



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #TUL-05-015

TITLE: Opposing a Rider in the "Safe, Accountable, Flexible, Efficient Transportation Equity Act" (H.R.3) and Supporting the Rider's Repeal

EXECUTIVE COMMITTEE

PRESIDENT

Joe A. Garcia
Ohkay Owingeh
(Pueblo of San Juan)

FIRST VICE-PRESIDENT

Jefferson Keel
Chickasaw Nation

RECORDING SECRETARY

Juana Majel
Pauma-Yuima Band of Mission Indians

TREASURER

W. Ron Allen
Jamestown S'Klallam Tribe

REGIONAL VICE-PRESIDENTS

ALASKA

Mike Williams
Yupiaq

EASTERN OKLAHOMA

Joe Grayson, Jr.
Cherokee Nation

GREAT PLAINS

Mark Allen
Flandreau Santee Sioux

MIDWEST

Robert Chicks
Stockbridge-Munsee

NORTHEAST

Randy Noka
Narragansett

NORTHWEST

Ernie Stensgar
Coeur d'Alene Tribe

PACIFIC

Cheryl Seidner
Wiyot

ROCKY MOUNTAIN

Raymond Parker
Chippewa-Cree Business Committee

SOUTHEAST

Leon Jacobs
Lumbee Tribe

SOUTHERN PLAINS

Steve Johnson
Absentee Shawnee

SOUTHWEST

Manuel Heart
Ute Mountain Ute Tribe

WESTERN

Kathleen Kitcheyan
San Carlos Apache

EXECUTIVE DIRECTOR

Jacqueline Johnson
Tlingit

NCAI HEADQUARTERS

1301 Connecticut Avenue, NW
Suite 200
Washington, DC 20036
202.466.7767
202.466.7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, NCAI and its member Tribes are dedicated to preserving the rights of Tribes as sovereign nations including, but not limited to, the rights of Tribes to protect the health of their citizens, natural resources and environment and thereby ensure the economic well-being of Indian people; and

WHEREAS, on July 29, 2005, Congress passed H.R. 3, entitled the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" ("SAFETEA-LU"); and

WHEREAS, prior to that date many Tribes around the country had worked closely with both the Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee on the language of the transportation reauthorization bill; and

WHEREAS, on the very day the House and Senate voted on the Conference Report, a Rider that had not been developed through the usual legislative process and had nothing to do with transportation was inserted into the SAFETEA-LU, thereby depriving Tribes and other interested persons of any opportunity to review or discuss the provisions of said Rider; and

WHEREAS, the Rider purports to allow the State of Oklahoma to administer federal environmental programs in Indian country and requires the State's agreement before Tribes can apply for and administer certain delegated federal environmental programs, to-wit:

“Section 10211. Environmental Programs

(a) OKLAHOMA.-Notwithstanding any other provision of law, if the Administrator of the Environmental Protection Agency (referred to in this section as the "Administrator") determines that a regulatory program submitted by the State of Oklahoma for approval by the Administrator under a law administered by the Administrator meets applicable requirements of the law, and the Administrator approves the State to administer the State program under the law with respect to areas in the State that are not Indian country, on request of the State, the Administrator shall approve the State to administer the State program in the areas of the State that are in Indian country, without any further demonstration of authority by the State.

(b) TREATMENT AS STATE.-Notwithstanding any other provision of law, the Administrator may treat an Indian tribe in the State of Oklahoma as a State under a law administered by the Administrator only if

- (1) the Indian tribe meets requirements under the law to be treated as a State; and
- (2) the Indian tribe and the agency of the State of Oklahoma with federally delegated program authority enter into a cooperative agreement, subject to review and approval of the Administrator after notice and opportunity for public hearing, under which the Indian tribe and that State agency agree to treatment of the Indian tribe as a State and to jointly plan administer program requirements;” and

WHEREAS, the Rider's provisions contradict tribal laws and treaties, disregard years of precedent and established federal policy, constitute an unacceptable intrusion into tribal sovereignty, undermine the ability of Tribes to protect their natural resources and citizens, and therefore must be considered an attack on the sovereignty of Tribes across the Nation.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby oppose the Rider to the 2005 SAFETEA-LU and support the repeal of said Rider; and

BE IT FURTHER RESOLVED, that the NCAI does hereby encourage and support the use of any legal means to block the negative effects of said Rider; and

BE IT FURTHER RESOLVED, that the NCAI requests the assistance and cooperation of all Tribes, tribal advocacy groups, nonprofit organizations, citizens, political leaders and officials from every level of tribal, local, state and federal government in securing the repeal of the Rider; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted at the 2005 Annual Session of the National Congress of American Indians, held at the 62nd Annual Convention in Tulsa, Oklahoma on November 4, 2005 with a quorum present.



President**ATTEST:**

Recording Secretary

Adopted by the General Assembly during the 2005 Annual Session of the National Congress of American Indians held from October 30, 2005 to November 4, 2005 at the Convention Center in Tulsa, Oklahoma.