

**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.

2 (a) IN GENERAL.—Chapter 1 is amended by insert-
3 ing after section 149 the following:

4 “§ 150. Direct Federal-aid highway program

5 “(a) ELECTION BY STATE NOT TO PARTICIPATE.—
6 Notwithstanding any other provision of law, a State may
7 elect not to participate in any Federal program relating
8 to highways, including a Federal highway program under
9 the American Energy and Infrastructure Jobs Act of
10 2012, this title, or title 49.

11 “(b) DIRECT FEDERAL-AID HIGHWAY PROGRAM.—

12 “(1) IN GENERAL.—Beginning in fiscal year
13 2013, the Secretary shall carry out a direct Federal-
14 aid highway program in accordance with the require-
15 ments of this section under which the legislature of
16 a State may elect, not fewer than 90 days before the
17 beginning of a fiscal year—

1 “(A)(i) to waive the right of the State to
2 receive amounts apportioned or allocated to the
3 State under the Federal-aid highway program
4 for the fiscal year to which the election relates;
5 and

6 “(ii) to receive an amount for that fiscal
7 year that is determined in accordance with sub-
8 section (e) for that fiscal year; or

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

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

14 “(A) assumes all Federal obligations relat-
15 ing to each program that is the subject of the
16 election; and

17 “(B) shall fulfill those obligations using—

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

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

25 “(c) STATE RESPONSIBILITY.—

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

3 “(A) agree to maintain the Interstate Sys-
4 tem in accordance with the current Interstate
5 System program;

6 “(B) submit a plan to the Secretary de-
7 scribing—

8 “(i) the purposes, projects, and uses
9 to which amounts received under the pro-
10 gram will be put; and

11 “(ii) which programmatic require-
12 ments of this title the State elects to con-
13 tinue;

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

19 “(D) agree to report annually to the Sec-
20 retary on the use of amounts received under the
21 direct Federal-aid highway program and to
22 make the report available to the public in an
23 easily accessible format.

24 “(2) NO FEDERAL LIMITATION ON USE OF
25 FUNDS.—Except as provided in paragraph (1), the

1 expenditure or obligation of funds received by a
2 State under the direct Federal-aid highway program
3 shall not be subject to any Federal regulation under
4 this title (except for this section), title 49, or any
5 other Federal law.

6 “(3) ELECTION IRREVOCABLE.—An election
7 under subsection (b) shall be irrevocable during the
8 applicable fiscal year.

9 “(d) EFFECT ON PREEXISTING COMMITMENTS.—
10 The making of an election under subsection (b) shall not
11 affect any responsibility or commitment of the State under
12 this title for any fiscal year with respect to—

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

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

18 “(e) TRANSFERS.—

19 “(1) IN GENERAL.—The amount to be trans-
20 ferred to a State for a fiscal year as the result of
21 an election under subsection (b)(1)(A) shall be the
22 portion of the taxes appropriated to the Highway
23 Trust Fund under section 9503 of the Internal Rev-
24 enue Code of 1986, other than for the Alternative
25 Transportation Account, for that fiscal year that is

1 attributable to highway users in that State during
2 that fiscal year, reduced by a pro rata share with-
3 held by the Secretary to fund contract authority for
4 programs of the National Highway Traffic Safety
5 Administration and the Federal Motor Carrier Safe-
6 ty Administration.

7 “(2) TRANSFERS UNDER PROGRAM.—

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

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

14 “(ii) shall be made on the basis of es-
15 timates by the Secretary, in consultation
16 with the Secretary of the Treasury, based
17 on the most recent data available, and
18 proper adjustments shall be made in
19 amounts subsequently transferred to the
20 extent prior estimates were in excess of, or
21 less than, the amounts required to be
22 transferred.

23 “(B) LIMITATION.—An adjustment under
24 subparagraph (A)(ii) to any transfer may not
25 exceed 5 percent of the transferred amount to

1 which the adjustment relates. If the adjustment
2 required under subparagraph (A)(ii) exceeds
3 that percentage, the excess shall be taken into
4 account in making subsequent adjustments
5 under subparagraph (A)(ii).

6 “(f) APPLICATION WITH OTHER AUTHORITY.—Any
7 contract authority under this chapter (and any obligation
8 limitation) authorized for a State for a fiscal year for
9 which an election by that State is in effect under sub-
10 section (b)—

11 “(1) shall be rescinded or canceled; and

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

15 “(g) MAINTENANCE OF EFFORT.—

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

24 “(2) AMOUNTS.—As part of the certification,
25 the Governor shall submit to the Secretary a state-

1 ment identifying the amount of funds the State
2 plans to expend from State sources during the cov-
3 ered period, for the types of projects that are funded
4 by the amounts.

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

10 (b) CONFORMING AMENDMENT.—The analysis for
11 such chapter is amended by inserting after the item relat-
12 ing to section 149 the following:

“150. Direct Federal-aid highway program”.

Page 351, after line 8, insert the following (and con-
form the table of contents accordingly):

13 **SEC. 2025. ALTERNATIVE FUNDING OF PUBLIC TRANSPOR-**
14 **TATION PROGRAMS.**

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

17 **“§ 5341. Alternative funding of public transportation**
18 **programs**

19 “(a) DEFINITIONS.—In this section, the following
20 definitions apply:

1 “(1) ALTERNATIVE FUNDING PROGRAM.—The
2 term ‘alternative funding program’ means the pro-
3 gram established under subsection (c).

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

6 “(A) this chapter; and

7 “(B) section 3038 of the Federal Transit
8 Act of 1998 (49 U.S.C. 5310 note).

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

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of law, a State may elect not to participate
12 in all Federal programs relating to public transpor-
13 tation funded under the Alternative Transportation
14 Account of the Highway Trust Fund, including the
15 Federal public transportation programs under the
16 American Energy and Infrastructure Jobs Act of
17 2012), title 23, or this title.

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

20 “(A) assumes all Federal obligations relat-
21 ing to each program that is the subject of the
22 election; and

23 “(B) shall fulfill those obligations using
24 the amounts transferred to the State under
25 subsection (e).

1 “(c) PUBLIC TRANSPORTATION PROGRAM.—

2 “(1) PROGRAM ESTABLISHED.—Beginning in
3 fiscal year 2013, the Secretary shall carry out an al-
4 ternative funding program under which the legisla-
5 ture of a State may elect, not fewer than 90 days
6 before the beginning of a fiscal year—

7 “(A) to waive the right of the State to re-
8 ceive amounts apportioned or allocated to the
9 State under the covered programs for the fiscal
10 year to which the election relates; and

11 “(B) to receive an amount for that fiscal
12 year that is determined in accordance with sub-
13 section (e).

14 “(2) PROGRAM REQUIREMENTS.—

15 “(A) IN GENERAL.—The Governor of a
16 State that participates in the alternative fund-
17 ing program shall—

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

20 “(I) the purposes, projects, and
21 uses to which amounts received under
22 the alternative funding program will
23 be put; and

1 “(II) which programmatic re-
2 quirements of this title the State
3 elects to continue;

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

11 “(iii) submit to the Secretary an an-
12 nual report on the use of amounts received
13 under the alternative funding program,
14 and to make the report available to the
15 public in an easily accessible format.

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

23 “(3) ELECTION IRREVOCABLE.—An election
24 under paragraph (1) shall be irrevocable during the
25 applicable fiscal year.

1 “(d) EFFECT ON PREEXISTING COMMITMENTS.—
2 Participation in the alternative funding program shall not
3 affect any responsibility or commitment of the State under
4 this title for any fiscal year with respect to—

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

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

10 “(e) TRANSFERS.—

11 “(1) IN GENERAL.—The amount to be trans-
12 ferred to a State under the alternative funding pro-
13 gram for a fiscal year shall be the portion of the
14 taxes transferred to the Alternative Transportation
15 Account of the Highway Trust Fund under section
16 9503(e) of the Internal Revenue Code of 1986, for
17 that fiscal year, that is attributable to highway users
18 in that State during that fiscal year.

19 “(2) TRANSFERS.—

20 “(A) IN GENERAL.—Transfers under the
21 program—

22 “(i) shall be made at the same time as
23 transfers to the Alternative Transportation
24 Account of the Highway Trust Fund are

1 made by the Secretary of the Treasury;
2 and

3 “(ii) shall be made on the basis of es-
4 timates by the Secretary, in consultation
5 with the Secretary of the Treasury, based
6 on the most recent data available, and
7 proper adjustments shall be made in
8 amounts subsequently transferred, to the
9 extent prior estimates were in excess of, or
10 less than, the amounts required to be
11 transferred.

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

20 “(f) CONTRACT AUTHORITY.—There shall be re-
21 scinded or canceled any contract authority under this
22 chapter (and any obligation limitation) authorized for a
23 State for a fiscal year for which the State elects to partici-
24 pate in the alternative funding program.

25 “(g) MAINTENANCE OF EFFORT.—

1 “(1) IN GENERAL.—Not later than 30 days
2 after the date on which an amount is distributed to
3 a State or State agency under this section, the Gov-
4 ernor of the State shall certify to the Secretary that
5 the State will maintain the effort of the State with
6 regard to State funding for the types of projects
7 that are funded by the amounts.

8 “(2) AMOUNTS.—The certification under para-
9 graph (1) shall include a statement identifying the
10 amount of funds the State plans to expend from
11 State sources for projects funded under the alter-
12 native funding program, during the fiscal year for
13 which the State elects to participate in the alter-
14 native funding program.

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

20 (b) CONFORMING AMENDMENT.—The analysis for
21 such chapter is amended by inserting after the item relat-
22 ing 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):

1 **SEC. 15006. FEDERAL TAX ON FUELS DECREASED BY**
2 **AMOUNT OF INCREASE IN STATE TAX ON**
3 **FUEL.**

4 (a) IN GENERAL.—Subpart B of part III of sub-
5 chapter A of chapter 32 of the Internal Revenue Code of
6 1986 (relating to special provisions applicable to fuels tax)
7 is amended by adding at the end the following new section:

8 **“SEC. 4106. REDUCTION IN RATES OF TAX BASED ON IN-**
9 **CREASE IN STATE TAX RATE.**

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

16 “(b) APPLICABLE STATE TAX RATE INCREASE.—
17 For purposes of this section, the term ‘applicable State
18 tax rate increase’ means, with respect to any fuel or liquid,
19 the excess, as periodically determined under tables pre-
20 scribed by the Secretary, of—

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

23 “(2) the rate of tax imposed by the applicable
24 State on the sale or use of such fuel or liquid as of
25 the date of the introduction of the American Energy
26 and Infrastructure Jobs Act of 2012.

1 Any increase in the rate of tax imposed by any applicable
2 State on the sale or use of any fuel or liquid shall be taken
3 into account under this subsection only if State law pro-
4 vides that such increase is to be taken into account under
5 this subsection.

6 “(c) APPLICABLE STATE.—For purposes of this sec-
7 tion, the term ‘applicable State’ means the State which
8 is determined under regulations prescribed by the Sec-
9 retary as—

10 “(1) in the case of a liquid to which section
11 4041 applies, the State in which such liquid is sold
12 or used, or

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

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

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 9503 of such Code is amended by
24 striking subsection (d).

1 (2)(A) Paragraph (4) of section 9503(e) of such
2 Code is amended to read as follows:

3 “(4) REDUCTION IN RATE OF TRANSFER BASED
4 ON REDUCTION IN STATE TAX RATES.—

5 “(A) IN GENERAL.—There shall be sub-
6 stituted for each amount in paragraph (2) an
7 amount which bears the same ratio to such
8 amount as the aggregate reduced tax rate bears
9 to the aggregate unreduced tax rate.

10 “(B) AGGREGATE REDUCED TAX RATE.—
11 For purposes of subparagraph (A), the term
12 ‘aggregate reduced tax rate’ means, with re-
13 spect to any amount for any calendar year, the
14 amount of tax that the Secretary estimates will
15 be imposed with respect to the liquid or fuel to
16 which such amount relates for such year after
17 application of section 4106.

18 “(C) AGGREGATE UNREDUCED TAX
19 RATE.—For purposes of subparagraph (A), the
20 term ‘aggregate unreduced tax rate’ means,
21 with respect to any amount for any calendar
22 year, the amount of tax that the Secretary esti-
23 mates would have been imposed with respect to
24 the liquid or fuel to which such amount relates

1 for such year if section 4106 did not apply for
2 such year.”.

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

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

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

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

