

S. HRG. 114-13

**NOMINATION OF JONODEV OSCEOLA CHAUDHURI  
TO BE CHAIRMAN OF THE NATIONAL INDIAN  
GAMING COMMISSION**

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**HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS**

**UNITED STATES SENATE**

**ONE HUNDRED FOURTEENTH CONGRESS**

**FIRST SESSION**

**MARCH 11, 2015**

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**NOMINATION OF JONODEV OSCEOLA  
CHAUDHURI TO BE CHAIRMAN OF THE  
NATIONAL INDIAN GAMING COMMISSION**

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**WEDNESDAY, MARCH 11, 2015**

U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:30 p.m. in room 628, Dirksen Senate Office Building, Hon. John Barrasso, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN BARRASSO,  
U.S. SENATOR FROM WYOMING**

The CHAIRMAN. Good afternoon. I call this nomination hearing to order.

The Committee will consider the President's nominee, Jonodev Chaudhuri, to serve as the Chairman of the National Indian Gaming Commission. Last Congress, he was nominated to serve as the National Indian Gaming Commission Chairman, on July 22, 2014. The Committee held a hearing on the nomination November 12, 2014. The nomination was returned to the President on December 17th.

The President once again nominated Mr. Chaudhuri on January 8th of this year. Early consideration of this nomination, I believe, is important for a number of reasons. The position has been vacant since September 2013, which is far too long. It is an important position charged by Congress with significant regulatory responsibilities in the Indian Gaming Regulatory Act.

This law established by the National Indian Gaming Commission as an independent agency within the Department of the Interior. The full Commission is comprised of the chairman and two commissioners.

According to the most recent data from the National Indian Gaming Commission, Indian gaming has grown to a \$28 billion industry. An industry with this amount of money flow requires the commission to be appropriately staffed.

The commission must also promote integrity and accountability through regulation and enforcement. I have met personally with Mr. Chaudhuri. I am confident that he intends to ensure these principles are carried out by the commission and this industry.

I have called this hearing so that all our members have the opportunity to hear from and ask questions of Mr. Chaudhuri. I in-

tend to work with the Vice Chairman on moving this nomination expeditiously.

Mr. Chaudhuri, congratulations on your nomination. Welcome back to the Committee. We look forward to your testimony.

First, Senator Tester, do you have any opening statement?

**STATEMENT OF HON. JON TESTER,  
U.S. SENATOR FROM MONTANA**

Senator TESTER. I have a brief one, thank you, Mr. Chairman.

I too want to welcome Jonodev here to the hearing today. I appreciate you being here. And I do look forward to working with you, Mr. Chairman, to move Mr. Chaudhuri out as quickly as possible for confirmation. Hopefully we can get you permanently into this position, because Indian gaming is incredibly important to Indian country. We have seen tremendous growth since 1988, providing jobs, providing funding for essential services, infrastructure across Indian country. And this Commission that you will oversee on a permanent basis hopefully is crucial to the oversight to protect the tribes and their members and maintain the highest integrity in their gaming industry.

The purpose of this hearing is to hear how you plan, Mr. Chaudhuri, to carry out the Commission's oversight role while supporting tribal self-sufficiency and ensuring the tribes are the primary beneficiaries of the gaming operations. We need a good person in this position, someone who exhibits good leadership. And you have already provided good leadership in this position, albeit on a temporary basis.

You also have an extensive background in Indian affairs, and you are highly respected in Indian law and Indian gaming communities. So I want to thank you for your service so far. I look forward to your testimony. I appreciate you putting yourself up for this position. I think you will do a great job and be able to continue doing a great job once you are confirmed.

It is good to see your family here. I also note not only a wife and two kids, but Legislative Affairs, which is probably feeling like he's part of the family too, right?

Anyway, thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Vice Chairman.

Mr. Chaudhuri, please proceed.

**STATEMENT OF JONODEV OSCEOLA CHAUDHURI, NOMINEE  
TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING  
COMMISSION**

Mr. CHAUDHURI. Thank you, Mr. Chairman, Mr. Vice Chairman. Hensci, or hello, greetings in the Muscogee Creek Language.

Thank you for providing me this opportunity to discuss my interest and willingness to serve as Chairman of the National Indian Gaming Commission. I am deeply humbled that the President has resubmitted my nomination to you.

If confirmed, I intend to honor the President's confidence and your support by serving the NIGC and the general public to the best of my abilities.

As you are aware, as you mentioned, I appeared before this Committee in a prior nomination hearing four months ago during the

last Congress. I want to personally thank you, Chairman, as well as you, Vice Chairman, for the courtesy meetings that you afforded me that provided me an opportunity to sit down with you and discuss my personal philosophy when it comes to regulation. I am excited to expand on my statements from last year and introduce myself to those members of the Committee who are new to this Congress.

With me today are my wife, Marissa Chaudhuri, and my sons Kanuux and Hamati. Hamati is the little one and Kanuux is the big one. I am so very grateful for their continued inspiration, perseverance and support. Kanuux, who is almost 8, is here despite his criticism that the previous hearing did not include snacks.

[Laughter.]

The CHAIRMAN. We note that Grandpop stayed home.

Mr. CHAUDHURI. Well, unfortunately.

Hamati, who just turned 5, is here with me today, but he was not here with me last year. The last four months have had a slightly beneficial impact on Marissa's and my trust in him to come out in public. We will see how that goes.

I was ecstatic that my father was able to accompany me to the last hearing. Unfortunately, due to the heavy toll that travel takes on him at this age, he is not here today. But he is watching at home on the internet in support of his son.

In my testimony last year, I provided you with an overview of my personal and professional background and the role that my family, both on my Muscogee Creek side and my Indian-American side have played in shaping my commitment to public service. Rather than re-stating all of that background, let me simply say that commitment to service continues to drive me in my role as Acting Chairman of the NIGC, and it is the basis for my continued interest in formal confirmation as Chairman. Please consider my testimony today to be an expansion of my November testimony, which I would appreciate being incorporated into this statement by reference.

It has been my profound privilege to work with and lead the highly skilled and committed team at the NIGC. I am proud of the work that we have done together during my time at the agency to maintain stability in operations and services, while actively strengthening the regulatory structure of the Indian gaming industry. Much work remains, however.

As I mention at every opportunity, I am a firm believer in the sound regulation of the Indian gaming industry. Sound regulation preserves public confidence, supports tribal self-sufficiency and self-determination, protects tribal assets, and promotes a safe and fair environment for all people who interact with the industry.

In various settings, I have repeatedly laid out priorities that I believe are well-targeted to ensure the sound regulation of Indian gaming. These priorities include the continued performance of all oversight duties, ongoing commitment to training, technical assistance and meaningful tribal consultation, staying ahead of the technological curve, supporting a strong regulatory workforce, both at the NIGC and among our regulatory partners, and strengthening dialogue and relationships with all relevant stakeholders.

In implementing these priorities, I recognize the importance of adherence to an independent, principled vision of regulation consistent with IGRA. In the performance of my chairman-specific duties, whether approving gaming ordinances, management agreements or ensuring compliance and issuing appropriate enforcement actions, I have relied on some key guiding principles. They include the need to address and mitigate activities that jeopardize the integrity of Indian gaming and the valuable self-determination tool that it represents; swiftly act on anything that jeopardizes the health and safety of the public at gaming establishments, including employees and patrons; engage in sound regulation without unnecessarily stymieing the entrepreneurial spirit of tribes; and protect against anything that amounts to gamesmanship on the backs of tribes.

In the year and a half since I joined the NIGC, I have been guided by these priorities and principles in my efforts to faithfully implement IGRA. During this period, I have been motivated by my family's belief in public service and the opportunity it provides to honor one's responsibility to the greater community. I believe my perspective continues to be an extremely strong asset to the NIGC and the sound regulation of Indian gaming.

Should I be confirmed to serve as Chairman, I commit to you that I will continue to utilize my experience and perspective to perform my duties in the most fair, principled and practical manner possible.

Thank you for your time today. I am happy to answer any questions you may have.

[The prepared statement and biographical information of Mr. Chaudhuri follow:]

PREPARED STATEMENT OF JONODEV OSCEOLA CHAUDHURI, NOMINEE TO BE  
CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION

Mr. Chairman, Mr. Vice Chairman, Members of the Committee, Hensci, or "greetings/hello" in the Mvskoke (Creek) language. Thank you for providing me this opportunity to discuss my interest and willingness to serve as Chairman of the National Indian Gaming Commission (NIGC). I am deeply humbled that the President has resubmitted my nomination to you. If confirmed, I intend to honor the President's confidence and your support by serving the NIGC and the general public to the best of my abilities.

As you are aware, I appeared before this committee in a prior nomination hearing four months ago during the last Congress. I am excited to expand on my statements from last year and introduce myself to those of you who have recently joined the Committee.

With me today are my wife, Marissa Chaudhuri, and my sons Kanuux and Hamati. I am so very grateful for their continued inspiration, perseverance, and support. Kanuux, who is almost 8, is here despite his criticism that the previous hearing did not include snacks. Hamati, who just turned 5, is here as the last four months have had a marginally beneficial impact on his trustworthiness to behave in public. Unfortunately, my father is unable to attend today due to the heavy toll that any travel takes on him now. I was ecstatic that he was able to come to the Committee's November hearing, and I know that he is at home in Arizona watching this hearing on the Internet in support of his son.

In my testimony from last year's hearing, I provided you with an overview of my personal and professional backgrounds and the role that my family's values and experiences have played in shaping my commitment to public service. Rather than restating all of that background, it is sufficient for me to say that that commitment to service continues to drive me in my role as Acting Chairman of the NIGC, and it is the basis for my continued interest in formal confirmation as Chairman. Please



consider my testimony today to be an expansion of my November testimony, which I would appreciate being incorporated into this statement by reference.<sup>1</sup>

It has been a profound privilege to work with and lead the highly skilled and committed team at the NIGC. I am proud of the work that we have done together to maintain stability in our operations and services during a period of significant transition. Beyond simply keeping the agency running smoothly, however, we have actively worked to strengthen the regulatory structure of the Indian gaming industry during my time at the agency. Much work remains, however.

As I mention at every opportunity, I am a firm believer in sound, sensible regulation of the Indian gaming industry. In addition to being consistent with the mandates of the Indian Gaming Regulatory Act (IGRA), I believe sound regulation is an essential pillar of support for the critical avenue to self-sufficiency and self-determination that Indian gaming has proven to be for many tribal nations. Sound regulation preserves public confidence, protects tribal assets, and promotes a safe and fair environment for all people who interact with the industry. I am committed to ceaselessly working to identify and employ all practical methods to support industry compliance with IGRA.

In order to soundly regulate, we need to have the internal capabilities to track and adjust to an ever-changing technological landscape. I have taken active steps to ensure that the NIGC stay ahead of technological developments in Indian gaming and general operations management. Last summer, I worked with my fellow Commissioner, Dan Little, and our senior leadership to use our recent headquarters move as an opportunity to virtualize our server environment and upgrade much of our hardware and audio-visual components. Additionally, we recently offered tribes the option of submitting fees through Pay.gov. These improvements have already improved our ability to coordinate with our regulatory partners and safeguard information we receive from them. Soon, we will be able to expand our training and technical assistance capabilities to remote locations through the use of targeted webinars and online trainings.

During my time as Acting Chairman, the Commission has engaged in formal tribal consultations on technology in Indian gaming. Further, in the performance of my Chairman-specific regulatory authorities, and as an ongoing matter, I regularly work with our compliance and legal professionals to assess whether various proposals and operations that employ unique and innovative technical approaches comply with IGRA. Through input received in our consultations as well as information gleaned in our day-to-day regulatory work, I have become increasingly mindful of the need to elevate and institutionalize our emphasis on staying abreast of technological developments.

To this end, we are actively working to develop a comprehensive approach to staying on top of technology developments in the field and utilizing the most up-to-date knowledge available in the performance of all agency functions, including our oversight functions, our training and technical assistance, and our internal operations. Over the last several months, we have assessed various avenues to implement a cohesive technology vision that cuts across all agency functions. Most recently, the Commission announced its intent to develop a technology division that will further these efforts. Without significantly altering the overall staffing of the agency, adding the voice of a technology director to our senior leadership team will elevate the role of technology internally and help inform future agency actions.

Although we already count among our numbers leading experts on gaming technology, the formation of this division is consistent with my philosophy that the preservation of critical agency expertise needs to be reflected in our agency structure and not be solely tied to the good fortune of having outstanding individuals on the team.

At the same time, I believe that it is imperative that we continue to attract and retain the most capable and committed professionals that we can. For this reason, I am proud that our last federal employee viewpoint survey showed improved results for the agency in 78 percent of the survey's questions, many of the most significant gains being made in leadership categories. While significant work remains to be done, I believe the agency is on the right track in doing what it can to attract the most capable individuals to support its mission.

Identifying all practical methods to enhance industry compliance with IGRA requires an openness to work with and listen to relevant stakeholders. I have previously discussed my commitment to continued consultation and cooperation with tribes who, per IGRA, are the primary regulators of Indian gaming. In addition to being solidly grounded in the law and consistent with longstanding federal Indian policy, executive orders, and our agency's strategic plan, continued emphasis on con-

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<sup>1</sup> see the November 12, 2014 Indian Affairs Committee hearing.

sultation with tribes and cooperation with the over 5,400 tribal gaming regulators in the field is simply the most efficient and practical way for the NIGC to fulfill its statutory responsibilities.

I was proud that the Commission engaged in targeted consultations last year on topics that included technology in Indian gaming, and we are actively working to implement many of the helpful recommendations received through that dialogue. Additionally, the Commission recently announced a robust slate of additional consultations to take place this spring that will help us to further improve our regulatory and operational functions.

In addition to formal tribal consultation, the NIGC must work closely with other agencies within the Federal Government as well as state regulators. While the NIGC may not always agree with its fellow federal, state, and tribal regulators, it is essential that we have open and frank communication. I am committed to improving those working relationships.

While I absolutely will continue to listen to all relevant stakeholders, I recognize the importance of adherence to an independent internal vision of regulation consistent with the principles of IGRA. In the performance of my Chairman-specific duties, whether approving gaming ordinances and management agreements or ensuring compliance and issuing appropriate enforcement actions, I have relied on some key guiding principles. They include the need to:

- Act within appropriate agency authority to address and mitigate activity that jeopardizes the integrity of Indian gaming and, by extension, the valuable self-determination tool that it represents;
- Swiftly act on anything that jeopardizes the health and safety of the public at gaming establishments, including employees and patrons;
- Engage in sound regulation without unnecessarily stymieing lawful economic development activities; and
- Protect against anything that amounts to gamesmanship on the backs of tribes.

As someone who has witnessed the undeniable benefits the Indian gaming industry has provided to many Native communities, I know the importance of protecting it. It is not the job of the NIGC to artificially inhibit growth or the entrepreneurial spirit of tribes, however, it is our job to ensure that a strong regulatory structure is maintained so that the public continues to have confidence in the industry. An efficient, well-functioning, and effective regulatory structure protects the industry and promotes its integrity and health.

Keeping these principles in mind has been quite critical for me in making the challenging decisions that I have already made as Acting Chairman, and I am comfortable that they will provide appropriate guidance to me should I be formally confirmed as Chair. These principles directly flow from the mandates of IGRA, and I believe adherence to them provides a clear path to sound regulation.

In conclusion, my personal and professional background has provided me with a deep appreciation for the transformative impact that gaming has had for many tribal nations and their efforts to pursue self-determination and economic self-sufficiency. I am honored by the opportunity I have been provided to assist in preserving the integrity of the Indian gaming industry.

In the performance of my regulatory duties, I am constantly reminded of the core values that my mother and father shared and championed, primary among them a conviction that public service is an expression of a person's fundamental responsibility to the greater community good. Last November, I discussed specific family experiences, both on my Mvskoke (Creek) side and my Indian-American side that contributed to these values. In the year and a half since I joined the NIGC, I have done my best to be faithful to these values, and I believe my personal and professional perspective continues to be an extremely strong asset to the agency and the regulation of Indian gaming. Should I be confirmed to serve as Chairman, I commit to you that I will continue to rely on these values to perform my duties in the most fair, principled, and practical manner possible.

Thank you for your time today. I am happy to answer any questions you may have.

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#### A. BIOGRAPHICAL INFORMATION

1. *Name:* (Include any former names or nicknames used.) Full Name: Jonodev Osceola Chaudhuri Nickname: Jon
2. *Position to which nominated:* Chairman, National Indian Gaming Commission
3. *Date of nomination:* January 8, 2015

4. *Address:* (List current place of residence and office addresses.)

*Residence:* Not released to the public  
*Office:* 90 K Street N.E., Suite 200, Washington D.C. 20005

5. *Date and place of birth:* January 13, 1972 Tallahassee, Florida

6. *Marital status:* (Include maiden name of wife or husband's name.) Wife's Name: Marissa Janelle Chaudhuri; Wife's Maiden Name: Mercurieff

7. *Names and ages of children:* (Include stepchildren and children from previous marriages.) Oldest son: Kanuux Auwa Chaudhuri, 7 years old; Youngest Son: Hamati Tanagaax Chaudhuri, 4 years old

8. *Education:* (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Law School: Cornell Law School, Ithaca, NY, Fall 1996–Spring 1999, Juris Doctorate, 1999  
 College: Dartmouth College, Hanover, NH, Fall 1989–Spring 1993, Bachelor of Arts, 1993  
 High School: Tempe High School, Tempe, AZ, Fall 1985–Spring 1989, High School Degree, 1989  
 Summer Programs: Pre-Law Summer Institute, American Indian Law Center, Albuquerque, NM, PLSI Certificate, 1996  
 Arizona State University Summer Math and Science Program, Tempe, AZ, 1989, Summer math curriculum  
 Additional Course Work: Attended ASU College of Law as a Visiting Student during 3rd year of law school (Fall 1998 and Spring 1999), and took targeted coursework at ASU after college graduation (symbolic logic and an American Indian policy course).

9. *Employment record:* (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment, including any military service.)

*Acting Chairman,* National Indian Gaming Commission (NIGC) Washington, D.C.; October 2013–April 2014; July 2014–Present  
*Vice Chairman/Associate Commissioner,* NIGC Washington, D.C.; September 2013–Present  
*Senior Counselor to the Assistant Secretary—Indian Affairs,* U.S. Department of the Interior Washington, D.C.; June 2012–September 2013  
*Associate Judge,* Puyallup Tribe of Indians Tacoma, WA; April 2011–May 2012  
*Deputy Public Defender,* Maricopa County Public Defender's Office, Phoenix, AZ; December 2010–April 2011  
*Managing Attorney,* The Chaudhuri Law Office, PLLC, Tempe, AZ; February 2006–December 2010  
*Associate,* Snell & Wilmer, L.L.P., Phoenix, AZ; August 2001–February 2006  
*Chief Justice/Associate Justice,* Muscogee (Creek) Nation Supreme Court, Okmulgee, OK; 2006–2012  
*Appellate Judge,* San Manuel Mission Band of Indians Appeals Court, Highland, CA; 2009–2012  
*Appellate Judge,* Gila River Indian Community Court of Appeals, Sacaton, AZ; 2008–2010  
*Associate Justice,* Yavapai-Apache Nation Court of Appeals, Camp Verde, AZ; 2005–2009  
*Adjunct/Visiting Faculty—*  
 National Judicial College—Criminal & Civil Jurisdiction, Full Faith & Credit (2010)  
 Phoenix College—Navajo Government (Spring, 2011)  
 South Mountain Community College—American Indian Studies (Spring, 2010)  
 Phoenix College—Gaming; Jurisdiction; Practice Court (2000–2003)  
*Judicial Clerk—*Honorable Noel Fidel, Arizona Court of Appeals (2000–2001)  
*Judicial Clerk—*Honorable James M. Ackerman, Arizona Court of Appeals (1999–2000)  
*Law Clerk—*Federal Public Defender's Office (1999)  
*Law Clerk—*Muscogee (Creek) Nation Supreme Court (1998)  
*Law Clerk—*Salt River Pima-Maricopa Indian Community Court (1997, 1999)  
*Law Clerk—*Maricopa County Superior Court, Honorable James H. Keppel (1997)  
*Culture and Enrichment Coordinator,* Fort McDowell Yavapai Nation, Fountain Hills, AZ, Fall of 1993 through Spring of 1996.

*Sporting Goods Associate* (or similar title), Dartmouth Co-op, Hanover, NH (summer of 1993)

*Dishwasher*, Hanover Bakery, Hanover, NH (summer of 1993)

10. *Government experience*: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.)

U.S. Department of Justice, Office of Justice Programs, *Peer Grant Reviewer* (2009, 2012)

State Bar of Arizona, Indian Law Section, Executive Council, Past Chair (2005–2006) and Executive Committee Member (2003–2007)

Arizona Federal, State, and Tribal Court Forum (Overseen by Arizona Supreme Court), *State Bar Representative* (2004–2007)

11. *Business relationships*: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.)

Chaudhuri Law Office, PLLC, Manager, Managing Attorney

Law Office of Robert Lyttle, Contract Attorney, sometimes in Of Counsel Capacity

12. *Memberships*: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.)

State Bar of Arizona (Active)

Washington State Bar Association (Active)

Oklahoma Bar Association (Active)

United States District Court, District of Western Oklahoma

United States District Court, District of Arizona

Muscogee Creek Nation Bar Association (Active)

Dartmouth College Alumni Council, General Council and Nominating Committee

State Bar of Arizona, Indian Law Section, Executive Council, Past Chair

Construction in Indian Country (CIIC) Executive Committee

Phoenix Indian Center, Past Member, Board of Directors

Arizona State, Tribal & Federal Court Forum, Past State Bar Representative

American Bar Association Death Penalty Moratorium Implementation Project Assessment Team

Arizona Indian Economic Development Breakfast Forum

Phoenix College Tribal Court Advocacy Advisory Committee, Charter Member

American Indian Veterans Memorial Organization

Native American Heritage Preservation Coalition

Arizona Volunteer Lawyers Program

Native-POLL-ooza!®, (non-partisan effort to increase Native voter participation)

Co-Chair/Principal Founder

National Congress of American Indians Native Vote National Election Protection Program Arizona director (2004)

INDNS List, Past Arizona director of organization created to identify and support Native American candidates for elected office.

Native American Community Organizing Project, Community organizer and pro bono counsel

Cornell Law Students Association

Cornell Journal of Law and Public Policy

Cornell American Indian Graduate Students Association

Cornell American Indian Law Students Association

National Native American Law Students Association

Native Americans at Dartmouth, President, 1992

13. *Political affiliations and activities*:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate: None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years: None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years:

Contributions to Harry Mitchell for Congress: 3/4/09—\$1,000; 9/16/08—\$1,000; 6/10/08—\$500; 11/29/07 \$700; 10/16/06—\$1,000.

Contribution to INDNs List, Indigenous Democratic Network: 10/23/05—\$1,070.

14. *Honors and awards*: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.)

Dartmouth College Tucker Foundation, Community Service Fellowship Snell & Wilmer Community Leadership Award Muscogee (Creek) Nation Supreme Court, Recognition of Service State Bar of Arizona Indian Law Section, Recognition of Service as Past Chair.

15. *Published writings*: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.)

*Re-Creating the Circle: The Renewal of American Indian Self-Determination*, University of New Mexico Press, 2011, LaDonna Harris, Stephen Sachs, Barbara Morris, et al. Contributing author.

*Fixing a Hole: Commercial Courts as a Tool for Tribal Economic Development*, The Arrow (Arizona State Bar Indian Law Section Publication), 2002.

*The Yavapai of Fort McDowell, An Outline of Their History and Culture*, 4th ed., Mead Publishing, 1995. Chief editor and contributing author.

*A Day In the Life of Tribal Court*, The Defender (Public Defender Publication), 2000.

16. *Speeches*: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated:

Although I have presented publicly on a number of occasions, including on behalf of the NIGC, I do not use written scripts and therefore do not have copies of any formal speeches. I am attaching a copy of the written testimony I presented at the Committee's July 2014 hearing on the future of Indian gaming, as well as the written statement presented to the Committee at my November 2014 confirmation hearing.<sup>1</sup>

17. *Selection*:

(a) Do you know why you were selected for the position to which you have been nominated by the President?

Through my work at the NIGC and the Department of the Interior, I have a proven track record of working with federal partners, tribal leadership, and other relevant stakeholders to carry out the agency's mission and meet relevant goals. My ability to do so has been bolstered by my qualifications and professional experiences, discussed below.

(b) What in your background or employment experience do you believe affirmatively qualifies you for this particular appointment?

I have served in a leadership role at the NIGC since September 4, 2013, much of that time spent as Acting Chairman of the agency. I have developed working relationships with agency personnel, having made a point to meet with regional staff at every opportunity. Working in this capacity, I have gained important experience and have become familiar with the day-to-day workings of the agency and the policy issues before it. I believe that this proactive, positive approach has contributed to improved results in a recent employee Viewpoint Survey (2014) for the period during my tenure as Acting Chairman, when compared to the previous year. Finally, through the Commission's outreach at consultations, tribal leadership meetings, and industry functions, I have expanded on my relationships with industry stakeholders to build on the agency's goodwill and collaborative relationships.

In addition, my extensive professional experience has proven to be directly relevant and helpful during my tenure with the agency. My lengthy service as an attorney and teacher in the field of Indian law and gaming matters has given me a solid understanding of the Commission's legal and regulatory issues. My judicial experience has given me a thoughtful, measured, approach to issue resolution with an eye toward long-term impacts. My policy background from service at DOI and a number of community organizations has given me a full picture of how gaming and gaming decisions impact federal Indian policy and tribal nation-building on a national scale. Finally, my volunteer service and my lifetime service to underrepresented communities help me appreciate how prudent economic development efforts positively impact real lives. All of these experiences have given me a deep respect for efforts tribes engage in to improve their communities and an appreciation for the role that NIGC plays in protecting a critical avenue for tribal economic development through sound regulation.

<sup>1</sup>See the July 23 and November 12, 2014 Indian Affairs Committee hearings.

If confirmed, I will continue to support efficient and orderly operations at the NIGC, and will ensure that our agency responsibilities are fulfilled in the smoothest manner possible.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations, or business organizations if you are confirmed by the Senate? N/A (My current employer is the National Indian Gaming Commission.)

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, please explain: No.

3. Do you have any plans, commitments, or agreements after completing government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

#### C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers: None.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated:

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of the Interior's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy:

In my capacity as Senior Counselor to the Assistant Secretary—Indian Affairs at the Department of the Interior and in my role at the NIGC, I have participated in discussions of the implications of legislative and budgetary policies that could impact those agencies. I have at times carried out discussions with congressional committee staffs on such issues. I have not otherwise engaged in activities to influence the legislative process.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items: (Please provide a copy of any trust or other agreements.)

As I noted in response to Question 3 above, I have consulted with the Office of Government Ethics and the Department of the Interior's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

## D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain:

I have never been disciplined or cited for any breach of ethics by any court, administrative agency, professional association, disciplinary committee, or other professional group. In a previous judicial position, I was the subject of a complaint to an internal administrative committee that was subsequently withdrawn.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than for a minor traffic offense? If so, please explain:

In January of 2000, I was ticketed for and pleaded no contest to a charge of driving under the influence.

3. Have you or any entity, partnership or other association, whether incorporated or unincorporated, of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain:

In 2011, my wife and I were the prevailing party in a small claims case involving allegations of non-payment for our wedding photographs.

In 1995 my family filed a civil suit for violation of civil rights, invasion of privacy, and tortious infliction of emotional distress. The matter was settled prior to trial.

In 1995, I filed an injunction which was served against the ex-husband of my then-girlfriend, who threatened us, and he filed, but did not serve, an injunction against me in retaliation. No formal prosecution resulted from these actions.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain:

Yes, see answer to Question 2, above.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination:

I offer the following additional information to the Committee:

- I have always enjoyed games of strategy; in addition to winning and placing in various chess tournaments, I achieved a United States Chess Federation title of expert while in high school. I have played card games, including poker, and have won poker tournaments in the past. Since working at the NIGC, while I have played on one occasion at a non-tribal casino, I have not, and would not, play at casinos regulated by the NIGC. I have always committed myself to the highest ethical standards and will continue to do so during my tenure at the agency. In this spirit of this commitment, I will forego such activity at any casino during my remaining tenure on the Commission.
- Gaming has had a monumental impact on tribes that have been able to benefit from it, and I appreciate the importance of sound regulation in the industry. If confirmed, I will do all that I can to collaborate with tribes and industry stakeholders to ensure that the NIGC fulfills its statutory responsibilities.

## E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Please explain how if confirmed, you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress:

The NIGC's strategic plan requires it to engage in ongoing regulatory review. Given that the gaming industry is driven by ever-changing technology and market dynamics, the agency actively consults with tribes and works with stakeholders to monitor its regulations. I look forward to a continuing dialogue with Congress regarding industry regulation, and I intend to continue to work with our Office of General Counsel and relevant federal partners, such as DOJ, to make sure our regulations comply with the law.

5. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

#### F. GENERAL QUALIFICATIONS AND VIEWS

1. How does your previous professional experiences and education qualify you for the position for which you have been nominated?

As discussed in response to Question A17, I believe my professional experiences and education have provided me with a strong foundation for service as Chairman of the NIGC. My service as Acting Chairman, an Indian law practitioner and teacher, an appellate and trial court judge, a senior counselor on numerous policy issues, and a community volunteer all help me understand how gaming and the NIGC fit into broader nation-building and self-determination efforts in which tribes engage. Further, my work with federal, tribal, and state governments has provided me with a great respect for collaboration and cooperation among jurisdictions to achieve outcomes of mutual benefit. Finally, having worked in a number of public trust positions as well as the private sector—with a large law firm and my own firm—I appreciate the importance of best practices and fiscal stewardship in management of a government agency. Together, the above experiences provide me with a helpful context for the regulatory and administrative work the Commission performs, and I would be honored to continue to use my background to serve the agency.

2. Why do you wish to serve in the position for which you have been nominated?

As an extension of my family's longstanding service to Indian country and the community as a whole—my father is a retired political science professor and my late mother was a lifelong volunteer on behalf of community organizations and projects—I am a staunch believer in public service.

Further, it is a reality that gaming has had a profound impact for those communities that have benefited from it. I have seen this firsthand in my tribe and tribes in which I have worked. Before law school, from 1993–1996, I worked as an educator (a culture and enrichment coordinator) for an Arizona tribe whose gaming operation was in the early stages of flourishing. I was an observer to how that community used its gaming resources to invest in infrastructure, community health programs, educational services, and cultural preservation efforts. Similarly, I saw how my tribe and neighboring tribes in southeastern Oklahoma began using gaming revenue to transform opportunities for subsequent generations.

How a given tribe uses gaming and gaming revenue to pursue broader economic development and nation-building as a whole will depend on the needs and vision of that community. Respecting tribal sovereignty is a fundamental value for me. I believe the NIGC, in cooperation with tribes, tribal regulators, federal partners, and states, plays a critical role in protecting the gaming industry through sound regulation and observance of IGRA's mandates. I welcome the opportunity to do what I can to ensure the NIGC continues to perform that role with diligence, professionalism, and respect.

3. What goals have you established for your first two years in this position, if confirmed?

As gaming is a technology-driven industry, a priority of the agency must be allocating sufficient attention and resources to ensure that its infrastructure, staffing, regulations, and services (i.e., training and technical assistance) incorporate relevant and appropriate technology. I am proud that I have already taken steps toward this goal as the Commission recently launched a series of consultations intended to seek tribal input on how the agency may better use emerging technologies to provide outreach and services to tribes. Similarly, I am also proud that the NIGC used its recent DC headquarters move as an opportunity to update its IT and AV infrastructure. Maintaining up-to-date IT capacity as well as expanding our AV training and technical assistance capabilities to serve remote communities will be a continued priority for me. Further, I look forward to helping monitor our regulations to ensure that they consistently reflect the goals of IGRA in light of technological and market-driven changes in the industry.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

Through my judicial service, client representation, DOI service, cultural and familial ties, and living and studying in various locales, I am familiar with gaming issues and other policy matters facing tribes in most regions of the country. Despite having been born in Florida, my exposure to issues facing tribes in the Southeastern United States has been somewhat limited. I intend to work with appropriate tribal representatives and stakeholders in that region to expand my knowledge of area-specific issues. Further, I intend to build on my management skills and knowledge of the ever-changing gaming industry through continued dialogue and trainings



with relevant experts. An efficiently-managed regulatory agency necessarily relies on a skilled staff with a diverse set of expertise—i.e., legal, technological, operational, etc. Although it is impossible for any agency official, including an agency head, to be an expert in all things, good leadership requires an understanding of how various skillsets contribute to achieving an agency's goals and working to ensure that all agency officials work in unison toward those goals. From my time on the Commission, bolstered by my experience prior to joining the Commission, I have a solid understanding of the importance and relevance of the various NIGC officials' roles. I will continue to rely on available in-house expertise as appropriate, support our specialized staff as much as possible, and enhance our expertise as guided by continued consultation and operational review.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary:

Overall, I believe the guiding principle of the role of government should be balance. In most matters, an ideal balance between oversight and private action is one that at once ensures fundamental fairness and honest dealing while not creating unnecessary impediments to private activity. As applied to the NIGC, the agency's ACE initiative seeks to strike that balance. Through assistance in the form of training and technical assistance, the agency seeks to work with tribes and regulators to ensure compliance with IGRA mandates and NIGC regulations. The idea is that through earnest effort on the front end, IGRA violations will naturally decline. The NIGC takes its oversight role extremely seriously, but sees significant benefit and efficiency in working in a collaborative manner to address issues before they become serious problems. Similarly, our regulations aim to implement IGRA in a manner consistent with the statute without creating unnecessary or arbitrary impediments in the industry.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated:

As stated in all agency materials:

The Commission's primary mission is to work within the framework created by the Indian Gaming Regulatory Act (IGRA) for the regulation of gaming activities conducted by tribes on Indian lands to fully realize IGRA's goals: (1) promoting tribal economic development, self-sufficiency and strong tribal governments; (2) maintaining the integrity of the Indian gaming industry; and (3) ensuring that tribes are the primary beneficiaries of their gaming activities.

To achieve these goals, the Commission is to adhere to the principles of good government, including transparency and agency accountability; to promote fiscal responsibility; to operate with consistency and clarity to ensure fairness in the administration of IGRA; and to respect the capabilities and responsibilities of each sovereign tribal nation in order to fully promote tribal economic development, self-sufficiency and strong tribal governments.

I intend to continue the gains made in recent years in outreach to tribes and regulators through our agency-wide commitment to the ACE initiative. Standing for "Assistance", "Compliance", and, when necessary, "Enforcement", the agency seeks to fulfill its oversight responsibilities while doing what it can to assist tribal gaming operations achieve compliance. I believe this initiative is a major achievement for the Administration and has led to considerable positive outreach with tribes, as well as many states. I look forward to continuing the positive trajectory of the agency in this regard.

7. What do you believe to be the top three challenges facing the department/agency and why? I believe the top three challenges facing NIGC all relate to staying ahead of the technological curve. They are:

- Creating and maintaining up-to-date infrastructure.
- Retaining and recruiting skilled experts.
- Maintaining current regulations in a technological industry.

Each of these challenges stem from the reality that gaming is driven by the market, and the gaming market is constantly developing new technologies for the gaming consumer. The Indian gaming industry is no stranger to this dynamic as tribal gaming is responsible for many of the technological improvements in the international gaming industry. However, the ever-changing face of gaming presents logistical challenges. As an agency, the NIGC must do what it can to ensure that in-house expertise is capable of serving all agency needs, including internal IT and

information management, ensuring adequate protection in information-sharing with gaming facilities and other agencies, providing meaningful training and technical assistance, and ensuring that we can sufficiently perform our auditing and enforcement functions. Attorneys and operational professionals who are capable of performing these functions have many employment options. The NIGC has been committed to doing what it can to recruit and retain leaders in these fields. Similarly, its internal infrastructure and regulations need to be kept upto-date at all times. Ensuring sufficient staffing who understand these issues will be fundamental to these efforts. I look forward to addressing these challenges, if I am confirmed.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

Overall, I believe the NIGC has done well in fulfilling its mission over the last several years, and I am committed to building upon the agency's positive efforts, if confirmed.

9. Who are the stakeholders in the work of this department/agency?

As stated above, IGRA's express goals are: (1) promoting tribal economic development, selfsufficiency and strong tribal governments; (2) maintaining the integrity of the Indian gaming industry; and (3) ensuring that tribes are the primary beneficiaries of their gaming activities.

Thus, under IGRA, tribes and tribal regulators are primary stakeholders in the NIGC's work. States also play an important role in regulation of class III gaming. The Department of the Interior, especially DOI-Indian Affairs has a large role in numerous gaming matters, so maintaining good relationships with DOI is beneficial. Other federal partners, such as DOJ and the FBI work closely with the NIGC. Finally, industry operational experts play an important role in Indian gaming, and the agency does make an effort to be aware of their perspectives.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

The appropriate relationship is one of collaboration, with appropriate boundaries.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

a) What do you believe are your responsibilities, if confirmed, to ensure that your department/agency has proper management and accounting controls?

Given that adherence to the principles of good government is key to achieving the NIGC's mission, proper management and accounting controls by the agency are very important. If confirmed, my responsibilities will include working with NIGC staff to ensure that such systems are in place so that the agency can effectively perform its auditing and enforcement functions in a transparent and accountable way and in accordance with NIGC's statutory responsibilities. As a federal agency, it must be held accountable for compliance with all applicable laws.

b) What experience do you have in managing a large organization?

As mentioned in response to an earlier question, I have enjoyed serving in a leadership capacity at the NIGC since September 4, 2013. Much of that time was spent as Acting Chairman. Further, as Chief Justice of the Muscogee (Creek) Nation, I was not only the administrative head of the judiciary of the fourth largest tribe in the country, I oversaw the Supreme Court's management of the tribe's large bar association. Finally, I have experience working in numerous types of administrative settings in the private sector as well as within federal, state, and tribal settings.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

a) What benefits, if any, do you see in identifying performance goals and reporting on progress in achieving those goals?

I see enormous benefit to having clearly-stated goals from both a management and a policy perspective. Such goals help set priorities and motivate all organizational members to work in a collaborative fashion. Engaging relevant stakeholder in setting goals also produces buy-in and improves cooperation after the goals are set. I am happy to work with the appropriate officials to ensure ongoing compliance.

b) What steps should Congress consider taking when a department/agency fails to achieve its performance goals?

Should these steps include the elimination, privatization, downsizing, or consolidation of departments and/or programs? There are many reasons why an agency may fail to achieve performance goals. It is important that the cause of any failure be identified so that agency personnel and Congress can better understand the issues and develop appropriate responses. If confirmed I would ensure that NIGC

strives to meet its performance goals, and I would work with the Committee to ensure the agency had necessary authority to effectively carry out its mission.

c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

Last year the NIGC published its Strategic Plan for the next five fiscal years. That plan contains 5 strategic goals for the Commission that identify key areas for performance improvement and reflect the direction in which the NIGC wants to move in order to realize its mission. These goals include:

1. Continue the Assistance, Compliance and Enforcement initiative;
2. Improve technical assistance and training for stakeholders;
3. Improve and update the NIGC's regulations;
4. Improve consultation, communication and relationship building with tribal regulatory authorities, and federal and state agencies; and
5. Increase efficiency, transparency and accountability.

If confirmed as Chairman, I believe it is appropriate that I be held accountable for the NIGC's efforts to meet these performance goals.

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I am a strong believer in a team-based approach. No employees have brought complaints against me. I believe that my approach has contributed to improved results in a recent employee Viewpoint Survey (2014) for the period during my tenure as Acting Chairman, when compared to the previous year.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain:

As noted in the response to Question C4, in my capacity as Senior Counselor to the Assistant Secretary—Indian Affairs at the Department of the Interior and in my role at the NIGC I have at times carried out discussions with congressional committee staff on policy and legislative issues. I believe that through these discussions, I have developed a positive, but limited working relationship with congressional staff, including staff for this Committee.

15. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency:

The NIGC works with the DOI Inspector General's Office on matters under investigation by that office. I intend to support an open and responsive relationship with the DOI Inspector General.

16. In the areas under the department/agency's jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities?

Please state your personal views: One area where NIGC strives to adapt to continue to play a relevant role is in meeting the demands of constant technological change. Currently, several different bills on Internet gaming have been introduced by members of Congress. Some of these bills address the NIGC's role and some do not. The NIGC has heard a variety of viewpoints on the matter from various tribes and stakeholders, and I believe it is important to continue to hear from those entities in the future.

17. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please explain what steps you intend to take and a timeframe for their implementation. If not, please explain why.

Yes. I fully support fiscal transparency. As the NIGC is funded by fees paid by tribes engaged in Indian gaming, I am personally committed to being a good steward of such fees. I am committed to working with my colleagues at the agency to regularly review our budgeting process with an eye toward transparency and compliance with applicable law.

#### G. FINANCIAL DATA

Information not released to the public.

The CHAIRMAN. Thank you very much.

Thank you for your testimony. Hello to your father, who is watching on the internet. We will go first to Senator Tester.

Senator TESTER. Thank you, Mr. Chairman.

As your testimony pointed out, you have been in this position for about a year and a half on an acting basis. Can you describe the impacts of having not been confirmed and being in an acting position to the commission?

Mr. CHAUDHURI. Thank you, Vice Chairman.

First and foremost, we have had many successes. By and large, the agency has been operating to the best of its abilities in a smooth manner for the last year and a half. To that, I credit the incredible commitment and skill of the excellent team that we have at the National Indian Gaming Commission. Many of them are here today, our senior leadership is here, of their own accord: Our chief of staff and our general counsel, as well as my fellow commissioner, Dan Little. The commitment that all of them have is real and it goes to the core of their belief systems.

But I must say that there is a need to have a confirmed chairman. IGRA contemplates a confirmed chairman, one nominated by the President and confirmed by the Senate. It's essentially a constitutional officer that needs to be running an agency of the NIGC's importance.

In addition to that, IGRA contemplates a full commission. We have done what we could despite having two-thirds of a commission in place. But we need a confirmed chairman for stability and for the persuasive authority that a constitutional officer provides in the chair position.

Senator TESTER. Could you give me an idea of how many people work under you?

Mr. CHAUDHURI. Numbers-wise, we are a small agency. So we have 100 employees at this time, approximately 100. I think we just added one very recently. But we work with and leverage relationships with well over 5,000, I think over 5,400, tribal regulators in the field. That is why it is so important for us to have positive collaborative relationships with regulatory partners.

Senator TESTER. Can you tell me where your money comes from to operate your agency?

Mr. CHAUDHURI. Thank you, Vice Chairman. We are not an appropriated agency. Our funds come directly from fees that tribes submit.

Senator TESTER. Okay. So you are probably not going to be able to answer this question, so I am going to ask it anyway.

There is a tribe that the NIGC issued a notice of violation to back in 2009, long before you came on board. That tribe has appealed that notice but has never received a final decision on that appeal from NIGC. I understand there are reasons, but it has been over five years.

Generally speaking, do you have a statutory or regulatory time frame in which NIGC is supposed to make a decision when notices get appealed?

Mr. CHAUDHURI. We do. And it is a priority for us to process all appeals as quickly as possible.

Senator TESTER. How long is that time frame?

Mr. CHAUDHURI. Under our regulations, our time frame for acting on appeals is currently 90 days. The appeal in question I think you are referencing was brought well before our new regulations were in place. With that said, there have been a number of inter-

vening factors, pleadings and withdrawals of pleadings in that case at various times. That case is currently in litigation. We frankly were poised to issue a decision when litigation was filed.

We remain poised to issue a decision and very well could make one soon. But at the current moment, we are addressing where things stand in the litigation.

Senator TESTER. So I don't want to put words in your mouth. Are you saying that there will or will not be a decision while litigation is going on?

Mr. CHAUDHURI. There very well could be. But the last thing we want to do is foster a perception that we are trying to influence the litigation. We are very close to being able to make a decision. But we will do it in a thorough manner based on an appropriate time frame that is specific to the appeal itself.

Senator TESTER. And in regard to this, as far as Indian appeals goes, I appreciate the fact that you think they should be done as quickly as possible. I feel the same way you do. I do think five years is a bit much, to be honest with you. So anything you can do to get that squared away would be good.

My last question is this, when you talk to some and they will tell you that Indian gaming is on the decline and that they have maxed themselves out, that they have more casinos out there than what can be supported by the population. I just want to get your opinion, this will have no impact on your confirmation, but just your opinion. Do you think we have the right number of casinos? Do you think we should be encouraging more casinos to be built? Or do you think that in fact, Indian gaming quite possibly is on the decline.

Mr. CHAUDHURI. Thank you, Mr. Vice Chairman. I will give you two answers, which are basically the same answer. The first answer is that while I am wearing my hat as a regulator and the other answer is my personal opinion. As a regulator, our focus is solely on the implementation of IGRA. Expansion or contraction of the industry is not our concern.

On a personal basis, though, I recognize that sound regulation helps create an environment for successful business to occur. So I believe ultimately sound regulation leads to strengthening the agency.

Now, gross gaming revenue is an aggregate number that lumps in all the numbers from all facilities across the Country. We all know different tribes are differently situated. Some operations only pay payroll and only pay for the jobs that are created by the employees and the folks that work for the facility. Those operations are profoundly important to the communities that they serve.

So I am not so much fixated on the actual size of the industry. As a regulator, I am fixated on doing whatever I can to assist all operators equally so that everybody has a fair shot at regulating their operations in a fair manner.

Senator TESTER. Thank you, Jonodev. I will just go back where we started, Mr. Chairman, I am looking forward to getting this fellow confirmed as quickly as possible. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Vice Chairman.  
Senator Franken?

**STATEMENT OF HON. AL FRANKEN,  
U.S. SENATOR FROM MINNESOTA**

Senator FRANKEN. Thank you, Mr. Chaudhuri, for being back again. Hamati, you are doing great, you are doing really well. I am proud of you. And your dad is proud of you.

Mr. CHAUDHURI. Do you have any snacks?

[Laughter.]

Senator FRANKEN. Exactly.

Mr. Chaudhuri, I have heard some frustration from tribes in my State about the amount of time it takes to get NIGC to review applications for gaming ventures. I have also heard that there has been some improvement recently. So I want to thank you for that. This certainly isn't an issue that is confined to the NIGC among Federal agencies. But some of these applications are very time-sensitive and tribes need your go-ahead to capitalize on economic development opportunities.

Are delays like that due to a lack of the necessary resources to do the job? Are there internal processes that you can improve to speed things up?

Mr. CHAUDHURI. Thank you, Senator. If I may, and I mean no disrespect by this, refer to you by the nickname that your two-year old grandson refers to you as, from what I understand, which is Senator.

[Laughter.]

Senator FRANKEN. Yes, correct.

Mr. CHAUDHURI. I read that somewhere.

Senator FRANKEN. I see it as more of an homage.

[Laughter.]

Mr. CHAUDHURI. Okay. Thank you.

We are very concerned about maintaining positive relationships with the regulating community. And timeliness is part of that. We have an emphasis on being responsive at the agency, and being timely in our responses. That is why in reference to the last question, timeliness of appeals concerns me.

Internally, we are looking at all of our processes collectively to make sure that internally we have benchmarks associated with the processing of any request, be it a facility license notification, be it a request for a declination letter, be it any type of ordinance that is submitted. We want there to be a uniform approach that imposes some accountability to make sure that we are responsive in terms of timelines.

If there have been benefits over the last month, regarding shortening of time periods, I would credit our efforts to look at all of our processes and have a clear understanding of where our own internal benchmarks are. But no matter how good we do things, I always want to make sure we do our best to do them better.

Senator FRANKEN. Last time you were here, we discussed the importance of technology. You brought it up again, you are developing a new office for that. I really am curious, just what are the new technologies? Where are they being developed? Is this developing employment opportunities among tribes, and members of tribes? I am curious as to that whole look at the overarching thing of this kind of technology. I understand gaming is an industry. So the same people who are doing technology, I imagine, in Las Vegas, are

doing it in Indian country. But how does it work and what are we talking about?

Mr. CHAUDHURI. Thank you, Senator. That is a huge question, because technology is a widely encompassing concept. Technology touches everything we do at the NIGC. We recognize that staying abreast of technology is important when it comes to the training and technical assistance we provide. We have to provide up to date training and technical assistance. Up to date technology is important in terms of our oversight responsibilities, in terms of being able to process audit materials and financial statements that come through, with an eye towards how the submissions, what they mean given the various platforms that they were submitted in.

Technology affects our ongoing regulatory responsibilities. We have a responsibility to make sure that we provide up to date technical standards when we are requiring compliance in the industry. And then finally, internally, as an agency, we have to make sure that our operations are technologically up to date.

In recognition of the broad, sweeping role that technology and developments in the Indian gaming industry present to us as an agency, we've recently elevated the role of technology within NIGC. We are creating a division of technology to be led by a director of technology whose voice will contribute to senior leadership's discussions regarding creating a unified, consistent philosophy and approach to technology. Part of that, I recognize, I know my own limitations. I am personally not a technical expert. But I hope I have enough sense to recognize the need to elevate the role of technology in the agency and support the technical experts that we do have.

I don't know if I answered your question, Senator.

Senator FRANKEN. You did. Basically what I am hearing, and my time is way over, is that this is technology that any business, of course, would be using. But I was interested in the gaming technology in particular. But I am way past my time and Hamati is looking at me like, don't take any more time.

[Laughter.]

The CHAIRMAN. And he is not the only one.

[Laughter.]

The CHAIRMAN. Senator Udall?

**STATEMENT OF HON. TOM UDALL,  
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you, Mr. Chairman.

You have very well-behaved kids there. I am really impressed. They are doing well. They are kind of separated from each other.

Mr. CHAUDHURI. That is the secret.

Senator UDALL. That is a good sign, too, mom is in between.

Well, I wanted to ask about your consultation and technical assistance to tribes. I think it is one of the things that under IGRA and ensuring IGRA compliance that is really important that you do. How do you plan to accomplish this moving forward? Do you believe you have adequate resources, like technology and staffing, to ensure that the Commission stays on top of the new regulatory issues? How do you provide this technical assistance? Are people there working on the ground with the tribes? Do you see any area

of improving in providing consultation and technical assistance to prevent violations beforehand, so you get out in front of problems?

Mr. CHAUDHURI. Thank you, Senator. The ability to provide up to date technological information is dependent on your capacity as an agency. So your question is right on target and very much appreciated.

Currently, given our current regulatory responsibilities under IGRA, I do believe we have the resources and the tools needed to not just perform our oversight roles, but perform sufficient technical assistance. In terms of consultation, any moves that we make as an agency, any significant moves we make, we recognize the obligation and the benefit of doing so hand-in-hand with voices from the Indian gaming community, specifically tribes who are the primary regulators of Indian gaming.

Despite the lack of a confirmed chair over the last year and a half, we have continued our path toward active consultation. We held some meaningful consultations last year regarding technology as well as some aspects of management agreement approvals. I am personally of the mindset that you don't want to impose another round of consultations without doing active work on previous ones. Those last consultations helped lead us to a decision to create a technology division within the agency. Further, those consultations have led us to some specific proposals regarding updating our NEPA handbook at the agency.

But we anticipate ongoing consultations with tribes regarding technology, as well as, bringing folks in house. We already have folks in house who can do this. But maintaining the right folks in house, who can continue to implement a cohesive technology vision within Indian Country, within the Indian gaming industry.

Senator UDALL. Do you have the capability to send people out to a tribe and put people on the ground? Or is more of this, as you talked about, through conferencing and bringing people to Washington and that kind of thing?

Mr. CHAUDHURI. Thank you, Senator. Both. And we actively send people out on a regular basis. We have a training manager within our agency who works with our compliance staff, with our general counsel's office and other relevant members of our team to perform subject matter specific trainings, either in terms of general trainings or on a tribe-specific basis.

So we provide free of cost to a given regulatory body, free of cost, we provide targeted trainings in addition to general trainings. If I could just mention, we are on pace this year to provide more trainings to more people in Indian country than we ever have before. In 2014, we trained more people at more trainings than ever before. I have the numbers.

Senator UDALL. And please submit the numbers to us, if they are in your testimony they will already be in. Do you have them there?

Mr. CHAUDHURI. Yes. For 2014, we trained 2,830 regulatory partners, at 838 compliance reviews and trainings. In 2015, this is only March 11th, we have already had 91 training events, training 628 participants. Thank you for the opportunity to mention that. We are very proud of that, as an agency.

Senator UDALL. And I assume you are trying to get out in front of violations and be preventive.



Mr. CHAUDHURI. Absolutely. That is our whole philosophy. You work as hard as you can on the front end to avoid violations; enforcement always being an option and always available. But not solely putting yourself in an enforcement box, but putting the work in and doing the job to make sure that you are working with regulators on a day to day basis to avoid compliance issues.

Senator UDALL. Thank you very much.

Mr. CHAUDHURI. Thank you, Senator.

The CHAIRMAN. Senator Heitkamp?

**STATEMENT OF HON. HEIDI HEITKAMP,  
U.S. SENATOR FROM NORTH DAKOTA**

Senator HEITKAMP. Thank you, Mr. Chairman.

Welcome and congratulations on your nomination. I am going to come at this a little differently. I think it is really important, what you said, that the first line of defense are the tribes themselves. I think way too often we think that this regulation is imposed on the tribes. Almost every tribe in North Dakota has kind of a regulatory arm to that that oversees the operation of tribal gaming.

So we have tribal regulation, we have State regulation under the compacts, and we have Federal regulation. Obviously I am concerned about harmonization of all those regulations, so we don't see a huge kind of regulatory burden, such as we have to do this to satisfy this guy, this to satisfy her and this to satisfy those guys at the Indian Gaming Regulatory Commission.

So what I am going to ask is two things. Number one, how do you see harmonization of all those regulatory bodies? And who is responsible for making sure that there isn't inconsistent regulation? Then on the other side, looking at all of these, are there some places where you have seen in your experience best practices that a State imposed a technological kind of solution that Senator Franken was talking about, or whether it has been an opportunity to learn from other regulators of Indian gaming?

Mr. CHAUDHURI. Thank you, Senator. That shows excellent insight into our daily work.

Senator HEITKAMP. I used to do this for a living.

Mr. CHAUDHURI. Thank you so much. So IGRA does create a multi-tiered system of regulation. Indian gaming is the most regulated gaming industry in the world. We have, as IGRA points out, tribes as the primary beneficiaries of Indian gaming, as you referenced, the front line in Indian gaming. You have the Federal Government. But based on compacts you have States in there as well.

In addition to being good policy, it just makes sense from a practical fiscal perspective to work with your regulatory partners. So we recognize, if you have 5,400 regulatory partners in the field, who are the primary regulators of Indian gaming, why wouldn't you foster positive relationships with them as possible? You don't want either side to be playing hide the ball. So avoiding overlap or redundancy is very important to us. I think you do that through communication, through meaningful consultation, through not creating redundant regulations. We try to streamline both things internally through our operations and externally through our regulations to ensure maximum cooperation with tribes.

But let me just say one thing just very briefly, Senator. The communities in your State, the tribal nations in your State are exactly the type of communities that I want to work harder to serve. Those are rural communities, many of them are smaller tribal gaming operations who I think can benefit the most from our training and technical assistance.

So back to the previous question about what types of trainings we do. Part of the reason we are ramping up our technology is to provide—

Senator HEITKAMP. We are kind of running out of time. But I want to refocus you on what State regulations have you looked at and said, those are really smart, I wonder if we would think about deploying those kinds of State techniques in a broader sense to the national regulatory kind of scheme.

Mr. CHAUDHURI. Well, certainly States have been active voices in many of the regulatory tweaks that we have already made, through comments, written comments or various submissions. But as part of our day-to-day work, we regularly look at State structures. We play very little role, we play no role in the development of compacts. Our focus on regulation takes place after a compact is issued.

That said, some of the mechanisms that are often included in compacts have been very helpful to us as we have refined our own regulations. I don't know if that helps.

Senator HEITKAMP. That is fine. Well, we will have plenty of time to talk about this.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Heitkamp.

Just a couple quick questions. The Indian Gaming Regulatory Act represents a delicate balance, we have talked about it in my office, of Federal, tribal and State interests in regulating gaming. Provided limited opportunities for off-reservation gaming, which is something we spent time on.

Pursuant to that Act, the National Indian Gaming Commission has significant regulatory roles that you would have, including issuing Indian lands opinions, opinions regarding Indian lands. Expansive interpretations of Indian lands has contributed, I believe, in part, to inter-tribal as well as inter-governmental disputes over gaming and trust land acquisitions.

So could you explain how the Commission balances those interests for determining Indian lands for off-reservation gaming?

Mr. CHAUDHURI. Thank you, Chairman. Off-reservation gaming, we certainly recognize how important off-reservation gaming dialogue has been, not just to Federal Indian policy but to Federal policy in general. That said, our role is largely limited as an agency with respect to off-reservation gaming. Off-reservation gaming largely involves the process in which land is placed into trust. And that land into trust process is a Department of the Interior function rather than an NIGC function.

We do play a much more limited role in terms of determining whether or not, given the parcel, opining on whether or not a given parcel qualifies as Indian lands eligible for gaming. But when we do that, we are solely guided by the language of IGRA. We employ

the language of IGRA. So I understand the importance of off-reservation gaming, but our role is very limited.

The CHAIRMAN. You had spoken about the number of people that you have trained and all the activities, and we talked about that last time in your hearings and you and I have talked about that as well. According to the FBI, fiscal year 2016 in their budget request, that just came out in January of this year, they said they had 2,982 pending Indian Country investigations. A portion of those investigation sites included, I think, 400 Indian gaming facilities.

The FBI further noted that limited internal and external oversight makes Indian Country an attractive, they say an attractive, potential target for financial crimes.

Are you aware of and working with the FBI on any of the investigations occurring in the 400 Indian gaming facilities?

Mr. CHAUDHURI. Thank you, Chairman.

Certainly we are aware of and appreciative of the role that the FBI serves in investigating criminal activities arising out of gaming operations in Indian country. As a civil regulatory agency, we don't have any criminal jurisdiction over criminal acts in Indian country. However, we do have the authority, as well as the responsibility, to refer to the FBI instances of criminal activities of which we become aware. And we do that on a regular basis.

We become aware of such activities through a variety of means. More often than not, from reporting that the tribe provides, a given tribe provides.

So when we make referrals, we refer information that we have to the FBI and the FBI chooses whether or not to conduct a formal investigation. Once an investigation takes place, our role is somewhat limited because information regarding an ongoing criminal investigation is not widely shared.

The CHAIRMAN. The concern is that if something is an attractive, potential target for financial crimes, we would like to try to get to the point where we eliminate that being an attractive, potential target. So if confirmed, how will you work with the FBI to specifically improve the internal and external oversight, so Indian Country is no longer such an attractive target for criminal activity?

Mr. CHAUDHURI. Well, I think we work with them on both a regional and headquarters basis. But in terms of communication, we can always communicate more. So we are open and in the past there have been some regular calls that the agency would participate in, and we still participate in regular conference calls with the FBI, as well as DOJ and at times other relevant agencies.

But I will say that there is, I think there are some accomplishments that come out of those same numbers. Whenever you have a \$28 billion industry, folks are going to want some of that money. I think the real story is how few major, major poster kids there are for wide-scale theft. For that, I think you can thank the primary regulators of Indian gaming, primarily the tribes, but we do our part as well.

The CHAIRMAN. Thank you.

Do any other members have additional questions? Hearing no more questions, members may also submit follow-up written questions for the record. I would like to move this nomination as early

as next week. So Mr. Chaudhuri, we may send you written questions this week. You will need a quick turnaround in response to any member's questions.

I want to thank you all for your time, and for your testimony. The hearing is adjourned.

[Whereupon, at 3:11 p.m., the hearing was adjourned.]

## A P P E N D I X

### LETTER OF SUPPORT FROM ROBERT PINTO, SR., TRIBAL CHAIRMAN, EWIIAAPAAYP BAND OF KUMEYAAY INDIANS

Dear Chairman Tester and Vice Chairman Barrasso:

The Ewiiapaayp Band of Kumeyaay Indians is a federally recognized Tribe and Ewiiapaayp Indian Reservation of 5,470.15 acres in east San Diego County, California. The Ewiiapaayp Band writes in support of President Obama's nomination of Mr. Jonodev Osceola Chaudhuri to be the chair of the National Indian Gaming Commission, the federal agency tasked with collaborating with tribes and states to regulate Indian gaming.

As you are undoubtedly aware, Mr. Chaudhuri enjoys broad experience and particular success in tribal government, private practice in Indian law, federal government, and his recent service on the NIGC, currently as Vice Chair and Associate Commissioner and formerly as Acting Chairman.

Our experience with Mr. Chaudhuri was primarily during his service as Senior Counsel to the Assistant Secretary for Indian Affairs at the Department of the Interior from 2012 to 2013. Mr. Chaudhuri successfully mediated the interests of the Ewiiapaayp Band and the Fish & Wildlife Service regarding a wind energy conversion project located on the Ewiiapaayp Indian Reservation that involved tribal trust responsibility and federal environmental regulations. Mr. Chaudhuri's expertise in federal Indian law and his mediation skills proved invaluable, and the Ewiiapaayp Band honors Mr. Chaudhuri as a true advocate of collaboration with Indian tribal governments.

Mr. Chaudhuri's professional background and personal experience, informed by the Ewiiapaayp Band's direct experience with Mr. Chaudhuri, is the basis for our opinion that he is uniquely qualified for the position of NIGC Chair. Mr. Chaudhuri's credentials demonstrate an understanding of Indian country and federal and state interests and the ability to reconcile and balance those interests in a manner that is productive for all involved.

The Ewiiapaayp Band supports Mr. Chaudhuri as the nominee for NIGC Chair. The Ewiiapaayp Band requests that our California Senators, and all other like-minded Senators, support Mr. Chaudhuri's confirmation.

Thank you for your consideration of the Tribe's views.

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### LETTER OF SUPPORT FROM HON. TY VICENTI, PRESIDENT, JICARILLA APACHE NATION

Dear Chairman Tester:

We are pleased that President Obama has nominated Jonodev Osceola Chaudhuri to serve as Chairman of the National Indian Gaming Commission, and we write in full support of his confirmation.

The NIGC Chairmanship is a critical position for Indian country. The position requires a full understanding of the regulatory issues involved in Indian gaming, but it also requires an understanding of how Indian gaming fits into broader tribal self-determination efforts. Not only does Jonodev understand the gaming industry, but his personal and professional experience with his tribe and other tribal nations gives him an excellent perspective in carrying out the Commission's functions. That perspective is invaluable to forging necessary relationships with industry stakeholders, and it has served him and the agency well thus far.

Jonodev's leadership since joining the Commission has helped the agency smoothly navigate a period of transition—both in Commission membership and agency location—while maintaining regulatory responsibilities and building upon collaborative relationships with tribes, federal partners, and states.

Jonodev's commitment to service and his respect for tribal traditions and culture are genuine. These attributes, coupled with his solid professional background, make Jonodev an ideal person to lead the agency. We urge a swift confirmation of Jonodev's nomination to ensure continued stability in this key position.

LETTER OF SUPPORT FROM HON. STACY DIXON, TRIBAL CHAIRMAN, SUSANVILLE  
INDIAN RANCHERIA

Dear Chairman Tester and Vice Chairman Barrasso:

The Susanville Indian Rancheria is a federally recognized Indian tribe in the State of California. On behalf of the Susanville Indian Rancheria, I write in support of President Obama's nomination of Mr. Jonodev Osceola Chaudhuri to be the chair of the National Indian Gaming Commission, the federal agency tasked with collaborating with tribes and states to regulate Indian gaming.

As you are undoubtedly aware, Mr. Chaudhuri enjoys broad experience and particular success in tribal government, private practice in Indian law, Federal Government, and his recent service on the NIGC, currently as Vice Chair and Associate Commissioner and formerly as Acting Chairman.

Mr. Chaudhuri's accomplishments during his service as Senior Counsel to the Assistant Secretary for Indian Affairs at the Department of the Interior from 2012 to 2013 speak directly for his confirmation. Mr. Chaudhuri proved to be an expert in federal Indian law and Federal Government regulation, and a true advocate of collaboration with Indian tribal governments.

Mr. Chaudhuri's professional background and personal experience uniquely qualify him for the position of NIGC Chair. Mr. Chaudhuri's credentials demonstrate an understanding of Indian country, federal and state interests, and the ability to reconcile and balance those interests in a manner that is productive for all involved.

The Susanville Indian Rancheria supports Mr. Chaudhuri as the nominee for NIGC Chair and requests that our California Senators, and all other like-minded Senators, support Mr. Chaudhuri's confirmation.

Thank you for your consideration in this matter.

LETTER OF SUPPORT FROM HON. JOHN L. BERREY, CHAIRMAN, QUAPAW TRIBE

Dear Chairman Tester and Vice Chairman Barrasso:

On behalf of the Quapaw Tribe of Oklahoma (the O-Gah-Pah), I am writing in support of the nomination of Jonodev Osceola Chaudhuri to be the next Chairman of the National Indian Gaming Commission. As you know, Mr. Chaudhuri has been ably serving as Acting Chairman of the NIGC for over a year. Additionally, Mr. Chaudhuri assisted the Quapaw Tribe as outside legal counsel a few years ago, and he impressed us then as a bright lawyer and as someone with integrity. We believe he would make a very good chairman for the NIGC.

Indian gaming is well-regulated by tribal and federal authorities, with the NIGC being the main regulatory and oversight body at the federal level. It is very important to my tribe and to Indian country as a whole that the right person hold this important position. Mr. Chaudhuri has the credentials, experience, and temperament to lead the NIGC, and to engage Indian tribes in a way that respects tribal authority as the agency carries out its statutory mission.

The Quapaw Tribe endorses Mr. Chaudhuri without hesitation or qualification and respectfully urges the Committee to favorably report his nomination as soon as possible, so that the full Senate might take it up in the remaining days of the 113th Congress.

LETTER OF SUPPORT FROM HON. RICHARD J. PETERSON, PRESIDENT, CENTRAL  
COUNCIL TLINGIT HAIDA INDIAN TRIBES OF ALASKA

Dear Chairman Tester and Vice Chairman Barrasso:

The Central Council Tlingit Haida Indian Tribes of Alaska (Central Council) is a federally recognized Indian tribal government with over 29,000 tribal citizens worldwide. Central Council writes in support of President Obama's nomination of Mr. Jonodev Osceola Chaudhuri to be the chair of the National Indian Gaming Commission (NIGC), the federal agency tasked with collaborating with tribes and states to regulate Indian gaming.

As you are undoubtedly aware, Mr. Chaudhuri enjoys broad experience and particular success in tribal government, private practice in Indian law, Federal Government, and his recent service on the NIGC, currently as Vice Chair and Associate Commissioner and formerly as Acting Chairman.

Our experience with Mr. Chaudhuri is through our 1st Vice President who worked with Mr. Chaudhuri during his service as Senior Counsel to the Assistant Secretary for Indian Affairs at the Department of the Interior from 2012 to 2013. Mr. Chaudhuri proved he possessed a deep and insightful understanding of Indian law and federal statute and regulation, and, importantly, the ability to forge a collaboration between federal and tribal regulators that forged a common interest between parties otherwise at odds. His is a rare skill set that merits his continued service in a position of importance involving federal and tribal interests.

Mr. Chaudhuri's professional background and personal experience, informed by the trust he has earned among tribal leaders such as our own, is the basis for our opinion that he is uniquely qualified for the position of NIGC Chair. Mr. Chaudhuri's credentials demonstrate an understanding of Indian country and federal and state interests and the ability to reconcile and balance those interests in a manner that is productive for all involved.

Central Council supports Mr. Chaudhuri as the nominee for NIGC Chair. Central Council requests that our Alaska Senators, and all other like-minded Senators, support Mr. Chaudhuri's confirmation.

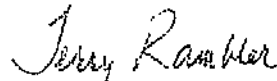
Thank you for your consideration of the Tribe's views.

## ARIZONA INDIAN GAMING ASSOCIATION (AIGA) SUPPORT RESOLUTION

- WHEREAS,** the Arizona Indian Gaming Association ("AIGA") represents eighteen sovereign tribal governments in Arizona, and is organized in part to "improve the business conditions for gaming on Indian lands located in Arizona;" to "promote, protect, and preserve the general welfare and interests of Indian tribes through the promotion of sound policies and practices for the conduct of gaming activities in Indian Country;" to "preserve and protect the integrity of gaming conducted in Arizona and Indian country;" and to "maintain, protect, and advocate Indian tribal sovereignty" (AIGA Bylaws, Sections 1.3(A), (B), (E), and (F)); and
- WHEREAS,** consistent with the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, (the "Act") the Compacts recognize "gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments" (Compacts, Declaration of Policy and Purpose); and
- WHEREAS,** Indian Gaming requires the regulation and ensuring of the integrity of Indian Nations involved; and
- WHEREAS,** Indian Gaming is now inclusive of more than 420 Indian Gaming facilities, involving more than 235 tribes from 28 states across the United States; and
- WHEREAS,** in 2013, the Indian Gaming industry generated \$28 Billion dollars in revenue; and
- WHEREAS,** the Commission's primary mission is to work within the framework created by the Indian Gaming Regulatory Act (IGRA) for the regulation of gaming activities conducted by tribes on Indian lands to fully realize IGRA's goals: (1) promoting tribal economic development, self-sufficiency and strong tribal governments; (2) maintaining the integrity of the Indian gaming industry; and (3) ensuring that tribes are the primary beneficiaries of their gaming activities.
- WHEREAS,** the NIGC is comprised of a Chairman and two Commissioners who serve on a full-time basis for a three year term; and
- WHEREAS,** the position of Chairman, is an integral role in the protection of the integrity of Indian Gaming, and has remained vacant for an extended period of time.
- NOW, THEREFORE, BE IT RESOLVED** the Arizona Indian Gaming Association supports the appointment of Jonadev Osceola Chandhuri for the position of National Indian Gaming Commission Chairman to carry out the full duties and responsibilities that the position carries.

**CERTIFICATION**

The foregoing resolution was adopted at an Arizona Indian Gaming Association membership meeting on August 22, 2014, with a quorum of member Tribes present, and that the same was passed by a vote of 14 in favor and 0 opposed, this 22<sup>nd</sup> day of August, 2014.



Terry Rambler, Chairman  
Arizona Indian Gaming Association



**HO-CHUNK NATION LEGISLATURE  
SUPPORT FOR NOMINATION OF JONODEV CHAUDHURI TO BE CHAIRMAN  
OF THE NATIONAL INDIAN GAMING COMMISSION**

**RESOLUTION 12-09-14I**

- WHEREAS**, on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and
- WHEREAS**, the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS**, Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") gives the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS**, Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and
- WHEREAS**, the Ho-Chunk Nation ("Nation") has successfully utilized the provisions of the Indian Gaming Regulatory Act ("IGRA") to conduct gaming on its lands in Wisconsin and improve the self-sufficiency of the Nation, its members, and employees; and
- WHEREAS**, the Nation regulates its Class II and Class III gaming operations through the Nation's Gaming Commission, which works cooperatively with the National Indian Gaming Commission's Central and Regional Offices on matters of enforcement, training, and regulation; and
- WHEREAS**, the Nation takes great interest in matters that impact gaming in Indian Country, especially as it concerns the mission and activities of the National Indian Gaming Commission ("NIGC"); and

**WHEREAS**, President Barack Obama recently nominated Mr. Jonodev Osceola Chaudhuri to be the Chairman of the NIGC, and the Senate Committee on Indian Affairs conducted his nomination hearing on November 12, 2014; and

**WHEREAS**, Jonodev Chaudhuri currently serves as Vice Chairman and Associate Commissioner of the NIGC, and he also served as Acting Chairman of the NIGC from October 2013 to April 2014; prior to joining the NIGC, Mr. Chaudhuri was Senior Counselor to the Assistant Secretary for Indian Affairs at the Department of the Interior from 2012 to 2013; and

**WHEREAS**, the Legislature of the Nation, in recognition of Mr. Chaudhuri's strong support for Indian Country and exceptional qualifications, finds it appropriate to express its support for the nomination of Jonodev Chaudhuri to be Chairman of the NIGC.

**NOW THEREFORE, BE IT RESOLVED** that the Legislature, pursuant to its Constitutional authority, highly recommends Jonodev Chaudhuri for the position of Chairman of the NIGC, and recommends his swift confirmation by the United States Senate.

#### CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of 13 members of whom 10 constituting a quorum were present at a meeting duly called and convened and held that on the 9<sup>th</sup> day of December, 2014, adopted the foregoing resolution at said meeting by an affirmative vote of 10 members, 0 opposed, and 0 abstaining, pursuant to the Article V, Section 2(a) and (c) of the Constitution of the Ho-Chunk Nation, approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

Kathleen Lone Tree-Whiterabbit  
Kathleen Lone Tree-Whiterabbit, Tribal Secretary

12.9.14  
Date

#### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN BARRASSO TO JONODEV OSCEOLA CHAUDHURI

You testified before the Committee on Indian Affairs' Oversight Hearing entitled "Indian Gaming: The Next 25 Years" held on July 23, 2014, that to accomplish the *Indian Gaming Regulatory Act's* stated policy goals, the National Indian Gaming Commission (NIGC) continues to be proactive in several areas, including consultation, ongoing regulatory and operational review, training and technical assistance and agency accountability. You noted that successful regulation depends on a properly trained workforce.

You further testified that the NIGC views training and technical assistance as a valuable component to the agency's mission. The agency views the Assistance, Compliance, and Enforcement initiative as a core of its success over the last few years. You stated that in 2013, the NIGC trained 2,751 participants in Indian Country on up to date regulations and best practices and in 2014, the agency trained 2,140 participants. You finally noted that these numbers were a "great metric". However, these numbers do not reveal how well participants comprehended and retained any of the training nor provide a direct correlation between technical assistance and an improvement in compliance and accountability.

*Question 1.* In what other ways has the NIGC documented or otherwise determined the effectiveness of its training, including measuring a participant's level of comprehension and implementation from these trainings?

Answer. While raw numbers of training events and participants do provide important data on the breadth of the NIGC training and technical assistance program, I realize that solely tracking output is not enough. Therefore, we continue to develop metrics for tracking the efficacy of trainings. For instance, the NIGC training team is developing knowledge reviews which will assess the retention and implementation of training materials not only at the conclusion of training events but also months

later. These reviews will allow us to continuously evaluate which lessons and training techniques are effective and which are not by monitoring whether tribal gaming regulators and gaming operation employees retain and use what they learn at our trainings.

Training is probably the most critical component of the NIGC's ACE initiative, which is simply shorthand for the agency's emphasis on working with tribes and regulatory partners to minimize and mitigate compliance issues in the field. Although ACE is relatively new, we are already seeing some encouraging signs regarding its impact on industry compliance. For example, data gleaned from Agreed Upon Procedures reports (AUPs) shows a significant decrease in both critical and overall risk findings between pre-ACE reports from 2009 and those from 2011–2013 after ACE implementation began. AUPs are prepared annually for each tribal gaming facility by independent auditors, and they measure compliance with a tribe's internal controls. We intend to track these reports, as well as other relevant information obtained in the agency's day-to-day work, to help inform and refine our trainings and operations.

I am determined to do what I can to ensure that all NIGC functions are as effective as possible, and I am open to all practical means by which to improve and measure the effectiveness of our training program. Associate Commissioner Daniel Little and I have committed ourselves to regularly review the effectiveness of our training and technical assistance efforts and to make changes as appropriate.

*Question 2.* How will you report to Congress on the effectiveness of the Assistance, Compliance, and Enforcement initiative?

Answer. Transparency is essential to our efforts to effectively strengthen industry compliance with the Indian Gaming Regulatory Act through fair and practical approaches, and it is important to both our stakeholders and to Congress, which created the NIGC. In addition to being open and responsive to oversight hearings held by the Senate and House of Representatives, in order to better strengthen the communication between the NIGC and Congress, I have created and filled a Legislative and Intergovernmental Affairs Coordinator position. I believe that this position will enhance the Commission's dedication to transparency and will ensure that the NIGC is acting in a timely manner in its responses to Congressional questions and concerns.

At the March 11, 2015 Committee Nomination Hearing to consider Jonodev Osceola Chaudhuri, of Arizona, to be Chairman of the National Indian Gaming Commission, you stated that you recognize the importance the offreservation gaming dialogue has been to Federal Indian policy and Federal policy in general.

Despite what you view as a limited role for the NIGC with respect to offreservation gaming, the NIGC does determine whether a particular parcel, including those located outside the boundaries of an Indian reservation, constitutes Indian lands eligible for gaming which is a predicate for gaming pursuant to the *Indian Gaming Regulatory Act*. You indicated that the agency is bound by and employs the language of the *Indian Gaming Regulatory Act* in making that determination.

*Question 3.* What is the NIGC's internal process for developing Indian lands opinions?

Answer. Indian lands opinions are a service provided by the NIGC to the industry and to our co-regulators of Indian gaming. Requests for Indian lands opinions are made to the NIGC's Office of General Counsel (OGC). The opinions typically analyze: (1) whether land is "Indian lands" as that term is defined by the Indian Gaming Regulatory Act (IGRA) and our regulations; (2) if the land is trust land acquired after October 17, 1988, whether it is eligible for gaming under IGRA; and (3) depending on the nature of the lands, whether the land on which a tribe plans to game is within the Tribe's jurisdiction as required by IGRA.

In the process of analyzing these issues, OGC coordinates closely with the Department of the Interior's Office of the Solicitor. The Solicitor is regularly asked to concur in Indian lands opinions.

*Question 4.* How do these Indian lands opinions govern the work of the agency?

Answer. While Indian lands opinions provide the requestor and the agency with an analysis of the land's status, they are not final agency action. These opinions provide a measure of clarity as to the status of particular lands, but the Chair and the Commission may disagree with the analysis.

*Question 5.* How do these Indian lands opinions govern the ability of an Indian tribe to conduct gaming on the parcel at issue in the opinion?

Answer. Indian lands opinions do not constitute permission for a tribe to commence gaming on a particular parcel of land, nor do they preempt states or other

concerned parties from bringing legal challenges to the land status. They are simply opinions issued by the Office of General Counsel, not the Chair or the Commission.

