LEGISLATIVE SUMMARY SHEET

Tracking No. 0365-19

DATE: November 26, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO THE NAVAJO NATION COUNCIL; CONFIRMING THE PROBATIONARY APPOINTMENT OF MALCOLM LAUGHING AS NAVAJO NATION DISTRICT COURT JUDGE

PURPOSE: This bill will confirm the appointment of District Court Judge Malcolm Laughing for a two year probationary period. The President of the Navajo Nation shall appoint the District Court Judges with confirmation by the Navajo Nation Council from among those applicants recommended by the Law and Order [Judiciary] Committee of the Navajo Nation Council. The Law and Order Committee delegated its responsibility and authority to the Judicial Conduct Commission to screen applicants and to recommend the probationary appointment of judges and justices. LOCS-19-18. The Navajo Nation Council shall confirm judicial appointments. 7 N.N.C. § 355 (A).

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.

5-DAY BILL HOLD PERIOD: _____
Website Posting Time/Date: 2:02pm 11-27-19
Posting End Date: 12-02-19
Eligible for Action: 12-03-19

Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- First Year, 2019

(Prime Sponsor)

TRACKING NO. 0365-19

AN ACTION

RELATING TO THE NAVAJO NATION COUNCIL; CONFIRMING THE PROBATIONARY APPOINTMENT OF MALCOLM LAUGHING AS NAVAJO NATION DISTRICT COURT JUDGE

BE IT ENACTED:

Section One. Authority

A. The Navajo Nation established the Law and Order Committee as a Navajo Nation standing committee and as such gave the Law and Order Committee authority to recommend to the Navajo Nation President the permanent appointment of probationary judges. 2 N.N.C. §§ 164 (A)(9), 600 (A), 601 (B)(10).

B. The Law and Order Committee delegated its responsibility and authority to the Judicial Conduct Commission to screen applicants and to recommend the probationary appointment of judges and justices. LOCS-19-18.

C. The Judicial Conduct Commission made its recommendation to the Navajo Nation President for Malcolm Laughing to be appointed as a probationary judge of the Navajo Nation. JCC-01-19.

D. The President of the Navajo Nation shall appoint the Chief Justice, Associate Justices, and District Court Judges with confirmation by the Navajo Nation Council from among those applicants recommended by the Law and Order [Judiciary] Committee of the

Navajo Nation Council. The Navajo Nation Council shall confirm judicial appointments. 7 N.N.C. § 355 (A).

E. References in the Navajo Nation Code and other official documents to the Government Services and Intergovernmental Relations Committee shall mean Naabik'íyáti Committee, unless the amendments enacted herein for the context of previous law indicates otherwise. *See* CO-45-12.

Section Two. Findings

A. Malcolm Laughing is an enrolled member of the Navajo Nation and is an applicant for appointment as District Court judge. Mr. Laughing's application and qualifications have been reviewed by Judicial Conduct Commission, and he has been interviewed by Judicial Conduct Commission. *See* JCC-01-19, attached hereto as **Exhibit A**.

B. The Judicial Conduct Commission has determined that Malcolm Laughing meets the qualifications for appointment as Navajo Nation Judge and has recommended him for probationary appointment to the Navajo Nation President. *Id.*

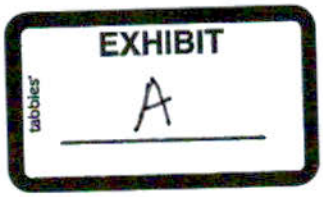
C. The Navajo Nation President has appointed Malcolm Laughing as Navajo Nation judge, subject to confirmation by the Navajo Nation Council. *See* Appointment Letter and Qualification Documents attached hereto as **Exhibits B** and **C,** respectively.

Section Three. Confirming Probationary Appointment

The Navajo Nation confirms Mr. Malcolm Laughing as a probationary Navajo Nation Judge.

Section Four. Navajo Nation Privacy Act

Confidential information within application documents shall remain protected except upon its authorized disclosure by the appointee. 2 N.N.C. § 81 *et seq*. (2009).



JCC-01-19

RESOLUTION OF THE

JUDICIAL CONDUCT COMMISSION

RECOMMENDING TO THE NAVAJO NATION PRESIDENT THE PROBATIONARY APPOINTMENT OF MALCOLM LAUGHING AS NAVAJO NATION DISTRICT COURT JUDGE

BE IT ENACTED:

SECTION ONE. AUTHORITY.

A. Navajo Nation District Court Judges are selected by appointment and confirmation. See generally, 7 N.NC. §355. The Law and Order Committee of the Navajo Nation Council initially determines the qualifications of all applicants for judgeships. 2 N.N.C. §601(B)(7) and 7 N.N.C. §355(A). The names of those deemed qualified are forwarded to the President of the Navajo Nation for appointment. The appointments of the President are subject to Navajo Nation Council confirmation.
B. The Law and Order Committee has delegated the responsibility and authority to the Judicial Conduct Commission regarding the screening of applicants for and recommendation of probationary appointment of Judges and Justices of the Navajo Nation by Resolution LOCS-19-18.

SECTION TWO. FINDINGS.

A. To improve the quality and effectiveness of the justice system, the Navajo Nation Judicial Branch needs to have a fully seated judiciary; however, there are nine vacancies for Navajo Nation District Court Judge position.
B. While the Navajo Nation Code, Title 2, states that the Navajo Nation President shall appoint District Court Judges "only from among those named in the panel submitted" by the Law and Order Committee, in order to address the Navajo Nation's immediate need for judges, the Judicial Conduct Commission contends that submitting one applicant to the Navajo Nation President is sufficient because of the dire need for judges.
C. The Judicial Conduct Commission reviewed the applicant's qualifications for judicial appointment.
D. The Judicial Conduct Commission determines that Malcolm Laughing meets the qualifications for appointment as a probationary Navajo Nation District Court Judge and is qualified for the position of Navajo Nation Judge.

SECTION THREE. RECOMMENDATION FOR PROBATIONARY APPOINTMENT

A. The Judicial Conduct Commission recommends to the Navajo Nation President that Malcolm Laughing be appointed as District Court Judge, subject to the Navajo Nation Council's confirmation. 2 N.N.C. §601(B)(7)(2012)

SECTION FOUR. DIRECTIVE.

The Office of Human Resources shall immediately submit to the Navajo Nation President all documents provided by the applicant recommended for appointment. Confidential information within application documents shall remain protected except upon authorized disclosure by the applicant. 2 N.N.C. § 81 et seq. (2009)

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Judicial Conduct Commission at a duly called meeting at Twin Arrows Navajo Casino and Resort Conference Room, Twin Arrows, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 3 in favor and 0 opposed this 5th day of June 2019.

Robert Yazzie, Chairman
Judicial Conduct Commission

Motion: Judy Apachee
Second: Manley Begay

EXHIBIT
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B

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

November 4, 2019

Malcolm Laughing
PO Box
Window Rock, AZ 86515

RE: Judicial Appointment

Dear Mr. Laughing,

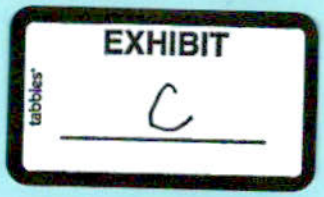
Thank you for your interest in serving as a Navajo Nation judge. There are many fine Navajo judges who have come before you and we trust you will uphold the honor of the Navajo courts they have built over the decades. We appreciate the time you spent with us talking about your interest and experience in the legal system. Your work history gives you the unique perspective of the needs of our Navajo People as they navigate the judicial system and we hope you will use this experience in your decision making. Based on our discussion with you and review of your résumé it is our pleasure to recommend your appointment as a judge of the Navajo courts.

The recommendation will be forwarded to the Navajo Nation Council for final action. We wish you the best. God bless you.

Sincerely,

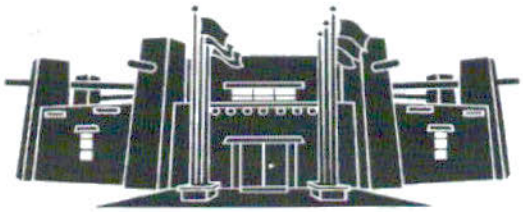
Jonathan Nez, President
THE NAVAJO NATION

Myron Lizer, Vice President
THE NAVAJO NATION



Employment Application

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

To : Hon. Otto Tso, Council Delegate
Navajo Nation Council

From : Ron Haven, Attorney
Office of Legislative Counsel

Date : November 27, 2019

Re : AN ACTION RELATING TO THE NAVAJO NATION COUNCIL; CONFIRMING THE PROBATIONARY APPOINTMENT OF MALCOLM LAUGHING AS NAVAJO NATION DISTRICT COURT JUDGE

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient, although, as with all legislation, challenges are possible in the courts. You are advised and encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction. If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. As you may be aware, the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title.

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

OLC # 19-630-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0365-19_____ SPONSOR: Otto Tso

TITLE: An Action Relating to the Navajo Nation Council; Confirming the probationary appointment of Malcolm Laughing as Navajo Nation District Court Judge

Date posted: November 27, 2019 at 2:02pm

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) 871-7590

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.*