

S. HRG. 113-521

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

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

NOVEMBER 12, 2014

Printed for the use of the Committee on Indian Affairs



U.S. GOVERNMENT PRINTING OFFICE

92-196 PDF

WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

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

WEDNESDAY, NOVEMBER 12, 2014

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

The Committee met, pursuant to notice, at 4:00 p.m. in room 628, Dirksen Senate Office Building, Hon. Jon Tester, Chairman of the Committee, presiding.

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

The CHAIRMAN. We call the Committee on Senate Indian Affairs to order.

Today the Committee is going to hold a hearing to examine the President's nomination of Jonodev Osceola Chaudhuri to serve as Chairman of the National Indian Gaming Commission. Mr. Chaudhuri was nominated on July 22nd by President Obama and has served this past year as Vice Chair of the Commission after being appointed to that position by Secretary Jewell.

When Congress enacted the Indian Gaming Regulatory Act 25 years ago, it established the National Indian Gaming Commission as an independent agency to oversee gaming at the Federal level. The Act recognized tribes as the primary regulators of gaming, unless specific responsibilities of the commission.

The agency's mission is to carry out this oversight with the goals of promoting tribal economic self-sufficiency, maintaining the integrity of the Indian gaming industry and ensuring that tribes are the primary beneficiaries of their gaming activities.

The NIGC Chairman is tasked with reviewing tribal gaming ordinances, reviewing management contracts, conducting audits and investigations and undertaking enforcement actions, including issuing closure orders and civil fines. In addition to its oversight role, the commission also works to provide technical assistance and training to tribal regulators.

The Chairman and two commissioners oversee nearly 100 employees who work at Washington, D.C. headquarters and seven regional offices. The agency is funded at approximately \$20 million annually, all through fees collected from tribal gaming operations.

Since the creation of the commission, Indian gaming has seen a tremendous growth. While tribal gaming started with small bingo

halls and poker rooms, today the commission oversees 422 gaming facilities operated by 240 tribes in 28 States. In this past year, Indian gaming revenues exceeded \$28 billion for the first time in history.

Tribal governments use gaming revenues to provide essential services, including education and health care, to its tribal members. They are also used for infrastructure development such as roads, water systems, housing. Indian gaming also provides thousands of jobs for Native and non-Native residents alike. For many tribes, gaming is just a small revenue generator used to supplement tribal economies, while for others, gaming has allowed tribes to revitalize their communities and achieve greater levels of self-governance.

While concerns expressed by opponents of Indian gaming have largely failed to materialize, there is a constant need to be vigilant in the oversight of the industry. This protects tribes and their members and maintains the integrity of the industry. For the commission to succeed it needs good leadership. The nominee for Chairman, Mr. Chaudhuri, has provided that leadership in an acting capacity for over a year now. Mr. Chaudhuri has an extensive background in Indian affairs and is respected in Indian law and Indian gaming communities. He has received numerous letters of support, including those from the Arizona and Oklahoma Indian Gaming associations, two of the States where he has been most active in his career.

I want to thank Mr. Chaudhuri for his service to date, thank you, and for your willingness to take on this position. If confirmed, I look forward to hearing from you today about the commission's activities and how you would lead the commission to continue meeting the challenges facing Indian gaming going forward.

The CHAIRMAN. Do any of the other members have a statement?

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

Senator FRANKEN. I do.

The CHAIRMAN. Senator Franken?

Senator FRANKEN. Thank you, Chairman Tester, for holding this hearing today, and thank you, Mr. Chaudhuri, for your service so far. Indian gaming is a vital economic development tool for many tribes across our Country and in my State.

I said in our last hearing about gaming that I believe the fact that gaming revenue dwarfs Federal spending in tribal communities is an indictment of Federal policy and an indication of why it is so important to protect Indian gaming. The National Indian Gaming Commission is vital to that effort, and I know you take your responsibility seriously.

In many ways, I think we are at a very important moment for Indian gaming. Increased competition from commercial gaming and the unpredictable effect of rapidly changing technology could either make or break this important economic development tool. I look forward to hearing from you about your views on these issues and your role in moving Indian gaming forward.

Thank you, and thank you, Mr. Chairman.

The CHAIRMAN. Senator Begich?

**STATEMENT OF HON. MARK BEGICH,
U.S. SENATOR FROM ALASKA**

Senator BEGICH. Mr. Chairman, I don't really have any comments other than to say I am glad to see you here, I am glad to see this opportunity to appoint Mr. Chaudhuri, thank you for being here from St. Paul, which of course we always like to remember Alaskans here. We appreciate it a great deal and I am looking forward to getting this nomination moving forward and also spending time with you. Thank you.

The CHAIRMAN. Senator Crapo?

**STATEMENT OF HON. MIKE CRAPO,
U.S. SENATOR FROM IDAHO**

Senator CRAPO. Thank you very much, Mr. Chairman, for holding this hearing on the President's nominee to lead the National Indian Gaming Commission, and thank you, Mr. Chaudhuri, for being here today.

Allow me to extend a welcome to your family for being here as well. And in the interest of hearing directly from you, I am going to keep my remarks very brief, Mr. Chairman.

The National Indian Gaming Commission serves a vital role in regulating gaming activities related to tribal lands. The results of the compromise solution to conflicts surrounding Indian gaming between various stakeholders is that the commission and its authorizing legislation seeks to balance the need to promote tribal sovereignty with the need to be sensitive to the concerns of other affected interests and the States. As such, the commission must demonstrate a strong willingness to work collaboratively with all of our impacted stakeholders as it carries out its duties and responsibilities.

I won't go any further, Mr. Chairman. I look forward to hearing Mr. Chaudhuri's views on this and other related matters today. And again, welcome.

The CHAIRMAN. Thank you.
Senator Johnson?

**STATEMENT OF HON. TIM JOHNSON,
U.S. SENATOR FROM SOUTH DAKOTA**

Senator JOHNSON. Welcome, Mr. Chaudhuri. As a side note, I welcome also Dr. Chaudhuri, he was a faculty member at USD long ago, and I welcome him.

The CHAIRMAN. Thank you, Senator Johnson.

With that, we will turn it over to you, Mr. Chaudhuri, for your statement.

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

Mr. CHAUDHURI. Thank you, Chairman, members of the Committee, [greeting in Native tongue]. I am very honored to be here today.

My name is Jonodev Osceola Chaudhuri, and I am a proud citizen of the Muscogee Creek Nation. I am honored to be President Obama's nominee for Chairman of the National Indian Gaming

Commission. Thank you for today's hearing to consider my nomination.

In my time at the NIGC, much which has been spent as acting Chairman. I have led and worked closely with our extraordinary team to keep the agency operating smoothly and on a positive trajectory during a period of transition. I have made a number of critical decisions and I have done so with a judge's commitment to fairness and process. I have never shied away from difficult decisions.

Should I be confirmed, I will build on the agency's ability to engage in sound regulation consistent with the Indian Gaming Regulatory Act.

With me today, as mentioned, is my wife, Marissa. Marissa is incredible. She is a wonderful person in an incredible profession. She serves her Alaska Native community, the Aleut Community of St. Paul Island, very well as a member of their management team. I am also joined by my son, Kanuux, who is seven. Our youngest son is a little too unpredictable to be brought in public at this time, so he is at home with a family friend.

I am thankful every day of my life for having Marissa in it. I am also very honored and excited to be joined today by my father, Joyotpaul Chaudhuri, Joy, who at the age of 81 has traveled to be here from Tempe, Arizona. My family's values, guidance and support have made me who I am. So I am very thankful, Chairman, Vice Chairman, members of the Committee, to join you today.

I understand the profound impact that responsible and purpose-driven gaming has had in many communities throughout Indian Country. Before law school, I worked for three years as an educator and cultural preservationist for an Arizona tribe whose gaming operation was in the early stages of flourishing. I saw how that community used its gaming resources to invest in infrastructure, health services, educational programs and cultural preservation efforts. Similarly, I saw how my tribe, the Muscogee Creek Nation, and neighboring tribes in southeastern Oklahoma began using gaming revenue to transform their communities.

Through these experiences, I appreciate the connection between preserving the integrity of Indian gaming and supporting tribal self-determination, a goal clearly set forth in IGRA.

I have a solid, well-rounded career that has equipped me well to serve as a strong regulator. My judicial experience has given me a thoughtful and measured approach to issue resolution. My lengthy experience as an attorney and an Indian law and gaming teacher has given me a solid understanding of the commissions' responsibilities, authority and history.

My regulatory work at the NIGC, coupled with high level policy work at the department of Interior, have given me a full picture of how gaming impacts policy on a national scale. Finally, my lifetime of service to under-represented communities helps me appreciate how prudent economic development efforts positively impact real lives.

These experiences give me a clear understanding of the NIGC's role in helping protect a critical avenue for tribal nation-building. I have lived most of my life in Arizona, where my father, my brother Paul and my aunt Richinda Sands and my cousin-brother Lance Sands still live. Growing up, the family kept one foot in Muscogee

life at all times, always staying connected to cultural, ceremonial and church activities in Oklahoma. I am a member of the Nokose, or Bear Clan, and my warrior name is Nokoshomvhte, or Leader-Bear, from the Nyuaka ceremonial grounds, stomp grounds, where I have served as Fire Keeper. My mother, the late Jean Chaudhuri, a full-blood Muscogee Creek, was a respected Indian Country leader and life-long community volunteer. My father, a naturalized citizen who emigrated here from India in the early 1950s, is a retired political science professor who mentored and supported numerous students and tribal leaders throughout his career. Both lived lives of public service.

Throughout my life, I have been intimately exposed to core Muscogee values of compassion, humility, respect and courage, other words for love. Central to my family's belief is that these values can be expressed through public service. Elders of my tribe, including my mother, often recounted a fundamental teaching: whatever gifts you may have do not belong to you; they are given to you to help you serve the community.

For me, the NIGC chairmanship represents an opportunity to serve. I welcome the opportunity to keep the agency moving in a positive direction. My personal and professional experiences make me ideally suited to serve as Chairman and I am honored and humbled to be considered for this important task. If confirmed, I will perform it to the best of my ability.

Thank you [phrase in Native tongue]. 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, and Members of the Committee. My name is Jonodev Osceola Chaudhuri, and I am proud citizen of the Muscogee (Creek) Nation. I am honored to be President Obama's nominee for Chairman of the National Indian Gaming Commission (the "NIGC" or "Commission"). Thank you for today's hearing to consider my nomination.

Since being appointed to serve as a Commissioner by Secretary Sally Jewell in September of 2013 and subsequently designated to serve as Acting Chairman by President Obama for most of the preceding year, it has been my distinct honor and privilege to serve at the NIGC, and I am profoundly grateful to President Obama and Secretary Jewell for the opportunity to do so. In my time at the NIGC, I have made every effort to help keep the agency operating smoothly and on a positive trajectory during a period of transition. Should I be confirmed to serve as Chairman, I would welcome the additional stability at the agency that would result, and I will do my part to help the agency continue to engage in sound regulation consistent with the Indian Gaming Regulatory Act (IGRA).

With me today are my wife, Marissa Chaudhuri—formerly Marissa Merculieff—and our oldest son, Kanuux. Our youngest son, Hamati, is at home with a family friend. My wife is an attorney by trade and serves her Alaska Native tribal government, the Aleut Community of St. Paul Island, in a management position. She is an incredible person and a skilled professional; and I am thankful every day for having her in my life. I am also thankful and excited to be joined today by my father, Joyotpaul Chaudhuri, who at the young age of 81 and despite health challenges that such an age entails, has traveled to be here from Tempe, Arizona. My family's values, guidance, support, and grounding, which I will discuss in more detail, have not only made me who I am, but also provide an excellent backdrop for why I wish to and am willing to serve as Chairman of the NIGC.

My appreciation of the importance of sound regulation flows from my professional experience in law and public policy. My interest in public service flows from a belief that we each have a responsibility to do whatever we can to help improve opportuni-

ties for future generations. For me, service as Chairman of the NIGC resonates with my professional experience and commitment to service, as the regulation of Indian gaming requires a complete understanding of the law, of how gaming fits into broader public policy, and, on a micro-level, of how gaming impacts real lives in the community. I believe my professional and public service backgrounds have served the agency well in this regard thus far and will continue to do so. My professional pursuits and my commitment to service are intertwined, and both are directly born from my family background.

I am the son of the late Jean (Hill) Chaudhuri, a full-blood Mvskoke (“Muscogee”) born on our family’s allotment in Okfuskee County, Oklahoma, and Joyotpaul Chaudhuri, a naturalized citizen who came to the United States from Calcutta, India, in the early 1950s. Together, they are my two greatest heroes as they are in their own ways the embodiment of service.

My mother stood as a powerful example of leadership and the strength of Creek women. By all accounts, tribal life in rural Oklahoma in the 1930s and 1940s was hard. Not unlike many Indian families of the day, our family drew water from a nearby well, did not have electricity, and often worked as migrant farm workers to make ends meet. Relations between American Indian and non-Indian communities were strained, and educational opportunities were limited. Mom did not finish high school. Despite her lack of formal education, her love of knowledge drove her to be self-educated. She was inquisitive, and learned from elders, including a clan-grandfather that had walked the Trail of Tears. She learned all that she could about our peoples’ history, ceremonies, language and culture. She also learned church life, which was of great significance to much of the Creek community. English was her third language (Creek was her first, Cherokee her second), and in the tradition of Creek orators, she eventually mastered the art of public speaking and advocacy.

Continuing a commitment to service that she learned from her parents and relatives, she became a grassroots organizer, storyteller, playwright, author, and an advocate for the Muscogee community, other Native communities, and other underprivileged communities. Always grounded in her culture and values, her foundation as a Muscogee (Creek) woman guided her to assist with numerous issues and public service efforts throughout her life and throughout her travels all across the country. As a result, her work and service to her people, Indian Country in general, and numerous non-Indian disadvantaged communities, such as founding a health clinic and off-reservation cultural center, was acknowledged on both a national and local level.

Although raised a world away in India, my father shared Mom’s values and commitment to service. It was my dad’s childhood passion for Native American history that led him to come to United States, and more specifically Oklahoma. Dad became a political philosophy professor, teaching American Indian policy and political science for well over 40 years, helping to develop Indian Studies programs at a number of universities, most notably the University of Arizona. Along the way, Dad mentored and supported numerous students, tribal leaders and organizers, and community members. Dad has published many articles and monographs in Indian affairs. Along with Mom, he authored *A Sacred Path: The Way of the Muscogee Creeks*, a comprehensive synthesis of Muscogee history, culture, and philosophy.

From my family’s teachings and example, I have been intimately exposed to core Muscogee values, the foremost of which are *love/compassion, humility, respect, and courage*. Central to my family’s beliefs is that these values can be expressed through public service. Elders of my tribe, including my mother, often recounted a fundamental teaching: whatever gifts you may have do not belong to you; they were given to you to share with others and to serve the greater good of the community. The core Muscogee values have been reinforced by my own personal and professional experiences, and I strive to apply them in all matters.

I have lived most of my life in Arizona where my father, my brother Paul (Joydev Mahagi), my aunt Richinda Sands—another family tradition-keeper, and my cousin-brother Lance Sands still live. I am a member of the Nokose (Bear) Clan, and my warrior name is Nokoshomvhte (Leader/Front Bear). I belong to and participate in Nuyaka traditional/ceremonial grounds in Okfuskee County, Oklahoma, and I have served as Totkv-Vfastv (fire-keeper) there. My family also has close ties to Greenleaf Indian Baptist Church in Okemah and lineal ties to the Arpeka and Hickory Ground ceremonial grounds. Growing up, the family kept one foot in Oklahoma at all times. In addition to regular trips to visit family, Mom and Dad made sure we stayed connected to cultural and ceremonial activities throughout my childhood.

As an adult, I have pursued educational and professional pursuits that I felt would enhance my ability to serve. After graduation from Dartmouth College in 1993, I spent three years as a culture and enrichment coordinator for the Fort McDowell Yavapai Nation in Arizona. On the heels of a historic standoff with federal officials that helped shape the contours of gaming throughout the state, Fort

McDowell was in the midst of a substantial expansion of its gaming operation, as well as of its overall economic development activity. It was a formative time for me. My primary interest was to serve as an educator and cultural preservationist for the community, but I was amazed by the unmistakable connection between economic development and self-determination. I saw how the tribe used resources from gaming to bolster its services and programs and build a viable infrastructure. I saw how resources were used to support culture and language programs as well as to develop tribally-run health care services. I continue to carry with me the lessons I learned firsthand during that period about the connection between responsible and purpose-driven gaming activity and cultural preservation and self-sufficiency.

After my time at Fort McDowell, I attended Cornell Law School to pursue a career in law and set out to equip myself with the best professional experiences I could, not knowing where such experiences would take me. I have since been blessed to have had a solid, well-rounded career, having served in the private sector for approximately a decade and serving in public trust positions within federal, state, and tribal governments throughout the last 15 years. My education and professional experience has given me both a broad understanding of law and public policy, as well as a targeted and direct understanding of the gaming industry and its impacts on lives on the ground.

I am an attorney, licensed in Oklahoma, Arizona, and Washington State, and admitted in various federal, state, and tribal courts. After law school, I clerked for judges James Ackerman and Noel Fidel of the Arizona Court of Appeals before practicing civil litigation, business and finance, and Indian law from 2001–2006 with the firm of Snell & Wilmer, a large national law firm based in Phoenix. I left Snell & Wilmer to start my own small firm, which I ran from 2006–2010. I also have a modest background in criminal law, having clerked for the Arizona Federal Defender's Office in Phoenix and practiced as a Deputy Public Defender in Maricopa County. Throughout my practice, I actively engaged in activities targeted at serving the legal profession and the greater community, regularly teaching Indian law courses, including Indian gaming, at Phoenix College and serving on numerous boards and organizations, including service as Chairman of the Arizona Bar Association's Indian law section.

Contemporaneous with my practice of law, I have been honored to serve as a judge for many years. I have served as a full-time trial judge for the Puyallup Tribe of Indians in Washington State, as well as an appellate judge for the Gila River Indian Community in Arizona, the Yavapai-Apache Nation in Arizona, the San Manuel Mission Band of Indians in California, and, from 2006–2012, the Muscogee (Creek) Nation. Much of my time on the Muscogee (Creek) Nation Supreme Court was spent as Chief Justice.

I have been fortunate to receive high-level public policy experience, serving as Senior Counselor to the Assistant Secretary—Indian Affairs at the U.S. Department of the Interior, as well in my most recent post as Acting Chairman of the NIGC.

Each of these experiences has given me direct, practical skills well-suited to the position of Chairman of the NIGC.

First and foremost, having served in a leadership role at the NIGC for over a year, much of that time as Acting Chairman, I have gained a strong understanding of the work and challenges of the agency. During that time I have strived to make decisions with the professional perspective and personal values I previously discussed. I have done so with a judge's commitment to fairness and process and with a personal sense, born from experience, of the real world impact those decisions would have. I have never shied away from difficult decisions in my professional career, nor will I do so in the future.

The greatest resource of the agency is its highly skilled and committed staff. As the NIGC is the only agency in the federal government that regulates any form of gaming, the staff's skillset is unique and critical to the agency's continued success. The professionalism and dedication within the NIGC team is remarkable, and I have been privileged to work with and learn from my NIGC colleagues over the last 14 months. I look forward to continuing to do so throughout my time at the agency.

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. Together with fellow Commissioner Little, I have worked to improve communication within the agency and address various operational matters.

In addition to my firsthand experience with the agency, my extensive professional experience has also proven to be directly relevant and helpful during my NIGC tenure.

My judicial experience has been my most useful asset at the NIGC. It has given me a thoughtful, measured, approach to issue resolution with an eye toward long-

term impacts. As a judge, one must hold a solemn commitment to the fair and impartial application of the law. The same is true as a regulator. Both require a thorough understanding of the law and procedures to be applied in a given situation and both require one to place decisions in a proper public policy and real world context.

My lengthy service as an attorney and teacher in the field of Indian law, including Indian gaming matters, has given me a solid understanding of the Commission's legal and regulatory issues. My policy background from service at the Department of the Interior and a number of community organizations, as well as my personal experience, have 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. Further, these experiences have taught me to prepare for foreseeable challenges in the work that any organization performs. For these reasons, I am committed to building on the agency's philosophy of cooperation and collaboration with tribes and tribal regulators, and I am committed to doing whatever I can to ensure that the agency continues to improve its technological capabilities.

I am committed to applying the regulatory tools of IGRA in a balanced, practical, and fair manner. I welcome the opportunity to do what I can to fulfill the requirements of IGRA and keep the agency moving in a positive direction. On the surface, it may appear that my path to the NIGC is markedly different from others who have served in the post. While that may be true, I am convinced that my personal and professional experiences make me ideally suited for the role at this point in the agency's history.

For me, the NIGC Chairmanship represents an opportunity to serve. There are others who are more suitable than I am to be full-time cultural preservationists; although I take seriously my responsibility to learn and pass on my peoples' traditions to my children and whomever else I may be able to. There are others more suitable than I to be full-time language preservationists, although I will do what I can to continue learning Creek until my last days. There are certainly others better suited to fulfill many of the other important public and private roles that together, help ensure the continued survival and success of our people. At this moment, however, I have the opportunity, as a regulator, to do my part to perform an important role in supporting self-determination. Namely, through sound regulation, I can help preserve the integrity of an industry that has had a monumental impact on the historical landscape of Indian country. This is what I can do now to help. I stand willing and able to do so. I am honored to be considered for this important task, and if confirmed, I will perform it to the best of my ability.

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

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: July 22, 2014

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

Residence: Information 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: Merculieff

7. **Names and ages of children:** (include stepchildren and children from previous marriages.)
 Oldest son: Kanuux Auwa Chaudhuri, 7 years old
 Youngest Son: Hamatl 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
 Muscogee (Creek) Nation Supreme Court, *Chief Justice /Associate Justice*
 Okmulgee, OK; 2006-2012
 San Manuel Mission Band of Indians Appeals Court, *Appellate Judge*

- Highland, CA; 2009-2012
 Gila River Indian Community Court of Appeals, *Appellate Judge*
 Sacaton, AZ; 2008-2010
 Yavapai-Apache Nation Court of Appeals, *Associate Justice*
 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 1998 through Spring of 1999.
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 Lytle, *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 (CIC) 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-oza!™, (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.
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.

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:

- 1) Creating and maintaining up-to-date infrastructure.
- 2) Retaining and recruiting skilled experts.
- 3) 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 up-to-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, 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.

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 time frame 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 (Will not be released to the public.)

The CHAIRMAN. Thank you, Mr. Chaudhuri.

I would start by, you discussed some about your activities and initiatives that have happened since you have been with the commission. Are there any goals or changes that you would pursue if confirmed, other goals you would pursue if confirmed?

Mr. CHAUDHURI. Thank you, sir.

Certainly I discussed technology quite a bit in my written testimony. We are obviously living in the information age and the industry we regulate is driven by technology. That is absolutely clear. Tribes have been incredible innovators of gaming technology. And in order to keep pace with our regulatory duties as well as our internal capabilities, we have to make sure that technology is a top priority for the agency.

So investing in infrastructure, staff, as well as ongoing regulatory review, technology is certainly key to that.

The CHAIRMAN. There have been two commissioners now for a while. If you get confirmed for this position, there will be a commissioner slot that is open. Can you discuss the importance of having a full commission and also, discuss why it is important to have a full commission, is there anything you cannot do because the commission isn't full?

Mr. CHAUDHURI. Thank you, Chairman. I really have to take my hat off to the extraordinary staff at the NIGC. We have been able to keep the agency moving along and we have been able to perform our regulatory duties in a real time of transition.

That said, there are many, many benefits to having a full commission. On appeal, any appeal of the Chairman is appealed to the full commission. As things stand right now, we have two commissioners and that won't change until and unless, hopefully, be it so willing, confirmation takes place, that won't change.

The practical effect of that is any appeals of the Chairman go to an even-numbered appellate body, of which the Chairman is one of them. That is one specific example.

But additionally, all voices are required as they benefit, the regulatory review process. So having the expertise of a full commission is absolutely essential in order for us to perform our ongoing obligation of regulatory review.

Finally, while I am very honored to serve as acting Chairman right now, the Vacancies Act does have its own set of limitations such that the acting Chairman can serve, in certain circumstances, whenever there isn't an acting Chairman or a confirmed Chairman in place, there are other workarounds that the agency has to perform to perform its regulatory duties. So hopefully that is, in a nutshell, a summary of some of the considerations at play.

The CHAIRMAN. Okay. I think it is important we get the third commissioner. But I would ask, is there anything you cannot do without that third commissioner, besides the appeals?

Mr. CHAUDHURI. At this time, as acting, my technical regulatory authorities, as set forth in IGRA, I am able to perform those. However, one of the important functions of the NIGC is to perform a public education role in the industry. Certainly the weight of a confirmed Chairman is different than acting chair. And I would welcome the stability and the consistency that a confirmed chair would bring.

The CHAIRMAN. Thank you.
Vice Chair Barrasso?

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

Senator BARRASSO. Thank you very much, Mr. Chairman, for holding this hearing. Today we are considering the President's nominee to serve as the Chairman of the National Indian Gaming Commission. The position has been vacant since October 2013, in my opinion, Mr. Chairman, for too long. I think it is an important position, one charged with significant responsibilities in Indian gaming, a \$28 billion industry. And yet the White House didn't even send this nomination to the Senate until July, 2014, a nine-month delay. Despite repeated inquiries by our staff, the Administration didn't even submit the required paperwork until September

of 2014. So I appreciate your diligence, Mr. Chairman, in considering this nomination, and I hope that in the future the President will ensure that nominations of qualified candidates and the completed paperwork are submitted to the Committee in a timely manner.

But despite the delays, I do want to welcome our nominee, Mr. Chaudhuri, and your family. Congratulations on the nomination. As we discussed in our Committee hearings in July of this year, there should be a strong regulatory enforcement in Indian gaming, and the industry needs integrity and accountability. I am confident that you intend to ensure these principles are carried out in this industry. I appreciate your testimony and being here. I know you have a young son you said might be unruly for the Committee, but please tell him that we are very proud of his father and this nomination.

Mr. CHAUDHURI. Thank you, sir.

Senator BARRASSO. The gaming industry, as I said, needs integrity, as does the agency regulating the industry. The agency officials should comply with all applicable laws and ethics rules and be cognizant of public perceptions of agency integrity. The Committee must also examine potential conflicts of interest for nominees that we consider. I understand that you have been successful at gaming, personally have won significant amounts of money in past poker tournaments. And so I just ask that you please explain how you are going to avoid any conflicts of interest relative to your personal interests and success, including perhaps addressing any public perception there might be if you are confirmed by the agency.

Mr. CHAUDHURI. Thank you, Vice Chairman. I think the big win that you may be referring to is the win that took place I think nine and a half years ago, or nine years ago, somewhere in that range, back in 2005. I enjoyed that. But frankly, I am very mindful of the importance of preserving public perception and public faith in a regulatory body. So I would never engage in gaming in a facility that we operate anyway. But just in an abundance of caution on my own, I have chosen, for the entire time I remain at NIGC, I am not going to be conducting any gaming activity personally in any facility. I am very sensitive to the perception issues that you raised.

Senator BARRASSO. In our Committee hearing back in July, I think it was July 23rd, we talked and you testified that the Assistance, Compliance, Enforcement initiative, the ACE initiative, would be a guiding principle in fulfilling your agency's regulatory role. You had mentioned a few metrics, such as a number of trainings conducted by the agency in place of, to measure the effectiveness of the ACE initiative. I know the Government Accountability Office is also looking at this initiative.

In the event that the initiative is not successful, then I ask, what will you do if confirmed to ensure that the agency still will be effective in fulfilling its regulatory role?

Mr. CHAUDHURI. Thank you, Vice Chairman. Under IGRA, compliance is the goal. It is the goal of our agency as well as it is the goal of Indian Country regulators, tribes and tribal regulatory bodies. Whatever gets us there most effectively is what is important.

I am convinced, based on everything that I have seen and my experience with Indian Country, collaborative work on the front end is the most efficient way to get there. Frankly, with the over 5,400 tribal regulators in the field who also have an interest in preserving and protecting the Indian Gaming Regulatory Agency, to me it just makes sense to leverage those relationships in a collaborative fashion.

That said, at the same time, a line of one of my favorite poems, the author is kind of a mixed bag, but a line from that poem is, “to dream and not make dreams your master, to think and not make thoughts your aim,” the point is, I am practical. Whatever gets us to compliance, I am willing to tweak as time goes by. That said, I don’t think working hand in hand with tribes to get to compliance is by any means an impossible dream. I am convinced we will get there. We are getting there and we have been getting there.

Senator BARRASSO. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Barrasso.

I will take a little bit of Chairman privilege here and say, we have one more hearing next week, but Tim Johnson, you have been great on this Committee. We thank you for your leadership and we thank you for your service.

Senator JOHNSON. Mr. Chaudhuri, one of the responsibilities for the NIGC is to ensure that tribes are recipients of gaming revenue. How does NIGC monitor this aspect of tribal gaming operations?

Mr. CHAUDHURI. Thank you, sir. And thank you so much for your service to the Nation all these years. I was a little upset with my father that he didn’t tell me about that connection until the courtesy meeting you were so generous to extend. So thank you very much.

Yes, ensuring that tribes are the primary beneficiaries of gaming is a fundamental pillar of the Indian Gaming Regulatory Act. We do that in a number of ways. We are very attuned and receptive to inquiries that come in from the field about the use of gaming revenue. However, our roles, we start and end with IGRA. Our responsibilities, we don’t issue revenue allocation plans. The Department of the Interior does. However, we do have an oversight responsibility to track the use of revenues and we do that through information coming to us through site visits and through our positive connections to tribal regulators.

Senator JOHNSON. Looking forward, what will be some of the top issues facing Indian gaming and how will you approach each of those issues?

Mr. CHAUDHURI. Thank you, sir. Let me expand on technology a little bit. Not only have tribes been technological innovators, but they have played a major role in developing protective technologies in the field. A major thrust of the front end work that we do in terms of working with tribes before there are regulatory issues that come into play involves training. We are committed to working and providing training and technical assistance to tribes and tribal regulators. In order to do that, we have to have internal technology capabilities to adequately provide those trainings.

So we are investing in internal capacity. We just upgraded all of our infrastructure with the recent move. But we will continue to

maintain and recruit sufficient staff who can track industry changes and provide meaningful trainings.

Senator JOHNSON. Can you explain how your experience serving on tribal courts has prepared you for the role of chair for the NIGC?

Mr. CHAUDHURI. Thank you, sir. I am convinced that my judicial service has been and will continue to be my biggest professional asset. As a judge, you have to have a solemn commitment to the fair and unbiased application of the law. And you have to have a profound respect for the law and for order.

The same is true as a regulator. We have our organic law that we are required to implement, the Indian Gaming Regulatory Act, as well as our own regulations. My role as Chairman involves first and foremost understanding the law, and understanding our regulations, but implementing them and applying them in a fair way with an eye toward the long term. To me, my judicial background has been directly relevant and will continue to be.

Senator JOHNSON. Thank you. I yield back.

The CHAIRMAN. Thank you. Senator Franken?

Senator FRANKEN. Thank you, Mr. Chaudhuri, for your testimony. You brought up technology a number of times. Can you give me some overview of all the different ways that technology impacts Indian gaming, from the technology of the games themselves to the technology, you talked about training, to the technologies of vulnerability to hacking? Just give me an overview of the technological challenges that might come from internet gambling, in terms of as a challenge to Indian gaming.

Mr. CHAUDHURI. Thank you, Senator. As I mentioned, I have been a big fan for many years in different capacities.

[Laughter.]

Mr. CHAUDHURI. Thank you. In terms of technology, there are impacts internally as an agency that I can discuss. But there are also external impacts. First of all, on the operations side of things, tribes have been innovators. So in terms of developing games, developing software, developing hardware that helps tribes meet their, or fulfill their regulatory or their lawful potential to game, tribes have been incredible innovators. An example my fellow Commissioner Little always brings up is the change machines that you see in almost any machine, an Indian gaming machine or non-Indian gaming machine. That was developed in Indian Country.

So on the operations side, in order to maximize potential, lawful potential, tribes innovate on a daily basis.

On the vulnerability side, in order to protect against vulnerabilities, since gaming is a financial industry, the protections available in existing software are, continue to be a major source of investment for tribes and tribal regulators. We have to track and be on top of the software that is out there.

In terms of bureaucratically, making small tweaks to ensure that we do our job as an agency better, we have to be on top of technology. So for example, we just finalized a pilot project to allow all tribes to submit fees through pay.gov. And that was largely, we were able to do that largely because of some of the improvements we have made in the last year to beef up our technologies.

So operationally, in terms of maximizing profits, in terms of minimizing vulnerabilities as well as doing our job internally as an agency, technology affects and touches everything we do. I would like us to be a cutting edge smaller agency within the Federal family.

Senator FRANKEN. Does the need to continually invest in technology ever jeopardize the revenue going to the tribes?

Mr. CHAUDHURI. Well, we can't control how tribes spend their operational resources or even their regulators' resources. However, my personal opinion is that it is great bang for the buck in terms of investing in ongoing cutting edge technology. Certainly it prevents financial leakage in an operation and as we have seen in terms of the growth of the industry since IGRA was passed 25 plus years ago, technology walks hand in hand with maximizing market potential. That is my opinion.

Senator FRANKEN. One last question. If you ever feel that NIGC lacks the authority or ability to properly protect the tool of economic development for Indian Country that is absolutely vital, I hope that you will speak up and let the Committee know. If confirmed, will you keep this Committee regularly updated on the state of Indian gaming, including threats and opportunities for it?

Mr. CHAUDHURI. I will absolutely commit to that, Senator, and frankly, I would welcome and look forward to having an ongoing dialogue with the Committee. No bill is perfect; we do our best and I think we have wonderful tools available to us within IGRA. And I think our remarkable team does a great job performing its regulatory obligations. But any source of law is worth talking about as time goes on, and I am willing to engage in ongoing dialogue.

Senator FRANKEN. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Begich?

Senator BEGICH. Mr. Chairman, before I ask some questions to Mr. Chaudhuri, what is the idea at this point to finish the hearing then try to do this in the next couple weeks? Okay, so we will see a speedy result of the operation here.

The CHAIRMAN. That is the hope.

Senator BEGICH. Okay. I am just, because it took us this long to get it. I anticipate Congress, the minority and majority will work together to move this rapidly.

The CHAIRMAN. We are not doing this for the exercise.

Senator BEGICH. Okay. Good. I don't really have a lot of questions, I just want to say thank you very much for your willingness to step up to this position even though you have been acting, but now to be in the formal position, I think you will do a great job. And I am a tournament poker player, so I kind of like that you have experience around that. That gives you a balance of approach.

But again, I won't add any more to what other members have said. It is an important commission, to make sure that revenue streams go to the tribes that are deserving and making sure the gaming situation occurs correctly in the States that allow it. As you know, our State does not allow it. But again, I want to thank you for your willingness to participate.

And a special thank you to your family, because I know the travel and other activities that it will require will mean time away from your family. So I don't really have a lot of questions, just to

say thank you very much for your willingness to do this and I look forward to seeing you approved.

Mr. CHAUDHURI. Thank you Senator. Thank you for your service to the Nation as a whole, for all of Indian Country, but also on behalf of my family and my in-laws, on behalf of Alaska Natives as well. Thank you.

The CHAIRMAN. Thank you, Senator Begich. I have one more question, then if Senator Barrasso or you have additional questions, we certainly would entertain those.

There is a push out there for Internet gaming. There are big stakeholder decisions; big stakeholders that there could potentially big schisms regarding Internet gaming. I would like to know your thoughts on NIGC's role, if any, in the regulation of Internet gaming conducted by tribes. If the tribe is operating Internet gaming off of servers located on tribal lands, would that fall under the tenets of IGRA?

Mr. CHAUDHURI. Thank you, Chairman. Let me first say, as the only agency in the Federal family that exclusively, or that regulates any form of gaming, that exclusively is there, exists to regulate gaming, we have a very specialized set of skills as well as a very strong personnel team in place at the agency. I am absolutely confident that we have the capacity to adjust as necessary to any market-driven role or regulatory role that is given to us. I have just been honored to work with our team at the agency and I believe our team would be up for any challenges that are thrown at us.

It is difficult to speak, and I definitely don't want to be pre-decisional about anything, speak in the abstract about any games that aren't before us as a commission. So whether or not a certain activity would fall within the regulatory scope of the NIGC, it is very fact-driven and I would hesitate to speak generally.

However, I will say that even under the current language of IGRA, we take our regulatory role very seriously in terms of regulating gaming activity that takes place on Indian lands. And so regardless of what type of gaming is at play, under the current language of IGRA, we take our current regulatory role very seriously.

The CHAIRMAN. So not to put words in your mouth, but if a tribe was operating Internet gaming on servers located on tribal land, do you believe you have the oversight?

Mr. CHAUDHURI. There are different elements, and thank you for the question, Chairman. There are different elements of gaming that are clear under not just IGRA but supporting case law. Where the bet is made does matter, and where a bet is made affects part of our analysis. But without having a specific game proposal in front of me—

The CHAIRMAN. Okay, well, let me approach it from a different angle. There are a number of proposals that would place primary regulation of gaming within executive departments like Treasury or Commerce. Do you believe that tribal interests could be protected if the regulator was in Treasury or Commerce?

Mr. CHAUDHURI. I have the upmost respect for colleagues at Treasury and Commerce.

The CHAIRMAN. They are not being confirmed; you are.

Mr. CHAUDHURI. Thank you, sir. I can speak best to the members of our team. In addition to having a longstanding sense of the place

that gaming sits in larger national policy, we have technical expertise within the agency that no other agency has. We have been regulating gaming ever since the inception of IGRA. And I would never speak to another agency's capabilities or capacity, but I can speak to the NIGC's. And we could handle whatever would be thrown at us, I am confident of that.

The CHAIRMAN. All right. It may be a debate that comes up that you may be in the middle of.

Senator Barrasso, anything else?

Senator BARRASSO. No, thank you, Mr. Chairman.

The CHAIRMAN. Well, with that, I want to thank you for being here today, Mr. Chaudhuri, to consider your nomination of Chairman of the National Indian Gaming Commission. We may issue follow-up questions in writing and would ask for prompt response if so, so that we can move forward with your nomination, as Senator Begich has requested.

So with that, if there is no further comment, this Committee hearing of Senate Indian Affairs is adjourned.

[Whereupon, at 4:38 p.m., the Committee was adjourned.]

A P P E N D I X

QUAPAW TRIBE OF OKLAHOMA

P.O. Box 765
Quapaw, OK 74363-0765

November 19, 2014

Hon. Jon Tester, Chairman
Attn: Mary Pavel, Staff Director
Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Hon. John Barrasso, Vice Chairman
Attn: Rhonda Harjo, Acting Minority Staff Dir.
Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Re: Support for Nomination of Jonodev Chaudhuri as NIGC Chairman

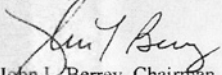
Dear Chairman Tester and Vice Chairman Barrasso:

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.

Sincerely,


John L. Berrey, Chairman
Quapaw Tribal Business Committee



SUSANVILLE INDIAN RANCHERIA

July 28, 2014

The Honorable John Tester
Chairman
Senate Committee on Indian Affairs
United States Senate

The Honorable John Barrasso
Vice Chairman
Senator Committee on Indian Affairs
United States Senate

Dear Chairman Tester and Vice Chairman Barrasso:

The Susanville Indian Rancheria is 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.

Sincerely,

Mr. Stacy Dixon
Tribal Chairman