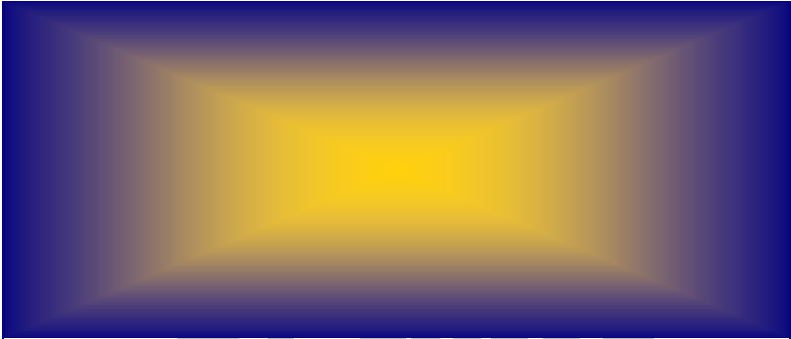




**1215 MOUNTAIN ROAD NE  
ALBUQUERQUE, NEW MEXICO 87102**



**WITH REVISIONS ADOPTED AT  
CARLSBAD, NEW MEXICO  
JUNE 23, 2007**

amended by unanimous vote at any Department Convention without notice.

SECTION 2. That no proposed Amendment shall be submitted through the Department Adjutant to the several Posts and the members of the Department Executive Committee, as provided in SECTION 1 of this Article, unless said proposed Amendment shall have first been submitted by a Post or the Department Executive Committee.

I, William Tryon, Chairman of the Constitution and By-Laws Committee do hereby certify that these By-Laws were presented to the American Legion in Convention assembled on June 23, 2007 at Carlsbad, New Mexico in Regular Order of Business and Adopted to become effective at 12:00 PM on June 23, 2007.

These By-Laws were reviewed by the Constitution and By-Laws Committee and certified to be the Official By-Laws with all the revisions made to date.

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William Tryon  
Chairman Constitution and By-Laws Committee

Attested to:

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Tony R. Navarrete  
Department Adjutant

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Ricardo Hidalgo  
Department Commander

**THE AMERICAN LEGION  
DEPARTMENT OF NEW MEXICO  
CONSTITUTION AND BY-LAWS**

**CONSTITUTION**

|   |         |
|---|---------|
| PREAMBLE .....                                    | PAGE 1  |
| ARTICLE I NAME .....                              | PAGE 1  |
| ARTICLE II OBJECTS .....                          | PAGE 1  |
| ARTICLE III MEMBERSHIP .....                      | PAGE 1  |
| ARTICLE IV NATURE .....                           | PAGE 2  |
| ARTICLE V ADMINISTRATION .....                    | PAGE 3  |
| ARTICLE VI DEPARTMENT OFFICERS .....              | PAGE 4  |
| ARTICLE VII NATIONAL EXECUTIVE COMMITTEEMAN ..... | PAGE 6  |
| ARTICLE VIII NATIONAL DELEGATES .....             | PAGE 7  |
| ARTICLE IX DEPARTMENT EXECUTIVE COMMITTEE .....   | PAGE 7  |
| ARTICLE X THE DISTRICTS .....                     | PAGE 9  |
| ARTICLE XI STANDING COMMITTEES .....              | PAGE 12 |
| ARTICLE XII POSTS .....                           | PAGE 14 |
| ARTICLE XIII DUES .....                           | PAGE 15 |
| ARTICLE XIV AUXILIARIES .....                     | PAGE 15 |
| ARTICLE XV CORPORATIONS .....                     | PAGE 16 |
| ARTICLE XVI RULES .....                           | PAGE 16 |
| ARTICLE XVII AMENDMENTS .....                     | PAGE 16 |
| EFF. DATE .....                                   | PAGE 17 |

**BY-LAWS**

|  |         |
|--|---------|
| ARTICLE I DEPARTMENT EXECUTIVE COMMITTEE .....           | PAGE 1  |
| ARTICLE II DUTIES OF OFFICERS .....                      | PAGE 4  |
| ARTICLE III CHARTERS .....                               | PAGE 6  |
| ARTICLE IV DISCIPLINE .....                              | PAGE 6  |
| ARTICLE V ORGANIZATION RELATIONSHIPS .....               | PAGE 8  |
| ARTICLE VI MONIES AND COLLECTIONS .....                  | PAGE 9  |
| ARTICLE VII AUDIT .....                                  | PAGE 9  |
| ARTICLE VIII CONVENTION ORGANIZATION AND PROCEDURE ..... | PAGE 9  |
| ARTICLE IX CREDENTIALS .....                             | PAGE 12 |
| ARTICLE X RULES .....                                    | PAGE 12 |
| ARTICLE XI AMENDMENTS .....                              | PAGE 14 |

15. In the event more than two candidates are nominated for any office, and no one candidate receives a majority of the votes cast in the first ballot, the two candidates with the highest number of votes shall participate in a runoff and any and all other candidates will be dropped.
16. There shall be assigned to each Convention Committee a well informed member of the Department Executive Committee whose duties shall be to act as a liaison between the Convention Committee and the work of the Department Executive Committee so that he may advise the Convention Committee of any subject or policy which has been before the Department Executive Committee for such discussion or action.
17. Roll calls will be by posts, which are seated by the highest percent of membership quota to the lowest, reached during the year.
18. A motion to suspend the rules shall not operate to suspend any provision of the Constitution or of the By-Laws of the Department except that roll call for the nomination of any Department Officers, after one or more candidates have been named, may be suspended by unanimous consent.
19. No appeal shall lie to the Convention from any decision of the presiding officer thereof made in conformity with any provisions of the Department Constitution of these By-Laws, or Robert's Revised Rules of Order.

**ARTICLE XI  
AMENDMENTS**

SECTION 1. These by-laws may be amended by any Department Convention of The American Legion, Department of New Mexico, by a vote of two-thirds of the total representation thereat, provided that the proposed amendment shall have been submitted through the Department Adjutant to the several Posts and Members of the Department Executive Committee by mailing same to them at least TWENTY (20) days prior to the convening of the next Department Convention; any such proposed Amendment may be amended without further notice by a two-thirds vote of the total Authorized Representation thereat, provided it does not increase the modification proposed by the Amendment and it has received the approval of the Convention Committee for Constitutional Amendments; and, provided further, it may be

**CONSTITUTION  
THE AMERICAN LEGION  
OF NEW MEXICO**

**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 per cent Americanism; 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 promote peace and good will 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**

- SECTION 1. The name of this Department of the American Legion shall be **“THE AMERICAN LEGION OF NEW MEXICO.”**
- SECTION 2. The Department Headquarters of the American Legion, Department of New Mexico shall be located at the Department Headquarters Building, 1215 Mountain Road, NE, Albuquerque, New Mexico 87102.

**ARTICLE II  
OBJECTS**

- SECTION 1. The object and purposes of the Department shall be to promote the principles and policies set forth in the foregoing Preamble and the National Constitution of the American Legion.

**ARTICLE III  
MEMBERSHIP**

- SECTION 1. Any person shall be eligible for membership in The American Legion who meets the qualifications for membership prescribed in the National American Legion Constitution or any amendments thereto.

3. That no more than two delegates from any one delegation is permitted to speak on the floor on any one subject.
4. That the floor be permitted but once to any individual delegate on any one subject, except by the consent of two-thirds of the voting strength of the Convention present, excepting that Chairmen of the Convention committees may speak as frequently as may be necessary in connection with the reports of their committees.
5. That all resolutions offered on the floor at the Convention or otherwise shall in writing automatically and without reading be referred to appropriate committees, or in the absence of such appropriate committee, referred to the Resolutions Committee for proper consideration.
6. That any resolution, not reviewed by the Resolutions Committee, be presented in writing to the Secretary of the Convention, signed by its author, before the same can be brought upon the Convention floor.
7. When the poll of any Post is demanded by a delegate of such Post, the Secretary of the Convention shall poll the vote in this Post by delegates without discussion of the question being voted upon.
8. That on roll calls, the Chairman or Acting Chairman of each delegation shall poll his delegation on the floor and shall announce the vote of his delegation
9. That no person not a duly accredited delegate, or alternate taking the place of an absent duly accredited delegate, shall participate, directly or indirectly on any subject before the Convention.
10. Delegations may arrive at a vote in any manner they see fit but shall announce it in terms of full units and not in terms of a fractional part of a vote.
11. Unit rule of voting shall not be allowed in the Convention.
12. Voting shall be by such form as the Convention Chairman may designate except when a roll call is demanded by the Chairman or Acting Chairman of at least 3 posts.
13. Nomination for Department officers shall be from the floor on a roll call, the Posts alphabetically arranged.
14. Nominating speeches for Department Officers and time and place of next Convention shall be limited to five minutes each. Not more than one seconding speech shall be made for each, and such speech shall not exceed three minutes.

- (j) GRIEVANCE AND APPEALS: To heal all grievances or appeals, which may come before the Convention:
- (k) The Department Adjutant shall be permanent secretary of the Convention with power to appoint such assistant secretaries as may be deemed necessary.
- (l) DELEGATES TO NATIONAL CONVENTION: To consider and present to the Department Convention, for election, the names of persons to serve as delegates and alternates to the National Convention.

**ARTICLE IX  
CREDENTIALS**

- SECTION 1. The Department Commander shall, at least (5) days prior to the opening date of the annual Department Convention, appoint a Credentials Committee, consisting of five members chosen from the elected delegates, who shall investigate the qualifications of all delegates and hear protests and contests, receive a certified report from the Department Adjutant showing the membership and number of delegates each post is entitled to, and report to the Convention the voting strength of all Posts legally represented thereat.
- SECTION 2. No member of the Committee shall sit on such Committee when hearing a protest or contest involving his own post.

**ARTICLE X  
RULES**

- SECTION 1. In order that the business of the Convention may be expeditiously transacted and proper parliamentary procedure observed, the following rules are prescribed.
  - 1. When a delegate desires to make a motion or address the Convention, he shall rise, address the Chair as Mr. Commander, and state his name and the name of his Post before proceeding.
  - 2. That debate is limited to five minutes for each speaker.

- SECTION 2. There shall be no form of membership except an active membership, and dues shall be paid annually or for life.
- SECTION 3. No person may be a member at any one time of more than one Post.
- SECTION 4. 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 where such consent has been asked for and denied by such Post, he may then appeal to the Department Executive Committee for permission to apply for membership in another Post, and shall be ineligible to membership until such permission shall be granted.
- SECTION 5. No person shall be eligible for membership in The American Legion if he or she advocates the overthrow of the government by force and violence or if he or she is a member of the Communist Party or an organization, which advocates the overthrow of the government by force and violence.

**ARTICLE IV  
NATURE**

- SECTION 1. The American legion is a civilian organization; membership therein does not affect nor 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 American Legion shall be absolutely non-political and shall not be used for the dissemination of Partisan principles or for the preferment. All questions affecting the election, eligibility and/or conduct of national officers shall be referred to and determined by the National Executive Committee. All questions affecting, the election eligibility and/or conduct of the National Executive Committeeman and the Alternate National Executive Committeeman or of Department Officers, or members of Department Executive Committees, shall be referred to and determined by the Executive Committee of the Department which shall be the final authority thereon, within the limitations of the provisions of the National By-Laws.

## ARTICLE V ADMINISTRATION

SECTION 1. The Legislative body of the organization shall be a Department Convention to be held annually. The place of each Department Convention shall be selected by a vote of the preceding convention. The Department Executive Committee shall fix the time of each Department Convention on a date within sixty days after the end of the fiscal year. In the event that the preceding convention does not select a place, the Department Executive Committee shall select the same, on a date within sixty days after the end of the fiscal year.

SECTION 2. The annual convention shall be composed of delegates and alternates from each Post. Each Post shall be entitled to two delegates and two alternates for the first 15 members, and one additional delegate and one additional alternate for each additional 15 members, or major fraction thereof, paid up 30 days prior to the date of the Department Convention.

The vote of each Post shall be equal to the total number of delegates to which the Post is entitled. The rules and order of business of the last preceding convention shall be the rules and order of business of the next succeeding convention until such time as the rules and order of business committee reports to the convention then in session.

SECTION 3. All resolutions, other than resolutions proposing to amend the Department Constitution or the Department By-Laws, may originate at any regular official meeting of a Post, District, Department Executive Committee or duly constituted committee meeting of the Department Convention. The Department Headquarters must receive all resolutions, other than those originating in the Convention committees at least 30 days prior to the opening of the Convention. Provided, however, that the 30 days requirement may be waived by a majority vote of the Resolutions Committee.

SECTION 4. Upon receipt of resolutions originating in Posts, Districts or the Department Executive Committee, it shall be the duty of the Department Judge Advocate to edit all such resolutions so as to bring them into the proper

- (b) INTERNAL ORGANIZATION: To study all phases of the Legion program and policy of operation, which affect the physical development and maintenance of the organization and recommend to the Convention definite plans for correcting and improving these conditions; to consider and recommend in connection with the Department mediums of publicity; and to consider questions affecting the operation of the several posts as they relate to the Department Organization.
- (c) REHABILITATION: To consider all questions pertaining to disabled veterans and their dependents; to study carefully the work of the Veterans Administration and recommend such changes as are considered necessary.
- (d) LEGISLATION: To receive report of the Department Legislative Committee, to consider legislation pending or proposed affecting servicemen and women and their dependents, and to recommend legislation germane to the objective of The American Legion.
- (e) AMERICANISM: To receive report of the Department Americanism Committee; to recommend to the Convention the program of The Department Americanism Committee for the ensuing year.
- (f) CHILD WELFARE: To receive report of the Department Committee on Child Welfare and to recommend to the Convention the program of the Department Child Welfare Committee for the ensuing year.
- (g) CONSTITUTIONAL AND BY-LAW COMMITTEE: To consider and act upon all suggested changes and amendments to the Department Constitution and By-Laws.
- (h) TIME AND PLACE OF NEXT CONVENTION: To consider invitations for the holding of the next Convention and to recommend to the Convention the time and place of the next annual Convention.
- (i) NATIONAL DEFENSE: To receive all reports and resolutions affecting the National Defense and make recommendations to the Department Convention.

- (b) The Department Commander shall appoint a Convention Chairman and the host post shall name the other members of the Committee.
- (c) The profits of the Department Convention shall be given to the host post. The cost of printing the programs and taking the proceedings of the convention shall be that of the post.
- (d) The Department Adjutant will serve as the secretary and director of the convention.

SECTION 2. **ORDER OF BUSINESS:** The order of business at the annual Department Convention shall be, as follows:

1. Call to order by the Department Commander;
2. Invocation;
3. Advancement of Colors;
4. Reading of the Call to Convention;
5. Report of the Committee on Credentials
6. Announcement of Convention Committees;
7. Reports of Officers;
8. Reports of Convention Committees;
9. Unfinished Business;
10. New Business;
11. Election of Officers;
12. Election of Delegates to the National Convention;
13. Installation of the Newly Elected Officers;
14. Retirement of Colors; and
15. Final Adjournment

SECTION 3. **PERMANENT ORGANIZATION:** The following convention Committees shall be appointed by the Department Commander, at least fifteen (15) days prior to the opening date of the Convention:

- (a) **RESOLUTIONS:** To review and correlate the resolutions adopted by all other Convention Committees; to consider all questions adopted by all other Convention Committees; to consider all questions referred to it by the Convention; to formulate such Convention resolutions as may be appropriate, proper, and necessary and not specifically falling within the jurisdiction of another committee.

form for the Department Convention and make other corrections, additions, and deletions as he sees fit so long as said corrections, additions, and deletions do not change the intent or purpose of the resolution. It shall be the duty of the Department Adjutant to assign these resolutions to the proper convention committees.

SECTION 5. All members of the Department Executive Committee shall be Delegates to all Department conventions during their term of office, with vote, to be exercised with their respective posts. All Past Department Commanders, while in good standing with their respective Posts, shall be life Delegates to all Department Conventions, with vote, to be exercised with their respective Posts. The vote is in addition to post quota of votes, Posts shall establish rules for their caucus of how to allocate post votes to their delegation.

SECTION 6. Written notice thereof shall be sent to each Post not less than thirty days before each Department Convention and not less than ten days before each District Convention. The duly qualified representatives of the Posts present at such Department Convention shall constitute a quorum for the transaction of business. Districts may determine the quorum necessary for their convention.

SECTION 7. The fiscal year of the Department shall be from June 1<sup>st</sup> through May 31<sup>st</sup>. All districts shall have a Fall Meeting within 60 days following the National Convention.

## **ARTICLE VI DEPARTMENT OFFICERS**

SECTION 1. The Department Convention, shall elect, each for a term of one year, a Department Commander; Four Department Vice-Commanders who shall serve without seniority, and a Sergeant-at-Arms. No person shall be eligible for re-election to the office of Department Commander. No two Vice-Commanders may represent the same Area.

SECTION 2. Such officers shall serve until the adjournment of the succeeding Department Convention following their election and thereafter until their successors are chosen. Vacancies in these offices occurring between De-

partment Conventions shall be filled by appointment by the Department Commander of New Mexico with approval of the Executive Committee. Any member in good standing in the Department of New Mexico shall be eligible for appointment to such vacancy.

In the event that the vacancy occurs in the office of Department Commander after a mid-winter conference, the member so appointed to fill the unexpired term shall not lose his eligibility to be a candidate to be elected for a full term as Department Commander of the American Legion Department of New Mexico.

SECTION 3. The Department Commander with the approval of the Executive Committee at the meeting of the Executive Committee following the Department Convention which shall be held immediately following the Department Convention shall appoint a Judge Advocate, Historian, Chaplain, Aide-de-Camps, and any other appointments necessary at that time, Such officers shall hold office at the pleasure of the appointing power. All Persons having custody of funds shall give adequate bond, which shall be approved by the Department Executive Committee.

SECTION 4. The Department Commander with the approval of the Executive Committee shall enter into a three (3) year contract of employment with the Department Adjutant. Said contract will be presented to the Executive Committee at the thirty (30) day Executive Committee Meeting which takes place thirty (30) days after the adjournment of the Department Convention. Any existing contract will be up for review on the third (3<sup>rd</sup>) year of the contract prior to its termination and presented to the Department Executive Committee at the thirty (30) day Executive Committee Meeting and with the approval of the Department Executive Committee at that meeting shall determine whether to enter into a new contract.

The Department Commander shall appoint a Department Service Officer with the approval of the Executive Committee at the thirty (30) day Executive Committee Meeting following the Department Convention.

All paid employees of the American Legion Department of New Mexico shall be under the direct supervision of the Department Adjutant.

## **ARTICLE VI MONIES AND COLLECITONS**

SECTION 1. All Department, District and Post officials handling funds shall be properly bonded in a qualified corporate surety company in an amount or amounts fixed by the Department Executive Committee.

SECTION 2. The Department Adjutant shall, where warranted, employ auditors or other qualified persons to audit or investigate the membership rolls, financial statements and affairs of any Post or District, and to take such other actions as will insure the prompt remittance of all Department Funds.

## **ARTICLE VII AUDIT**

SECTION 1. A complete audit of all the books and records of the Department Adjutant and Department Treasurer, including all financial affairs of the Department shall be made at least thirty (30) days prior to the Department Convention and a report thereof submitted to the Department Convention for approval.

## **ARTICLE VIII CONVENTION ORAGANIZATION AND PROCEDURE**

SECTION 1. The Time and Place Committee shall review those bids for the next Department Convention, which are received in writing and report to the Convention their recommendations.

(a) The Post receiving the bid for the Department Convention shall be responsible for providing those facilities, which are necessary for a convention including convention hall and banquet facilities.

hearings upon the transcribed testimony heard by the trial board, or oral testimony, or both. The decision of the Department Executive Committee shall be final, if appeal to it were made; otherwise the decision of the Post shall be final. The Post Executive Committee shall appoint a member or members of the Post to prosecute the charges and the accused shall have the right to appear and defend himself in person or by counsel of his own choosing.

**Procedure as to District and Department Officers:** Charges against a district or department officer shall be in writing, supported by oath, and shall be filed forthwith at Department Headquarters. The Executive Committee shall appoint a trial board of not less than 7 nor more than 13 members in good standing to hear and determine such charges. This trial board shall commence the taking of testimony on said charges, and shall render a decision on their findings, which may be an acquittal, reprimand, removal from office, suspension or expulsion from membership in The American Legion. Such decision shall be forthwith submitted to The Department Executive Committee. The Department Executive Committee shall review the testimony taken by the trial board and may hear additional testimony or both and except in the event of an acquittal by the trial board may affirm, modify or reverse the findings and decisions of the trial board.

The decisions of the Department Executive Committee shall be final.

Nothing herein shall in any manner deprive the Post of its jurisdiction to hear and determine changes against any of its members.

## **ARTICLE V ORGANIZATION RELATIONSHIPS**

SECTION 1. No Post in this Department shall enter into any agreement with or act or render itself subservient to any other organization outside of The American Legion; provided, however, Posts shall be free to cooperate with other veterans organizations.

No contract for employment with The American Legion, Department of New Mexico may be entered into without approval of the Department Commander, the Department Judge Advocate and the Department Executive Committee. Any violation of the provisions of the Constitution and By-Laws shall cause said employment contract to become null and void.

SECTION 5. The offices of the Department Adjutant and the Department Treasurer may be combined and held by one person. The Executive Committee, at the thirty day Executive Committee meeting held within thirty (30) days after the Department Convention shall make the determination on the status of the Treasurer and when combined shall be made a part of the employment contract entered into with the Department Adjutant, subject to annual review at the aforementioned meeting.

SECTION 6. Department officers must be and remain during their term of office members and residents of a post of the Department and a member of the Department Executive Committee elected from a District must be and remain during his term of office, a member and a resident of a post located in the District which he represents. Each District Officer must be and remain during his term of office, a member of a post in the District in which he is an officer. Failure of any officer mentioned in this section to be and remain a member of a post as herein required shall ipso facto, create a vacancy in his office.

## **ARTICLE VII NATIONAL EXECUTIVE COMMITTEEMAN**

SECTION 1. One National Executive Committeeman and one Alternate shall be elected at Department Conventions held in odd years, and shall serve for a term of two years as provided under Article VII of the National Constitution. The Alternate National Executive Committeeman shall have all the power of the National Executive Committeeman at the meetings at which the National Executive Committeeman is not present.

SECTION 2. Vacancy in the office of the National Executive Committeeman or Alternate National Executive Committeeman shall be filled in the manner herein provided for the Department Officers.

**ARTICLE VIII  
NATIONAL DELEGATES**

SECTION 1. The delegates and alternates to the National Convention of the American Legion shall be elected at each Department Convention by the delegates therein duly assembled and shall consist of such number as prescribed by the National Organization.

**ARTICLE IX  
DEPARTMENT EXECUTIVE COMMITTEE**

SECTION 1. The general executive power and management of the affairs of the Department shall be vested in the Department Executive Committee. The Department Executive Committee shall be composed of the Department Commander, the Four (4) Department Vice-Commanders, the Department Sergeant-at-arms, the various Department Executive Committeemen and the various District Commanders, the immediate past Department Commander, the National Executive Committeeman, the Alternate National Executive Committeeman, and resident National Officers. All Past Department Commanders, while in good standing in their respective posts shall be members for life of the Department Executive Committee, with voice but no vote, they may not make motion, or vote, and shall be life delegates to all Department Conventions with vote to be exercised with their respective posts. All Past Department Adjutants, who have served two or more years, while in good standing with their respective posts, shall be members for life of the Department Executive Committee; they may not make motion or vote. The Department Adjutant will be ex-officio secretary of the Department Executive Committee.

- (a) The Department Executive Committee shall appoint from its own members or otherwise such subcommittees as it may determine to be necessary to carry on the business of the Department. It shall not delegate however the power of decision in matters affecting the policy and external relations of The American Legion.
- (b) It Shall be vested with judiciary power over Posts, and all elected or appointed, Depart-

ject to the restrictions of the National American Legion Constitution and By-Laws and the Department Constitution and By-Laws, except that no person, who is a member of an organization which has for its aim the overthrow of the United States Government by force or violence, or who subscribes to the principles of any group opposed to our form of government, shall be eligible to become or remain a member of The American Legion.

SECTION 2. Members may be reprimanded, suspended, or expelled from the American Legion, and officers may be reprimanded, removed from office, suspended or expelled from membership only upon a proper showing of cause.

Charges shall be based upon disloyalty, neglect of duties, dishonesty, and conduct unbecoming a member or officer of The American Legion. All charges must be made under oath in writing by an accuser, and no member in good standing shall be reprimanded, suspended, or expelled, nor shall any officer be reprimanded or removed from office, suspended, expelled, until given a fair trial as herein provided.

**Procedure in Posts:** When charges are preferred against a member of the Post, the Executive Committee of the Post shall appoint a trial board consisting of not less than five nor more than seven members in good standing in The American Legion of New Mexico within five days from and after the filing of written charges against the accused. Said trial board shall commence the taking of testimony on said charges within ten days after its appointment. The decision of the trial board which may be an acquittal, reprimand, suspension, or expulsion, shall be reported to the Post forthwith and acted upon by the Post at its next regular meeting. The Post excepting in the case of an acquittal by the trial board, may affirm, modify or reverse the findings and sentence of the trial board.

If the Post suspends or expels the accused, he may appeal such decision to the Department Executive Committee, which shall hear and determine the issue at its next meeting following the action of the Post. The Department Executive Committee shall conduct its

these officials, and shall have such duties, as the Department Executive committee shall prescribe.

SECTION 9. **DEPARTMENT SERGEANT-AT-ARMS:** The Sergeant -At-Arms shall preserve order at the Department Conventions and at meetings of the Department Executive Committee and shall perform such other duties as may from time to time be assigned to him by the Department Executive Committee.

SECTION 10. **AIDE-DE-CAMP:** The Department Aide-De-Camp shall render such personal assistance and services to the Department Commander as he may require to efficiently discharge the duties and responsibilities of such office.

SECTION 11. **OATH OF OFFICE:** The retiring Department Commander or a Past Department Commander shall administer to each newly elected officer the following oath of office, to-wit: "I do solemnly swear that I will support and defend the Constitution of the United States of America, the State of New Mexico, and the Constitution of The American Legion, Department of New Mexico, and truly perform the duties of my office to the best of my ability, so help me God." After which, said newly elected officers shall be deemed qualified to assume their duties at the time and in the manner prescribed by the Constitution of the Department. In the event of the absence from the Convention of any newly elected officer, the Department Commander or the Department Adjutant shall thereafter administer the above oath of office.

### ARTICLE III CHARTERS

SECTION 1. The provisions for the control of charters of the various posts in the Department shall be governed by Article III of the By-Laws of the National Constitution in so far as the same applies.

### ARTICLE IV DISCIPLINE

SECTION 1. Each Post of the American Legion, Department of New Mexico, shall be the judge of its own Membership, sub-

ment, District, or Post Officers or any member. Upon notice, and after a hearing, the Executive committee by two-thirds vote of the members present may cancel, revoke or suspend any Post Charter, or expel or suspend any officer from his office or any member of his membership for violations of the Constitution or for conduct unbecoming or prejudicial to the best interest of The American Legion.

(c) It shall prescribe and enforce such rules and regulations as may be necessary for the conduct of the Department Headquarters.

(d) The Committee shall have authority to transact the business of the Department by a majority vote of members present and voting at any meeting called after due notice thereof shall have been give and shall have authority to fill any vacancy by such a vote at any such meeting.

(e) Each District Committeeman shall promote the welfare of each Post in his District, and shall at each regular Executive Committee meeting provide a report of the conditions and status of each Post in his District.

(f) All money raising activities of the Department, or of any Post, of any Auxiliary Unit, or of any other affiliated organization, wherein excluding National or Department established programs, shall be under the exclusive jurisdiction of the Department Executive Committee.

The Department Executive Committee is hereby authorized to establish reasonable rules and regulations governing the use of the name "The American Legion" in any money raising activity unless such activity is other wise limited to the members or potential members of The American Legion, the Auxiliary, or the family of such members, or otherwise directly related to the established programs of the national Organization or of The American Legion, Department of New Mexico.

**ARTICLE X  
THE DISTRICTS**

- SECTION 1. The Department shall be divided into 12 Districts, with the following Counties:
- District No. 1. Rio Arriba, Taos, Mora, Santa Fe, Los Alamos, Colfax, Union and San Miguel (except Conchas Dam);
3. Torrance, Guadalupe, (except Santa Rosa) together with Corona, Socorro and Magdalena;
4. Quay, DeBaca, Curry, Harding and Roosevelt; together with Santa Rosa and Conchas Dam;
5. Lincoln and Otero, except Corona;
6. Chaves, Lea and Eddy;
7. Dona Ana, Luna, Hidalgo, Grant, Catron, T or C in Socorro County;
9. Bernalillo, Sandoval (except Lindreth) and Valencia;
10. San Juan together with Lindreth;
11. Post 13, Albuquerque;
12. Post 99, Albuquerque;
13. Cibola, Gallup, Zuni, Naschitti in McKinley County;
14. Post 49, Albuquerque.
- SECTION 2. For the purpose of representation by Department Vice-Commanders, the Department shall be divided into Areas as follows:
- |         |                    |
|---------|--------------------|
| Area 1: | Districts 3,5,7,11 |
| Area 2: | Districts 9,10,13  |
| Area 3: | Districts 1,14     |
| Area 4: | Districts 4,6,12   |
- SECTION 3. (a) The Department Convention or the Executive Committee may, by two-thirds majority vote, transfer a Post from one District to another, and shall create as a new and separate District any post whose annual (two year average) membership is one thousand (1,000) or more.
- (b) Any Post which has become a separate District by having an average membership or more than one thousand (1,000) members for a period of two (2) consecutive years would automatically cease to be a District if and when for a period of two (2) years its average membership falls below one thousand (1,000) members.

- SECTION 3. **DEPARTMENT ADJUTANT:** The Department Adjutant shall be the chief administrative officer of the Department, and shall be responsible for the efficient operation of the Department at all levels.
- SECTION 4. **DEPARTMENT TREASURER:** The Department Treasurer shall be custodian of the funds of the Department Organization. He shall sign all checks disbursing the funds of the Department Organization, and shall make reports upon the condition of the Department Treasury when called for by the Department Commander. The Department Treasurer shall furnish a surety bond in the amount of \$10,000.00, the premium to be paid by the Department. He shall perform such other duties as are usually incident to the office.
- SECTION 5. **DEPARTMENT SERVICE OFFICER:** The Department Service Officer shall handle all facets of rehabilitation and claims of any qualified veteran with the United States Veterans Administration or state agency, and perform such other duties as may be delegated to him from time to time by the Department Commander or Department Adjutant.
- SECTION 6. **DEPARTMENT JUDGE ADVOCATE:** The Department Judge Advocate shall advise the Department Officers and the Department Executive Committee on all legal matters, including the construction and interpretation of the Department Constitution and By-Laws, and shall perform other duties as are usually incident to the office.
- SECTION 7. **DEPARTMENT 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.
- SECTION 8. **DEPARTMENT HISTORIAN:** The Department Historian shall collect from year to year all records and dates of value and interest for the Department Headquarters of The American Legion, Department of New Mexico, and shall compile during his term of office a complete history of the year's activities. He shall also assist Post Historians so as to coordinate and unify the work of

- SECTION 12. All Past Department Commanders, while in good standing in their respective Posts, shall be members for life of the Department Executive Committee, without vote, and shall also be life delegates to all Department Conventions with vote, to be exercised with their respective Posts.
- SECTION 13. All Past Department Adjutants, who have served two or more years, while in good standing in their respective Posts, shall be members for life of the Department Executive Committee without vote.
- SECTION 14. No salaried officer of The American Legion shall hold an elected or appointed office in the District, Department or the National Organization of The American Legion, the District, Detachment or National Organization of the Sons of The American Legion or any other organization while a full time employee on the payroll of The American Legion Department of New Mexico. The only exceptions are the constitutional appointments that are held by these officers in the performance of their duties as salaried employees. Example: National Service Officers Association, Rehab. Commission, Steivos, Secretary Treasure of related corporations, Secretary of all Boards, Commissions and Committees.

## ARTICLE II DUTIES OF OFFICERS

- SECTION 1. **DEPARTMENT COMMANDER:** The Department Commander shall be the chief executive officer of The American Legion, Department of New Mexico, with full power to enforce the provisions of the Department Constitution, Department By-Laws, and the will of the Department Convention. He shall be the presiding officer on all occasions.
- SECTION 2. **DEPARTMENT VICE COMMANDERS:** The Department Vice Commanders shall act as representatives of the Department Commander on all matters referred to them by the Commander, and shall perform such other duties as are usually incident to the office.

- (c) The Executive Committee shall effect, upon application of the Post involved or upon motion, changes in District Organization.
- (d) Where a post comprises a separate District the only District Officers shall be a District Commander and Department Executive Committeeman. The Department Executive Committeeman shall be elected for a term of two years, with this term to expire at the conclusion of the second Department Convention following his election. The District Commanders shall be members of the Department Executive Committee with all right and privileges as the elected Executive Committeeman as otherwise set forth herein, **no member shall hold more than one (1) voting position on the Department Executive Committee at any one time.** The quorum henceforth of the Executive Committee for all purposes shall be a majority of the voting members.
- (e) The areas herein established are geographical in scope and each District shall belong to the area within which it is physically situated.

SECTION 4. There shall be held in each District, at least 30 days prior to the date of the Department Convention a District Convention, at a time and place to be designated by the District Commander, or in such manner as the District Constitution, if any, may provide. The District Commander shall be the presiding officer of such District Convention.

SECTION 5. The annual District Convention shall be composed of delegates and alternates from each Post in the District. An alternate shall not be entitled to vote in such convention except in the absence or disability of the delegate for whom he is an alternate. The number of delegates and alternates to which a Post shall be entitled shall be computed in the same manner prescribed for Department Conventions in Article V, Section 2 of the Constitution, except that the representation of each Post shall be based on the paid-up membership at Department Headquarters 15 days prior to said District Convention. The Names of said delegates and alternates should be certified to the District Commander

and Department Headquarters not later than 5 days prior to said District Convention.

SECTION 6. At said District Convention there should be elected a District Commander and District Vice-Commander, who shall serve for the term of one year, together with a Department Executive committeeman to serve for a two-year term. These officers shall be installed at the Department Executive Committee meeting immediately following the Department Convention. A District Adjutant shall be selected in such manner as the District Constitution, if any may provide or in such manner as said District Convention may decide, if no District Constitution has been adopted. The District Adjutant shall record the proceedings of the District Convention and Conferences and deliver such records to the District Commander in whose custody they shall remain. There may be transacted such other and further business in such District Conventions as may be deemed proper. The District Commander presiding at the District Convention shall within 10 days after the adjournment of such District Convention certify and forward to the Department at Department Headquarters a certified copy of the names of the District Committeeman, the District Commander, the District Vice-Commanders, and other officers elected at such District Convention.

SECTION 7. The District Commanders shall cause the annual inspection of every Post in their respective Districts, and shall make a report of said inspection to Department Headquarters on, or before, March 1<sup>st</sup> of each year.

SECTION 8. When a Vacancy in the office of District Commander occurs in any District, the District Vice-Commander shall succeed to that office. If a vacancy in the office of District Vice-Commander occurs in any District after the Department Convention and before the next succeeding District Convention, the District Commander by and with the consent of the Department Executive Committee shall appoint a member of a Post in that District to fill the vacancy. Such appointment shall be for the remainder of the term only. If the vacancy occurs after the District Convention and before the next succeeding Department Convention, an election shall be held at the Department Convention at a meeting of the official

accused of his office and/or membership in the American Legion or both.

SECTION 8. Any member who has been suspended or expelled shall have the right of appeal to the Department Executive Committee within a period of thirty (30) days after the action of the Post or District and the Department Executive Committee shall thereupon set the matter down for hearing at a meeting within sixty (60) days after the receipt of request for appeal from the decision of the Post or District. The Department Executive Committee shall have the right to review the method and procedure of trial as well as review the merits of the case. Upon appeal from the decision of the Post or District, the Post or District shall furnish to the Department Executive Committee the whole record of the case, including the charges and a transcript of the evidence offered at the trial of the member before the Post Executive Committee or the District Council. The decision of the Department Executive Committee shall be final.

SECTION 9. The procedure for the suspension or revocation of a Post's charter are set forth in the National Constitution and By-Laws and such procedure shall be followed by the Department Commander and Department Executive Committee in all such cases.

SECTION 10. The Department Commander may, where the good name and integrity of The American Legion is involved, exercise summary power of suspension of Post, District or Department Officers, and appoint any qualified person to serve temporarily in such suspended officers place but provided, that such suspension shall be operative only until the Department Executive Committee can be called into session for the purpose of approving or disapproving the action taken by the Department Commander, and to conduct a hearing of the charges made against the accused, but in no case of a period of longer than thirty days.

SECTION 11. The Department Adjutant, the Department Treasurer, the Department Judge Advocate, shall be ex-officio members of the Department Executive Committee, without vote. The Department Adjutant shall act as ex-officio secretary of the meetings of the Department Executive Committee.

Department Executive Committee, which shall be the final authority thereon, within the limitations of the provision of the National By-Laws.

SECTION 6. When the Department Commander shall have been absent from the State of New Mexico for a period of thirty (30) days without the consent of the majority of the Department Executive Committee, or in the case of continuous disability of the Department Commander, incapacitating him from performing the duties of his office, or for any reason for which the Department Commander shall be unable to act further and perform the duties of his office, a vacancy shall be deemed to exist and the Department Executive Committee shall forthwith name a successor as Department Commander.

SECTION 7. The Department Executive Committee shall have authority to exercise judiciary powers over elected or appointed Department, District, or Post Officers in the event of charges being preferred against any such officers. Where any officer is charged with being guilty of disloyalty, neglect of duty, dishonesty or any conduct making him unworthy as an officer of The American Legion such charges must be made in writing by the accusers and under oath, and filed with the Department Adjutant. The Department Adjutant shall thereupon within ten (10) days forward the accused a copy of the charges by registered mail, and inquire of the accused as to whether he admits or denies the charges made, and whether he desires a hearing upon the same, and whether he will or will not be represented by counsel. The accused shall reply to the Department Adjutant inquiry within ten (10) day from receipt by registered mail or personal service. Where the accused is a Post Officer or District Officer the Department Commander may designate the Executive Committee of the Post or the District Council to hear the charges and render a decision. The Department Commander may also appoint any member in good standing learned in law to represent the Department Commander at such hearing as trial Judge Advocate and to rule on all legal questions, but without right to vote on the decision rendered. After hearing, the Post Executive Committee or District Council may, by two-thirds vote, suspend or expel the

delegates from the Posts of the District concerned called for that purpose by the District Commander.

SECTION 9. Districts may adopt constitutions and by-laws not inconsistent with the Department or National Constitutions and said constitution and by-laws shall be submitted to the Department Judge Advocate for approval before the District shall adopt it.

## **ARTICLE XI STANDING COMMITTEES**

SECTION 1. There shall be Three Department Standing Committees whose duties are defined in subsequent sections below.

New Committee members shall be appointed immediately after the Department Convention by the newly elected Department Commander to fill positions vacated by expired terms. Term duration are three years each, on a staggered basis. In the event of a vacancy prior to completion of term the then Department Commander shall fill such a vacancy by appointment for the remainder of the unexpired term. All appointments to standing committees shall be approved by a two-thirds vote of the Department Executive Committee. The Department Commander shall designate the Chairperson for each standing committee.

SECTION 2. **DEPARMENT FINANCE COMMITTEE**

There shall be a Permanent Department Finance Committee, which shall fix, budget and audit all expenditures and disbursements of the Department; its decisions shall be final unless overruled by at least a two-thirds vote of the Department Executive Committee.

The Department Finance Committee shall consist of three members of the American Legion Department of New Mexico, none of who shall be Voting Members of the Department Executive Committee. The Department Commander shall be an Ex-Officio member of the Committee without vote during his tenure of office.

The Department Adjutant shall act as recording secretary of the committee. At its final meeting of the year

the Committee shall prepare a budget for the operation of the Department for the upcoming year. The Committee is authorized and directed to meet at such times during the year as the Chairperson deems essential or desirable and is empowered to modify or change the Budget to meet such conditions as may develop.

**SECTION 3. DEPARTMENT REHABILITATION COMMISSION**

A Department Rehabilitation Commission is established, comprised of five (5) members, including the Department Child Welfare Chairperson, The Department Finance Committee Chair Person, and three members of the American Legion Department of New Mexico. The Department Commander and the Department Service Officer to serve as Ex-Officio members and the Department Adjutant to serve as Director of the Commission Ex-Officio. The purpose of the said Commission is to establish policy for the Department Rehabilitation program:

To raise the necessary funds to finance the program by approved methods and to establish rules, regulations and a budget for its operation.

The Rehabilitation Commission shall meet and render reports to the American Legion Department of New Mexico at each Department Convention, Fall Conference and Mid-Year Conference.

**SECTION 4. DEPARTMENT REAL ESTATE COMMITTEE**

There shall be a Standing Committee known as the Department Real Estate Committee, which shall consist of Three (3) members of The American Legion Department of New Mexico. All Jurisdiction and Authority with respect to Department Real Estate shall henceforth be vested in the Department Real Estate Committee as Trustees and said Committee shall have the Authority to buy, sell, lease, rent or mortgage real estate on behalf of the Department, subject only to the approval of the Executive Committee. Any and all properties owned by the Department in fact or through any other agency of the Department, whether Incorporated or otherwise, shall remain intact and this article will in no way affect the Title or Status thereof until such real estate has

**BY-LAWS  
THE AMERICAN LEGION  
DEPARTMENT OF NEW MEXICO**

**ARTICLE I  
DEPARTMENT EXECUTIVE COMMITTEE**

SECTION 1. The Department Executive Committee shall meet immediately after the adjournment of the Department Convention; It shall also meet at a time and place to be designated by the Department Commander within thirty (30) days following the adjournment of the Department Convention, and shall meet immediately preceding the holding of the succeeding Department Convention, Special meetings may be held upon reasonable notice at the call of the Department Commander. The Department Commander shall call a meeting upon the written request of eight or more members of the Department Executive Committee.

SECTION 2. A majority of the voting members of the Department Executive Committee shall constitute a quorum.

SECTION 3. The Department Commander shall name such committees, as he shall deem advisable, subject to the approval by the Department Executive Committee at its next meeting succeeding the appointment. The Chairmen of all Department Committees will submit a written report of their activities to the Department Adjutant at least thirty (30) days prior to the meeting of the Department Convention.

SECTION 4. The Department Commander, subject to the approval of the Department Executive Committee shall appoint and employ such subordinate officers and employees as may be needed for the administration of the affairs of The American Legion, Department of New Mexico, and prescribe their duties and emoluments.

SECTION 5. All questions affecting the election, eligibility and/or conduct of Department Officers, National Executive Committeeman or Alternate, or members of the Department Executive Committee, shall be determined by the

## EFFECTIVE DATE

SECTION 1. This Constitution and attached By-Laws was presented for consideration and vote to the 2007 Convention of The American Legion Department of New Mexico in regular order of business on Saturday, June 23, 2007, and adopted to become effective at 12:00 p.m. June 23, 2007. Revised in Convention in Carlsbad, New Mexico on June 23rd, 2007.

This Constitution was reviewed by the Department Constitutional & By-Laws Committee and found to be the Constitution with all the revisions made to date.

I, William Tryon, Chairman of the Constitution and By-Laws Committee do hereby certify that this Constitution was presented to the American Legion in Convention assembled on June 23, 2007 at Carlsbad, New Mexico in Regular Order of Business and Adopted to become effective at 12:00 PM on June 23, 2007.

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William Tryon  
Chairman, Constitution and By-Laws Committee

I, Ricardo Hidalgo, Department Commander of The American Legion Department of New Mexico, do hereby certify that this is a correct and effective copy of the Constitution of the American Legion Department of New Mexico.

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Ricardo Hidalgo  
Department Commander

Attested to:

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Tony R. Navarrete  
Department Adjutant

been conveyed to the Department Real Estate Committee.

## ARTICLE XII POSTS

SECTION 1. The local unit shall be the Post, which shall have a minimum membership of 15. No post shall be received into this Department until it shall have received a charter. A Post desiring a charter shall apply to the Department Commander, through the Department Adjutant and the proper district organization. When and if the Department Commander approves such application, it shall be transmitted to National Headquarters for action, in accordance with the National Constitution.

SECTION 2. No Post shall be named after any living person.

SECTION 3. All elective post officers except those elected to fill vacancies caused by death, resignation, or removal from office prior to the completion of their term, shall be elected and their names submitted to Department Headquarter and to the District Commander at least fifteen (15) day prior to the Department convention.

SECTION 4. The Executive Committee shall cause the annual inspection of every Post in the state to be made under the direction of the Commander of each District, who will report to Department Headquarters on or before March 1<sup>st</sup>, of each year.

## ARTICLE XIII DUES

SECTION 1. Each Post shall pay annually to the treasurer of the Department, Department and National Dues for each of its members.

SECTION 2. The amount of such annual Department dues shall be the amounts established by the National organization and by the Department of New Mexico. The amount of annual dues for the Department of New Mexico shall be determined by each Department Convention to be effective for the year after the one following that in which the convention is held. Posts shall transmit all dues

monies mentioned herein to Department Headquarters and it shall establish accounts and disburse these funds according to regulations as may be promulgated by the Department Executive Committee.

SECTION 3. A member whose dues for the current year have not been paid by January 1<sup>st</sup> shall be classed as delinquent. If his dues are not paid on or before February 1<sup>st</sup>, he shall be suspended from all privileges.

If he is still under such suspension on June 30<sup>th</sup> of such year, his membership in The American Legion shall be forfeited. A member so suspended may be reinstated by vote of the post and payment of current dues for the year in which the reinstatement occurs. Such action will serve to reinstate membership that has been so forfeited to active membership in good standing. Provided, however, that the posts, and department, may waive the provisions thereof, upon payment of dues for the year in which reinstatement occurs, with reference to former members who have been prevented from the payment of dues by reason of active military service.

SECTION 4. Annual dues shall be payable on or before the 15<sup>th</sup> day of October of each calendar year.

#### **ARTICLE XIV AUXILIARIES**

SECTION 1. This department recognizes an auxiliary organization to be known as the American Legion Auxiliary.

SECTION 2. Membership in the Auxiliary shall be as prescribed by the National Constitution of the American Legion.

SECTION 3. This Department also recognizes the organization know as the Sons of the American Legion.

SECTION 4. Membership in the Sons of the American Legion shall be as prescribed by the National Constitution of The American Legion.

SECTION 6. This Department also recognizes the organization know as the New Mexico Legion Riders Motorcycle Association.

SECTION 7. Membership in the New Mexico Legion Riders Motorcycle Association. shall be as prescribed by the State By-Laws of the New Mexico Legion Riders Motorcycle Association.

#### **ARTICLE XV CORPORATIONS**

SECTION 1. The Department recognizes The American Legion Boys State Corporation and The American Legion Baseball Corporation and any corporation organized for the conduct of a Department Convention.

#### **ARTICLE XVI RULES**

SECTION 1. The rules of procedure at the Department Convention and at the District Conventions shall be those set forth in "Roberts Rules of Order", except as modified by this Constitution and By-Laws of the Department.

#### **ARTICLE XVII AMENDMENTS**

SECTION 1. This Constitution may be amended by any Department Convention by a vote of two-thirds of the total delegates registered at such convention, provided that the proposed amendment or amendments shall have been submitted through Department Headquarters to the several Posts in the Department by publication in the Department newspaper or by mailing at least two copies to each Post at least thirty-five (35) days prior to the annual Department Convention; any such proposed amendment may be amended without further notice by a two-thirds vote of the total delegates registered at such convention, provided it does not increase the modification proposed by the amendment and it has received the approval of the Convention Committee on Constitutional Amendments and provided further it may be amended by unanimous vote at any Convention without notice. Only a Post or the Department Executive Committee may propose amendment.