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## JOINT RESOLUTION

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### OMAHA/WINNEBAGO TRIBAL COUNCILS

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***Resolving to State the Joint Interest and Intent of the Omaha and Winnebago Tribal Councils Relating to the Indian Health Services Direct Services Hospital on the Winnebago Indian Reservation***

WHEREAS, the Omaha Tribe of Nebraska is a federally recognized Indian tribe organized under a constitution and bylaws approved by the Secretary of Interior on April 30, 1936, pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934; and,

WHEREAS, the Winnebago Tribe of Nebraska is a federally recognized Indian Tribe organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat 984) (25 USC 476), as amended by the Act of June 15, 1935, (49 Stat 378); and,

WHEREAS, pursuant to Article III, Section 1 of the Constitution of the Omaha Tribe of Nebraska, the governing body of the Omaha Tribe shall be known as the Tribal Council; and,

WHEREAS, pursuant to Article III of the Winnebago Tribal Constitution, the governing body of the Tribe shall be the Tribal Council; and,

WHEREAS, pursuant to Article IV, Section 1(a) of the Constitution of the Omaha Tribe of Nebraska, the Tribal Council has the authority, *inter-alia*, to negotiate with the Federal, State, and local governments on behalf of the Tribe; and,

WHEREAS, pursuant to Article IV, Section 1 (a) of the Constitution of the Winnebago Tribe of Nebraska, and its inherent powers of self-government, the Tribal Council is vested with the power to *inter-alia*, negotiate with the federal, state and local governments on behalf of the Tribe; and,

WHEREAS, the Omaha and Winnebago Tribal Councils find that the Indian Health Services (“IHS”) has a federal treaty and trust responsibility to provide high quality health care to the Omaha and Winnebago Tribes and their members; and,

WHEREAS, the IHS operates a Direct Service Hospital on the Winnebago Reservation, commonly know as the Omaha/Winnebago IHS Hospital; and,

WHEREAS, as currently structured, this hospital serves in excess of 10,000 Indian people, including the members of the Omaha and Winnebago Tribes; and,

WHEREAS, since well before 2010, numerous studies, investigations and surveys conducted by the United States Congress and various federal agencies have documented serious and appalling deficiencies in the programs and services operated by the IHS in its Great Plains Service Area, including at the Omaha/Winnebago IHS Hospital; and,

WHEREAS, one such investigation, conducted by the Centers for Medicare & Medicaid Services (CMS) in 2014, documented 45 separate serious deficiencies at the Omaha/Winnebago IHS Hospital between April and November of 2014, and found that said deficiencies pose an immediate threat to patient health and safety; and,

WHEREAS, the CMS findings, combined with the IHS’s failure to adequately address them, led CMS to terminate the Omaha/Winnebago IHS Hospital’s ability to collect third party billings from Medicare effective as of July 23, 2015; and,

WHEREAS, even more importantly, these failures have been, and still are, jeopardizing the lives, health and safety of Omaha and Winnebago tribal members and the other Indian people who rely on this hospital for medical services; and,

WHEREAS, the loss of the Omaha/Winnebago IHS Hospital’s Medicare billing capability will almost assuredly result in other third party payers refusal to pay for the services provided at that facility, further

endangering its operating budget and the level and quality of services it is capable of providing; and,

WHEREAS, all of this demonstrates the IHS's flagrant disregard for its treaty and trust responsibilities to the Omaha and Winnebago Tribes, as well as a callous disregard for the lives, health and safety of the members of the Omaha and Winnebago Tribes; and,

NOW THEREFORE BE IT JOINTLY RESOLVED:

that the Omaha and Winnebago Tribal Councils hereby notify the Indian Health Service and its Acting Director Robert McSwain of their joint interest and intent in the following:

1. Management of the Omaha/Winnebago Hospital by IHS is not in the best interest of the Omaha and Winnebago Tribes.
2. The Omaha and Winnebago Tribes call upon the IHS to immediately supply the data necessary for the self-governance compact and to expedite the compacting process.
3. The Omaha and Winnebago Tribal Councils continue to demand that IHS immediately address each and every one of the shortcomings which exist at the Omaha/Winnebago IHS Hospital including, but not limited to: (a) those which have been noted in one or more of the Congressional and federal agency studies referenced in this Resolution; (b) those identified by past or present hospital staff or other health care professionals; (c) those identified by the Omaha and Winnebago Tribes; (d) those identified by the patients at the Omaha/Winnebago facility; and, (e) those which threaten the accreditation of the facility.
4. That the IHS should immediately provide qualified and permanent federal staff and the equipment, medications, money and expertise necessary to accomplish these tasks and to assure high quality medical care to all of the patients served at the Omaha/Winnebago IHS Hospital.
5. The Omaha and Winnebago Tribal Councils demand that any funds allocated by IHS to "corrective action plans"-all of which to date have failed-not come from funding for the IHS Omaha/ Winnebago Hospital.
6. The Omaha and Winnebago Tribal Councils request that IHS keep them informed of the progress the IHS is making on these specific objectives no less than weekly, and seek the full consultation of the Omaha and Winnebago Tribal Councils before all important decisions are made which have, or have the potential to have an impact on the health care the IHS

provides or will provide to the Omaha and Winnebago tribal members;  
and,

BE IT FURTHER RESOLVED:

that because the failure of the Indian Health Service's previous corrective action plans resulted in the loss of the Omaha/ Winnebago IHS Hospital's Medicare/Medicaid eligibility or accreditation, and a decrease in the level or quality of services provided to Omaha and Winnebago tribal members, the Omaha and Winnebago Tribal Councils call for the removal of the following IHS employees from the Omaha/Winnebago IHS Hospital: the Chief Executive Officer Randy Jordan; the Clinical Director; Director of Nursing Karen Reiser; the Emergency Room Director ; the Administrative Officer; the Managed Care Director; and, any other employees and contractors responsible for this situation; and,

BE IT FINALLY RESOLVED:

that the Omaha and Winnebago Tribal Councils also demand the removal of Ron Cornelius from his position as the IHS Area Director and Dr. Mark Jackson, Chief Medical Officer, Great Plains Area.

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**CERTIFICATION**

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This will certify that the foregoing Joint Resolution was considered at a meeting of the Tribal Councils of the Omaha and Winnebago Tribes of Nebraska convened on August 12, 2015 and adopted by each Council by unanimous consent.

Dated: August 12<sup>th</sup>, 2015

\_\_\_\_\_/s/\_\_\_\_\_  
Vernon Miller  
Chairperson,  
Omaha Tribal Council

\_\_\_\_\_/s/\_\_\_\_\_  
Darla LaPointe  
Chairperson,  
Winnebago Tribal Council

/s/  
Jeff Miller  
Secretary,  
Omaha Tribal Council

/s/  
Victoria Kitcheyan  
Secretary,  
Winnebago Tribal Council