



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ATL-14-010

TITLE: Urging Government-to-Government Consultation between the FirstNet Authority and Tribal Nations

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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, the Middle Class Tax Relief and Job Creation Act of 2012 (“P.L. 112-96”, or “the Act”) authorized the creation of the First Responder Network Authority (FirstNet), an independent authority within the Department of Commerce, National Telecommunications & Information Administration (NTIA); and

WHEREAS, the intent of FirstNet is to provide police officers, fire fighters, emergency medical service professionals, and other public safety officials the ability to communicate with each other across agencies and jurisdictions on a single nationwide, interoperable, public safety broadband network; and

WHEREAS, under Section 6204 of the Act (47 U.S. Code § 1424), there are explicit references to: 1) tribal members and their eligibility for appointment to the FirstNet Board; 2) acknowledgement of tribes for consultation purposes in deployment of FirstNet; and 3) that tribes are eligible to enter into contractual agreements with FirstNet to utilize existing infrastructure on tribal lands; and

WHEREAS, though the Act listed tribal governments among the entities required for consultation purposes, the “method of consultation” stated that said consultation will occur between FirstNet and the designated officer or governmental body established by each respective State; and

WHEREAS, after the Act became law in February 2012, and given the disparate levels of telecommunications services on tribal lands, tribal entities worked with NTIA to ensure that tribal considerations were included and addressed during the establishment of the FirstNet Authority and its Public Safety Advisory Committee (PSAC); and

WHEREAS, a tribal seat was created on the PSAC and there has been ongoing work regarding FirstNet tribal inclusion and outreach, including the designation of a FirstNet Board Member to act in the capacity of “Tribal Liaison;” and

WHEREAS, although there have been ongoing tribal interactions with FirstNet, under current law consultation with tribal nations does not and will not occur at the federal government-to-government level; and

WHEREAS, explicitly established by the U.S. Constitution, Executive Orders, Acts of Congress—and affirmed by the Judicial system—the federal government has a fiduciary trust relationship with tribal nations, and the protocols for tribal consultation established under P.L. 112-96 abrogate the fiduciary legal relationship tribal nations have with the federal government.

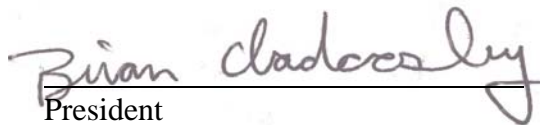
NOW THEREFORE BE IT RESOLVED, that NCAI urges Congress to amend the Middle Class Tax Relief and Job Creation Act of 2012 (“P.L. 112-96”) to codify an explicit recognition of tribal sovereignty and require direct government-to-government consultation between the FirstNet Authority and tribal nations; and

BE IT FURTHER RESOLVED, that until Congress amends P.L. 112-96, the Department of Commerce—as a federal department that has adopted a “Tribal Consultation and Coordination Policy”—intervene on behalf of tribes when state designated officers or governmental bodies are not including tribes in FirstNet proceedings; and

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

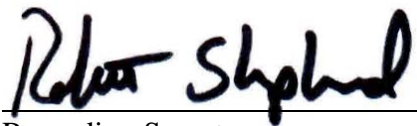
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2014 Annual Session of the National Congress of American Indians, held at the Hyatt Regency Atlanta, October 26-31, 2014 in Atlanta, Georgia, with a quorum present.



President

ATTEST:



Recording Secretary