TITLE: An Action Relating To Law And Order; Denying Recommendation For Permanent Appointment Of Victoria R. Yazzie As Navajo Nation District Court Judge; Recommending Removal By President

Date posted: November 19, 2019 at 7:18 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 et. seq.
LEGISLATIVE SUMMARY SHEET

Tracking No. 2343-19

DATE: October 25, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO LAW AND ORDER; DENYING RECOMMENDATION FOR PERMANENT APPOINTMENT OF VICTORIA R. YAZZIE AS NAVAJO NATION DISTRICT COURT JUDGE; RECOMMENDING REMOVAL BY PRESIDENT

PURPOSE: This resolution, if approved, would deny the recommendation for Permanent Appointment of Victoria R. Yazzie as Navajo Nation District Court Judge. It will recommend removal by the President, Navajo Nation.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.
PROPOSED STANDING COMMITTEE RESOLUTION
24th NAVAJO NATION COUNCIL - FIRST YEAR, 2019
INTRODUCED BY

[Signature]
Primary Sponsor

TRACKING NO. 0343-19

AN ACTION

RELATING TO LAW AND ORDER; DENYING RECOMMENDATION FOR
PERMANENT APPOINTMENT OF VICTORIA R. YAZZIE AS NAVAJO NATION
DISTRICT COURT JUDGE; RECOMMENDING REMOVAL BY PRESIDENT

Section One. Authority

A. The Navajo Nation established the Law and Order Committee as a Navajo Nation
standing committee. 2 N.N.C. § 600(A). The committee, pursuant to 2 N.N.C. § 601(C)(1), serves as oversight over the Judicial Branch of the Navajo Nation.

B. Pursuant to 2 N.N.C. § 601(B)(3), the Law and Order Committee has the statutory
duty "to review and evaluate the performance of probationary and permanent judges
and justices."

Section Two. Findings

A. Victoria R. Yazzie was confirmed by the Navajo Nation Council as a probationary
District Court Judge on January 30, 2013. CJA-07-13, incorporated herein by this
reference.

B. All appointed Navajo Nation District Court Judges are required to serve a
probationary period of two years. 7 N.N.C. § 356. "[A]t the conclusion of the two-
year probationary term, the Law And Order Committee "reviews the record and qualifications" of the probationary Judge to determine whether he or she has "satisfactorily completed the probationary term." In the event the Law and Order Committee determines that the probationary judge has not satisfactorily completed this probationary term, the judge is not recommended for permanent appointment. The law states, probationary judges must "successfully complete[] a course of training accredited for judges and ... receive[] a satisfactory performance evaluation from the Chief Justice and the [Law and Order] Committee of the Navajo Nation Council at the conclusion of the probationary Justice's or Judge's two-year probationary term." 7 N.N.C. § 355(E). According to the Navajo Supreme Court, "the committee makes an independent determination of the training requirement and whether the probationary judge has performed satisfactorily over the two-year probationary term." In re: Certified Questions II, 6 Nav.R. 105, 108 (Nav.Sup.Ct. 1989).

C. Victoria R. Yazzie has completed her two-year probationary term as District Court Judge. Pending probationary proceedings and the determination of whether or not she would be recommended for permanent appointment, she continued her duties serving as judge.

D. The Law and Order Committee of the Navajo Nation Council has completed its review of the record and its evaluation of Victoria R. Yazzie as probationary District Court Judge. The committee has also concluded public hearings on the matter. hearings in which sworn testimony was provided by community members. See, LOCJY-08-13 (Hearing Rules on Evaluation of the Performance of Probationary Judges and Justices), incorporated herein by this reference. Public hearings are necessary as "the public [has] an overwhelming and compelling interest in" the selection of judges. In re: Certified Questions II, 6 Nav.R. 105, 107 (Nav.Sup.Ct. 1989). Further. "Navajo sovereignty is strengthened by a strong and independent judiciary." Id.

E. Under Navajo Nation law, "the President shall not appoint to a permanent position any probationary ... judge not recommended by the [Law and Order] Committee." 7
N.N.C. § 355(E). The Navajo Supreme Court has held that a probationary District Court judge who is not recommended by the committee "must be removed" by the President. *In re: Certified Questions II*, 6 Nav.R. 105, 106 and 107 (Nav.Sup.Ct. 1989). The President is "required to follow the .... Committee's recommendation of denial," and, "[n]o further removal proceeding is required." *Id.* at 108.

F. Upon review of the record, the documents submitted and the sworn testimony provided at the public hearings conducted, the Law and Order Committee finds the performance of Victoria R. Yazzie as probationary District Court Judge to be unsatisfactory.

**Section Three. Denial of recommendation for Permanent Appointment; Removal**

A. The Law and Order Committee hereby denies the recommendation of permanent appointment of Victoria R. Yazzie as Navajo Nation District Court Judge. Pursuant to Navajo Nation law, the President shall provide notice of this action of the committee and remove Victoria R. Yazzie as District Court Judge.

B. The Office of Legislative Services shall immediately submit all documents containing the record to the Office of the President, Navajo Nation. Such documents contain personnel matters and confidential information, such as social security numbers. For this purpose, it shall be deemed confidential, unless appropriate consent for disclosure is provided. Testimony obtained through public hearings shall be deemed public information (except any portions protected by law).