

C O N S T I T U T I O N

and

B Y - L A W S

THE AMERICAN LEGION

Department of North Dakota

**Revised and adopted at the Fifty-Ninth Annual Department
Convention held in Grand Forks, North Dakota
June 20-21, 1977
As Amended
(See Inside Cover)**

Department Constitution As Amended by:

1985 Department Convention at Grand Forks -	Article V - Section 2
1990 Department Convention at Grand Forks -	Article II - Section 1
1991 Department Convention at Williston -	Article II - Section 1
1993 Department Convention at Minot -	Article III - Section 1
1995 Department Convention at Williston -	Article IV - Section 1
	Article V - Section 3
	Article V - Section 7
1997 Department Convention at Minot -	Article V - Section 6
	Article V - Section 7
1999 Department Convention at Williston -	Article V - Section 4
2002 Department Convention at Fargo -	Article V - Section 6
	Article V - Section 7
2003 Department Convention at Williston -	Article V - Section 7
2007 Department Convention at Fargo -	Article V - Section 6

Department By-Laws As Amended By:

1982 Department Convention at Minot -	Article VII - Section 1
1993 Department Convention at Minot -	Article I - Section 9
	Article II - Section 1
1995 Department Convention at Williston -	Article I - Section 9
	Article VI - Section 1 & 1(a)
	Article VI - Section 1(c)
1998 Department Convention at Fargo -	Article I - Section 1
	Article VII - Section 2
2000 Department Convention at Dickinson -	Article II - Section 1
	Article IV - Section 3
2002 Department Convention at Fargo -	Article I - Section 4
	Article VII - Section 2
2003 Department Convention at Williston -	Article I - Section 14
	Article VI - Section 1
2007 Department Convention at Fargo -	Article I - Section 2
	Article I - Section 9
	Article VII - Section 1
2008 Department Convention at Minot	Article V - Section 7

CONSTITUTION

Believing in the principles as set forth in the Preamble of the Constitution of The American Legion adopted by the National Convention held at Minneapolis, Minnesota, on November 10, 11, and 12, 1919, and believing there should be a unity of aims and purposes between the National and Department organizations of The American Legion, we hereby adopt the same as the Preamble of this organizations to wit:

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 association in the great wars; To inculcate a sense of individual obligation to the community, state and nation; To combat the autocracy of both the classes and the masses; To make right the master of might; To 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 organization shall be **THE AMERICAN LEGION DEPARTMENT OF NORTH DAKOTA.**

ARTICLE II: ELIGIBILITY

Section 1. 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; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; February 28, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; August 2, 1990, to the date of cessation of hostilities as determined by the Government of the United States; all dates inclusive, or who, being a citizen of the United States at the time of his 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 to military discipline or unqualified service.

ARTICLE II: ELIGIBILITY - CONTINUED

Section 2. There shall be no form or class of membership in any Post in this Department except an active membership as herein above provided.

Section 3. The qualifications for membership in any Post of this Department shall at all times conform to and be identical with the qualifications for membership prescribed by the duly adopted and authorized Constitution of the National Organization of The American Legion and duly adopted and authorized amendments thereto; anything in this Article to the contrary notwithstanding.

ARTICLE III: LIMITATIONS

Section 1. This Department and Posts thereof shall be politically non-partisan and shall not be used for the dissemination of partisan principles or for the promotion of the candidacy of any person seeking public office or preferment. Nothing contained in this provision, however, shall restrict the Department, Posts, or individual members from appearing before legislative bodies in order to promote, wherever practical, military or veteran's affairs. Such appearance shall be in accordance with the applicable laws of the State of North Dakota regulating such activity.

Section 2. This is a civilian organization; rank does not exist herein and no member shall be addressed by his military or naval title in any convention or meeting of this organization or the Posts thereof.

ARTICLE IV: ORGANIZATION

Section 1. This organization shall be composed of local units called "Posts." Each Post shall have a minimum membership of five. No Post shall be received into this organization until it shall have received a charter. A unit desiring a charter shall apply to the Executive Committee of this Department for its recommendation in accordance with the provisions of the Constitution of the National Organization.

Section 2. The officers of each Post shall consist of a Post Commander, one or more Post Vice Commanders, Post Adjutant, Post Finance Officer, Post Historian, Post Chaplain, Post Sergeant-at-Arms, Post Service Officer, and such other officers as any individual Post may deem necessary for the proper conduct of its business.

Section 3. The Department shall be divided into Districts, the boundaries of which shall be determined and fixed by the Department Executive Committee. There shall also be regions, which shall consist of those districts as designated by the Department Executive Committee.

ARTICLE V: ADMINISTRATION

Section 1. The legislative body of this organization shall be a Department Convention to be held annually at a place and time to be fixed by vote of the preceding Convention or in the event that for any reason the preceding Convention does not fix the time and place for said Convention, then the time and place or either, therefore, shall be fixed and determined by the Executive Committee hereinafter provided for.

Section 2. The annual Convention shall be composed of Department officers, delegates or alternates from each Post within this Department, each Post of which shall be entitled to one delegate or alternate at large and to one additional delegate or alternate for each fifty memberships or major portion thereof, paid up thirty days prior to the date of the Department Convention. Each delegate or alternate, in case of the absence of the delegate, and each elected Department officer shall be entitled to one vote in the Convention. Effective for the 1986 Department Convention and thereafter, all Past Department Commanders, if registered for the convention, shall be entitled to one vote with such vote to be exercised with their respective posts.

Section 3. The delegates to the Department Convention shall be chosen by each Post and the names of such delegates shall be certified to the Department Adjutant in care of the Chairman of the Host Convention Committee prior to the date of such Department Convention.

Section 4. For purposes of selecting delegates to the National Convention, there shall be a National Convention Delegate Selection Committee, which shall meet at the call of the Commander prior to the annual Department Convention. Committee membership, rules and procedures shall be formulated by the Commander. The Convention Delegate Selection Committee shall forward the National Delegate list to the Department Executive Committee for action prior to the annual Department Convention. The final list of delegates to the National Convention shall be approved by the Department Convention as described by the Constitution, By-Laws or Rules of the National Organization of The American Legion.

Section 5. 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 at all Department Conventions, unless it is amended, suspended, or repealed by a majority vote of the total authorized representation at a Department Convention.

Section 6. The officers of this Department shall consist of a Department Commander, Department Commander Elect, Department vice Commanders, Department Adjutant, Department Finance Officer, Department Historian, Department Chaplain and Department Sergeant-at-Arms. Elective officers will assume their respective offices immediately after their election; appointive officers will assume their respective offices immediately after their appointment. The Department Historian and the Department Chaplain shall be appointed to a one-year term by the newly elected Department Commander annually. All other Department officers with the exception of the Department Finance Officer and the Department Adjutant shall be elected annually by a majority of the delegates and officers present at the Department Convention at which such election is held. The Department Adjutant shall be appointed by the Department Executive Committee. The Department Finance Officer shall be elected by a majority vote for a two year term at every alternate annual Convention of this Department in the even numbered years. The position of Department Sergeant-at-Arms as an elective position shall be created effective with the Department Convention to be held in 1978. Department vice Commanders shall be elected annually, one from each Region. In the event a vacancy occurs in the office of Department Commander or should the Department Commander be unable to perform the duties of his office, the Department Executive Committee has the power to appoint either the Department Commander-elect or one of the Department vice Commanders to serve as Department Commander. The position of Department Commander Elect as an elective position shall be created effective with the Department Convention held in 1998. The 1998 Department Convention shall elect both a Department Commander and a Department Commander Elect and commencing at the 1999 Department Convention, and at each Department Convention thereafter, the Department Commander Elect shall become the Department Commander upon confirmatory action at the Department Convention.

ARTICLE V - ADMINISTRATION - CONTINUED

Section 7. The Executive power shall be vested in a Department Executive Committee. The Executive Committee shall consist of seven voting members, to include the Department Commander, Department Commander Elect, Department Finance Officer, the immediate Past Department Commander and the Regional Executive Committeemen. Each region shall be represented by one Executive Committeeman elected from their region at a Department Convention. The term of each Regional Executive Committeeman shall be three years, staggered so that the term of no more than two committee members shall expire each year. Regional Department Executive Committeemen shall be limited to serving two elected three-year terms in office. Non-voting members of the Executive Committee shall include the Department Judge Advocate, the Department Membership Chairman, the National Executive Committeeman and the three Department vice-Commanders.

Section 8. The fiscal year of this Department shall be from June 1 to May 31.

ARTICLE VI - NATIONAL EXECUTIVE COMMITTEEMAN AND ALTERNATE

Section 1. One National Executive Committeeman and one Alternate, as provided by the Constitution of the National Organization of The American Legion and the rules and order duly issued by said National Organization and based thereon, shall be elected for a two-year term at every alternate Convention of this Department, being the even numbered years. The Alternate National Executive Committeeman shall be limited to one elected two-year term in office.

Section 2. The National Executive Committeeman shall appear before and make reports to the Department Executive Committee whenever requested to do so by such committee, or the Department Commander thereof, and shall receive his necessary and proper expenses to and from his place of residence to such meeting upon filing a statement thereof with the Department Adjutant.

Section 3. The Department Commander shall have power and authority to fill any vacancies in this office.

ARTICLE VII: AMENDMENT

Section 1. This Constitution may be amended by a two-thirds vote of delegates and officers actually present and voting at any session of the Department Convention, provided such amendment shall first have been presented at least two hours prior to the time of taking such vote thereon.

BY-LAWS

ARTICLE I: DUTIES OF OFFICERS

Section 1. The Immediate Past Department Commander shall be Chairman of the Department Executive Committee and shall preside at all meetings of such committee. The Department Commander shall be Chairman of the Department Convention and shall preside at such convention until his successor is elected and duly qualified, and shall perform such other duties as are usually incident to such an office. The Department Commander is the Chief Executive Officer of this Department and shall make such tours of investigations and inspection as he shall deem necessary and beneficial for said Department and the Posts thereof, and shall be paid his necessary and proper expenses on voucher duly presented to the Department Adjutant.

Section 2. The Department Vice Commanders shall keep in touch with the District Commanders in their Region and visit them in the furtherance and coordination of the work of The American Legion and in the promotion of membership in their respective Regions. The Department Vice Commanders or the Department Commander Elect, shall be invested with all the duties and privileges of the Department Commander during the latter's absence or disability and shall act as such in all cases of absence or disability of such Department Commander.

Section 3. Any Department Office that may become vacant due to the death, absence or disability of the holder, may be filled by appointment by the Department Commander, subject to approval by the Department Executive Committee.

Section 4. The Department Adjutant shall be the Administrative Officer with duties which are usually incident to such office and shall receive such salary as shall be determined by the Department Executive Committee to be fair and reasonable, together with such expenses, and assistance and office space as the Executive Committee shall deem reasonable and necessary for the proper performance of his duties. The Department Adjutant shall be an employee of the Department. Upon appointment, the Department Adjutant shall answer to and be directly supervised by the Department Executive Committee, or sub-committee thereof, and shall serve until removed by the Department Executive Committee, or upon death, disability, retirement, termination, or resignation, whichever shall occur first.

Section 5. The Department Historian shall assist Post historians in coordination and unification of their work, and shall have such other duties as the Department Executive Committee may prescribe.

Section 6. The Department Finance Officer shall be the Treasurer and shall perform such duties incident to such office and shall be bonded in such amount as shall be determined by the Department Executive Committee for the faithful performance of his duties. He shall make a special written report at each annual Convention setting forth in detail the status of the Reserve Fund.

Section 7. The Department Chaplain shall be the spiritual and moral advisor of this Department and shall invoke divine blessings upon the deliberations of the Convention and other Department functions.

Section 8. The Department Sergeant-at-Arms shall be custodian of the Department Colors and shall be in charge of the Color Guard during the presentation and retirement ceremonies of the colors at all Department functions. He shall be present during all Department Conventions and Department Winter Conference sessions and shall be charged with the responsibility of controlling ingress and egress to the Convention Hall and shall perform such other duties as may be required of him to insure that the Convention programs proceed free of any undue disturbances or disruptions.

ARTICLE I: DUTIES OF OFFICERS - CONTINUED

Section 9. The Department Commander shall appoint annually, a District Commander and District vice Commander as recommended by each of the Districts. In each succeeding year, the District vice Commander upon recommendation of the District, shall be appointed District Commander by the Department Commander. It shall be their duty to keep in touch with the Posts in their respective Districts and to visit them in the furtherance and coordination of the work of The American Legion and in the promotion of membership. In the event that the office of District Commander may become vacant due to his death, absence or disability, the vacancy may be filled by appointment by the Department Commander. District Commanders shall be Department Delegates to the National Convention of The American Legion.

Section 10. The Department Commander shall appoint a Department Judge Advocate whose duties it shall be to act as legal advisor to the Department Officers and to preside as chairman of the standing committee on Constitution and By-Laws.

Section 11. The Department Commander, the Department Adjutant, and the Department Finance Officer shall prepare and submit an annual report of their respective offices to each Convention.

Section 12. It shall be the duty of all Department Officers to attend all Department Conventions during their incumbency in office and their necessary and proper expenses to and from their respective places of residence and in attendance at such Convention shall be paid by this Department upon presenting a proper statement to the Department Adjutant.

Section 13. Elected Department Officers shall have the privilege of the floor and shall be entitled to vote at Department Conventions, each such elected officer's vote to be cast with that of his Post delegation.

Section 14. The Department Commander shall appoint annually a Department Membership Chairman whose duties shall be to plan, organize and coordinate Department membership and recruitment activities and to carry out other duties and responsibilities as may be prescribed by the Commander or the Department Executive Committee.

ARTICLE II: ANNUAL DUES

Section 1. Annual dues of the Department shall be payable October 20 of each year, for the succeeding calendar year. The amount of department dues shall be determined by action of the Department Convention. National dues shall be as determined by such National Organization; Post dues shall be determined by each individual Post.

Section 2. Annual dues shall be collected by each post and transmitted promptly to the Department Adjutant at Department Headquarters. In no event shall the period transpiring between the receipt of such annual dues by a Post and the remittance thereof to Department Headquarters exceed thirty days.

ARTICLE III: DEPARTMENT HEADQUARTERS

Section 1. The Department Headquarters of this Department shall be at such location as determined by action of the Department Convention.

ARTICLE IV: DEPARTMENT EXECUTIVE COMMITTEE

Section 1. The Department Executive Committee, after notice and a hearing, may recommend to the National Executive Committee the suspension or revocation of the charter of any Post in this Department when such Post violates the Constitution of the National Organization or this Department, or which fails adequately to discipline any of its members for any such violation and may provide for the government and administration of such Post during such suspension or upon such revocation.

Section 2. Meetings of the Department Executive Committee shall be held upon call of the Department Commander or upon written request of any three members of such committee and shall be held at the office of the Department Adjutant unless otherwise ordered.

Section 3. The necessary and proper expenses of the Executive Committee members shall be paid by the Department upon proper statement submitted to the Department Adjutant.

ARTICLE V: DEPARTMENT CONVENTIONS

Section 1. Robert's Rules of Order and the Department Uniform Code of Procedure shall govern all Conventions of this Department.

Section 2. The Department Commander shall appoint a Committee on Credentials consisting of a least three members and such other committees as the Convention or Department Commander may deem necessary for the proper conduct of business.

Section 3. A majority of the delegates and elected Department Officers duly recognized by the Committee on Credentials shall constitute a quorum for the transaction of business of this Department at its Convention.

ARTICLE V: DEPARTMENT CONVENTIONS - CONTINUED

Section 4. The Department Judge Advocate, as Chairman of the Constitution and By-Laws Committee, shall receive from the Department Adjutant each year a transcript of the changes made in the National Constitution, and shall prepare such changes in the Department Constitution and By-Laws as may be necessary to conform thereto. This committee shall also take the necessary action to amend the Department Constitution to meet changed conditions.

ARTICLE VI: STANDING COMMITTEES

Section 1. The Department Commander, upon assuming office, shall appoint the following standing committees, which shall be in existence until new committees are appointed by the succeeding Commander, to wit:

(a) **Finance, Budget & Audit Committee.** This committee shall be composed of the newly elected Department Commander, the newly elected Department Commander Elect, the Department Adjutant and the Department Finance Officer. Its duties shall consist of the formulation of a budget for the succeeding year, the study and report of proposals for new ventures or expansion of old ventures requiring the expenditure of Department funds, and the supervision of the General Fund as well as the Reserve Fund of this Department, the last named being under the trusteeship of the American Legion Foundation, Inc., as per Agreement dated August 14, 1993, which agreement is incorporated herein by reference thereto. The Finance, Budget and Audit Committee shall prepare a tentative budget for the ensuing fiscal year, and shall submit the same to the Department Executive Committee for its approval and adoption at their Department Convention meeting. Any proposal for a new activity or for the expansion of an old activity which requires the expenditure of funds additional to those set forth in the budget as adopted by the Executive Committee, which, if a Convention is not in session, shall submit its report to the Department Executive Committee at the next ensuing Department Executive Committee meeting. In the event of any proposal made while a Department Convention is in session, such proposal shall be referred to this Committee for its consideration and report, which report shall be made within 24 hours. Should the Convention adjourn prior to the lapse of this time, the Department Finance, Budget and Audit Committee will make its report to the Executive Committee as above provided. No measure calling for the expenditure of more than \$500.00 annually shall be acted upon by any Department Convention until it shall have first been referred to the Finance, Budget and Audit Committee.

(b) **Committees for Veterans Affairs-Rehabilitation, Americanism and Children and Youth** to carry out the basic programs of The American Legion and such other committees as may be necessary with the approval of the Department Executive Committee as directed by the Department Convention.

(c) The above named committees plus such other committees that may be appointed from time to time shall report regularly to the Department Executive Committee and, if so ordered, shall make recommendations for any action to be approved by the Department Executive Committee.

ARTICLE VII: DELEGATES TO NATIONAL CONVENTION

Section 1. The expense allowance for delegates to the National Convention in attendance at such Convention shall be paid by the Department, provided that only the roundtrip transportation expenses shall be paid to such delegate and in no case shall any delegate receive in excess of \$250.00 for such expenses or disbursements. The roundtrip transportation expense shall be paid in the amount equivalent to the air coach fare for traveling over a reasonable direct and most expeditious route from the delegate's nearest commercial airline passenger terminal to the National Convention city plus mileage at a rate set by the Department Executive Committee roundtrip from the delegate's hometown to that airline terminal, up to the \$250.00 maximum. Any delegate compensated by National Headquarters for attending the National Convention shall not receive any expense reimbursement from the Department as such delegate.

Section 2. The newly elected Department Commander, the Department Adjutant, the Immediate Past Department Commander and the newly elected Alternate National Executive Committeeman shall be ex-officio included as delegates at large to the National Convention, the National Executive Committeeman being a delegate by virtue of his office as per National By-Laws. The Immediate Past Department Commander shall serve as Chairman of the Department delegation at the National Convention.

ARTICLE VIII: POST ELECTIONS

Section 1. An annual election in all Posts of the Department shall be held in April or May of each year prior to the Department Convention.

ARTICLE IX: AMENDMENT

Section 1. These By-Laws may be amended by a two-thirds vote of the delegates and elected Department Officers actually present and voting at any session of the Department Convention provided such amendments shall first have been presented at least two hours prior to the time of taking such vote thereon.