

CONSTITUTION OF
THE AMERICAN LEGION,
DEPARTMENT OF NEVADA

PREAMBLE

For God and country we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America, to maintain law and order, to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in the Great Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to provide peace and goodwill on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

ARTICLE I
NAME AND LOCATION

- Section 1. The name of this organization shall be The American Legion, Department of Nevada.
- Section 2. The headquarters of The American Legion, Department of Nevada shall be at Carson City, Nevada, where the Legion is incorporated.
- Section 3. The administrative office of the Department shall be located with the current Department Adjutant.

ARTICLE II
OBJECTIVES

- Section 1. The American Legion is a civilian organization; membership therein does not affect or increase liability for military or police service. Rank does not exist in the Legion; no member shall be addressed by his military or naval title in any convention or meeting of the Legion.
- Section 2. The Legion shall be absolutely non-political and shall not be used for the dissemination of partisan principles or for the promotion of the candidacy of any person seeking public office or endorsement.
- Section 3. The American Legion, Department of Nevada, is subject to all the applicable provisions of Title 36, Chapter 3, of the United States Code; to all of the applicable provisions of the Nevada Revised Statutes, as defined in Chapter 82, as either or both of such laws may be amended from time to time; and to all of the applicable provisions of the National Constitution of The American Legion, as it may be amended from time to time, which National Constitution is

hereby incorporated herein and made a part hereof by specific reference.

ARTICLE III
ORGANIZATION

Section 1. The American Legion, Department of Nevada, shall be organized in Districts and Posts. There shall be an administrative Legion Post 100 located within the current office of the Department Adjutant.

ARTICLE IV
ELIGIBILITY

Section 1. Any person who is eligible for membership in The American Legion according to Article V of the National Constitution, is eligible for membership in the Department and in one of its component Districts or Posts.

Section 2. No person shall be entitled to membership in the Legion who, being in the service during any of said periods, refused on conscientious, political, or other grounds, to subject himself to military discipline or unqualified service.

Section 3. There shall be no form or class of membership except an active membership, and dues shall be paid annually or for life.

Section 4. No person may be a member at any one time of more than one post.

Section 5. No person, who has been expelled by a post, shall be admitted to membership in another post, without the consent of the expelling post, except that, when there has been such denial, the member may appeal to the Department Executive Committee for permission to apply for membership in another post, remaining ineligible for membership until such permission is granted.

ARTICLE V
DEPARTMENT OFFICERS

Section 1. The Department Convention shall elect the Department Commander, 1st Vice Commander, 2nd Vice Commander, National Executive Committeeman, Alternate National Committee and Sergeant-at-Arms.

Section 2. The Finance Officer, Historian, Chaplain and Judge Advocate shall be appointed by the Department Commander with the approval of the Executive Committee.

Section 3. A Parliamentarian may be appointed by the Commander with the approval of the Executive Committee.

Section 4. These elective and appointed officers, except as otherwise provided with respect to the Adjutant, shall serve until their successors are chosen. Vacancies in these offices occurring between Department Conventions shall be filled by election by the Department Executive Committee.

Section 5. The Department Adjutant shall be hired by the Department Administrative Committee. When a vacancy occurs in the office of the Department Adjutant, the exiting Department Adjutant shall sit in an advisory capacity, except when the exiting Department Adjutant has been removed for cause. The term of the office of the Department Adjutant shall be three (3) years, on a contractual basis renewable at the end of three years for further three year terms as long as said Department Adjutant's service is acceptable. The Department Adjutant shall be given an annual effectiveness evaluation by the Department Commander forty-five (45) days prior to the Department Convention. The effectiveness evaluation shall be reviewed by the Department Administrative Committee for filing and/or further action. *(2006)*

Section 6. These elective and appointed officers, together with the immediate Past Department Commander and the District Commanders, shall constitute the Executive Committee. All members of the Executive Committee shall have a voice and a vote, except the Adjutant, the Finance Officer, Historian, Chaplain and the Judge Advocate who shall have a voice and no vote. This body shall transact Department business between conventions and report in full at the annual convention.

Section 7. Each officer of the Department having a vote on the Executive Committee shall be entitled to only one vote, even if holding more than one elective office.

ARTICLE VI **DEPARTMENT CONVENTION**

Section 1.

- A. The legislative body of the Department of Nevada shall be the Department convention, which shall be held annually at a time and place to be fixed by a vote a preceding convention. *(2006)*
- B. In the event the preceding convention does not fix the time and place of the convention, it shall be fixed by the Department Executive Committee at least sixty days prior to the date for which the convention shall be called. *(2006)*
- C. Notice shall be given of the Annual Department Convention by the Department Adjutant to all Posts of the Department of

the time and place of the Convention, which notice shall be entitled "Call of the Annual Convention." A Department Adjutant's newsletter 30 days prior to the convention containing such notice shall fulfill the requirements of this section.

Section 2.

- A. The annual convention, limited to a period not to exceed three (3) days, shall be composed of delegates and alternates from each post.
- B. Post delegates and alternate delegates must be members in good standing, according to the records of the Department Adjutant, and shall be chosen by their respective posts. Each post shall be entitled to two delegates and two alternates-at-large, and one delegate and one alternate for each ten members or major fraction thereof. A major fraction is five or more.
- C. The roll call vote of each post shall be equal to the total number of delegates to which the post is entitled. The vote of any absent delegate not represented by an alternate shall be cast by the majority of the delegates present from his or her post.
- D. Those persons entitled to vote at each Department convention shall be those authorized as delegates-at-large and those authorized either as post delegates or as post alternate delegates.
- E. No post shall be represented by proxy.
- F. All past Department Commanders, while in good standing, shall be delegates-at-large to Department conventions with vote.
- G. The Annual Convention shall make its own rules of procedure, but in the absence of such action, the rules shall be the same as prescribed by Robert's Rules of Order Newly Revised. The Convention shall organize, form its committees, and transact all of the business of the Department, which shall properly come before it for action.
- H. A majority vote shall be required upon all matters unless otherwise specifically provided. Votes shall be recorded by Posts on all matters in which a roll call votes is required or ordered by the delegates. Each Post shall cast its vote in the manner to be provided by the rules of the Convention, but no delegate shall be prevented by any rule from casting his vote as he so desires. Alternates may be seated with Delegates at the Department Convention. The Annual Convention shall

authorize the appointment of such standing committees of this Department as it deems proper.

I. Quorum

1. A quorum shall exist for Department Conventions when thirty percent of the Posts of the Department are either fully or partially represented.
2. A quorum shall exist for District Conventions when thirty percent of the Posts in the District are either fully or partially represented.

ARTICLE VII
AUXILIARY

Section 1. The American Legion, Department of Nevada, recognizes an auxiliary organization known as The American Legion Auxiliary.

Section 2. Membership in the Auxiliary shall be limited to the person's named in Article XIII of the National Constitution of The American Legion.

Section 3.

- A. The Auxiliary shall be governed in this Department by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by this Department.
- B. The Auxiliary shall conform to the established procedures of the Department, which shall include meeting at the time and site of the Department Convention.

ARTICLE VIII
AMENDMENTS

Section 1.

- A. The constitution may be amended at Department Conventions by two-third vote of the voting strength, provided it includes a majority of the posts represented at the convention.
- B. The amendments shall have been included in the call to the convention, issued at least thirty days prior to the convention.
- C. When no previous notice has been given, the constitution may be amended only by unanimous vote at the convention.

Section 2. The constitution shall be automatically amended to conform to any amendment by a National Convention affecting the status, policies and functioning of the Department.

BY LAWS

THE AMERICAN LEGION
DEPARTMENT OF NEVADA

ARTICLE I
DEPARTMENT ORGANIZATION

Section 1. **Department Executive Committee**

- A. The executive Committee of the Department shall consist of the Officers of the Department, the immediate Past Department Commander, the National Executive Committeeman, the Alternate National Executive Committeeman, together with the District Commanders, as hereinafter provided.
- B. All Past Department Commanders, except as otherwise noted in paragraph A., above, shall be members of the Executive Committee with voice, but without vote and without expense, as long as he/she remains a member in good standing of a duly chartered American Legion Post in the Department of Nevada.

Section 2. **Permanent Department Commissions**

- A. There shall be the following standing Commissions
 - Americanism
 - Children and Youth
 - Internal Affairs
 - Legislative
 - Public Relations
 - Veterans Affairs and Rehabilitation
- B. The Commissions shall consist of such number of members of the Department of Nevada as the Department Executive Committee may from time to time determine. Appointments to such Commissions shall be made by the Department Executive Committee upon nomination by the Department Commander. The Department Executive Committee is empowered to assign duties and responsibilities to all standing commissions.
- C. The Department Commander shall name such committees as he shall deem advisable, subject to ratification by the Department Executive Committee. Each of such committees shall be assigned to a Commission for the purpose of efficient supervision and coordination of activities.
- D. The following subsidiary non-profit corporations are hereby authorized:
 - American Legion Department of Nevada Scholarship Foundation

American Legion Department of Nevada Boys' State
And such other subsidiary corporations as hereinafter may be
established.

Section 3. **District Associations**

- A. For the purpose of administration, the Posts of the Department of Nevada, shall be grouped into "Districts" according to the following:
 - 1. Districts-geographical areas of the state.
 - 2. Posts-local groups with a minimum of ten members, unless otherwise determined by the Department Executive Committee.

Section 4. **Districts**

- A. There shall be five districts, unless otherwise determined by the Department Executive Committee, which shall define their boundaries.
- B. They shall consist of all the posts within the area defined herein:

District 1. - Washoe and Pershing counties and that portion of Lyon County north of the original Interstate Hwy. 80.

District 2. - Clark County and that portion of Nye County south of 37 degree latitude.

District 3. - Elko County, Humboldt County and those portions of Eureka and Lander Counties north of the original Interstate Highway 80.

District 4. - Churchill, Douglas, Carson City, Mineral, Storey Counties and that portion of Lyon County south of the original Interstate Highway 80.

District 5. - Lincoln, White Pine and Esmeralda County and those portions of Eureka and Lander Counties south of the original Interstate Highway 80 and that portion of Nye County north of 37 degree latitude.

- C. No post shall transfer from one District to another except with the consent of the Department Executive Committee, on application, made by the Post and with the consent of both Districts involved.
- D. All applications for new charters shall state definitely the District to which the Post subjects itself for discipline and residence, such selection to be the District within whose

boundaries the Post holds its meetings. If at any time a Post permanently moves its residence from the boundaries of one District to another District, such Post shall make application to the Department Executive Committee for transfer to that District and the Department Executive Committee shall have the power to act with the consent of the District to which the Post makes application for transfer.

- E. Each District shall organize, adopting a Constitution and Bylaws, effective only after approval by the Department Judge Advocate and the Department Executive committee. A copy of such approved Constitution and Bylaws shall be filed in the Department Headquarters. It shall be the duty of the District Commander to enforce the provisions of this section.
- F. The Department Executive Committee may annul or suspend upon the recommendation of the Department Judge Advocate, any provision of the District Constitution and Bylaws of the District when in the judgment of the Executive Committee it contravenes the provisions of the National or Department Constitution and Bylaws or the established policy of the Department. *(2006)*
- G. District Officers shall be elected at an annual District Convention at least two weeks before the Department convention.
 - 1. The district Officers shall be a Commander, First and Second Vice Commanders, Chaplain and Sergeant-at-Arms.
 - 2. The District Commander may appoint an Adjutant, a Service Officer and a Judge Advocate, as well as Chairman of Standing Committees who shall be selected at the District Convention.
 - 3. At the annual District Convention the District Commander shall appoint the following special Convention Committees with the approval of the District Executive Committee: Credentials, Resolutions, Nominations, Rules of Order, Courtesy, Auditing and next Convention City.
- H. Representation of the Posts in such Districts shall be on the same basis as such Posts had at the preceding Department Convention or such other basis as said District may decide.

Section 5. **Posts**

- A. The local unit shall be termed a Post, which shall have a minimum membership of ten.

- B. Formation: Any group of qualified veterans desiring to form a Post shall apply for the proper application blanks to the District Commander in which such proposed Post is to be located; and such Post shall be organized under the supervision of the District Commander. It shall be the duty of the District Commander to examine personally the discharges of the applicants and to investigate their proposed Constitution and Bylaws to determine their eligibility for membership. The Commander shall transmit to the Department Adjutant the completed application, his certification of eligibility, a written report of his investigation and his approval or disapproval of the application. The application, upon approval of the Department, shall be forwarded to the National Headquarters, and upon approval by National Headquarters, a temporary charter shall be issued.
- C. The Post will be permitted to operate under such temporary charter with all the privileges of a Post, but upon a probationary basis for a period of six months. Upon fulfillment of all its Department obligations and duties for a period of six months, the Post shall be entitled to a permanent charter and shall make application to the Department Commander within ninety (90) days after the expiration of the probationary period.
- D. Post Charters shall be countersigned by the Department Commander and the Department Adjutant.
- E. No Post shall be named after any living person.
- F. The Constitution and Bylaws and Articles of Incorporation, or any amendment thereof, of a Post, Memorial Home Association, District or any other association considered to be part of the Department of Nevada shall not become effective until submitted to and approved by the Department Judge Advocate; an approved copy of which shall be filed in Department Headquarters.
- G. Each Post shall have a Commander, an Adjutant and a Finance Officer, none of whom may simultaneously serve in the dual capacity of Commander/Adjutant or Commander/Finance Officer, and such other officers as provided in the Post's Constitution and Bylaws.
- H. Each Post shall have a headquarters to which all documents and papers may be sent. It shall be the duty of the Post Adjutant to notify the Department Headquarters immediately of any change of address of the Post Headquarters. All notices shall be deemed to have been duly served when

mailed to the Post at its last mailing address upon the records of the Department Adjutant.

- I. All Posts shall hold elections of Post Officers not less than 30 days or more than 120 days prior to the annual Department Convention. The newly elected Post Commander shall be a delegate to the Department Convention and shall attend the convention as such delegate. Newly elected Post Officers shall be installed not later than 45 days after the close of the annual Department Convention, and all Post Officers shall have their dues paid for the year of their term of office by the time of their installation.
- J. Any member of any Post of The American Legion of this Department may transfer his membership to another Post providing he is in good standing and is elected to membership in the Post to which he desires to transfer, and that such transfer does not conflict with any restrictions of the Department Executive Committee; provided, however, that no person who has been expelled by a Post shall be admitted to membership in another Post without the consent of the expelling Post. He may then appeal to the Executive Committee of the Department of the expelling Post for permission to be admitted to membership in another Post, and shall be ineligible for membership until such permission is granted.
- K. Any Post failing to meet the obligations imposed by the National Constitution and Bylaws or the Department Constitution or Bylaws, or ceasing to function for six months as an American Legion Post, or neglecting to pay the per capita tax due to the National, Department and District organizations, shall, upon the order of the Department Executive, surrender its charter, together with all property of every description, including official insignia and records belonging to the Department; provided the District Commander of the District where the Post in question is located shall have consulted with the last known Commander and Adjutant; shall have consulted with the last known Commander and Adjutant; has been assured that each Post member on the current roster has been notified by receiving a copy of the intention to file for charter cancellation; has made a thorough survey of the assets of the Post, both real and financial, and has notified Department Headquarters, in writing, not later than ten (10) days prior to the next official meeting of the Department Executive Committee, that the District Commander recommends the

consideration of the cancellation of questioned Post's charter.

- L. Each Post shall be the judge of its own membership, subject to the restrictions of the National and Department Constitution and Bylaws; but no Post shall suspend or expel any member thereof, except upon proper showing of cause. Charges shall be based on disloyalty, neglect of duty, dishonesty and conduct unbecoming a member of The American Legion. All charges must be made under oath in writing by the accusers, of which charges after a full and fair trial the members of such Post shall be the sole judges; provided that an appeal from such Post decision may be taken to the Department Executive Committee by filing written reasons therefore with the Department Adjutant within 30 days following final action by the Post. The decision of the Department Executive Committee shall be final. The Department Executive Committee may formulate rules to govern the trial by a Post or any of the members thereof.
- M. Post officers may be removed by the Post for cause on written charges of which the members of the Post shall be the sole judges. The procedures and right of appeal shall be the same as provided for members in Paragraph L above.
- N. The Department Executive Committee, after notice and hearing, may suspend or recommend for revocation, the charter of a Post which violates the National Constitution and Bylaws of The American Legion, or the Department Constitution and Bylaws or which fails adequately to discipline any of its members for any such violation, and may provide for the government and administration of such Post or the membership thereof, during such suspension or upon such revocation. The Department Executive Committee shall follow the procedure set forth in the Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Post charters established by the National Executive Committee of The American Legion.
- O. All Posts of the Department must conduct, open and close their local meetings as per the National "Manual of Ceremonies" and "Post Commander's Guide". The Department Judge Advocate shall not approve any Constitution and Bylaws of a Post unless the same shall provide that said local Post must conduct, open and close its local meetings as per the "National Manual of Ceremonies" and "Post Commander's Guide". Any Post failing to meet the above provision shall be subject to the discipline provided for

in Paragraph K of Article IV, Section 4, and any other authorized discipline.

- P. No Post of The American Legion, Department of Nevada shall sell its Post Home and distribute the monies there from to Post members, such distribution being in violation of Nevada non-profit Corporate Laws.
- Q. If a Post is dissolved, or its charter is revoked, the charter must be returned to Department Headquarters.
- R. A Post whose charter has been revoked shall prepare a final audit, by a committee of at least three, who shall report to the Department Finance Officer.
- S. A Post whose charter has been revoked may appeal to the Department Executive Committee for reconsideration of the revocation of the charter, upon a written petition signed by not fewer than ten Legion members in good standing. Appeals shall be filed with the Executive Committee within 30 days of the final action of the Executive Committee. During the pendency of such appeal, the action of the Executive Committee shall be stayed.
- T. The power of the Department Executive Committee to revoke or suspend the charter of any Post within the Department, or impose upon the Post or any member thereof, lesser penalties, not including fines, as it shall deem necessary, shall be subject to the National Executive Committee approval, as required by the National Constitution.

ARTICLE II **MEMBERS**

Section 1. There shall be only one class of active membership.
Section 2.

- A. Each member shall pay the dues of the post for the current year.
- B. No dues shall be transferred with a member transferring to another post. Post accepting a transferring applicant shall give credit for dues already paid.
- C. Dues accompanying applications for membership in Post 100 of the Department of Nevada received through the National Membership Solicitation (DMS) program shall be retained by the Department and deposited in the Department general funds.
- D. The annual dues for Post 100 shall be equivalent to the highest dues of any other Post within the Department. (2005)

Section 3.

- A. All new applicants for membership in The American Legion must file a written application for membership, and in addition present for examination by a duly qualified officer of the Post or the Department either their original discharge from the service or a DD 214, a certified or photostatic copy of either, or proof of honorable service.
- B. A transferee from Post 100 having current membership in The American Legion shall be exempt from furnishing a DD 214 or equivalent proof of service until required to establish eligibility to serve as a Post or Department Officer.

ARTICLE III
RESERVE FUND

Section 1.

- A. There shall be deposited to the credit of the Reserve Fund ten (10) cents from the per capita tax from each member, said deposits to be made not later than the first business day of the month following its receipt. On or before December 31 of each year, the Department Finance Commission shall set aside to the credit of the fund a sum equal to at least fifty percent (50%) of the net surplus of the Department of Nevada accruing during the preceding fiscal year. Such other amounts shall be credited to the fund, as may, from time to time, be designated by Department Convention action.
- B. The assets of such fund shall be invested and reinvested in bonds of any government agencies, or savings deposits or savings certificates of deposit that are properly insured.
- C. Income from such deposits and investments shall be re-deposited and reinvested.
- D. The Department Commander, Adjutant and Finance Officer shall make such investments, with the approval of a majority of the Department Finance Commission or a two-thirds vote of the Department Executive Committee.
- E. Bonds purchased, as provided in B, may be sold for reinvestment by the Department Commander, Adjutant and Finance Officer only with the approval of a majority vote of the Finance Commission or a two-thirds (2/3) vote of the Department Executive Committee.

ARTICLE IV
ADMINISTRATION

Section 1. **ADMISTRATIVE COMMITTEE**

1. **Personnel:** The Commander and the Vice Commanders, each with voice and vote; and the Finance Officer and the Judge Advocate, who shall be without vote; shall constitute the Administrative Committee.
2. **Powers:** The Administrative Committee shall, upon emergency, possess and may exercise the authority of the Executive Committee between meetings of the Executive Committee.
3. **Meetings:** The Administrative Committee shall meet only upon the call of the Department Commander, and its action shall be reported to the Department Executive Committee at its first meeting thereafter.
4. **National Appointments:** Upon receipt from National of the number of National appointments being made available to the Department of Nevada, the Department Commander shall call a meeting of the voting members of the Administrative Committee plus the National Executive Committeeman and the Alternate National Executive Committeeman to discuss and recommend members in good standing to fill those appointments. The final choice shall then be that of the National Executive Committeeman who shall submit them to the National Executive Committee.

Section 2. **DEPARTMENT EXECUTIVE COMMITTEE**

1. The Department Executive Committee shall consist of the elected Officers of the Department, the immediate Past Department Commander, the National Executive Committeeman, the Alternate National Executive Committeeman and the District Commander, all with vote; and the Adjutant, the Finance Officer, the Historian, the Chaplain and the Judge Advocate without vote. Each voting member of the Department Executive committee shall be entitled to one (1) vote.
2. **District Commanders:** One District Commander shall be chosen from each District in the Department. *(2006)*
3. **Method and Time of Election:** Each District shall elect its District Commander by vote of the Delegates representing Posts in the District in attendance at the Annual Department

Convention and prior to the adjournment thereof, or else at a regular District meeting to be held not less than fifteen (15) nor more than sixty (60) days prior to the Annual Department Convention.

4. **Term of Office of District Commanders - Vacancies:** Each District Commander shall hold office from the close of one Department Convention until the close of the next Annual Department Convention; provided, however, that a District Commander shall hold office only during such term as his membership remains in the District from which he was elected. A vacancy in the office of District Commander shall be filled in accordance with the District Association Bylaws.
5. **Powers:** The powers of the Department between the Annual Convention shall be vested in the Executive Committee, except as limited by these bylaws.
6. **Bonds:** The Executive Committee shall require all Post Officers who handle funds to be bonded under a bond to be furnished by an incorporated surety company, which has been approved for this purpose by the Department Executive Committee.
7. **Meetings:**
 - A. The Executive committee shall meet for a business session within forty-eight hours of the adjournment of each convention, and at least every four months, and on call for special sessions which may be called by the Commander or upon petition signed by five members of the Executive Committee, duly filed with the Department Adjutant, setting forth the reasons therefore. All such meetings shall be held at a time and place designated by the Department Commander.
 - B. Notice of all meetings shall be given not less than five (5) days before any such meeting is held. In case of a meeting convened upon petition, the same shall be called by the Department Adjutant within ten (10) after the filing of the petition with him.
 - C. A quorum for such meetings shall be six members.
 - D. The Commander may require members of the Department Executive Committee, when in his opinion such action is necessary, to vote by letter or telephone upon any question relative to the business of the Department. Committee members shall confirm their telephone vote in writing within forty eight (48) hours after a telephone poll of the committee members by

telephone has been conducted and within ten (10) days after receipt of ballot, if a vote by mail is required. If a quorum of six members of the committee votes on the question, the votes shall be counted by the Department Adjutant and duly recorded in the minutes of the Department Executive Committee. The result shall be the same as though the Department Executive Committee has been regularly called into session, the question regularly proposed and supported, and members voting were present and voted as indicated by their ballots or telephonic replies. The Department Adjutant shall notify the members of the Department Executive Committee of the results of the mail or telephone poll of the Committee.

8. **Commissions and Committees:**

A. The Department Executive Committee may appoint, upon the nomination of the Commander, all Department Standing Commission Chairmen and all Committee Chairmen.

B. The Department Commander shall appoint all special committees as may be ordered by the National or Department Convention. (2006)

Section 3. **FINANCE COMMISSION**

1. The Commander shall appoint, subject to ratification by the Department Executive Committee, a Finance Commission to be composed of four (4) members, two (2) from Districts two (2) or five (5) and the other two (2) from Districts one (1), three (3) or four (4). The finance Commission members shall serve revolving terms; the terms to be served as follows: of the first four (4) members first appointed, one (1) shall serve for one (1) year, one (1) for two years, one (1) for three (3) years and one (1) for four (4) years. After the expiration of the first year and every year thereafter, one (1) member shall be appointed by the Department Commander. The Commander and Finance Officer shall be ex-officio members of this Commission, with vote. The Department 1st Vice Commander shall serve as chairman of the Commission with voice and vote. The Adjutant shall be ex-officio Secretary of the Commission without vote. (2005)

2. This Commission is charged with duty of setting up a proper and adequate system of centralized control and procuring proper audits of such funds.

3. At each Department Convention the Finance Commission shall prepare a budget for the next fiscal year of the

Department, which budget, after setting for the allocation for specified items including the Adjutant's salary, other salary items and the expenses and allowances for the Commander, shall also carry an item for contingencies not otherwise provided for, such budget to be presented to the Convention for its consideration. The Convention shall have the right to modify the budget as prepared and thereafter adopt the budget as prepared or as so modified. After the adoption of the budget no funds in excess of the budget shall be expended without the approval of a two-thirds (2/3) majority vote of the Executive Committee and a majority vote of the Finance Commission, provided, however, that in the event that the Finance Commission by a majority vote shall disapprove such expenditure in excess of the budget, the Executive Committee, by a three-fourth (3/4) vote may override the action of the Finance Committee and approve such expenditure and such action of the Executive Committee shall be final; provided further that in no event shall funds of the Department be expended or disbursed in any fiscal year in excess of the current income of the Department during that fiscal year unless such expenditures are expressly authorized to be made from the reserve funds as provided in Article III hereof. During the first six (6) months of each fiscal year, ordinary Department expenses may be made on the basis of anticipated income. After January 1 of each fiscal year the aggregate expenses for the fiscal year must never exceed the aggregate income actually received during said fiscal year unless use of the reserve funds are expressly authorized. In the event that it appears to the Executive Committee that the aggregate income for the fiscal year shall be less than the aggregate expenditure authorized by said budget, it shall be the duty of the Executive Committee, and it shall have authority from time to time to reallocate the income available for expenditures from budget items in such manner as it shall deem for the best interests of The American Legion. Such Executive Committee with the approval of the Finance Commission by a majority vote, or by a three-fourths (3/4) vote of the Executive Committee.

4. The fiscal year of the Department shall be August 1 to and including July 31 of the following year.
5. At the close of each fiscal year the books and records of the Department must be audited and a copy of said audit delivered to each member of the Executive Committee prior to the fall Executive Committee meeting. The Department

Executive Committee or the Department Commander may order an audit of the books and records of the Department at such other times during any fiscal period as may be deemed necessary or advisable.

ARTICLE V
DEPARTMENT AND POST OFFICERS

Section 1. **ELIGIBILITY TO OFFICE**

1. Any paid member in good standing of a Post in the Department of Nevada may be elected to any office in the Department, except as otherwise provided herein.
2. Documentation of Honorable Service: No person shall be eligible for any office in The American Legion, Department of Nevada, or any of the Posts thereof, nor if elected, shall such person continue to hold such office, unless within thirty (30) days after such election such person shall have furnished proper and satisfactory evidence of honorable service, complying with ARTICLE IV, Section 1, of the Constitution of the Department of Nevada, to the Department Adjutant in the case of Departmental Officers and District Commander, and to the Post Adjutant in the case of Post officers. Department and Post Commanders shall examine the evidence of eligibility of their respective Adjutants.
3. All members of the Department Executive Committee shall have satisfactorily completed the American Legion Extension Institute prior to the Department Convention at which they are installed. *(2004)*
4. All questions affecting the election, eligibility and conduct of Department officers and District Commanders shall be referred to and determined by the Department Executive Committee as the final authority thereon. *(2004)*

Section 2. **TERM OF OFFICE AND INSTALLATION**

1. Department Officers and members of the Executive Committee shall be installed at the close of the Department Convention and shall immediately enter upon their duties. They shall hold office for a term of one year or until their successors shall have been duly appointed and elected and installed.

Section 3. **METHOD OF ELECTION**

1. **Department Officers** - Elective Department Officers shall be chosen annually at the Department Convention by roll call vote of the Posts of the Department, with the roll call being conducted in numerical order of the Posts with Post having

the lowest number being called first. No Post shall be permitted to PASS on its turn to vote unless permitted to do so with the unanimous consent of the Delegates to the Convention.

2. The Department Convention shall also elect one National Executive Committeeman with one Alternate National Committeeman to represent the Department on the National Executive Committee, who shall hold office for a term as prescribed by the National Constitution and Bylaws.
3. **Officers of District Associations and Posts**
 - A. Except District Commanders, all officers of District Associations and Posts in this Department shall be elected as provided by the Constitution and Bylaws of each organization, respectively.
 - B. All questions affecting the election and eligibility of any of the above named officers shall be referred to and determined by the Commander of the District in which the organization is located, with right of appeal to the Department Executive Committee by such procedure as shall be determined by the Department Judge Advocate.

Section 4. **METHOD OF FILLING VACANCIES**

1. **Elective Officers** - Vacancies in any of the elective offices of the Department shall be filled by the Department Executive Committee. In the event of a vacancy in the office of Department Commander, the Department Adjutant shall forthwith call a meeting of the Executive Committee to be held within seven (7) days thereafter to fill such vacancy. The First Vice Commander will serve as Department Commander until the vacancy is filled by the Executive Committee.

Section 5. **ELECTION OF DELEGATES TO NATIONAL CONVENTION**

1. The annual Convention shall approve Delegates and Alternates chosen by the Districts to represent the Department in the National Convention of The American Legion. Delegates-at-large shall be selected in such manner as the Convention shall determine but in no event shall any District be entitled to less than one delegate, unless the whole number of Delegates shall be less than the number of Districts; provided, however, that the Department Commander and the outgoing Department Commander, who is Chairman of the delegation, shall represent the Department as Delegates-at-Large to the National Convention, if the whole number of delegates shall exceed by two (2) the number of Districts.

ARTICLE VI
DUTIES AND POWERS OF DEPARTMENT OFFICERS

Section 1.

1. **Commander:** The Department Commander shall be the chief executive of the Department and shall be empowered and directed to do such acts as may be necessary and proper to conduct the business of the Department. He shall preside at the Annual Convention and at all meetings of the Executive Committee. He shall issue all necessary orders and may direct the Adjutant or any other Department Officers, when necessary, to proceed to any place on American Legion business. He shall appoint all standing Commissions, subject to the approval of the Executive Committee. He shall represent the Department in all its relations with the Federal, State and local government and with the people of the State of Nevada. He shall see all provisions of the National Constitution and Bylaws and all policies established under them are duly observed. The Commander shall receive a budget that shall be adopted at the Department Convention. The Commander shall not be eligible for more than one (1) consecutive term of office as Commander. *(2006)*
2. **Past Commander:** Each retiring Department Commander, upon the installation of his successor, shall be declared to be a Past Department Commander and shall be presented with a Past Department Commander's symbol. Each Past Department Commander shall become a delegate-at-large to each succeeding Convention and shall have, if present, all the rights of a Delegate in the affairs of the Convention provided he remains a member in good standing in the Department of Nevada. The vote of each Past Department Commander shall be announced with the vote of the District in which his post is located.
3. **Vice Commanders:** The Vice Commanders shall perform such duties as may be required of them by the Department Commander or the Department Executive Committee. In the absence of the Commander, the First Vice Commander or Second Vice Commander, in order of their rank, shall perform the duties of that office. The Department Executive Committee shall designate an acting Commander in case the Commander and Vice Commanders are unable or unavailable to perform their duties.
4. **Adjutant:**

- A. The Adjutant shall be the chief administrative officer of the Department. He shall be the custodian of and shall cause to be kept all official Department records. He shall perform all administrative and clerical acts necessary to conduct the business of the Department. He shall receive all dues and monies from Posts, keep a record thereof, and shall deposit the same in the name of "The American Legion, Department of Nevada" in a bank or banks as ordered by the Department Executive Committee. He shall perform any other duties as he may be directed to do by the Department Commander or the Department Executive Committee.
 - B. The Adjutant shall receive such salary, to be paid monthly as shall be fixed by the Executive Committee. The Adjutant shall be reimbursed for actual traveling expenses while in the performance of the necessary duties of the office.
 - C. The Adjutant shall obtain from each outgoing District Commander or the outgoing District Adjutant a copy of the minutes of their respective District Conventions and file them in the permanent records of the Department in a separate file especially prepared for them.
 - D. The Adjutant shall publish the minutes of the Department Convention prior to the fall Executive Committee meeting no later than sixty days following the Department Convention.
 - E. The Adjutant shall publish the minutes of the Department Executive Committee meetings and distribute them to the members of the Executive Committee and to the Posts.
 - F. The Adjutant and/or the Finance Officer shall have an audit of the Department records annually. The audit shall be made by Committee or a Certified Public Accountant approved by the Department Executive Committee.
5. **Finance Officer:** The Finance Officer shall be the custodian of the funds of the Department. He shall pay out money only on vouchers properly signed by the Department Commander and Department Adjutant, and only for such purposes as shall have been duly authorized. He shall keep a full and complete record of all transactions, including receipts and disbursements and shall exhibit all records when requested to do so a Department Officer or member of the Executive

- Committee. The official financial records of the Department shall be kept at Department Headquarters.
6. **Judge Advocate:** The Judge Advocate shall advise the officers of the Department upon all legal matters of The American Legion, including interpretation of the Department Constitution and Bylaws and shall perform such other duties as may be required of him by the Commander or Executive Committee. The Judge Advocate shall receive such reimbursement for his expenses as shall be determined by the Department Executive Committee.
 7. **Historian:** The Historian shall prepare a history of this Department during the term of office and shall submit such history to the Department Convention. The Historian shall collect such other information as may be required to complete the History of the Department from its inception. The Historian shall receive such reimbursement for his expenses as shall be determined by the Department Executive Committee. *(2006)*
 8. **Chaplain:** The Department Chaplain shall perform such divine and non-sectarian services as may be necessary, adhering to such ceremonial rituals as may be recommended by National Headquarters from time to time.
 9. **Sergeant-at-Arms:** The Sergeant-at-Arms shall have charge of the ceremony of advancing and retiring the colors at the official Department meetings, and shall be in charge of the ushering, seating and keeping order during all official Department meetings. He shall be empowered to appoint such assistants as may be necessary to carry out his duties. *(2004)*
 10. **Bonding of Officers and Others:** Prior to assuming their duties, the Adjutant, the Finance Officer and other individuals required to handle Department funds, as may be designated by the Department Executive Committee, shall execute and deliver for approval and acceptance, a bond from a good and solvent surety company to cover double the average amount of monies handled in a single year, the premium for which shall be paid from Department funds.

ARTICLE VII
DUES AND REVENUE

Section 1. **DEPARTMENT**

1. Each Post shall pay to the Department, as annual dues for the ensuing year, the amount determined by the Annual Convention
2. The annual dues shall be collected by each Post and transmitted promptly through the Department to the National Treasurer. In no event shall the period transpiring between the receipt of such annual dues by a Post of the Department and the remittance thereof to the National Treasurer through the Department exceed thirty (30) days.

Section 2. **REVENUE**

1. The revenue of the Department shall be derived from annual membership dues and from such other sources as may be approved by the Department Executive Committee.
2. **District Associations** - The revenue of the District Associations may be derived from dues and such sources as may be approved by the District Executive Committee.
3. **Posts** - The revenue of the Posts shall be derived from annual membership dues and from such other sources as shall be approved by the Post.
4. **Public Solicitation** - No Post shall engage in any activity where money or property is solicited from the public without first securing the approval of the District. Violation of this provision shall be reported to the Department Commander by the District Committeeman.

Section 3: **Arrears in Dues** - A member whose dues for the current year have not been paid by January 1 of the next year, shall be classed as delinquent. If his dues are paid on or before February 1, he shall be automatically reinstated. If he is still delinquent after February 1, he shall be suspended from all privileges. If his is still under suspension on June 30 of such year, his membership in The American Legion shall be forfeited. A member so suspended, or whose membership has been so forfeited, may be reinstated to active membership in good standing by vote of the Post and payment of current dues for the year in which the reinstatement occurs. The Post, at its option, may also require a member whose membership has been so forfeited to pay one year's arrearage in dues. The Department and National organizations may waive the provisions hereof, with reference to former members who have been prevented from the payment of dues by reason of active military service upon payment of dues for the year in which reinstatement occurs.

Section 4: Dues shall be paid annually, or for life.

ARTICLE VIII
REPORTS, EXPENSES, SALARIES AND DEPARTMENT HEADQUARTERS

Section 1. **Reports** - It shall be the duty of all officers and chairpersons to make annual detailed written reports for presentation at the Department Convention setting forth the activities of their respective offices, commissions or committees for the preceding year. The reports shall be entered in their entirety in the minutes and shall be filed with the Department Adjutant for publication in the Department Convention proceedings.

Section 2. **Expenses** - No Department Officer or member of any commission or committee shall be paid or reimbursed from the funds of the Department for any travel or other expense incurred upon Department business, unless a travel order or other suitable order, duly signed by the Commander, shall accompany the order for payment thereof.

Section 3. **Salaries** - No officer, commission or committee member, or employee of the Department shall receive any salary unless the same is specifically provided for in the Bylaws or unless duly authorized by the Annual Convention or by the Department Commander with the approval of the Department Executive Committee. The authorization in each case shall be filed with the Department Adjutant.

Section 4. **Department Headquarters**

1. The headquarters of the Department shall be established and maintained under the direction of the Department Executive Committee.
2. All official records of the Department shall be kept at Department Headquarters under the custody of the Department Adjutant.

ARTICLE IX
RULES

Section 1. The Department shall be governed by the Department and National Constitution and Bylaws and amendments thereto, by the mandate of the Department Convention and any such miscellaneous rules as may from time to time be ordered by the Department Executive Committee.

ARTICLE X
DISCIPLINE

Section 1. The Executive Committee may, by two-thirds vote of all of its members, remove from office any officer, commission or committee member of the Department for malfeasance, misfeasance or nonfeasance in office or for conduct unbecoming a member of The American Legion. Complaints seeking removal of such officer or commission or committee member shall be reduced to writing, signed by a member of the Nevada Department and verified by his oath that the charges therein contained are true of his knowledge. Such complaint shall be immediately referred to the Administrative Committee, which shall cause the matters therein set forth to be investigated by the Judge Advocate, unless he be an interested party or necessary witness, in which case the Commander or the Administrative Committee shall appoint a special Judge Advocate for such purpose. The Judge Advocate shall cause a copy of the complaint to be sent by registered letter to the official address of the accused and such investigation shall be reduced to writing and promptly returned to the Administrative Committee with the recommendation of the Judge Advocate endorsed thereon. Unless the Administrative Committee shall, by a two-thirds vote of the voting members find the complaint to be without merit, the matter shall be referred to the Department Executive Committee.

It shall be the duty of the Commander to forthwith call a special meeting of the Executive Committee to convene within twenty (20) days thereafter to consider and act upon such complaint. Upon failure of the Commander to call such a meeting within a period of five (5) days after the complaint shall have been referred to the Executive Committee by the Administrative Committee, any other officer of the Department shall be authorized to call such meeting. The Executive Committee shall, by resolution, determine the manner in which such complaint shall be heard and action taken thereon. The action of the Executive Committee shall be final and conclusive.

ARTICLE XI **AMENDMENT**

Section 1. These Bylaws may be amended by two-thirds vote at any Annual Department Convention, provided written notice is given at least thirty (30) days previous to voting thereon, and provided that each Post within the Department shall have been mailed a copy of the proposed change prior to said thirty (30) days. The proposed amendment shall be referred to the Convention Constitution and

Bylaws Committee, which shall submit the same to the Department Convention with its recommendations in regard thereto.

Section 2. This Constitution and Bylaws is adopted subject to the provisions of the National constitution and Bylaws of The American Legion. Any amendment to the National Constitution and Bylaws which is in conflict with any provisions hereof shall be regarded as automatically repealing or modifying the provisions of this Constitution and Bylaws to the extent of such conflict.

ARTICLE XII
REPEAL-EFFECT CLAUSE

The Constitution and Bylaws of the Department of Nevada, as they existed prior to the action of the 2006 Department Convention, are hereby repealed. This constitution and Bylaws shall take effect immediately upon the close of the 2006 Department Convention.

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