



**Legislative Bulletin.....July 23, 2008**

**Contents:**

**H.R. 3999**—National Highway Bridge Reconstruction and Inspection Act

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**Summary of the Bill Under Consideration Today:**

**Total Number of New Government Programs:** At least one

**Total Cost of Discretionary Authorizations:** \$1.009 billion in FY 2009

**Effect on Revenue:** \$0

**Total Change in Mandatory Spending:** \$0

**Total New State & Local Government Mandates:** None

**Total New Private Sector Mandates:** None

**Number of Bills Without Committee Reports:** 0

**Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority:** 1

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**H.R. 3999— National Highway Bridge Reconstruction and Inspection Act  
(Oberstar, D-MN)**

**Order of Business:** H.R. 3999 is scheduled to be considered on Wednesday, July 23, 2008, under a structured rule ([H.Res. 1344](#)). The rule waives all points of order against considering the bill (except those for PAYGO and earmarks), provides for one hour of general debate, and makes in order the 11 amendments summarized below.

**Summary:** H.R. 3999 expands the authorized funding levels for the Federal Highway Bridge Program. Below are highlights of the legislation:

*\$1 Billion FY 2009 Authorization for Bridge Repair Program:* H.R. 3999 authorizes \$1 billion in FY 2009 for the replacement and rehabilitation of structurally deficient bridges on the National Highway System. The legislation states that none of the funds appropriated pursuant to this legislation may be “earmarked by Congress or any Federal department for agency for a specific project or activity.” The term is not defined by the legislation, with no reference, for example, to the definition in the rules of the House. Representative Flake offered an [amendment](#) to use the definition of earmark in House rules, but it was not made in order by the rule.

In order to receive federal money from the Highway Bridge Program, H.R. 3999 requires the state, within 24 months of enactment, and then every 24 months thereafter, to:

- inspect all deficient bridges in the state;
- recalculate the load ratings for each such bridge and ensure that safe load-carrying capacities are properly posted;
- implement a 5-year performance plan for the inspection of structurally deficient highway bridges and the rehabilitation/replacement of structurally deficient or functionally obsolete bridges; and
- establish a “bridge management system.”

*Risk-Based Prioritization for Replacement and Rehabilitation of Deficient Bridges:*

- H.R. 3999 requires the Secretary of Transportation to:
  - inventory all bridges that are over waterways, other topographical barriers, highways, and railroads that are: 1) on Federal-aid highways; 2) bridges on highway roads; and 3) Indian reservation and park bridges;
  - identify each bridge that is structurally deficient or functionally obsolete;
  - assign a risk-based priority for replacement or rehabilitation of each such bridge; and
  - determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.
- The bill allows the Secretary of Transportation to inventory bridges “for historic significance” at the request of a state.
- H.R. 3999 requires the Secretary of Transportation to establish a process for assigning risk-based priorities not later than 18 months after enactment, and requires the Secretary of Transportation to issue a report to the Congress.
- The legislation authorizes \$2 million for an independent review to be conducted by the National Academy of Sciences on the process for assigning risk-based priorities.
- H.R. 3999 requires the Secretary of Transportation, at the same time as the President’s budget submission, to submit a list of:

- projects and activities approved under the Highway Bridge Program;
  - information on the priority assigned to the replacement of a structurally deficient bridge;
  - a description of projects carried out by the Secretary that are at odds with priorities assigned by the Secretary of Transportation; and
  - recommendations the Secretary has for improving the program.
- The bill prohibits a state from transferring money from the highway bridge program to another program unless the state can demonstrate to the Secretary of Transportation that there are no National Highway System bridges in need of replacement.
  - H.R. 3999 authorizes \$2 million in FY 2009 to make information contained in the National Bridge Inventory available to the public.

*National Bridge Inspection Program:*

H.R. 3999 requires the Secretary of Transportation to issue regulations establishing procedures to be used by states in reporting critical findings of bridge deficiencies and subsequent monitoring activities. The bill also requires annual inspections of structurally deficient highway bridges, and biennial inspections of bridges that are not determined to be structurally deficient.

*Surface Transportation Research:* The bill expands the activities eligible to receive funding under the highway research program to include research into non-destructive inspection technologies.

*Bridge Advanced Condition Assessment Pilot Program:* The legislation authorizes \$5 million for a pilot program to monitor and calculate the structural health of highway bridges. These technologies include fiber optic, vibrating wire, acoustical emissions, and peak strain displacement technologies. Under the bill, the grant program would continue for two fiscal years with the federal cost share equal to 80 percent.

**Additional Information:** On August 3, 2007, the House unanimously approved H.R. 3311 (which went on to be enacted into law on August 6, 2008, P.L. 110-56) to authorize \$250 million to repair the bridge that collapsed in Minnesota on August 1, 2007. This legislation addressed one aspect of the tragedy, the need to rebuild the collapsed bridge. The tragedy and the concern that other bridges across the country suffer from structural deficiencies led to calls for additional federal spending for bridge repairs. Chairman Oberstar originally proposed \$25 billion over three years for this purpose, to be paid for with a five cent increase in the federal gasoline tax.

The 2005 highway bill provided \$286 billion in guaranteed spending authority, setting a path for spending to be 23 percent higher in FY 2009 (\$53.5 billion) than in FY 2005 (\$43.5 billion). In terms of overall transportation spending, in 2007, the federal government spent \$78.7 billion compared to \$41.1 billion in 1997—an increase of 91.6% compared to ten years earlier.

Within the amount the federal government spends on transportation, policy choices are made about where to devote resources. For example, the 2005 highway bill included 6,300 earmarks at

a cost to taxpayers of \$24 billion. Congress recently enacted H.R. 1195, the highway “technical corrections” bill, which made changes to approximately 500 earmarks, but did not create savings within the Highway Trust Fund available for other federal transportation priorities.

**Possible Conservative Concerns:** Many conservatives may be concerned that the cost of the more than \$1 billion of new spending authorized by this legislation is not offset by reprioritizing other federal transportation spending. Some conservatives may also be concerned with the manner in which the General Fund is being used to fund programs normally funded through the Highway Trust Fund.

**Amendments Made in Order under the Rule (H.Res. 319):**

*All amendments are debatable for 10 minutes.*

- 1. Oberstar (D-MN): Manager’s Amendment.** The amendment makes a few technical changes to the bill and defines a complex bridge as “a highway bridge with unusual characteristics, including movable, suspension, and cable-stayed highway bridges.”
- 2. Mica (R-FL):** The amendment adds a new section to the bill requiring the Comptroller General to conduct a study on the effectiveness of the bridge rating system of the Federal Highway Administration. As part of the study, the comptroller general would be required to evaluate bridge rating systems used by state departments of transportation and provide recommendations on how successful aspects of bridge rating systems can be incorporated into the bridge rating system of the Federal Highway Administration.
- 3. Diaz-Balart, Mario (R-FL):** The amendment adds emergency evacuation routes to the risk-based prioritization for replacement or rehabilitation of deficient bridges.
- 4. Walz (D-MN):** The amendment requires the Secretary of Transportation to issue a report regarding the economic impact, regional transportation impact, and transit impact that will result from a bridge closure that results from a critical funding determination—as well as recommendations on how to solve these problems.
- 5. Miller (R-MI):** The amendment adds a new section to the bill requiring the Secretary of Transportation to do a study on the “use of carbon fiber composite materials in bridge replacement and rehabilitation projects.”
- 6. Conaway (R-TX)/Sutton (D-OH)/Acuri (D-NY):** The amendment expresses the sense of the Congress that “each State should prepare a corrosion mitigation and prevention plan, for a project for construction, replacement, or rehabilitation of a bridge.”
- 7. Shays (R-CT):** The amendment requires the Comptroller General to conduct a study on “the identification of factors that contribute to construction delays of bridge rehabilitation; and any recommendations the Comptroller General may have to simplify and expedite the construction of bridges that are to be rehabilitated.”

8. ***Loebsack (D-IA)***: The amendment adds a new section to the bill that requires the Secretary of Transportation to conduct a study on the flood risks to bridges on Federal-aid highways, bridges on other public roads, bridges on Indian reservations, and park bridges that are located in a 500-year floodplain.
9. ***Shea-Porter (D-NH)***: The amendment allows a state to make more frequent in-depth inspections of a historic bridge, instead of rehabilitation or replacement of the bridge, if the Secretary makes a determination that this is appropriate.
10. ***Childers (D-MS)***: The amendment prohibits funds appropriated pursuant to this legislation from being used to employ workers in violation of section 274A of the Immigration and Nationality Act.
11. ***Capuano (D-MA)***: The amendment adds a new section to the bill creating a National Tunnel Inspection Program. The amendment would require the Secretary to establish national tunnel inspection standards for the proper safety inspection and evaluation of all highway tunnels. The amendment further requires the Secretary to establish a training and certification program for tunnel inspectors and to establish a national tunnel inventory.

**Committee Action:** H.R. 3999 was introduced on October 30, 2007, and referred to the House Committee on Transportation and Infrastructure. On October 31, 2007, the full committee held a mark-up and ordered to bill to be reported, as amended, by voice vote.

**Administration Position:** The Statement of Administration Policy (SAP) can be found [here](#). The SAP does not contain a veto threat, but states: “However, the Administration opposes House passage of H.R. 3999 unless it is amended to delete the bill's additional authorization of appropriations of \$1 billion for FY 2009 for highway bridge replacement and rehabilitation.”

**Cost to Taxpayers:** H.R. 3999 authorizes \$1.009 billion in discretionary spending in FY 2009.

**Does the Bill Expand the Size and Scope of the Federal Government?** Yes, the bill authorizes more than \$1 billion in new discretionary spending.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** The Committee on Transportation and Infrastructure, in [House Report 110-750](#), states that “H.R. 3999 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.”

**Constitutional Authority:** The Committee on Transportation and Infrastructure, in [House Report 110-750](#), cites constitutional authority in Article I, Section 8 but does not cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain a statement

citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution. *[Emphasis added]*

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