce		X		Ms. Moore			
Mr. Posey		X		Mr. Ellison	X		
Mr. Fitzpatrick		X		Mr. Perlmutter	X		
Mr. Westmoreland		X		Mr. Donnelly	X		
Mr. Luetkemeyer		X		Mr. Carson	X		
Mr. Huizenga		X		Mr. Himes	X		
Mr. Duffy		X		Mr. Peters	X		
Ms. Hayworth		X		Mr. Carney	X		
Mr. Renacci		X					
Mr. Hurt		X					
Mr. Dold		X					
Mr. Schweikert		X					
Mr. Grimm		X					
Mr. Canseco		X					
Mr. Stivers		X					

The following amendments were also considered by the Committee:

1. An amendment offered by Mr. Bachus and Mr. Green, no 2a, to add “lender or” before “servicer” on line 10 and to strike “stay in your home” and insert “negotiating or acquiring a home modification” on line 12, to the amendment offered by Ms. Waters, no. 2, requiring HUD to post on its website a notice regarding the termination of the program, was agreed to by voice vote.

2. An amendment offered by Ms. Waters, no. 2, as amended by an amendment offered by Mr. Bachus and Mr. Green, requiring HUD to post on its website a notice regarding the termination of the program inviting borrowers who are having trouble paying their mortgage and need help in communicating with their lender or servicer to contact their Member of Congress for assistance in reaching the lender or servicer for the purpose of negotiating or acquiring a loan modification, was agreed to by voice vote.

3. An amendment offered by Mr. Green, no. 3, as amended by an amendment offered by Mr. Grimm, no. 3a (Recorded vote no. 17), requiring HUD to study the usage of the HAMP for members of the armed forces, veterans, and gold star recipients, was agreed to by voice vote.

4. An amendment offered by Ms. Waters, no. 5, requiring HUD to inform HAMP applicants of the program termination, was withdrawn.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held a hearing and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The purposes of H.R. 839, the HAMP Termination Act, are to terminate the authority of the Treasury Department to provide any new assistance to homeowners under the Home Affordable Modification Program (HAMP) as authorized under Title I of the Emergency Economic Stabilization Act (12 U.S.C. 5230), while preserving any assistance already provided to HAMP participants on a permanent or trial basis and to provide a study by the Treasury Department to identify best practices for how existing mortgage assistance programs can be applied to veterans, active duty military personnel, and their relatives.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

(Please see attached)

CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas W. Elmendorf, Director

March 11, 2011

Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 839, the HAMP Termination Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico, who can be reached at 226-2820.

Sincerely,

Douglas W. Elmendorf

Douglas W. Elmendorf

Enclosure

cc: Honorable Barney Frank
Ranking Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 11, 2011

H.R. 839
HAMP Termination Act of 2011

As ordered reported by the House Committee on Financial Services on March 9, 2011

SUMMARY

H.R. 839 would terminate the Department of Treasury's Home Affordable Modification program (HAMP).

CBO estimates that enacting the legislation would decrease direct spending by $1.3 billion over the 2011-2016 period and $1.4 billion over the 2011-2021 period. Pay-as-you-go procedures apply because the legislation would affect direct spending.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 839 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By Fiscal Year, in Millions of Dollars												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011-2016	2011-2021
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	-10	-279	-354	-276	-222	-195	-91	-2	0	0	0	-1,337	-1,437
Estimated Outlays	-10	-279	-354	-276	-222	-195	-91	-2	0	0	0	-1,337	-1,437

BASIS OF ESTIMATE

For this estimate, CBO assumes that the legislation will be enacted by June 2011. Because of the complementary nature of the Treasury's Making Home Affordable programs, CBO also assumes that the following related programs would be terminated along with HAMP:

- Second Lien Modification Program,
- Federal Housing Administration HAMP,
- U.S. Department of Agriculture Rural Housing Service's Rural Development HAMP,
- Home Affordable Foreclosure Alternatives,
- Home Price Decline Protection,
- Home Affordable Unemployment Program, and
- Principal Reduction Alternative Program.

The Making Home Affordable programs are intended to help homeowners who are facing the possibility of foreclosure by subsidizing loan modifications as well as other foreclosure alternatives. The Department of Treasury has obligated about $27 billion of spending authority provided by the Emergency Economic Stabilization Act of 2008 for HAMP and its related programs.

Program funds are used to cover costs incurred for the modification of mortgages that are not owned or guaranteed by the government-sponsored enterprises (GSEs) Fannie Mae or Freddie Mac. Generally, the programs provide incentive payments to mortgage servicers, investors, and eligible homeowners to either reduce the homeowner's mortgage payment to 31 percent of monthly income or to sell their house outside of foreclosure. All modification payments are contingent on borrowers remaining current on their mortgages. Through December 31, 2010, approximately 600,000 mortgages have been modified through the HAMP and its related programs (listed above), 45 percent of which were non-GSE mortgages. Servicers and borrowers currently have until December 31, 2012, to modify mortgages through the program.

CBO estimates that H.R. 839 would prevent the Treasury from making payments for approximately 100,000 new modifications of non-GSE mortgages. (The cost of modifications entered into prior to enactment would continue to be paid by the Treasury.) Based on data provided by the Office of the Special Inspector General for the Troubled Asset Relief Program, CBO estimates that such modifications, when combined with the costs of the related programs mentioned above, cost an average of about $13,000. As a result, CBO estimates that enacting H.R. 839 would reduce direct spending by $1.3 billion over the 2011-2016 period and $1.4 billion over the 2011-2021 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table. Enacting H.R. 839 would have no impact on federal revenues.

CBO Estimate of Pay-As-You-Go Effects for H.R. 839, the HAMP Termination Act of 2011, as ordered reported by the House Committee on Financial Services on March 9, 2011

	By Fiscal Year, in Millions of Dollars												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011-2016	2011-2021
						NET DECREASE (-) IN THE DEFICIT							
Statutory Pay-As-You-Go Impact	-10	-279	-354	-276	-222	-195	-91	-2	0	0	0	-1,337	-1,437

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Costs: Chad Chirico
Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum
Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Peter H. Fontaine
Assistant Director for Budget Analysis

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 839 does not contain any congressional earmarks, limited tax benefits, or limited tariffs benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title

This section establishes the short title of the bill, the 'The HAMP Termination Act of 2011.'

Section 2. Termination of Authority

This section amends Section 120 of the Emergency Economic Stabilization Act of 2008 to terminate the authority of the Treasury Department to provide any new assistance to homeowners under the Home Affordable Modification Program (HAMP). It also preserves the Treasury Department's authority to continue to provide any assistance to homeowners who have already been extended an offer to participate in HAMP on a permanent or trial basis.

Further, this section directs the Treasury Secretary to conduct a study to determine the extent of usage of HAMP by "covered homeowners." Covered homeowners are defined as individuals who are active duty members of the U.S. armed forces and their spouses or parents, veterans of the U.S. armed forces, and individuals eligible to receive a Gold Star lapel button under 10 U.S.C. 1126 as the widow, parent, or next of kin of a fallen member of the U.S. armed forces. The Treasury Secretary is then required to submit a report to Congress including the results of that study and identifying any best practices that could be applied to existing mortgage assistance programs available to covered homeowners within 90 days of enactment of this Act.

Finally, this section requires the Treasury Secretary to publish in a prominent location on the Treasury Department's website, in a noticeable font, a statement that HAMP has been terminated and inviting borrowers who are having trouble paying their mortgage and need help in communicating with their lender or servicer to contact their Member of Congress for assistance in reaching the lender or servicer for the purpose of negotiating or acquiring a loan modification.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

(Please see attached)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

DIVISION A—EMERGENCY ECONOMIC STABILIZATION

* * * * * * *

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

* * * * * * *

SEC. 120. TERMINATION OF AUTHORITY.

(a) * * *

* * * * * * *

(c) TERMINATION OF AUTHORITY TO PROVIDE NEW ASSISTANCE UNDER THE HOME AFFORDABLE MODIFICATION PROGRAM.—

(1) IN GENERAL.—Except as provided under paragraph (2), after the date of the enactment of this subsection the Secretary may not provide any assistance under the Home Affordable Modification Program under the Making Home Affordable initiative of the Secretary, authorized under this Act, on behalf of any homeowner.

(2) PROTECTION OF EXISTING OBLIGATIONS ON BEHALF OF HOMEOWNERS ALREADY EXTENDED AN OFFER TO PARTICIPATE IN THE PROGRAM.—Paragraph (1) shall not apply with respect to assistance provided on behalf of a homeowner who, before the date of the enactment of this subsection, was extended an offer to participate in the Home Affordable Modification Program on a trial or permanent basis.

(3) STUDY OF USE OF PROGRAM BY MEMBERS OF THE ARMED FORCES, VETERANS, AND GOLD STAR RECIPIENTS.—

(A) STUDY.—The Secretary shall conduct a study to determine the extent of usage of the Home Affordable Modification Program by, and the impact of such Program on, covered homeowners.

(B) REPORT.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report setting forth the results of the study under paragraph

(1) and identifying best practices, derived from studying the Home Affordable Modification Program, that could be applied to existing mortgage assistance programs available to covered homeowners.

(C) COVERED HOMEOWNER.—For purposes of this subsection, the term "covered homeowner" means a homeowner who is—

(i) a member of the Armed Forces of the United States on active duty or the spouse or parent of such a member;

(ii) a veteran, as such term is defined in section 101 of title 38, United States Code; or

(iii) eligible to receive a Gold Star lapel pin under section 1126 of title 10, United States Code, as a widow, parent, or next of kin of a member of the Armed Forces person who died in a manner described in subsection (a) of such section.

(4) PUBLICATION OF MEMBER AVAILABILITY FOR ASSISTANCE.—Not later than 5 days after the date of the enactment of this subsection, the Secretary of the Treasury shall publish to its Website on the World Wide Web in a prominent location, large point font, and boldface type the following statement: "The Home Affordable Modification Program (HAMP) has been terminated. If you are having trouble paying your mortgage and need help contacting your lender or servicer for purposes of negotiating or acquiring a loan modification, please contact your Member of Congress to assist you in contacting your lender or servicer for the purpose of negotiating or acquiring a loan modification.".

* * * * * * *

MINORITY, DISSENTING, OR ADDITIONAL VIEWS

DISSENTING VIEWS

H.R. 839, "The HAMP Termination Act of 2011," is one of four bills being advanced by the Majority as a coordinated assault on federal programs designed to address the nationwide housing and foreclosure crisis. The bill would prohibit new mortgage loan modifications under the Home Affordable Modification Program (HAMP), which is funded under authority generally referred to as TARP. However, the bill would grandfather in assistance on behalf of homeowners who, prior to the date of enactment, had already been extended an offer to participate in HAMP, either on a permanent or trial basis.

This program is one of a number of complementary federal programs that address different problems posed by our current housing programs. The other programs the Majority is shutting down are an FHA refinance program that is used in conjunction with principal mortgage reductions, loans to unemployed homeowners to bridge the gap so that homeowners can resume payments when they find a job, and grants to local communities for purchase and rehabilitation of foreclosed and abandoned homes, to address blight and deterioration of neighborhoods experiencing a high foreclosure rate. At the hearing on these four bills, not a single witness – including the GAO and SIGTARP, who were witnesses called by the Majority – supported shutting down any of these four programs at this time.

A major factor in the housing crisis was private sector lenders originating loans to borrowers that could not afford them, with such loans often combined with predatory loan features, such as exploding mortgage rate reset terms. As the housing crisis hit and homeowners started to default on loans, these same private sector lenders announced that they would address problems through proprietary loan modifications. In practice, there is a general consensus that these initial efforts were woefully inadequate to address the default and foreclosure crisis, particularly since a majority of these modifications actually <u>increased</u> the payments borrowers were required to make. Therefore, in early 2009, the Obama Administration started to roll out the first of a number of initiatives, using general authority under the TARP legislation, to facilitate loan modifications and refinancings of borrowers in or at risk of default, and in danger of foreclosure.

Now, two years later, as some of these initiatives are showing real results and others are just beginning to take off, the Majority wants to shut these efforts down. They claim that these federal programs have not helped enough homeowners. But, their answer to the criticism that not enough homeowners have been helped by these programs . . . is to stop them from helping anyone else in the future. Their answer is to eliminate federal assistance that helps keep people in their homes and to eliminate the nationwide loan modification standards that go with them. Their answer is to turn over resolution of the foreclosure crisis to the very entities that created the bad loans in the first place and failed to achieve meaningful loan modifications in the period before these government programs were put in place. The result would lead inevitably to a worsening of the foreclosure crisis, dampened home prices, and economic instability.

The HAMP program was put in place by the Obama Administration in early 2009. Servicers of over 90% of mortgages nationwide currently participate in HAMP, under which homeowners who have defaulted on, or are at serious risk of defaulting on, a mortgage may be eligible for a mortgage modification. A HAMP modification reduces the homeowner's payments to a sustainable debt to income ratio of 31%. This significantly enhances the ability of homeowners to make their mortgage payments and keep their home, as well as improving loan performance, by avoiding the heightened cost of a foreclosure. The program provides incentives to loan investors and servicers in consideration for the loan modifications, and incentives for homeowners to continue to make on-time payments.

The program is authorized to run through the end of 2012. As of January 31, 2011, there are approximately 540,000 homeowners with current permanent HAMP loan modifications. The number of new permanent HAMP modifications averaged around 29,000 per month over the last six months of 2010. Therefore, assuming a modestly declining rate from this, a reasonable estimate is that program participation will double by the end of next year, for a cumulative total of 1.1 million homeowners. Based on this estimate, the bill would deny modifications to more than a half million homeowners at risk of foreclosure.

Median savings on a HAMP loan modification is $527 a month, and Treasury estimates aggregate homeowner savings to date of some $5 billion. After 12 months of a HAMP loan mod, 85% of homeowners have remained in a permanent modification. The OCC has reported that the re-default rate for HAMP loan modifications (60+ days delinquent) at six months was about half the rate of non-HAMP modifications done by lenders.

To date, only around $1 billion has been spent on these 540,000 permanent HAMP modifications, and a reasonable estimate of the ultimate cost of assisting these families would be in the range of $5 billion. Since these families are grandfathered in under the bill, the bill produces no cost savings related to these homeowners.

However, as noted, the bill would prevent new mortgage modifications going forward. The Majority has argued that this program imposes a cost on taxpayers, and therefore this bill will save taxpayers the cost of the program going forward. In fact, the TARP statute requires the President to propose a fee on financial institutions to recover any TARP expenditures not previously recovered. Thus, assuming the President's proposal is adopted, all program costs will be borne by financial institutions, and there will be no cost to the taxpayer.

The Majority has criticized HAMP on the grounds that the program has not met initial Administration estimates that it could help 3 to 4 million homeowners. There are a number of reasons for this failure to meet initial numerical goals. First, the program appropriately excludes different categories of borrowers – including investors, owners of second homes, homeowners whose mortgages are unsustainable even with HAMP assistance, and homeowners that can pay their mortgage without government assistance. Secondly, legally, banks and other mortgage holders cannot be forced to reduce interest payments or principal. Therefore, programs have had to be voluntary, targeting financial assistance to incentivize lenders to reduce mortgage payments in lieu of foreclosing on defaulted borrowers.

Finally, banks and other mortgage servicers were generally understaffed and unprepared to carry out the level loan modifications precipitated by the housing crisis. This has resulted in widespread homeowner complaints about lost files, conflicting guidance given to them about the program, and outright non-responsiveness in the application process for a loan modification.

Many in the Minority Party have expressed concerns about these issues, urging the Treasury Department to take stronger actions to ensure that servicers respond to HAMP applications in a more timely, responsive, and effective way – criticisms that tend to echo those raised by the TARP Inspector General (SIGTARP).

However, regardless of the criticisms of servicer performance, and regardless of the fact that the program has not reached as many homeowners as hoped, it is a mistake to terminate this program at a time of heightened default and foreclosure levels, and a fragile housing market. Terminating the program at this time would simply increase our nation's foreclosure level. The bill should be rejected.

Barney Frank

Maxine Waters

Luis V. Gutierrez

Carolyn B. Maloney

Brad Ellsworth

Ruben Hinojosa

Michael E. Capuano

Keith Ellison

Melvin L. Watt

Joe Baca

Gary L. Ackerman

Al Green

Stephen Lynch

Emanuel Cleaver

Nydia M. Velazquez