

**CONSTITUTION  
and  
BYLAWS**

**The American Legion**

**Department of South Dakota**



**2022**

Revised July 16, 2022 as approved by the Department Executive Committee

# CONSTITUTION

— of —

## THE AMERICAN LEGION DEPARTMENT of SOUTH DAKOTA

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### 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 all 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 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

The name of the organization shall be The American Legion, Department of South Dakota.

### ARTICLE II NATURE

Section 1. CIVILIAN ORGANIZATION. 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/her military or naval title in any convention or meeting of the Legion.

Section 2. NON-POLITICAL. The American Legion shall be absolutely non-political and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

Section 3. CITIZENSHIP DUTIES. Each member shall perform his/her full duty as a citizen according to his/her own conscience and understanding

### ARTICLE III ELIGIBILITY

Section 1. ELIGIBILITY. Any person shall be eligible for membership in The American Legion who was a member of the Army, Navy, Marine Corps, Coast Guard or Air Force of the United States and assigned to active duty at some time during any of the following periods: April 6, 1917 to November 11, 1918; any time after December 7, 1941 to cessation of hostilities as determined by the U.S. Government, all dates inclusive; or who being a citizen of the United States at the time of his/her entry therein, served on active duty in the armed forces of any of the governments associated with the United States during any of said periods; provided, however, that such service shall have been terminated by honorable discharge or honorable separation, or continued honorably after any of said periods; provided further, that no person shall be entitled to membership who, being in such service during any of said periods, refused on conscientious, political or other grounds to subject himself/herself to military discipline, or unqualified service.

Section 2. ACTIVE MEMBERSHIP ONLY. There shall be no form or class of membership except an active membership and dues shall be paid annually or for life.

Section 3. MEMBER WHERE. No person may be a member at any one time of more than one Post.

Section 4. RIGHTS OF EXPELLED MEMBER. 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/she may then appeal to the State Executive Committee of the department of the expelling Post for permission to apply for membership in another Post, and shall be ineligible for membership until such permission is granted.

## ARTICLE IV ADMINISTRATION

Section 1. DEPARTMENT CONVENTION. The Legislative Body of the organization shall be the Department Convention to be held not later than July 1 each year. The place of meeting shall be fixed at an annual convention held within five calendar years prior to the convention being scheduled or if it fails to do so it shall be fixed by the executive committee.

Section 2. CONVENTION COMPOSITION – DELEGATES – VOTE. The Annual Department Convention shall be composed of delegates and alternates from each Post with fifteen or more members. Each Post shall be entitled to two delegates and two alternates and to one additional delegate and alternate for each fifty or major fraction thereof, memberships paid up fifteen days prior to the date of the Department Convention. Posts with less than fifteen members will be reviewed by the Mid-Winter Department Executive Committee to ensure they are in good standing and if so approved, will be entitled to one delegate and one alternate. The vote of each Post represented by a delegate or delegates at the Convention shall be equal to the total number of delegates to which that Post is entitled. The Department Executive Committee in the Mid-Winter meeting will examine posts with less than fifteen members and determine if each post is in good standing and is active in their community and if so, approve their delegate and alternate delegate status.

Section 3. DELEGATES ELECTED. The delegates to the Department Convention shall be chosen by each Post by election from its own membership.

Section 4. COMMITTEE REPORTS. All department standing committees shall file written reports with the Department Adjutant 30 days before each Department Convention, and these reports shall be printed and available to Convention Committees and Delegates. Any standing or special Department Committee to which Department funds are allocated shall file with the Department Commander at least five days prior to each Department Convention a complete and itemized financial report, showing funds received from whatever source, and disbursements made. Such report shall be placed before the convention by the Commander and printed in the annual convention Proceedings. No further Department funds shall be turned over from the Department Treasury to any Committee until it shall have filed its Financial Report with the Commander.

Section 5. In the event two or more candidates are nominated for any office, the balloting shall be by roll call and if no candidate receives a majority necessary for election, successive roll calls shall be taken until one candidate receives such majority. When more than two are nominated as candidates for one office, the name of the low man on each ballot shall be dropped from the succeeding ballot.

Section 6. COMMISSIONS and COMMITTEES. The following commissions and committees shall be permanently established with the chairperson appointed annually except where identified differently in these Constitution and By Laws or the Uniform Code of Procedures for the Organization of Department Conventions or the American Legion Department of South Dakota

- a) The Executive Committee is the governing body of the organization charged with the administration of the affairs of the Legion between Conventions. It shall be composed of the Department Commander, Department Vice Commanders and the District Commanders of which there shall be one from each district. The National Executive Committeeman and the immediate Past Department Commander shall also be members of the Executive Committee. The Department Judge Advocate will be an Ex-officio member.
- b) Commissions:
  - a. Americanism Commission
  - b. Athletic Commission
  - c. Finance Commission
  - d. Internal Affairs Commission
  - e. Veterans Affairs and Rehabilitation Commission
- c) Committees:
  - a. Permanent Committees
    - i. American Legion Trust Committee
    - ii. Children and Youth Committee
    - iii. Education Committee
    - iv. Employment Committee
    - v. Legislative Committee
    - vi. Marketing, Media and Communications Committee
    - vii. Membership Committee
    - viii. National Cemetery Committee
    - ix. Public Safety Committee
    - x. Training Committee

- xi. Veterans Administration Voluntary Service Committee
- b. Convention Committees
  - i. Americanism Committee
  - ii. Credentials Committee
  - iii. Employment Committee
  - iv. Internal Organization Committee
  - v. Legislative Committee
  - vi. National Security Committee
  - vii. Next Meeting Place Committee
  - viii. Rehabilitation Committee
  - ix. Resolutions Committee
- c. Temporary Committees – are committees specifically created to fulfill a specific purpose, appointed by the Commander and dissolved when their mission is complete.

Section 7. DISTRICT CONVENTION. There shall be at least one regular district convention each year, which shall be called by the Department Commander not earlier than March 1 nor later than May 1 each year, and the call for said district convention shall be given by the Department Adjutant to the Posts of each district at least 15 days before such meeting. There may be other district meetings at the call of the District Commander, and the call for any such meeting shall be given in writing by the District Commander to the Posts in his/her district at least 15 days before such meeting.

Section 8. ELECTION OF DISTRICT COMMANDER. There shall be elected a District Commander, from each of the even number districts at the regular spring district meeting held in the even numbered years, and from each of the odd numbered districts at the regular spring district meeting held in odd numbered years. Such District Commander shall take office and assume their duties at the same time and place as the newly elected Department Commander is installed.

Section 9. ELECTION OF DISTRICT VICE COMMANDERS — FILLING VACANCIES. In each district there shall be elected one or more District Vice Commanders at the same meeting at which the District Commander is elected. Any vacancy in the office of District Commander shall be filled by the most senior Vice Commander of the District (determined by total membership years in the South Dakota American Legion). Any vacancy in the office of any District Vice Commander shall be filled at a regular or special meeting called by the Department Commander. If the District has only one Vice Commander and both the District Commander and the Vice Commander offices become vacant, a new District Commander and Vice Commander shall be elected at a special District Meeting called by the Department Commander and the officers elected shall serve for the unexpired term of their predecessors.

Section 10. VOTE ENTITLED TO. The Posts voting for District Commander shall be entitled to two votes for each Post and to one additional vote for each fifty members or major fraction thereof. This vote to be based on the membership of each Post as shown by the books of the Department Adjutant at the time of the meeting.

Section 11. COMPOSITION OF DISTRICTS. The Department shall be divided into eight districts as follows:

**District No. 1.** Butte, Harding, Lawrence, Meade, Corson, Dewey, Perkins, and Ziebach Counties.

**District No. 2.** Bennett, Haakon, Jackson, Jones, Mellette, Todd, Custer, Fall River, Pennington, and Oglala Lakota Counties.

**District No. 3.** Hughes, Hyde Potter, Stanley, Sully, Gregory, Lyman, Tripp, and Hand Counties.

**District No. 4.** Brown, Campbell, Edmunds, McPherson, Walworth, Spink, and Faulk Counties.

**District No. 5.** Day, Grant, Marshall, Roberts, Clark, Codington, Duel, Hamlin, and Brookings Counties.

**District No. 6.** Beadle, Kingsbury, Miner, Aurora, Brule, Buffalo, Davison, Hanson, Jerauld, and Sanborn Counties.

**District No. 7.** Lake, Lincoln, Moody, McCook, Minnehaha, and Union Counties.

**District No. 8.** Turner, Bon Homme, Charles Mix, Clay, Douglas, Hutchinson, and Yankton Counties.

Section 12. DUTIES OF DISTRICT COMMANDERS. Each District Commander shall administer the affairs of the Department within his/her district subject to the direction of the Executive Committee.

Section 13. DUTIES OF DISTRICT VICE COMMANDERS. The District Vice Commander shall assist the District Commander in the duties of his/her office and shall act as and assume the duties of the District Commander in the event of the inability to act, absence or removal from the district of the District Commander.

Section 14. DEPARTMENT OFFICERS. The officers of the Department organization shall be as follows:

1 Department Commander

2 Department Vice Commanders

1 National Executive Committeeman

1 Alternate National Executive Committeeman

1 Department Adjutant

- 1 Assistant Department Adjutant
- 1 Department Finance Officer
- 1 Department Historian
- 1 Department Sergeant at Arms
- 1 Department Chaplain
- 1 Department Judge Advocate
- 1 Department Americanism Officer
- 1 Department Children & Youth Chairman
- 1 Department Service Officer
- 1 Department Membership Chairman

Section 15. ELECTION OF OFFICERS. Such officers, with the exception of the National Executive Committeeman, Alternate National Executive Committeeman, Department Adjutant, Assistant Department Adjutant, Judge Advocate, Chaplain, Americanism Officer, Finance Officer, Department Historian, Service Officer, Children and Youth Chairman, and Membership Chairman shall be elected at each annual Convention. No Department Commander or Past Department Commander shall be eligible to re-election.

Section 16. VICE COMMANDERS. Two Department Vice Commanders shall be elected at each Department Convention, one from an Area comprised of Districts One and Two, and one from an Area comprised of Districts Three, Four, Five, Six, Seven and Eight. The Vice Commander for each Area shall be nominated by a caucus of the delegates from the Districts in his/her Area, present at the Annual Department Convention, and elected by the Convention. There are no prerequisites for specific offices that a candidate for Vice Commander must have previously held and there shall be no rotation policies established within any area limiting candidacy. They shall serve without seniority, and in case of a vacancy in the office of Department Commander, the Department Adjutant shall call a special meeting of the Department Executive Committee which shall designate one of the Vice Commanders as acting Commander until the next Department Convention.

Section 17. DEPARTMENT COMMANDER'S DUTIES. The Department Commander shall preside over all meetings of the Executive Committee, and shall appoint such officers and subcommittees as shall be necessary for the proper conduct of the business of the organization, including the Judge Advocate and Chaplain, who shall be appointed, subject to the approval of the Executive Committee. The Department Commander, with the approval of the Executive Committee, shall have the power to fill vacancies in any office set forth in Section 14 of this Article until the next succeeding Department Convention. He/She shall ex-officio be a member of all appointive committees.

Section 18. APPOINTMENT OF ADJUTANT. The Department Adjutant shall be appointed by the Department Commander to hold office for a two-year term, subject to approval of a majority of the Executive Committee. In case of a vacancy the Commander with approval of the Executive Committee shall appoint an Adjutant to hold office until the next annual convention.

Section 19. APPOINTMENT OF FINANCE OFFICER. The Department Finance Officer shall be appointed by the Department Commander, and approved by the Department Executive Committee, for a term of two years, beginning at the post-convention executive committee meeting at which they are approved, and ending at the conclusion of the Department Convention two years thereafter. The Department Finance Officer shall concurrently serve as Chairman of the Department Finance Commission.

Section 20. APPOINTMENT OF SERVICE OFFICER. The Department Service Officer shall be appointed by the Department Commander to hold office for a two-year term, subject to approval of a majority of the Executive Committee. In the case of a vacancy, the Commander, with approval of the Executive Committee, shall appoint a Service Officer to hold office until the next annual convention.

Section 21. MIDWINTER CONFERENCE. There shall be a MidWinter Conference held during one weekend in January or February of each calendar year. The purpose of the MidWinter Conference shall be to provide an annual training venue that facilitates the dissemination of up-to-date information regarding Legion policy and programs. The place of the conference shall be selected from bids from the Posts wishing to host the event. These bids shall be reviewed by the Convention Next Meeting Place Committee at the Department Convention held five years prior to the conference and a site and place recommended by that committee to the convention. Should the Convention Next Meeting Place Committee receive no bids or does not forward a recommendation; the Department Executive Committee shall select a site and date.

## ARTICLE V LOCAL UNITS

Section 1. POST-NUMBER OF MEMBERS -CHARTER. A local unit shall be termed a Post which shall have a minimum membership of fifteen, except the Department Executive Committee shall review the membership of posts with less than fifteen to determine good standing. The Executive Committee may authorize the chartering of a Post with less than fifteen members if it considers there is sufficient justification. No Post shall be received into this organization until it shall have received a charter. A Post desiring a charter shall apply to the Department which shall forward the application to National Headquarters with its recommendation.

Section 2. CONSTITUTION — BYLAWS — OFFICERS. Each Post shall adopt a constitution and bylaws, which shall conform to the state and national constitution and bylaws. A Commander, Vice Commander and Executive Committee of each Post shall be elected by its membership at the first regular meeting of the Post in April and installed prior to the Department Convention, and all other officers of the Post may be elected or appointed as may be provided by its constitution and bylaws, except that in a Post with a membership of more than 100 members, all officers except the adjutant shall be elected.

Section 3. COUNTY ASSOCIATION OF POSTS. In each county having more than one Post, such Posts may organize a county association, which shall be known as \_\_\_\_\_ County Posts Association, and of which the Post shall be a unit. Each association shall elect a County Commander, Vice Commander and Adjutant and such other officers as desired, which officers shall hold office until their successors are elected. Each association shall adopt a constitution and bylaws not in conflict with the national and state constitutions and bylaws of The American Legion, and in no event shall such associations invade any prerogatives now or hereafter vested in the Posts. No second county association shall be formed in any county where such a county association actively exists. Any Post of the county shall become a member upon application for membership upon payment of any dues prerequisite thereto. In the event that there is no County Association, County Commanders from each of the even numbered districts at the regular spring district meeting held in the even numbered years, and from each of the odd numbered districts at the regular spring district meeting held in odd numbered years, by vote of delegates from Posts in his/her county, and such County Commanders shall serve as a member of the District Executive Committee for a term of “two” years starting with his/her election

## ARTICLE VI DUES

Section 1. REVENUE. The revenue of The American Legion, Department of South Dakota, shall be derived from annual membership dues and from such other sources as may be approved by the Department Executive Committee.

Section 2. DUES – DISPOSITION. Each Post shall pay annually to the headquarters of the Department of South Dakota the sum of \$15.00 plus the amount of National dues assessed each fiscal year for each of its individual members, which said sum shall be distributed as follows:

- a) The amount of National dues assessed shall be transmitted to National Headquarters.
- b) That line items be created in the Department budget, proposed by the Department Finance Commission and approved by the Executive Committee.

Section 3. PAYABLE DATE. Annual dues shall be payable October 20th of each year, for the succeeding calendar year.

## ARTICLE VII TRANSFERS

Section 1. TRANSFER CERTIFICATE. Any member in good standing removing from his/her Post shall be entitled to a certificate stating his/her membership and the duration thereof; and thereafter he/she shall be entitled to full membership in the Post to which he/she shall transfer. In case of failure or refusal of any Post Adjutant to issue such certificate of transfer within ten days of written request therefor, application for transfer may be made to the Department Adjutant and on proof that the applicant is in good standing the Department Adjutant shall issue such transfer certificate.

## ARTICLE VIII QUORUM

Section 1. CONVENTION QUORUM. A quorum shall exist at a Department Convention when 10 percent of the Posts are partially or wholly represented by duly elected delegates or alternates.

## **ARTICLE IX CONVENTION RULES**

### Section 1. PROCEDURE RULES.

(a) The rules of procedure of the Department Convention shall be those set forth in Robert's Rules of Order, the Uniform Code of Procedures for the Organization of Department Convention of The American Legion Department of South Dakota, and such rules as may be established at each Convention.

(b) The Department Executive Committee shall provide a Uniform Code of Procedure for the orderly organization and operation of Department Conventions, with continuing power of revision, and said Code shall be applicable to all Department Conventions unless it is amended, suspended or repealed by a majority vote of the total authorized representation at a Department Convention.

Section 2. POST VOTE — NO PROXIES. Delegates present may cast the full vote to which their Post is entitled; provided that the correct dues for said membership have been received by the Department Adjutant at least fifteen days prior to the meeting of the annual Convention, but no Post may vote by proxy.

Section 3. CONVENTION REGISTRATION – DISPOSITION – EXPENSES. Every Legionnaire attending the Department Convention shall register and pay a registration fee of \$1.00 and upon proper identification as a Legionnaire in good standing shall receive a Convention badge and be entitled to the privileges of the Convention. The Legion Post hosting the Department Convention shall retain this \$1.00 fee to help defray expenses incurred in holding the Convention. The registration fee for each Post's delegate strength, regardless of attendance, shall be \$7.00 per delegate payable to The American Legion Department of South Dakota, in advance of the election at the annual Department Convention. Department Headquarters shall retain \$2.00 of each delegate registration fee and forward the remaining \$5.00 to the Department Convention host Post to help defray Convention costs.

## **ARTICLE X FISCAL YEAR**

Section 1. FISCAL YEAR. The fiscal year shall be from July 1 to the next June 30.

## **ARTICLE XI NATIONAL CONVENTION DELEGATES**

Section 1. SELECTION DELEGATES — ALTERNATES. Delegates and Alternates to the National Convention shall be nominated as may be provided for by the National Constitution, such delegates shall be nominated at each District's Spring Convention so as to be representative of the entire state. If a delegate or alternate so nominated shall advise the Department Commander that he/she will be unable to attend the National Convention, the Department Commander shall have the authority to appoint a delegate or alternate to fill such vacancy; preference in such appointment to be given to those eligible from within the District in which the vacancy occurred. The Department Commander, immediate Past Department Commander, and the National Executive Committeeman shall be delegates-at-large to the National Convention; provided, that in the event the delegates shall exceed 15 in number the Department Adjutant shall also be a delegate-at-large.

In the event that there is a lack of nominees from any District at the Spring District Conventions, those vacancies will be nominated from the floor of the Department Convention during the General Session, to serve as delegates-at-large at the National Convention. When there are no more nominations or when all available delegate and alternate slots have nominees – the entire slate of delegates and alternates to the National Convention will be voted, as a group, by the Convention.

Section 2. CALL-IN DELEGATES—Any Legionnaire that is "Called-In" to the National Convention as a member of a National Standing Commission or Committee, shall be authorized an automatic Delegate slot to the National Convention, and will be included in the total number of Delegate slots authorized for the Department.

## **ARTICLE XII CHARTER REVOCATION**

Section 1. CHARTER REVOCATION. The Department Executive Committee shall have authority to revoke the charter of a Post when same shall lapse for non-payment of dues, or for steps which are outlined and directed by the Department Convention. In case any charter shall be revoked the records of the Post, dues on hand and property derived from dues shall revert to and become property of the Department; provided, however, that nothing herein shall be construed as requiring the Department to take over or assume any debts, obligations or other financial responsibility of such Post; and provided further that in case a Post shall consolidate with or join another Post such records, dues and property shall be turned over to the Post with which it shall unite.

**ARTICLE XIII**  
**NATIONAL EXECUTIVE COMMITTEE**

Section 1. NATIONAL EXECUTIVE COMMITTEEMAN. The Department representative on the National Executive Committee, who shall be known as the National Executive Committeeman, and an alternate who shall serve if the Committeeman is unable to act, shall be elected every other year by the Department Convention for a two-year term. Election of Committeeman and Alternate shall be at the same convention.

**ARTICLE XIV**  
**POLICIES**

Section 1. PRINCIPLES PRESERVED. No Post or individual member thereof shall take any action which shall tend to embarrass, retard or prejudice the principles or policies of The American Legion.

**ARTICLE XV**  
**AMENDMENT**

Section 1. AMENDMENT. Any amendment to this constitution may be proposed by any Post or by the Department Internal Affairs Commission. Any amendment proposed by a Post shall be submitted in writing to Department Headquarters at least six weeks prior to the annual Department Convention. The Department Adjutant shall present it immediately to the Department Internal Affairs Commission. At least thirty days prior to said convention the Department Internal Affairs Commission shall transmit to all Posts through Department Headquarters, full copy of all amendments submitted by Posts together with the favorable or unfavorable recommendation of the Department Internal Affairs Commission thereon, with a brief statement of reasons for such recommendations; and at the same time the Department Internal Affairs Commission shall in like manner distribute to all Posts full copy of any proposed amendments originating with the Department Internal Affairs Commission itself. No amendment shall be in order for consideration at any convention unless it shall have been so submitted or unless one day notice of a proposed amendment is given and there is then unanimous consent of all delegates to such consideration. If such unanimous consent is given, the Commander shall, immediately and without debate, refer the resolution to the Department Internal Affairs Commission for consideration and recommendation to the proposing convention, for final action.



# BYLAWS

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## THE AMERICAN LEGION DEPARTMENT of SOUTH DAKOTA

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### ARTICLE I EXECUTIVE COMMITTEE

Section 1. **POWERS OVER POSTS — APPEALS.** The Executive Committee shall be the governing body of the organization, and shall pass upon all matters relating to the administration of the organization. It shall review, pass upon, accept or reject, all applications of local Posts, and shall forward to National Headquarters, such applications together with their recommendations; to review, pass upon, accept or reject, all audits or reports, and all travel or other expenditures made by any of the officers of the organization. It shall have full power to cause the dissolution of any Post when proofs of the eligibility of such Post shall be found to be defective or when the charter to such Post shall have lapsed for nonpayment of dues; or when such Post shall have violated any of the provisions of the Department or National Constitutions, or shall fail to substantiate its membership upon application for Charter; provided, that before such charter shall be declared to be lapsed, revoked or denied; such Post shall be given 30 days notice, giving time and place, to fully present its case, provided further that the action of the Executive Committee may be reviewed at the next Annual Convention. The Executive Committee shall have power and authority to hear and determine all appeals made by Posts, or individual members thereof relating to any action of the Posts, including any final action of the Post relating to eligibility to or suspension or expulsion from membership.

Section 2. **APPEAL RULES — HEARING.** The Executive Committee shall make rules and regulations for the hearing of such appeals and shall give all interested persons a reasonable opportunity to appeal and be heard.

Section 3. **POWER FINAL — REVERSAL.** Any action taken by the Executive Committee shall be final until reversed by the Department Convention.

Section 4. **POWERS — DUTIES — QUORUM.** The Executive Committee shall have power to make rules and regulations for its guidance and for the conduct of its business and the duties of its officers or committees, not inconsistent with the Constitution or these Bylaws and shall have such other and further duties as set forth in these Bylaws. The Executive Committee shall meet for business sessions at least twice each year or upon call for a special session by the Department Commander. Fifty percent of the voting strength of the Executive Committee shall constitute a quorum. It shall be the duty of the Executive Committee to provide for an audit by a competent person, of the books and accounts of the Department Adjutant and the Finance Officer within forty-five (45) days after the end of the fiscal year and to ensure that a copy of the audit/compilation of accounts is provided to each member of the Department Finance Commission and Executive Committees and that the documents are available for inspection at State Headquarters. In addition, thereto the Executive Committee may cause an audit of such books and accounts to be made whenever such committee deems it necessary. A transcript of the minutes of the meetings of the Department Executive Committee shall be transmitted to the Posts, together with a complete record of the votes cast for or against the various measures or appropriations voted upon, and by whom voted, within fifteen days of the adjournment of the meeting.

### ARTICLE II DEPARTMENT OFFICERS

Section 1. **DEPARTMENT COMMANDER.** The Department Commander shall be the chief executive officer of the organization and shall preside at all meetings of the Department Convention, and of the Executive Committee. He/She shall carry out such instructions as may be given to him/her by the Executive Committee, and shall be charged with the administration of the affairs of the organization. He/She may from time to time, with approval of the Executive Committee, create, increase, decrease or abolish any committee, except those established by a Department Convention, and fix its powers and duties, and he/she shall designate a member of each committee or commission to serve as chairperson.

Section 2. **DEPARTMENT VICE COMMANDERS.** The Department Vice Commanders shall represent the Commander as he/she may direct. They shall travel with the approval of the Department Commander expressed in written travel orders, which orders shall be filed at Department Headquarters with their expense accounts.

Section 3. DEPARTMENT ADJUTANT. (a) The Department Adjutant shall receive from the local Posts all dues, per capita tax or assessments as provided in the constitution and as may be required by the National or Department convention; he/she shall keep a record of all meetings of the Department Convention and of permanent record in a book or books kept for the Executive Committee and record same for that purpose, and at each regular meeting shall read the same and make such corrections as may be allowed. He/She shall furnish to the Executive Committee for its acceptance and approval, a surety bond in the penal sum of Fifty Thousand Dollars, payable to Department of South Dakota of The American Legion for the faithful performance of his/her duties as such officer. The premium of such bond shall be payable out of the funds of the Department.

(b) If it shall appear at any time to the Executive Committee that such Adjutant has not faithfully discharged his/her duties as such, or has failed to properly account for funds in his/her hands, or that it would be for the best interests of the Organization that such Adjutant may be removed upon a three-fourth majority vote of the entire Executive Committee, and any deficiency under his/her bond collected.

(c) Under direction of the Department Commander, he/she shall cause ten days notice to be given of all meetings, except in case of emergency, when the time shall be fixed by the Department Commander. He/She shall keep a record of all the Posts within the Department, and shall obtain from each Post Adjutant a complete record of its personnel. He/She shall prepare for use at the Annual Convention a complete list and record of the membership of the several Posts, together with a statement showing the number of delegates to which such Post is entitled. He/She shall disseminate to the several Posts all circulars and communications as may be circulated by the National Headquarters, and such circulars or bulletins as may be authorized by the Executive Committee. He/She shall prepare and read at each Annual Convention a report covering all activities of the Department not reported by other officers or committees, and shall have such other powers and duties as may be prescribed by the Executive Committee.

Section 4. DEPARTMENT FINANCE OFFICER. (a) The Department Finance Officer shall receive from the Department Adjutant all dues, per capita tax, or assessments as provided in the Constitution, and as may be required by the Annual Department Convention. He/She shall keep a permanent record of all monies received or disbursed by him/her; and of the sources from which such monies are received, and the purposes for which expended. He/She shall pay out such monies, or any part thereof only upon proper order and voucher, given by the Department Commander or Department Adjutant or the Executive Committee, as hereinafter provided.

(b) He/She shall render to the Department Commander, Adjutant, or the Executive Committee, or the individual members thereof, a complete report of all expenditures and receipts covering any specified period whenever directed to do so by the Department Commander. He/She shall keep his/her books and records in readiness for audit at any time.

(c) He/She shall furnish to the Executive Committee for its acceptance and approval, a surety bond in the penal sum of Fifty Thousand Dollars, payable to the Department of South Dakota of The American Legion for the faithful performance of his/her duties as such officer. The premium of such bond shall be payable out of the funds of the Department.

(d) If it shall appear at any time to the Executive Committee that such Finance Officer has not faithfully discharged his/her duties as such, or has failed to properly account for funds in his/her hands; or that it would be for the best interests of the Organization, such Finance Officer may be removed upon a two-thirds vote of the entire Executive Committee, and any deficiency under his/her bond collected.

Section 5. DEPARTMENT HISTORIAN. The Department Historian shall keep a complete history of the organization from its inception and shall make annual report to the convention of such organization's progress during the preceding year. The Historian shall collect from time to time a history of the war experiences of the members of the organization and of the organizations in which such members served.

Section 6. DEPARTMENT SERGEANT AT ARMS. The duties of the Department Sergeant at Arms shall be such as usually are prescribed for such officers, and such further duties as may be given at each Convention, by the Department Commander or the Executive Committee. Upon nomination of the Sergeant at Arms; with the concurrence of the Department Commander; and the approval of the Executive Committee, an Assistant Sergeant at Arms may be appointed; who will assist the Department Sergeant at Arms in their duties and act with their full authority in their absence. Furthermore, the Department Commander or the Department Judge Advocate, should the need arise, and in the absence of the Department Sergeant at Arms or Assistant Sergeant at Arms, may appoint an acting Sergeant at Arms for the purpose of maintaining order or to assist in duties as needed.

Section 7. DEPARTMENT CHAPLAIN. The duties of the Department Chaplain shall be such as are usual in all matters consistent with the office.

Section 8. DEPARTMENT JUDGE ADVOCATE. The Department Commander, on the approval of the Executive Committee, shall appoint for a term of three years, a Legionnaire who is a member in good standing of the State Bar of South Dakota, as Department Judge Advocate, who shall serve as general counsel to the Department and advise the Department Commander, the Department Executive Committee, the Department Adjutant and the various commissions and committees of the Department of South Dakota on all legal matters including the construction and interpretation of the Department Constitution and Bylaws, and shall perform such other duties as are usually incidental to said office and as may be requested by the Department Commander and Department Executive Committee. Upon nomination of the Department Judge Advocate;

with the concurrence of the Department Commander; and the approval of the Department Executive Committee, an Assistant Judge Advocate may be appointed; who will assist the Department Judge Advocate in their duties and act with their full authority in their absence. In any case that a qualified Legionnaire is not available to fill the office of Department Judge Advocate, or in any case with the Assistant Judge Advocate, a member of the Sons of the American or the American Legion Auxiliary, may be appointed to serve in the capacity, so long as they are otherwise fully qualified.

Section 9. DEPARTMENT SERVICE OFFICER. The Commander, on approval of the Executive Committee, shall appoint the Department Service Officer, whose duty it shall be to provide assistance and representation in any claim for Veterans' benefits. The Department Service Officer shall also serve as the Department's liaison with the VA Regional Office and the South Dakota Department of Veterans Affairs and ensure that information on the rights and benefits of veterans, granted by law, are brought to the attention of all Posts.

Section 10. DEPARTMENT MEMBERSHIP CHAIRMAN. The Commander shall appoint the Department Membership Chairman, whose duty it shall be to work with all levels within the organization to formulate, implement, coordinate and monitor the Department's membership program. The program must stress new recruitment as well as retention of all eligible veterans. The Membership Chairman will work directly with the Department Adjutant/Membership Director in the performance of his/her duties.

### **ARTICLE III REMOVAL AND SUSPENSION FROM OFFICE**

Section 1. REMOVAL FROM OFFICE. In case of defalcation, misdemeanor, misconduct or action inconsistent with the aims and policies of the organization, the Executive Committee shall have power to inquire into such misconduct and determine the extent and nature thereof, and may cause the following officers to appear before them to answer written charges of his/her misconducts: the Department Commander, the Department Vice Commander, the Department Adjutant, Finance Officer, Historian, Sergeant-at-Arms, Chaplain or any other officers appointed by the Executive Committee. The officers so charged shall be given 30 days notice of the time and place of hearing, and the nature of the charges. Upon three-fourths majority vote of the full Executive Committee any elective officer may be removed and his/her office declared vacant, and any appointive officer or committee may be discharged by majority vote. Any action in reference to the removal of an elective officer may be reviewed at the next Annual Convention. In case any of the officers shall be removed or discharged as herein provided, the Executive Committee shall have power to fill the vacancy for the unexpired term.

Section 2. SUSPENSION OF OFFICERS. Any officers of the Department organization, for conduct detrimental to the interests of the organization, or inconsistent with the character of a gentleman/lady or man/woman of honor, or for any other good and sufficient cause, may be suspended or expelled from the organization in the same manner as provided in Article III.

### **ARTICLE IV MEMBERSHIP**

Section 1. DETERMINATIVE POWERS. Each Post of The American Legion shall be the judge of its own membership, subject to the approval of the Department Executive Committee and the restrictions of the Constitution and Bylaws.

Section 2. COMPLETION MEMBERSHIP. Individual membership in the Legion shall be complete upon the acceptance of such membership by the local Post and the filing of the membership card at the office of the Department Adjutant, as prescribed by the National Organization, and the payment of dues at the office of the Department Adjutant and approval of such membership by the Department.

Section 3. SUSPENSION — EXPULSION — APPEAL — REINSTATEMENT. Each Post shall provide rules for the suspension or expulsion of members provided that any person aggrieved by any final action of a Post in regard thereto may appeal to the Department Executive Committee, under such rules as may be prescribed by such committee, and from whose final decision an appeal may be taken to the Department Convention; provided further that any Department Officer may require a Post to certify to the Executive Committee or Department Convention, any action taken in connection with administration to or expulsion from membership. When the Department Executive Committee or Department Convention has finally determined against the eligibility of any person, or after he/she is suspended or expelled, such person shall thereafter not be eligible to membership in any Post until reinstated by the Department Executive Committee or Department Convention.

## **ARTICLE V EXPENDITURES**

Section 1. EXPENDITURES-APPROVAL-BUDGET. The Department Commander shall appoint members of the Finance Commission to serve for revolving 4-year terms selected from a list of qualified persons vetted and approved by the Department Executive Committee prior to the Department Convention. The Commander will appoint to vacant positions as well as fill any unexpired terms. By virtue of his/her office, the Department Finance Officer shall be the fifth member of the Finance Commission and serve as its Chairperson. Finance Commission members shall be eligible to serve more than one consecutive term. This Finance Commission shall be available on call of the Department Commander for consultation on any point of policy dealing with the income, expenditures or budget of the Department. It shall have the full authority of the Executive Committee on activities within the Legion program, but authority to commit the Department to new programs shall remain with the Executive Committee, except that when the Department Commander, in consultation with the Department Adjutant, considers an emergency exists, the Finance Commission shall agree upon the program and notice thereof shall be mailed or e-mailed from the Department Headquarters to all members of the Executive Committee, and unless two-thirds majority protest is received from the Executive Committee within ten days after the date of mailing or e-mailing from the Department Adjutant's office, the program in question shall be deemed approved. The Executive Committee shall have the authority to review the activities of the Finance Commission. The Finance Commission shall meet immediately after its election and frame a budget to carry out the mandates of the Convention and to conduct operation of the Department for the succeeding year. It shall have the authority, from time to time, to modify this budget as occasion demands, but in no case shall it exceed the anticipated revenue for the year. All convention measures or resolutions providing for an appropriation of Department funds, unless approved by the Finance Commission, must receive a two-thirds majority vote of the Convention. No department, commission or committee shall expend or be entitled to receive more than the amount allotted to it under the budget, and no amounts shall be received for travel except upon express authority of the Executive Committee or Department Commander, upon application stating the exact purpose and extent of travel. Necessary expenses incurred in travel shall be paid by voucher. Any officer incurring travel expenses shall make a full report thereof, submitting same with his/her vouchers and authority for travel which shall be subject to review by the Finance Commission and may be referred to the Executive Committee for action if necessary. In addition to travel expenses, the Department Commander may be reimbursed for other expenses actually incurred by him/her in order to carry out his/her duties as Department Commander, upon making a full report thereof, submitting the same with vouchers, which shall be subject to review by the Finance Commission and may be referred to the Executive Committee for action if necessary.

## **ARTICLE VI UNIFORM RECORDS**

Section 1. UNIFORM POST RECORDS. The Executive Committee may prescribe a uniform system of keeping the records of the local Posts, and may require the several members of the Executive Committee to enforce the keeping of such uniform records by the Posts within their respective districts.

## **ARTICLE VII GENERAL DUTIES**

Section 1. UNSPECIFIED DUTIES. Any matter relating to the business of the organization not specified in these Bylaws must be referred to the Executive Committee for determination or adjustment.

## **ARTICLE VIII AMENDMENTS**

Section 1. AMENDMENT OF BYLAWS. These Bylaws may be amended by initiative proceedings or by submitting the amendments at any regular Department Convention and securing a majority vote of the voting strength, together with a majority vote of the Posts represented at the Convention.