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REPORT
110–454

TO AMEND TITLE 23, UNITED STATES CODE, TO INSPECT HIGHWAY TUNNELS

NOVEMBER 15, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. OBERSTAR, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 409]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 409) to amend title 23, United States Code, to inspect highway tunnels, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

H.R. 409 amends section 151 and section 131(b) (1) of title 23, United States Code, to ensure the safety of highway tunnels by expanding the National Bridge Inspection Program ("NBIP") to include a program to inspect highway tunnels.

BACKGROUND AND NEED FOR LEGISLATION

On July 10, 2006, at approximately 11 p.m., a section of the suspended concrete ceiling above the eastbound lanes of the Interstate 90 connector tunnel in Boston, Massachusetts, fell onto a vehicle traveling to Logan International Airport. A passenger, riding in the right front seat of the vehicle, was killed, while the driver escaped with minor injuries.

A number of investigations, including one conducted by the National Transportation Safety Board ("NTSB"), were launched to examine the causes of the ceiling panel collapse. The NTSB issued its accident report on July 10, 2007, identifying the failure of the epoxy adhesive used to attach the panels to the anchors in the ceil-

ing to sustain long-term loads, technically known as "creep", as the probable cause of the accident.

The NTSB report further made the observation that "had the Massachusetts Turnpike Authority [that operated the Central Artery/Tunnel project of which the Interstate 90 connector tunnel is a part], at regular intervals . . . inspected the area above the suspended ceilings . . ., the anchor creep that led to this accident would likely have been detected, and action could have been taken that would have prevented this accident." [1]

The NTSB identified, as part of its investigation, "inadequate regulatory requirements for tunnel inspections" as a safety issue requiring redress. The NTSB recommended that the Federal Highway Administration ("FHWA"), "seek legislation authorizing the Federal Highway Administration to establish a mandatory tunnel inspection program similar to the National Bridge Inspection Program."

The FHWA's NBIP was established under the Federal-Aid Highway Act of 1968. The 1968 Act required the Secretary of Transportation to establish national bridge inspection standards ("NBIS") designed to locate and evaluate existing bridge deficiencies to ensure the safety of highway bridges. The Act also required States to prepare and maintain an inventory of Federal-Aid highway system bridges. Subsequent Federal-Aid highway authorizations expanded the NBIS to cover all publicly-owned bridges greater than 20 feet in length.

The NBIS also established inspection criteria and procedures, as well as inspector training and qualification requirements. Under the NBIS, States are required to conduct routine inspections on each bridge at least once every 24 months. FHWA may extend the routine inspection interval for certain bridges based on findings and analysis from previous inspections. The inspection interval may not exceed 48 months.

Activities authorized under the NBIP are eligible to receive funding through FHWA administrative funds, the Highway Bridge Program, and the Surface Transportation Research Program.

In addition to the physical structure, tunnels are made up of a series of complex systems critical to operation and safety of tunnels. These systems include: mechanical, electrical, ventilation, firefighting, and other systems relating to safety, lighting, and signage. Compared to bridges, tunnels require very different skills, knowledge, and procedures to inspect. In recognition of this fact, the FHWA, working in conjunction with the Federal Transit Administration, has published highway and rail transit tunnel inspection manuals. The FHWA is also in the process of working with State departments of transportation, highway tunnel owners, and other stakeholders to develop National Tunnel Inspection Standards. These standards will be similar to the National Bridge Inspection Standards established under the NBIP, and will attempt to standardize tunnel inspection processes and requirements, as well as establish minimum training and qualification requirements. Resources for these activities are being funded through existing FHWA administrative and research funds.

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[1] National Transportation Safety Board 2007; Ceiling Collapse in the Interstate 90 Connector Tunnel, Boston, Massachusetts, July 10, 2006; Highway Accident Report, NTSB/HAR–07/02.

SUMMARY OF THE LEGISLATION

Section 1. Highway tunnel inspections

Section 1 expands the National Bridge Inspection Program to include the inspection of highway tunnels. This section requires the Secretary of Transportation, in consultation with State departments of transportation and private organizations and individuals, to establish national tunnel inspection standards for safety inspections and evaluations of all highway tunnels. This section also requires FHWA to establish criteria for certification and training of tunnel inspectors, and requires States to prepare and maintain an inventory of public highway tunnels.

This section authorizes the Secretary to use funds made available for the U.S. Department of Transportation's administrative expenses and the Surface Transportation Research Program to implement the highway tunnel inspection program. In addition, the section makes tunnel inspection activities eligible under the Surface Transportation Program.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On January 11, 2007, Representative Michael E. Capuano introduced H.R. 409.

On August 2, 2007, the Committee on Transportation and Infrastructure met in open session, and ordered the bill reported favorably to the House by voice vote with a quorum present.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 409 reported. A motion to order H.R. 409 reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the

Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to ensure the safety of highway tunnels by expanding the National Bridge Inspection Program to inspect highway tunnels.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 409 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 4, 2007.

Hon. JAMES L. OBERSTAR,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 409, a bill to amend title 23, United States Code, to inspect highway tunnels.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 409—A bill to amend title 23, United States Code, to inspect highway tunnels

H.R 409 would require the Department of Transportation (DOT) to establish standards to inspect the safety of tunnels on all roads nationwide and to implement training programs for tunnel inspectors. Based on information from DOT, CBO estimates that implementing the bill would cost less than $1 million a year, subject to the availability of appropriations. Enacting the legislation would not affect direct spending or revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Any costs state, local, or tribal governments incur would result from complying with conditions for receiving federal assistance.

H.R 409 would require DOT to establish standards that would be used to inspect the safety of tunnels on all roads nationwide and to provide training programs for tunnel inspectors. While there is some uncertainty about the number of tunnels nationwide, DOT and other experts estimate that there are more than 300 on the combination of the interstate system, the national highway system, the public lands system, and the systems operated by state and local governments. This program would be similar to the current program in place to inspect bridges, and state and local governments receiving federal highway funds would primarily be responsible for inspecting such tunnels.

Based on information from DOT that it would need fewer than five additional employees to operate such a program, CBO esti-

mates that implementing the bill would cost less than $1 million a year.

The CBO staff contact for this estimate is Sarah Puro. This estimate was approved by Theresa A. Gullo, Chief, State and Local Government Cost Estimates Unit, Budget Analysis Division.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 409 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 STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

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 (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 409 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO THE 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 section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 23, UNITED STATES CODE

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CHAPTER 1—FEDERAL-AID HIGHWAYS

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§ 133. Surface transportation program

(a) * * *

(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways*), tunnels, including safety inspection,* and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.

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§ 151. National bridge *and tunnel* inspection program

(a) NATIONAL BRIDGE *AND TUNNEL* INSPECTION STANDARDS.—The Secretary, in consultation with the State transportation departments and interested and knowledgeable private organizations and individuals, shall establish national bridge *and tunnel* inspection standards for the proper safety inspection and evaluation of all highway bridges *and tunnels*.

(b) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under subsection (a) shall, at a minimum—

(1) * * *

* * * * * * *

(4) require each State to maintain and make available to the Secretary upon request—

(A) written reports on the results of highway bridge *and tunnel* inspections together with notations of any action taken pursuant to the findings of such inspections; and

(B) current inventory data for all highway bridges *and tunnels* reflecting the findings of the most recent highway bridge *and tunnel* inspections conducted; and

(5) establish a procedure for national certification of highway bridge *and tunnel* inspectors.

(c) TRAINING PROGRAM FOR BRIDGE *AND TUNNEL* INSPECTORS.—The Secretary, in cooperation with the State transportation departments, shall establish a program designed to train appropriate governmental employees to carry out highway bridge *and tunnel* inspections. Such training program shall be revised from time to time to take into account new and improved techniques.

(d) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available pursuant to the provisions of section 104(a), section 502, and section 144 [of this title] *for the bridge inspection program and section 104(a) and section 502 for the tunnel inspection program.*.

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