AMENDMENT TO THE RULES COMMITTEE PRINT
OF H.R. 7
OFFERED BY MR. LANKFORD OF OKLAHOMA

Page 94, after line 6, insert the following: (and conform the table of contents of the bill accordingly):

1 SEC. 1120. DIRECT FEDERAL-AID HIGHWAY PROGRAM.

(a) In General.—Chapter 1 is amended by inserting after section 149 the following:

4 “§ 150. Direct Federal-aid highway program

“(a) Election by State Not To Participate.—Notwithstanding any other provision of law, a State may elect not to participate in any Federal program relating to highways, including a Federal highway program under the American Energy and Infrastructure Jobs Act of 2012, this title, or title 49.

“(b) Direct Federal-Aid Highway Program.—

“(1) In General.—Beginning in fiscal year 2013, the Secretary shall carry out a direct Federal-aid highway program in accordance with the requirements of this section under which the legislature of a State may elect, not fewer than 90 days before the beginning of a fiscal year—
“(A)(i) to waive the right of the State to receive amounts apportioned or allocated to the State under the Federal-aid highway program for the fiscal year to which the election relates; and

“(ii) to receive an amount for that fiscal year that is determined in accordance with subsection (e) for that fiscal year; or

“(B) to become an applicable State, within the meaning of section 4106 of the Internal Revenue Code of 1986.

“(2) Effect.—On making an election under paragraph (1), a State—

“(A) assumes all Federal obligations relating to each program that is the subject of the election; and

“(B) shall fulfill those obligations using—

“(i) in the case of an election under paragraph (1)(A), the amounts transferred to the State under subsection (e); or

“(ii) amounts from an applicable State tax rate increase, within the meaning of section 4106 of the Internal Revenue Code of 1986.

“(c) State Responsibility.—
“(1) IN GENERAL.—The Governor of a State making an election under subsection (b) shall—

“(A) agree to maintain the Interstate System in accordance with the current Interstate System program;

“(B) submit a plan to the Secretary describing—

“(i) the purposes, projects, and uses to which amounts received under the program will be put; and

“(ii) which programmatic requirements of this title the State elects to continue;

“(C) agree to obligate or expend amounts received under the direct Federal-aid highway program exclusively for projects that would be eligible for funding under section 133(b) if the State was not participating in the program; and

“(D) agree to report annually to the Secretary on the use of amounts received under the direct Federal-aid highway program and to make the report available to the public in an easily accessible format.

“(2) NO FEDERAL LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (1), the
expenditure or obligation of funds received by a State under the direct Federal-aid highway program shall not be subject to any Federal regulation under this title (except for this section), title 49, or any other Federal law.

“(3) Election irrevocable.—An election under subsection (b) shall be irrevocable during the applicable fiscal year.

“(d) Effect on Preexisting Commitments.—The making of an election under subsection (b) shall not affect any responsibility or commitment of the State under this title for any fiscal year with respect to—

“(1) a project or program funded under this title (other than under this section); or

“(2) any project or program funded under this title in any fiscal year for which an election under subsection (b) is not in effect.

“(e) Transfers.—

“(1) In general.—The amount to be transferred to a State for a fiscal year as the result of an election under subsection (b)(1)(A) shall be the portion of the taxes appropriated to the Highway Trust Fund under section 9503 of the Internal Revenue Code of 1986, other than for the Alternative Transportation Account, for that fiscal year that is
attributable to highway users in that State during that fiscal year, reduced by a pro rata share withheld by the Secretary to fund contract authority for programs of the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration.

“(2) TRANSFERS UNDER PROGRAM.—

“(A) IN GENERAL.—Transfers under the paragraph (1)—

“(i) shall be made at the same time as deposits to the Highway Trust Fund are made by the Secretary of the Treasury; and

“(ii) shall be made on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury, based on the most recent data available, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

“(B) LIMITATION.—An adjustment under subparagraph (A)(ii) to any transfer may not exceed 5 percent of the transferred amount to
which the adjustment relates. If the adjustment
required under subparagraph (A)(ii) exceeds
that percentage, the excess shall be taken into
account in making subsequent adjustments
under subparagraph (A)(ii).

“(f) Application With Other Authority.—Any
contract authority under this chapter (and any obligation
limitation) authorized for a State for a fiscal year for
which an election by that State is in effect under sub-
section (b)—

“(1) shall be rescinded or canceled; and

“(2) shall not be reallocated or distributed to
any other State under the Federal-aid highway pro-
gram.

“(g) Maintenance of Effort.—

“(1) In General.—Not later than 30 days
after the date on which an amount is distributed to
a State or State agency under the State Highway
Flexibility Act or an amendment made by that Act,
the Governor of the State shall certify to the Sec-
retary that the State will maintain the effort of the
State with regard to State funding for the types of
projects that are funded by the amounts.

“(2) Amounts.—As part of the certification,
the Governor shall submit to the Secretary a state-
ment identifying the amount of funds the State plans to expend from State sources during the covered period, for the types of projects that are funded by the amounts.

“(h) TREATMENT OF GENERAL REVENUES.—For purposes of this section, any general revenue funds appropriated to the Highway Trust Fund shall be transferred to a State under the program in the manner described in subsection (e)(1).”.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 149 the following:

“150. Direct Federal-aid highway program”.

SEC. 2025. ALTERNATIVE FUNDING OF PUBLIC TRANSPORTATION PROGRAMS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

“§ 5341. Alternative funding of public transportation programs

“(a) DEFINITIONS.—In this section, the following definitions apply:
“(1) ALTERNATIVE FUNDING PROGRAM.—The term ‘alternative funding program’ means the program established under subsection (e).

“(2) COVERED PROGRAMS.—The term ‘covered programs’ means the programs authorized under—

“(A) this chapter; and


“(b) ELECTION BY STATE NOT TO PARTICIPATE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a State may elect not to participate in all Federal programs relating to public transportation funded under the Alternative Transportation Account of the Highway Trust Fund, including the Federal public transportation programs under the American Energy and Infrastructure Jobs Act of 2012, title 23, or this title.

“(2) EFFECT.—On making an election under paragraph (1), a State—

“(A) assumes all Federal obligations relating to each program that is the subject of the election; and

“(B) shall fulfill those obligations using the amounts transferred to the State under subsection (e).
“(c) Public Transportation Program.—

“(1) Program established.—Beginning in fiscal year 2013, the Secretary shall carry out an alternative funding program under which the legislature of a State may elect, not fewer than 90 days before the beginning of a fiscal year—

“(A) to waive the right of the State to receive amounts apportioned or allocated to the State under the covered programs for the fiscal year to which the election relates; and

“(B) to receive an amount for that fiscal year that is determined in accordance with subsection (e).

“(2) Program requirements.—

“(A) In general.—The Governor of a State that participates in the alternative funding program shall—

“(i) submit a plan to the Secretary describing—

“(I) the purposes, projects, and uses to which amounts received under the alternative funding program will be put; and
“(II) which programmatic requirements of this title the State elects to continue;

“(ii) agree to obligate or expend amounts received under the alternative funding program exclusively for projects that would be eligible for funding under the covered programs if the State was not participating in the alternative funding program; and

“(iii) submit to the Secretary an annual report on the use of amounts received under the alternative funding program, and to make the report available to the public in an easily accessible format.

“(B) NO FEDERAL LIMITATION ON USE OF FUNDS.—Except as provided in subparagraph (A), the expenditure or obligation of funds received by a State under the alternative funding program shall not be subject to the provisions of this title (except for this section), title 23, or any other Federal law.

“(3) ELECTION IRREVOCABLE.—An election under paragraph (1) shall be irrevocable during the applicable fiscal year.
“(d) Effect on Preexisting Commitments.— Participation in the alternative funding program shall not affect any responsibility or commitment of the State under this title for any fiscal year with respect to—

“(1) a project or program funded under this title (other than under this section); or

“(2) any project or program funded under this title in any fiscal year for which the State elects not to participate in the alternative funding program.

“(e) Transfers.—

“(1) In general.—The amount to be transferred to a State under the alternative funding program for a fiscal year shall be the portion of the taxes transferred to the Alternative Transportation Account of the Highway Trust Fund under section 9503(e) of the Internal Revenue Code of 1986, for that fiscal year, that is attributable to highway users in that State during that fiscal year.

“(2) Transfers.—

“(A) In general.—Transfers under the program—

“(i) shall be made at the same time as transfers to the Alternative Transportation Account of the Highway Trust Fund are
made by the Secretary of the Treasury; and

“(ii) shall be made on the basis of estimates by the Secretary, in consultation with the Secretary of the Treasury, based on the most recent data available, and proper adjustments shall be made in amounts subsequently transferred, to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

“(B) LIMITATION.—An adjustment under subparagraph (A)(ii) to any transfer may not exceed 5 percent of the transferred amount to which the adjustment relates. If the adjustment required under subparagraph (A)(ii) exceeds that percentage, the excess shall be taken into account in making subsequent adjustments under subparagraph (A)(ii).

“(f) CONTRACT AUTHORITY.—There shall be rescinded or canceled any contract authority under this chapter (and any obligation limitation) authorized for a State for a fiscal year for which the State elects to participate in the alternative funding program.

“(g) MAINTENANCE OF EFFORT.—
“(1) IN GENERAL.—Not later than 30 days after the date on which an amount is distributed to a State or State agency under this section, the Governor of the State shall certify to the Secretary that the State will maintain the effort of the State with regard to State funding for the types of projects that are funded by the amounts.

“(2) AMOUNTS.—The certification under paragraph (1) shall include a statement identifying the amount of funds the State plans to expend from State sources for projects funded under the alternative funding program, during the fiscal year for which the State elects to participate in the alternative funding program.

“(h) TREATMENT OF GENERAL REVENUES.—For purposes of this section, any general revenue funds appropriated to the Highway Trust Fund shall be transferred to a State under the program in the manner described in subsection (e).”.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 5340 the following:

“5341. Alternative funding of public transportation programs.”.

Page 912, after line 23, insert the following (and conform the table of contents accordingly):
SEC. 15006. FEDERAL TAX ON FUELS DECREASED BY AMOUNT OF INCREASE IN STATE TAX ON FUEL.

(a) In General.—Subpart B of part III of subchapter A of chapter 32 of the Internal Revenue Code of 1986 (relating to special provisions applicable to fuels tax) is amended by adding at the end the following new section:

“SEC. 4106. REDUCTION IN RATES OF TAX BASED ON INCREASE IN STATE TAX RATE.

“(a) In General.—Under regulations prescribed by the Secretary, the rate of tax imposed under section 4081 with respect to any fuel and the rate of tax imposed under section 4041 with respect to any liquid shall be decreased, but not below 2 cents per gallon, by the applicable State tax rate increase with respect to such fuel or liquid.

“(b) Applicable State Tax Rate Increase.—For purposes of this section, the term ‘applicable State tax rate increase’ means, with respect to any fuel or liquid, the excess, as periodically determined under tables prescribed by the Secretary, of—

“(1) the rate of tax imposed by the applicable State on the sale or use of such fuel or liquid, over

“(2) the rate of tax imposed by the applicable State on the sale or use of such fuel or liquid as of the date of the introduction of the American Energy and Infrastructure Jobs Act of 2012.
Any increase in the rate of tax imposed by any applicable State on the sale or use of any fuel or liquid shall be taken into account under this subsection only if State law provides that such increase is to be taken into account under this subsection.

“(c) APPLICABLE STATE.—For purposes of this section, the term ‘applicable State’ means the State which is determined under regulations prescribed by the Secretary as—

“(1) in the case of a liquid to which section 4041 applies, the State in which such liquid is sold or used, or

“(2) in the case of a fuel to which section 4081 applies, the State in which such fuel is most likely to be sold or used.

“(d) REQUIREMENT TO MAINTAIN INTERSTATE HIGHWAY SYSTEM.—Subsection (a) shall not apply with respect to any fuel or liquid if the applicable State with respect to such fuel or liquid has not entered into an agreement with the Secretary of Transportation under section 150(c) of title 23, United States Code.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 9503 of such Code is amended by striking subsection (d).
Paragraph (4) of section 9503(e) of such Code is amended to read as follows:

“(4) Reduction in rate of transfer based on reduction in state tax rates.—

“(A) In general.—There shall be substituted for each amount in paragraph (2) an amount which bears the same ratio to such amount as the aggregate reduced tax rate bears to the aggregate unreduced tax rate.

“(B) Aggregate reduced tax rate.—For purposes of subparagraph (A), the term ‘aggregate reduced tax rate’ means, with respect to any amount for any calendar year, the amount of tax that the Secretary estimates will be imposed with respect to the liquid or fuel to which such amount relates for such year after application of section 4106.

“(C) Aggregate unreduced tax rate.—For purposes of subparagraph (A), the term ‘aggregate unreduced tax rate’ means, with respect to any amount for any calendar year, the amount of tax that the Secretary estimates would have been imposed with respect to the liquid or fuel to which such amount relates.
for such year if section 4106 did not apply for such year.”.

(B) Subparagraph (A) of section 9503(e)(2) of such Code is amended by striking “sentence” and inserting “subsection”.

(3) The table for section for subpart B of part III of subchapter A of chapter 32 of such Code is amended by adding at the end the following new item:

“Sec. 4106. Reduction in rates of tax based on increase in State tax rate.”.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to liquid or fuel removed, entered, sold, or used after the date of the enactment of this Act.