

REVISED CONSTITUTION OF THE JICARILLA APACHE TRIBE

We, the members of the Jicarilla Apache Tribe, by virtue of our sovereign rights as an Indian tribe and pursuant to the authorities conferred by the Indian Reorganization Act of June 18, 1934, (48 Stat. 984), desiring to assume more responsibility for our own well-being, to protect the land and resources of our Tribe for ourselves and our children, and to work with the Government of the United States in administering the affairs of our Tribe, adopt the following constitution, as amended.

ARTICLE I – STATEMENT OF FEDERAL RELATIONSHIP

We request the United States Government to continue its established relationship with the Tribe by continuing to furnish such help as health services, education, advisory employees, and a superintendent, and to discharge other responsibilities now exercised by the Federal Government until we become adjusted to assuming more responsibility.

ARTICLE II – TERRITORY

The jurisdiction of the Jicarilla Apache Tribe shall extend to all land within the boundaries of the Jicarilla Apache Indian Reservation, as established by the Executive Orders of February 11, 1887, and November 11, 1907, amended January 28, 1908; and to any additional land acquired by the Tribe or by the United States and held in trust for the Tribe.

ARTICLE III – MEMBERSHIP

Section 1. Membership in the Jicarilla Apache Tribe shall extend to the following persons provided they do not renounce such membership or join another tribe:

(a) All persons of Indian blood whose names appear on the official per capita dividend roll of the Jicarilla Apache Tribe on December 15, 1968;

(b) All persons of three-eighths or more Jicarilla Apache Indian blood born from and after December 15, 1968, whose mother or father is a member of the Jicarilla Apache Tribe.

Section 2. Membership into the Jicarilla Apache Tribe may be granted by a three-fourths majority vote of the whole Tribal Council to any person of three-eighths or more Jicarilla Apache Indian blood who is not affiliated with another tribe.

Section 3. Procedures for the determination of membership in the Jicarilla Apache Tribe in accordance with this revised constitution, including provision for timely registration of births with the Tribe in order to receive distributions of tribal assets, may be fixed by ordinance of the Tribal Council.

Section 4. No decree of an outside court determining membership in the Tribe, or paternity, or degree of Jicarilla Indian blood shall be recognized by the Tribe for membership purposes. All questions relating to the paternity of an applicant for enrollment shall be decided by the tribal court of the Tribe with the right of appeal to the appellate court of the Tribe, whose decision shall be final. Any person denied enrollment by the Tribal Council shall have the right to appeal from that decision to the Secretary of the Interior, whose determination as to the eligibility of the person for enrollment as a member of the Jicarilla Apache Tribe shall be final.

Section 5. No person who is enrolled or recognized as a member of any other Indian tribe shall be eligible for enrollment in the Jicarilla Apache Tribe unless he shall have first renounced membership in such other tribe, and unless satisfactory evidence has first been submitted that his name has been stricken from the role [sic] of such other tribe.

ARTICLE IV - RIGHTS OF MEMBERS

Section 1. All members of the Jicarilla Apache Tribe shall enjoy equal rights to life, liberty, industrial pursuits, and the economic resources and activities of the Tribe.

Section 2. The Tribe, in exercising its powers of self-government shall not:

(a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(c) Subject any person for the same offense to be twice put in jeopardy;

(d) Compel any person in any criminal case to be a witness against himself;

(e) Take any private property for a public use without just compensation;

(f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

(g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six months or a fine of \$500, or both;

(h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(i) Pass any bill of attainder or ex post facto law; or

(j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

Section 3. The enumeration of certain rights in this constitution shall not be construed to deny or disparage others retained by members of the Jicarilla Apache Tribe.

ARTICLE V – ORGANIZATION OF THE GOVERNMENT OF THE JICARILLA APACHE TRIBE

Section 1. The powers of the government of the Jicarilla Apache Tribe are divided into three distinct departments: The legislative, the executive and the judicial; and no person or group of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except as this constitution or an appropriate Tribal Council enactment, may otherwise expressly direct or permit.

ARTICLE VI – THE LEGISLATIVE DEPARTMENT COMPOSITION AND QUALIFICATIONS

Section 1. The legislative powers of the Jicarilla Apache Tribe shall be exercised by the Jicarilla Apache Tribal Council, hereinafter referred to as the Tribal Council, which shall hold its sessions at the seat of the tribal government.

Section 2. The Tribal Council shall consist of eight members, elected at large from the membership of the Jicarilla Apache Tribe, to fill eight positions to be identified as Posts 1, 2, 3,4, 5,6, 7, 8.

Section 3. Membership in the Tribal Council shall be limited to enrolled members of the Jicarilla Apache Tribe twenty-eight (28) or more years of age at the time of election or appointment, and who shall have lived within the Jicarilla Apache Reservation for not less than six (6) months preceding the date on which they file as a candidate for the office of Tribal Council member.

Section 4. No person who has been convicted in any court of a felony shall be eligible for candidacy to any elective office of the Jicarilla Apache Tribe unless he shall have been pardoned by the President of the Jicarilla Apache Tribe in conformity with applicable ordinances and procedures prescribed by the Tribal Council.

ARTICLE VII – NOMINATIONS AND ELECTIONS

Section 1. An election board, appointed by the President of the Jicarilla Apache Tribe, and composed of five (5) members, shall supervise and administer all elections in conformity with established tribal ordinances, and in accordance with this constitution; provided that no member of the election board shall be, at the same time, a member of the Tribal Council, or a candidate for tribal office, or a relative by blood or affinity within the first degree of a tribal officer or Tribal Council member, and provided further that persons so appointed by the President shall be confirmed by the Tribal Council. The election board shall choose its own chairman and secretary from within its membership.

Section 2. It shall be the duty and responsibility solely of the election board to count the votes, settle any challenges of right to vote, and resolve protests or disputes in connection with any election. The election board shall be governed in the performance of its duties by appropriate ordinances of the Tribal Council, enacted pursuant to this revised constitution.

Section 3. Any enrolled member of the Jicarilla Apache Tribe shall have the right to vote in any tribal election provided such member is at least eighteen (18) years of age at the time of such election.

Section 4. Members of the Tribal Council, and all other elective officials of the Jicarilla Apache Tribe, shall be chosen by secret ballot, the form of which shall be established by ordinance of the Tribal Council.

Section 5. The Tribal Council, by ordinance, shall make provision for absentee voting, including the use of a secret ballot for this purpose.

Section 6. A filing fee shall be required of all candidates for tribal office to be paid at the time of filing. The amount of the fee shall be determined by ordinance of the Tribal Council.

Section 7. A primary election to select candidates for the offices of President and Vice President shall be held at least thirty (30) days before each general election of the Tribe at which the office of President and Vice President are to be voted upon. Any qualified member of the Jicarilla Apache Tribe who desires that his (her) name be placed on the ballot as a candidate for the offices in reference in the primary election shall file with the secretary of the election board a statement of intention showing his (her) name and the office for which he (she) desires to become a candidate. Such statement shall be filed not less than twenty-five (25) days preceding the primary election. The two nominees receiving the highest number of votes for President shall be the only candidates for that office at the next general election. The two nominees receiving the highest number of votes for Vice President shall be the only candidates for that office in the next general election.

Section 8. General elections for the offices of President and Vice President of the Jicarilla Apache Tribe shall be held every four (4) years on the second Saturday following National Independence Day.

The candidates for such offices who receive the highest number of votes shall hold office for a term of four (4) years, or until their successors are duly installed. Upon adoption of this revised constitution, the unexpired terms of the incumbent tribal chairman and vice chairman, elected under the previous constitution, shall continue until the second Saturday following National Independence Day in 1972, or until successors have been duly elected and installed, provided that following the adoption of this revised constitution the executive officers of the Tribe shall be known as the President and Vice President of the Jicarilla Apache Tribe.

Section 9. Any qualified member of the Jicarilla Apache Tribe who desires that his (her) name be placed on the ballot as a candidate for the office of Tribal Council member shall file with the secretary of the election board as a candidate for not more than one of the expiring Council posts. The secretary shall accept such filing during a six-month period closing twenty-five (25) days preceding the general election of the Tribe at which candidates for the expiring Council posts are to be voted upon.

Section 10. Upon adoption of this revised constitution, the unexpired terms of Council members elected under the previous constitution shall continue until such terms expire at the end of four (4) years from the date of election, and until their successors are duly installed. The four Tribal Council positions corresponding to the four incumbent Council members whose terms expire in 1970 shall be identified with posts 1, 2, 3 and 4 and those corresponding to the four incumbent Council members whose terms expire in 1972 shall be identified with posts 5, 6, 7 and 8. The first election under this revised constitution shall be held on the second Saturday following National Independence Day in 1970, at which time candidates shall be elected to fill Council posts 1, 2, 3 and 4. The remaining Council posts shall be filled at the general election on the second Saturday following National Independence Day in 1972.

Section 11. A primary election to select candidates for Tribal Council posts shall be held at least thirty (30) days before each general election of the Tribe at which Council Members are to be voted upon. Any qualified member of the Jicarilla Apache Tribe who desires that his (her) name be placed on the ballot in the primary election as a candidate for a Tribal Council post shall file with the secretary of the election board a statement of intention showing his (her) name and the Tribal Council post for which he (she) desires to become a candidate. Such statement shall be filed not less than twenty-five (25) days preceding the primary election. The two nominees receiving the highest number of votes for a Tribal Council post shall be the only candidates for that Tribal Council post at the next general election.

Section 12. General elections to fill four (4) of the expiring Tribal Council posts shall be held on the third Saturday following National Independence Day in every even numbered year. The candidate receiving the highest number of votes for each Tribal Council post shall hold office for a term of four (4) years.

Section 13. Notice of both the primary and general elections shall be posted at the voting place and at three (3) or more additional public places by the secretary of the election board at least fifteen (15) days before each such election. Such notices shall include a list of all candidates whose names are to be placed on the ballot and the offices to which they seek election.

Section 14. No person shall be a candidate for more than one office in any election.

Section 15. Tie votes shall be decided by lot in the presence of the Tribal Council.

Section 16. Those candidates for office receiving the highest number of votes cast in any general election shall be certified in accordance with an election ordinance to the Tribal Council by the chairman of the election board as the duly elected Council members or executive officers of the Tribe.

ARTICLE VIII – VACANCIES AND REMOVAL FROM OFFICE

Section 1. Any member of the Tribal Council or elected officer of the Jicarilla Apache Tribe, who during the term for which he is elected, is convicted of a felony, shall automatically forfeit his office. Any member of the Tribal Council or elected officer found guilty in any court, or by the Tribal Council, of a misdemeanor involving misconduct reflecting on the dignity and integrity of the tribal government, malfeasance in office, or gross neglect of duty, may be removed from office by majority vote of the whole Tribal Council. Before any vote for removal from office is taken, such member or officer shall be given a written statement of the charges against him at least five (5) days before the meeting of the Tribal Council at which he is to appear, and he shall be given an opportunity to answer any and all charges at the designated Council meeting. The decision of the Tribal Council shall be final, and such Council member or official may not be returned to office.

Section 2. Upon receipt of a petition signed by at least twenty-five percent (25%) of the eligible voters of the Tribe demanding recall of any member of the Tribal Council or elected officer, and upon payment of such fees as may be required by Tribal Council ordinance, filed with the secretary of the election board at least four (4) months before the expiration of the term of office of the accused, it shall be the duty of the election board to verify the petition and, if found to be valid, the Tribal Council shall call a special election upon the question of recall. Such petition shall include a summary statement of the charges levied against the tribal official concerned. Such election, when called by the Tribal Council, shall be held not less than twenty-five (25) nor more than forty (40) days from the date of filing of the petition with the election board. No Council member or elected officer may be recalled unless a majority of the members voting cast their ballots in favor of recall, and unless at least thirty percent (30%) of the eligible voters of the Tribe vote in such recall election. If such election shall fail to accomplish its objective, all expenses attendant upon conduct thereof shall be charged to and deducted from the net profits of tribal operations.

Section 3. If a member of the Tribal Council fails to attend two (2) consecutive regular meetings of the Tribal Council he shall automatically cease to be a member of the Tribal Council; provided, that such absence may be excused by the Tribal Council if caused by illness or other satisfactory reasons.

Section 4. Any member of the Tribal Council, or elected officer of the Tribe may resign his office by tendering his written resignation to the Tribal Council, and upon receipt thereof, it shall become effective.

Section 5. Vacancies in the membership of the Tribal Council shall be filled at a special election, called by the Tribal Council and conducted in conformity with applicable sections of Article VII of this constitution; provided that the calling of such special election shall be discretionary with the Tribal Council if less than one year remains in the unexpired term of the vacant office, in which event the vacancy may be filled by a qualified tribal member appointed by the President with the concurrence of the Tribal Council. If more than one year remains in the unexpired term of the vacant office, the special election called to fill such vacancy shall be held not later than sixty (60) days after the vacancy occurs.

ARTICLE IX – MEETINGS; QUORUM; PROCEDURES; DIRECTION OF THE TRIBAL COUNCIL

Section 1. Regular meetings of the Tribal Council shall be held on the first Friday of each month, or on an alternate day in each month to be set by the Council. Such meetings shall be held in the Tribal Council chamber, or at such other location as the President of the Jicarilla Apache Tribe may designate with the concurrence of the Tribal Council.

Section 2. The Tribal Council shall convene in special meetings upon call by the President of the Jicarilla Apache Tribe, or by the written request of not less than six (6) members of the Council.

Section 3. Six members of the Tribal Council, together with the President or the Vice President or the president pro tempore, shall constitute a quorum for the official transaction of tribal business.

Section 4. The President of the Jicarilla Apache Tribe, or in his absence, the Vice President of the Jicarilla Apache Tribe, shall preside over meetings of the Tribal Council, provided that in the absence of the President and the Vice President, the Tribal Council may appoint one of its members as president pro tempore.

Section 5. No enactment of the Tribal Council shall have any validity or effect in the absence of a quorum of the membership thereof, and no resolution or ordinance of the Tribal Council shall take effect unless it shall have been approved by a majority of the Council members present and voting, and until it has been approved by the President of the Jicarilla Apache Tribe or passed over his veto as provided by Article XVI, Section 1(e).

ARTICLE X – ORDINANCES AND RESOLUTIONS

Section 1. All final decisions of the Tribal Council on matters of permanent interest to members of the Tribe and necessary to the orderly administration of tribal affairs, shall be embodied in ordinances, the format of which shall be established by the Tribal Council. Such enactments shall be available for public inspection at all reasonable times by members of the Tribe.

Section 2. All final decisions of the Tribal Council on matters of temporary interest, or on matters relating to particular individuals, officials, or circumstances shall be embodied in resolutions. Such enactments shall be available for public inspection at all reasonable times by members of the Tribe.

ARTICLE XI – POWERS OF THE TRIBAL COUNCIL

Section 1. The inherent powers of the Jicarilla Apache Tribe, including those conferred by Section 16 of the Act of June 18, 1934, (48 Stat. 984), as amended, shall vest in the Tribal Council and shall be exercised thereby subject only to limitations imposed by the Constitution of the United States, applicable Federal statutes and regulations of the Department of the Interior, and the restrictions established by this revised constitution.

(a) Management of tribal lands and natural resources:

1. **Leasing.** In the leasing of tribal lands, first preference shall be given, whenever feasible and in the best interest of the Tribe, to tribal members or associations of members.

2. **Regulations.** Land use codes and regulations may be adopted by the Tribal Council to govern land use, including the assignment of tribal lands to tribal members for individual use.

3. **Resource Development.** Tribal lands and natural resources may be developed for industrial or other purposes providing that such development is based upon sustained yield principles wherever applicable and provided that such development is designed for the general welfare of the Tribe as a whole. The Tribal Council may enact ordinances to govern the development of tribal lands and other resources.

4. **Inalienability of Tribal Lands.** The tribal lands shall be inalienable.

(b) Subordinate organizations. The Tribal Council may, with the approval of the Secretary of the Interior, authorize and regulate tribal corporations, associations and other subordinate organizations for economic and other purposes, and may transfer tribal assets thereto for management and control, provided that such subordinate organizations, including the tribal corporation chartered pursuant to the provisions of Section 17 of the Act of June 18, 1934, (48 Stat. 984), shall exercise control over tribal land, natural resources, and other property or assets of the Tribe only to the extent that such control has been transferred to such subordinate organization by positive enactment of the Tribal Council.

(c) Tribal funds. The Tribal Council shall be responsible for the management of all funds within the control of the Tribe, and may appropriate available tribal money for public, business and governmental purposes, provided that such appropriations are incorporated in and expended in conformity with annual budgets subject to the approval of the Secretary of the Interior or his authorized representative and provided further that:

1. The Tribal Council shall provide for adequate accounting of all tribal financial transactions, including a comprehensive annual audit, and for adequate bonding of tribal officials and employees who are directly responsible for the receipt, disbursement and custody of tribal funds.

2. The Council shall maintain a capital reserve fund with tribal revenues, into which there shall be deposited each year no less than fifteen percent (15%) of the total annual income for the preceding fiscal year, and shall arrange for the investment of the funds. No per capita distribution shall ever be made from the principal of such capital reserves except by the consent of 75% of the qualified voters of the Tribe and with the approval of the Secretary of the Interior.

3. The Tribal Council may declare an annual dividend for equal distribution to each member of the Tribe living and enrolled as of the date such dividend is declared; provided that funds designated for dividend purposes shall be restricted to the annual income remaining after tribal operational costs, and the deposit into the capital reserve fund, as required by (2) above, have been deducted.

4. The Tribal Council shall have the power to borrow money for business and development purposes, but when such loans are negotiated with non-Federal sources of credit, the terms of the loan agreement shall be subject to approval by the Secretary of the Interior.

(d) **Peace and order.** Subject to approval by the Secretary of the Interior, the Tribal Council may enact ordinances to promote the peace, safety, property, health and general welfare of the people of the Reservation; to provide for the appointment of guardians for minors and mental incompetents; and to provide for the removal or exclusion from the Reservation of any non-member whose presence may be found by the Tribal Council to be injurious to members of the Tribe. In addition, the Tribal Council shall provide for the enforcement of tribal ordinances on the Reservation, and shall prescribe the powers, rules and procedures of the tribal courts in the adjudication of cases involving criminal offenses, domestic relations, civil actions, and the inheritance and probate of non-trust real and personal property of members of the Tribe and non-member Indians within the Reservation.

(e) **Taxes and fees.** The Tribal Council may levy and collect taxes and fees on tribal members, and may enact ordinances, subject to approval by the Secretary of the Interior, to impose taxes and fees on non-members of the Tribe doing business on the Reservation.

(f) **Conduct of tribal affairs.** The Tribal Council may enact ordinances for the regulation of its own procedures, including: power of subpoena; the power to administer oaths and affirmation; the power to adopt and amend bylaws; and the Council may appoint subordinate boards, commissions, committees, tribal officials and employees not otherwise provided for in this constitution, and may prescribe their salaries, tenure and duties.

Section 2. Any resolution, ordinance or other enactment which, by the terms of this constitution or in conformity with applicable federal law, is subject to approval by the Secretary of the Interior, shall be presented to the Superintendent of the Jicarilla Apache Reservation within ten (10) days following its approval by the President of the Jicarilla Apache Tribe, or in the event of Presidential veto -- within ten (10) days following the date of its repassage over such veto by a three-fourths majority of the Tribal

Council as provided by Article XVI, Section 1(e). The Superintendent shall, within ten (10) days following receipt of such ordinance or resolution, transmit it to the Secretary of the Interior with his recommendation for or against approval. Such enactment shall become effective when approved by the Secretary of the Interior, provided that if the Secretary of the Interior shall not disapprove an enactment of the Tribal Council within one hundred twenty (120) days following its submittal to him for approval action, it shall thereupon become effective.

ARTICLE XII – THE EXECUTIVE COMMITTEE

Section 1. The Tribal Council shall establish an Executive Committee composed of four (4) Council members to assure the prompt conduct of routine tribal business.

Section 2. The membership of the Executive Committee shall be elected by and from within the Tribal Council in conformity with regulations and procedures established by Council ordinance, and shall serve at the pleasure of the Tribal Council.

Section 3. The powers of the Executive Committee shall consist of delegated authorities set forth in appropriate ordinances of the Tribal Council but shall not include the power to legislate on behalf of the Tribe or appropriate tribal funds which are not included in the approved annual budget of the Tribe. The Executive Committee shall not be delegated authorities which would infringe upon the basic province of the Tribal Council as the legislative body of the Tribe.

Section 4. Meetings of the Executive Committee shall be held at tribal headquarters or at such other locations as its presiding officer may designate. Meetings shall be called, as necessary, by the presiding officer of the Executive Committee.

Section 5. The presiding officer of the Executive Committee shall be the President of the Jicarilla Apache Tribe, or in his absence, the Vice President of the Jicarilla Apache Tribe. In the absence of the President and Vice President at any duly called meeting, the Executive Committee may designate one of its members as a presiding officer pro tempore.

Section 6. Three members of the Executive Committee shall constitute a quorum for the transaction of official business.

ARTICLE XIII – EXECUTIVE DEPARTMENT: COMPOSITION AND MANNER OF SELECTION

Section 1. The Executive Department of the Jicarilla Apache Tribal Government shall consist of a President, Vice President, Secretary, Treasurer, Administrative Manager, and such other officials as the Council may find necessary for the proper administration of tribal business.

Section 2. The President and Vice President of the Jicarilla Apache Tribe sometimes referred to herein as the President and Vice President, shall be elected by the qualified electors of the Jicarilla Apache Tribe. The remaining officers shall be appointed by the President, with the concurrence of the Executive Committee of the Tribal Council.

Section 3. All non-elective officials and employees of the Jicarilla Apache Tribe shall be responsible to the President, and may be removed from office by the President with the concurrence of the Executive Committee of the Tribal Council, or in conformity with applicable ordinances establishing personnel regulations and procedures.

ARTICLE XIV - TERM OF OFFICE AND QUALIFICATIONS

Section 1. The President and Vice President shall be elected for terms of four (4) years, or until their successors are duly installed, to begin at the same time as the terms of members of the Tribal Council elected at the same election.

Section 2. Only enrolled members of the Jicarilla Apache Tribe who have lived within the Jicarilla Apache Reservation for not less than one (1) year preceding the date of the primary election at which they seek to establish their candidacy, and who have reached the age of thirty (30) years or more prior to the date of such primary election shall be eligible for the offices of President and Vice President of the Jicarilla Apache Tribe.

Section 3. No person shall hold the office of President or Vice President of the Jicarilla Apache Tribe for more than two consecutive terms.

Section 4. No person shall be a Tribal Council member, whether by election or appointment, for more than two (2) consecutive terms.

ARTICLE XV - PRESIDENT AND VICE PRESIDENT VACANCIES AND SUCCESSION

Section 1. In the event of a vacancy, for any cause, in the office of the President, the Vice President shall assume the duties of the President until a successor has been duly elected and installed. In the event of a vacancy, for any cause in the office of the Vice President, such vacancy shall be filled by a tribal member appointed by the Tribal Council, and such person shall serve until a successor has been duly elected and installed. In the event of a vacancy, for any cause in both executive offices, the Tribal Council shall designate one of its members as a President pro tempore until such time as successors have been duly elected and installed.

Section 2. Vacancies in the offices of President and Vice President shall be filled at a special election, called by the Tribal Council and conducted in conformity with applicable sections of Article VII of this constitution; provided that the calling of such special election shall be discretionary with the

Tribal Council if less than one year remains in the unexpired term of the vacant office, and further provided that, if more than one year remains in the unexpired term of the vacant office, the special election called to fill such vacancy shall be held not later than sixty (60) days after the vacancy occurs.

ARTICLE XVI – DUTIES OF EXECUTIVE OFFICERS

Section 1. The President and in his absence or incapacity the Vice President, shall exercise the following powers:

(a) The President shall serve as the presiding officer of the Tribal Council and Executive Committee, but he shall not have the right to vote on any issue except to break a tie vote of the council in the absence of the Vice President. The Vice President may vote in any meeting of the Tribal Council, or as presiding officer of the Executive Committee, only for the purpose of breaking a tie vote.

(b) The President shall appoint all non-elective officials and employees of the executive department of the tribal government, and shall direct them in their work, subject only to applicable restrictions embodied in this constitution or in enactments of the Tribal Council establishing personnel policies or governing personnel management.

(c) The President, subject to the approval of the Tribal Council may establish such boards, committees, or commissions as the business of the executive department may require, and he shall serve as an ex officio member of any such committee, board or commission.

(d) The President shall serve as contracting officer for the Jicarilla Apache Tribe following approval of all contracts, leases or agreements by the Tribal Council, or by the Executive Committee if within their approval authority.

(e) The President shall have veto power over enactments of the Tribal Council or Executive Committee, subject to the following conditions: Every resolution or ordinance enacted by the Tribal Council or Executive Committee shall, before it becomes effective, be presented to the President for approval within five (5) days following the date of its passage.

If he approves, he shall sign it within ten (10) days following its receipt and deposit it with the Secretary of the Jicarilla Apache Tribe for such further action as may be necessary. If he disapproves an enactment of the Tribal Council or Executive Committee, he shall so indicate and refer it to the Secretary of the Jicarilla Apache Tribe with a statement of his objections, and the Secretary shall place it on the agenda for further action at the next meeting of the Tribal Council or Executive Committee. It shall not thereafter become effective unless it is again approved by the affirmative vote of three-fourths (3/4) of the full membership of the Tribal Council, or by majority vote of the Executive Committee when enactments of that committee are concerned.

(f) Subject to such regulations and procedures as may be prescribed by ordinance of the Tribal Council, the President shall have power to grant pardons, after convictions in any court for any offense, to restore tribal members to eligibility for elective office in the tribal government, subject to the restrictions contained in Article VIII, Section 1.

(g) The President shall direct the tribal police to assure the enforcement of ordinances enacted by the Tribal Council.

(h) The President may exercise any additional tribal powers if authorized to do so by an appropriate enactment of the Tribal Council.

(i) The President of the Jicarilla Apache Tribe shall hold no other tribal office or engage in private salaried employment during his term of office.

Section 2. The Vice President may attend any session of the Tribal Council, Executive Committee or other Council committee.

Section 3. The Vice President shall perform such duties as the President, with the consent of the Tribal Council, may direct.

ARTICLE XVII – SECRETARY OF THE JICARILLA APACHE TRIBE

Section 1. The Secretary of the Jicarilla Apache Tribe shall be appointed by the President, with the concurrence of the Executive Committee, from within the membership of the Jicarilla Apache Tribe.

Section 2. The duties of the Secretary shall be established by ordinance of the Tribal Council.

ARTICLE XVIII – TREASURER OF THE JICARILLA APACHE TRIBE

Section 1. The Treasurer of the Jicarilla Apache Tribe shall be appointed by the President, with the concurrence of the Executive Committee of the Jicarilla Apache Tribal Council, from within the membership of the Jicarilla Apache Tribe.

Section 2. The duties of the Treasurer shall be established by ordinance of the Tribal Council.

Section 3. The books and records of the Treasurer of the Jicarilla Apache Tribe shall be audited at least once a year by a competent auditor employed by the Tribal Council, and at such other times as the Council may direct.

Section 4. The Treasurer shall be required to give surety bond satisfactory to the Council, the premium of such bond to be paid by the Jicarilla Apache Tribe.

Section 5. All checks shall be signed and all vouchers shall be approved for payment by two officers of the Tribe, as follows: The President or the Vice President, jointly with the Treasurer or, in his absence, the Secretary.

ARTICLE XIX – OTHER APPOINTED OFFICIALS

Section 1. Other officials shall be appointed by the President, with the concurrence of the Executive Committee and may serve under the terms of an employment contract subject to approval by the Executive Committee when so required in conformity with the personnel policies and procedures of the Tribe.

Section 2. The duties, responsibilities and compensation of such officials shall be set forth in their employment contract, or established by the Tribal Council.

ARTICLE XX – INSTALLATION OF ELECTED OFFICIALS

Section 1. All duly elected officers and Council members of the Jicarilla Apache Tribe shall be installed in office at the first succeeding regular meeting of the Tribal Council following their election, upon subscribing to the following oath to be administered by such person as may be designated by resolution of the Tribal Council:

I, _____, do solemnly swear that I will support and defend the Constitution of the United States against all enemies; that I will faithfully and impartially carry out the duties of my office to the best of my ability; that I will cooperate in a manner to promote and protect the best interests of my Tribe, in accordance with the constitution of the Jicarilla Apache Tribe.

ARTICLE XXI – REFERENDUM

Section 1. Upon receipt of a petition signed by at least thirty percent (30%) of the qualified voters of the Tribe and filed with the secretary of the Tribal Council demanding a referendum thereon, any proposed or enacted resolution, ordinance or other action of the Tribal Council shall either be repealed by the Tribal Council or be submitted by it to the electorate for decision by the Tribe in a general election to be called by the President and held within thirty (30) days after receipt of the petition. The referendum shall be conclusive only if at least thirty percent (30%) of the qualified voters vote in the election, and only if a majority of the votes cast favor repeal. The decision of the electorate shall be final.

Section 2. When a majority of the members of the Tribal Council shall by motion or resolution, request a referendum on any proposed or enacted resolution, ordinance or other action of the Tribal Council, within five (5) working days thereafter, the President shall call an election to be held within

thirty (30) days following the calling thereof, at which the members of the Tribe shall approve or disapprove, by majority vote, the ordinance or action in question, provided that such approval or disapproval shall be effective only in the event that thirty percent (30%) or more of the qualified voters cast their ballots in such election. The decision of the electorate shall be final.

Section 3. No referendum conducted pursuant to the provisions of Section 1 and 2 above shall serve to abrogate, modify, or amend any properly approved contract or agreement.

ARTICLE XXII – CONSTITUTIONAL AMENDMENT

Section 1. It shall be the duty of the Secretary of the Interior to call an election for the amendment of this constitution:

(a) Whenever so requested by majority vote of the full membership of the Tribal Council.

(b) Whenever a minimum of thirty percent (30%) of the qualified voters of the Tribe, by signed petition, shall request such an election.

Section 2. If, in such election, the amendment is adopted by majority vote of the qualified voters of the Tribe voting therein, and if the number of ballots cast represents not less than thirty percent (30%) of the qualified voters, such amendment shall be submitted to the Secretary of the Interior, and if approved by him shall thereupon take effect.

ARTICLE XXIII – THE JUDICIARY: JUDICIAL POWERS

Section 1. The judicial powers of the Jicarilla Apache Tribe shall be vested in the tribal courts, including a trial and appellate court, which shall exercise jurisdiction in all criminal matters wherein the defendants are Indians, except those matters within the exclusive jurisdiction of the federal courts; and in all civil matters. For the purpose of civil matters, any person who shall enter upon the Reservation of the Jicarilla Apache Tribe shall be deemed to have implied his consent to the jurisdiction of the Jicarilla Apache Tribe, and all property held upon or controlled from within the Reservation shall be deemed to be within the jurisdiction of the Jicarilla Apache Tribe.

Section 2. The criminal offenses over which the Jicarilla tribal courts have jurisdiction shall be embodied in a code of laws adopted by ordinance of the Tribal Council, and approved by the Secretary of the Interior.

Section 3. The duties and procedures of the tribal courts shall be established by ordinance of the Tribal Council.

ARTICLE XXIV – COMPOSITION OF THE TRIBAL COURTS

Section 1. The Trial Court of the Jicarilla Apache Tribe shall consist of one or more judges, appointed by the President, with the concurrence of not less than three-fourths (3/4) of the whole membership of the Tribal Council. The number, salary and qualifications of trial judges shall be fixed by ordinance of the Tribal Council and no person appointed to the office of trial judge shall hold at the same time, any other tribal office or position.

Section 2. Persons appointed to the office of trial judge may be removed from office for cause including conviction for a felony in any court of competent jurisdiction, gross neglect of duty or misconduct reflecting on the dignity or integrity of the Jicarilla Apache Tribe. Such removal shall be accomplished by not less than three-fourths (3/4) majority vote of the whole membership of the Tribal Council; provided that first the accused judge shall be given a written statement of the charges against him at least ten (10) days before the meeting of the Tribal Council at which action is to be taken and providing that he shall be given an opportunity to answer any and all charges made against him.

Section 3. Three (3) members of the Tribal Council shall be designated by the President, with the concurrence of a majority of the Tribal Council to sit as an appeal court any time an appeal is made from a decision of the trial court. The persons so designated shall function in their capacity as judges in the appeal court only until the case for which they were designated has been concluded. The court of appeals shall hear and decide upon appeals from judgments of the trial court, and the decisions of the court of appeals shall be final.

ARTICLE XXV – SAVING CLAUSE AND REPEAL OF PREVIOUS CONSTITUTION

Section 1. The Constitution of the Jicarilla Apache Tribe approved on July 11, 1960, [under the provisions of Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935, (49 Stat. 378)], and amended on February 11, 1963, is hereby repealed and superseded by this revised constitution.

Section 2. All ordinances and resolutions heretofore enacted by the Jicarilla Apache Tribe shall remain in full force and effect to the extent that they are consistent with this constitution.

ARTICLE XXVI – RATIFICATION OF REVISED CONSTITUTION

Section 1. This constitution, when adopted by majority vote of the qualified voters of the Jicarilla Apache Tribe, voting at an election called for that purpose by the Secretary of the Interior, in which at least thirty percent (30%) of those entitled to vote shall cast their ballots, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of his approval.

Constitution

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an election authorized by the Acting Assistant Commissioner of Indian Affairs on Nov. 22, 1968, under delegated authority, the attached Revised Constitution of the Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico, was submitted to the qualified voters of the Tribe and was on Dec. 23, 1968, duly adopted by a vote of 107 for, and 27 against, in an election in which at least 30 percent of the 270 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

LAWRENCE J. KOZLOWSKI
Chairman, Election Board
ROSA L. CALLADO
Election Board Member
GERALD VICENTI
Election Board Member

APPROVAL

I, Russell E. Train, Under Secretary of the Interior of the United States of America, by virtue of the authority granted to me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Revised Constitution of the Jicarilla Apache Tribe, subject to conditions relating to Sections 1 and 2 of Article 3 as set forth in attached letter to Mr. Lawrence J. Kozlowski, Superintendent, Jicarilla Agency.

Approval recommended:
(Sgd.) T. W. Taylor
Acting Commissioner of Indian Affairs
Jan. 9, 1969

(SGD) RUSSELL E. TRAIN
Under Secretary of the Interior

(SEAL)

Washington, D.C.
Date: Feb. 13, 1969

Constitution

HISTORY

The original Constitution and Bylaws were adopted on August 4, 1937.

The Revised Constitution of the Jicarilla Apache Tribe was adopted by the voters on December 23, 1968 and approved by the Secretary on January 9, 1969. It replaced the amended Constitution adopted on October 12, 1962.

Article XXIII of the Revised Constitution of the Jicarilla Apache Tribe was amended on May 24, 1990. The amendment was approved by the Secretary of the Interior on August 20, 1990.

Articles VII and XIV of the Revised Constitution of the Jicarilla Tribe were amended on January 22, 2000. The amendments were approved by the Secretary of the Interior on January 28, 2000.