

109TH CONGRESS
2D SESSION

H. R. 6343

To amend the Congressional Charter of The American National Red Cross to modernize its governance structure, to enhance the ability of the board of governors of The American National Red Cross to support the critical mission of The American National Red Cross in the 21st century, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2006

Mr. RADANOVICH (for himself and Ms. HARMAN) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To amend the Congressional Charter of The American National Red Cross to modernize its governance structure, to enhance the ability of the board of governors of The American National Red Cross to support the critical mission of The American National Red Cross in the 21st century, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The American Na-
5 tional Red Cross Governance Modernization Act of 2006”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Substantive changes to the Congressional
4 Charter of The American National Red Cross have
5 not been made since 1947.6 (2) In February 2006, the board of governors
7 of The American National Red Cross (the “Board of
8 Governors”) commissioned an independent review
9 and analysis of the Board of Governors’ role, com-
10 position, size, relationship with management, govern-
11 ance relationship with chartered units of The Amer-
12 ican National Red Cross, and whistleblower and
13 audit functions.14 (3) In an October 2006 report of the Board of
15 Governors, entitled “American Red Cross Govern-
16 ance for the 21st Century” (the “Governance Re-
17 port”), the Board of Governors recommended
18 changes to the Congressional Charter, bylaws, and
19 other governing documents of The American Na-
20 tional Red Cross to modernize and enhance the ef-
21 fectiveness of the Board of Governors and govern-
22 ance structure of The American National Red Cross.
23 Recommendations from the Governance Report call-
24 ing for amendments to the Congressional Charter
25 are set forth in this legislation.

15 (A) reviewing and approving the mission
16 statement for The American National Red
17 Cross;

18 (B) approving and overseeing the corpora-
19 tion's strategic plan and maintaining strategic
20 oversight of operational matters;

21 (C) selecting, evaluating, and determining
22 the level of compensation of the corporation's
23 chief executive officer;

24 (D) evaluating the performance and estab-
25 lishing the compensation of the senior leader-

1 ship team and providing for management suc-
2 cession;

3 (E) overseeing the financial reporting and
4 audit process, internal controls, and legal com-
5 pliance;

6 (F) holding management accountable for
7 performance;

8 (G) providing oversight of the financial
9 stability of the corporation;

10 (H) ensuring the inclusiveness and diver-
11 sity of the corporation;

12 (I) providing oversight of the protection of
13 the brand of the corporation; and

14 (J) assisting with fundraising on behalf of
15 the corporation.

16 (6) The selection of members of the Board of
17 Governors is a critical component of effective gov-
18 ernance for The American National Red Cross. As
19 the Governance Report contemplates, The American
20 National Red Cross is expected to implement amend-
21 ments to its bylaws to provide a method of selection
22 consistent with that described in the Governance Re-
23 port. The new method of selection would replace the
24 current process by which—

6 (B) 12 at-large members of the Board of
7 Governors are nominated by a Board committee
8 and elected by the Board of Governors; and

9 (C) 8 members of the Board of Governors
10 are appointed by the President of the United
11 States.

The new method of selection described in the Governance Report reflects the single category of members of the Board of Governors that will result from the implementation of this legislation. All Board members (except for the chairman of the Board of Governors) would be nominated by a single committee of the Board of Governors taking into account the criteria outlined in the Governance Report to assure the expertise, skills, and experience of a governing board. The nominated members would be considered for approval by the full Board of Governors and then submitted to The American National Red Cross annual meeting of delegates for election, in keeping with the standard corporate

1 practice whereby shareholders of a corporation elect
2 members of a board of directors at its annual meet-
3 ing.

4 (7) The United States Supreme Court held The
5 American National Red Cross to be an instrumen-
6 tality of the United States. The changes to the Con-
7 gressional Charter of The American National Red
8 Cross affected by this legislation are not intended to
9 alter that status. This legislation therefore confirms
10 the status of The American National Red Cross as
11 an instrumentality of the United States and ac-
12 knowledges as unaffected the rights and obligations
13 of The American National Red Cross to carry out its
14 purposes as set forth in the Congressional Charter.

15 (8) Given the role of The American National
16 Red Cross in disaster relief and assistance, blood
17 services, and in meeting international treaty and
18 other obligations, the effectiveness of The American
19 National Red Cross will be promoted by the creation
20 of an organizational ombudsman to be the neutral or
21 impartial dispute resolution practitioner whose major
22 function will be to provide confidential and informal
23 assistance to the many internal and external stake-
24 holders of The American National Red Cross. The
25 American National Red Cross ombudsman will re-

1 port to the chief executive officer and the audit com-
2 mittee of the Board of Governors and will have ac-
3 cess to anyone and any documents in The American
4 National Red Cross.

5 (9) Charitable organizations are an indispen-
6 sable part of American society, but these organiza-
7 tions can only fulfill their important roles by main-
8 taining the trust of the American public. This trust
9 is fostered by effective governance and transparency,
10 which are the principal goals of the recommenda-
11 tions of the Board of Governors in the Governance
12 Report and this legislation. Federal and State action
13 play an important role by setting standards, rooting
14 out violations, and informing the public. The Amer-
15 ican National Red Cross is and will remain a Feder-
16 ally chartered instrumentality of the United States,
17 and it has the rights and obligations consistent with
18 that status. Congress nevertheless expects The
19 American National Red Cross to maintain appro-
20 priate communications with State regulators of char-
21 itable organizations and to cooperate with them as
22 appropriate in specific matters as they arise from
23 time to time.

1 **SEC. 3. ORGANIZATION.**

2 Section 300101 of title 36, United States Code, is
3 amended—

4 (1) in subsection (a), by inserting “a Federally
5 chartered instrumentality of the United States and”
6 before “a body corporate and politic”; and

7 (2) in subsection (b), by inserting at the end
8 the following new sentence: “The corporation may
9 conduct its business and affairs, and otherwise hold
10 itself out, as the ‘American Red Cross’ in any juris-
11 diction.”.

12 **SEC. 4. PURPOSES.**

13 Section 300102 of title 36, United States Code, is
14 amended—

15 (1) by striking “and” at the end of paragraph
16 (3);

17 (2) by striking the period at the end of para-
18 graph (4) and inserting “; and”; and

19 (3) by adding at the end the following para-
20 graph:

21 “(5) to conduct other activities consistent with
22 the foregoing purposes.”.

23 **SEC. 5. MEMBERSHIP AND CHAPTERS.**

24 Section 300103 of title 36, United States Code, is
25 amended—

13 SEC. 6. BOARD OF GOVERNORS.

14 Section 300104 of title 36, United States Code, is
15 amended to read as follows:

16 “§ 300104. Board of governors

17 "(a) BOARD OF GOVERNORS.—

18 “(1) IN GENERAL.—The board of governors is
19 the governing body of the corporation with all pow-
20 ers of governing and directing, and of overseeing the
21 management of the business and affairs of, the cor-
22 poration.

23 “(2) NUMBER.—The board of governors shall
24 fix by resolution, from time to time, the number of

1 members constituting the entire board of governors,
2 provided that—

3 “(A) as of March 31, 2009, and thereafter,
4 there shall be no fewer than 12 and no more
5 than 25 members; and

6 “(B) as of March 31, 2012, and thereafter,
7 there shall be no fewer than 12 and no more
8 than 20 members constituting the entire board.

9 Procedures to implement the preceding sentence
10 shall be provided in the bylaws.

11 “(3) APPOINTMENT.—The governors shall be
12 appointed or elected in the following manner:

13 “(A) CHAIRMAN.—

14 “(i) IN GENERAL.—The board of gov-
15 ernors, in accordance with procedures pro-
16 vided in the bylaws, shall recommend to
17 the President an individual to serve as
18 chairman of the board of governors. If
19 such recommendation is approved by the
20 President, the President shall appoint such
21 individual to serve as chairman of the
22 board of governors.

23 “(ii) VACANCIES.—Vacancies in the
24 office of the chairman, including vacancies
25 resulting from the resignation, death, or

1 removal by the President of the chairman,
2 shall be filled in the same manner de-
3 scribed in clause (i).

4 “(iii) DUTIES.—The chairman shall
5 be a member of the board of governors
6 and, when present, shall preside at meet-
7 ings of the board of governors and shall
8 have such other duties and responsibilities
9 as may be provided in the bylaws or a res-
10 olution of the board of governors.

11 “(B) OTHER MEMBERS.—

12 “(i) IN GENERAL.—Members of the
13 board of governors other than the chair-
14 man shall be elected at the annual meeting
15 of the corporation in accordance with such
16 procedures as may be provided in the by-
17 laws.

18 “(ii) VACANCIES.—Vacancies in any
19 such elected board position and in any
20 newly created board position may be filled
21 by a vote of the remaining members of the
22 board of governors in accordance with such
23 procedures as may be provided in the by-
24 laws.

25 “(b) TERMS OF OFFICE.—

1 “(1) IN GENERAL.—The term of office of each
2 member of the board of governors shall be 3 years,
3 except that—

4 “(A) the board of governors may provide
5 under the bylaws that the terms of office of
6 members of the board of governors elected to
7 the board of governors before March 31, 2012,
8 may be less than 3 years in order to implement
9 the provisions of subparagraphs (A) and (B) of
10 subsection (a)(2); and

11 “(B) any member of the board of gov-
12 ernors elected by the board to fill a vacancy in
13 a board position arising before the expiration of
14 its term may, as determined by the board, serve
15 for the remainder of that term or until the next
16 annual meeting of the corporation.

17 “(2) STAGGERED TERMS.—The terms of office
18 of members of the board of governors (other than
19 the chairman) shall be staggered such that, by
20 March 31, 2012, and thereafter, $\frac{1}{3}$ of the entire
21 board (or as near to $\frac{1}{3}$ as practicable) shall be elect-
22 ed at each successive annual meeting of the corpora-
23 tion with the term of office of each member of the
24 board of governors elected at an annual meeting ex-

1 piring at the third annual meeting following the an-
2 nual meeting at which such member was elected.

3 “(3) TERM LIMITS.—No person may serve as a
4 member of the board of governors for more than
5 such number of terms of office or years as may be
6 provided in the bylaws.

7 “(c) COMMITTEES AND OFFICERS.—The board—

8 “(1) may appoint, from its own members, an
9 executive committee to exercise such powers of the
10 board when the board is not in session as may be
11 provided in the bylaws;

12 “(2) may appoint such other committees or ad-
13 visory councils with such powers as may be provided
14 in the bylaws or a resolution of the board of gov-
15 ernors;

16 “(3) shall appoint such officers of the corpora-
17 tion, including a chief executive officer, with such
18 duties, responsibilities, and terms of office as may be
19 provided in the bylaws or a resolution of the board
20 of governors; and

21 “(4) may remove members of the board of gov-
22 ernors (other than the chairman), officers, and em-
23 ployees under such procedures as may be provided in
24 the bylaws or a resolution of the board of governors.

25 “(d) ADVISORY COUNCIL.—

1 “(1) ESTABLISHMENT.—There shall be an advi-
2 sory council to the board of governors.

3 “(2) MEMBERSHIP; APPOINTMENT BY PRESI-
4 DENT.—

5 “(A) IN GENERAL.—The advisory council
6 shall be composed of no fewer than 8 and no
7 more than 10 members, each of whom shall be
8 appointed by the President from principal offi-
9 cers of the executive departments and senior of-
10 ficers of the Armed Forces whose positions and
11 interests qualify them to contribute to carrying
12 out the programs and purposes of the corpora-
13 tion.

14 “(B) MEMBERS FROM THE ARMED
15 FORCES.—At least 1, but not more than 3, of
16 the members of the advisory council shall be se-
17 lected from the Armed Forces.

18 “(3) DUTIES.—The advisory council shall ad-
19 vise, report directly to, and meet, at least 1 time per
20 year with the board of governors, and shall have
21 such name, functions and be subject to such proce-
22 dures as may be provided in the bylaws.

23 “(e) ACTION WITHOUT MEETING.—Any action re-
24 quired or permitted to be taken at any meeting of the
25 board of governors or of any committee thereof may be

1 taken without a meeting if all members of the board or
2 committee, as the case may be, consent thereto in writing,
3 or by electronic transmission and the writing or writings
4 or electronic transmission or transmissions are filed with
5 the minutes of proceedings of the board or committee.
6 Such filing shall be in paper form if the minutes are main-
7 tained in paper form and shall be in electronic form if
8 the minutes are maintained in electronic form.

9 “(f) VOTING BY PROXY.—

10 “(1) IN GENERAL.—Voting by proxy is not al-
11 lowed at any meeting of the board, at the annual
12 meeting, or at any meeting of a chapter.

13 “(2) EXCEPTION.—The board may allow the
14 election of governors by proxy during any emer-
15 gency.

16 “(g) BYLAWS.—

17 “(1) IN GENERAL.—The board of governors
18 may—

19 “(A) at any time adopt bylaws; and

20 “(B) at any time adopt bylaws to be effec-
21 tive only in an emergency.

22 “(2) EMERGENCY BYLAWS.—Any bylaws adopt-
23 ed pursuant to paragraph (1)(B) may provide spe-
24 cial procedures necessary for managing the corpora-
25 tion during the emergency. All provisions of the reg-

1 ular bylaws consistent with the emergency bylaws re-
2 main effective during the emergency.

3 “(h) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘entire board’ means the total
5 number of members of the board of governors that
6 the corporation would have if there were no vacan-
7 cies; and

8 “(2) the term ‘emergency’ shall have such
9 meaning as may be provided in the bylaws.”.

10 **SEC. 7. POWERS.**

11 Paragraph (a)(1) of section 300105 of title 36,
12 United States Code, is amended by striking “bylaws” and
13 inserting “policies”.

14 **SEC. 8. ANNUAL MEETING.**

15 Section 300107 of title 36, United States Code, is
16 amended to read as follows:

17 **“§ 300107. Annual meeting**

18 “(a) IN GENERAL.—The annual meeting of the cor-
19 poration is the annual meeting of delegates of the chap-
20 ters.

21 “(b) TIME OF MEETING.—The annual meeting shall
22 be held as determined by the board of governors.

23 “(c) PLACE OF MEETING.—The board of governors
24 is authorized to determine that the annual meeting shall
25 not be held at any place, but may instead be held solely

1 by means of remote communication subject to such proce-
2 dures as are provided in the bylaws.

3 “(d) VOTING.—

4 “(1) IN GENERAL.—In matters requiring a vote
5 at the annual meeting, each chapter is entitled to at
6 least 1 vote, and voting on all matters may be con-
7 ducted by mail, telephone, telegram, cablegram, elec-
8 tronic mail, or any other means of electronic or tele-
9 phone transmission, provided that the person voting
10 shall state, or submit information from which it can
11 be determined, that the method of voting chosen was
12 authorized by such person.

13 “(2) ESTABLISHMENT OF NUMBER OF
14 VOTES.—

15 “(A) IN GENERAL.—The board of gov-
16 ernors shall determine on an equitable basis the
17 number of votes that each chapter is entitled to
18 cast, taking into consideration the size of the
19 membership of the chapters, the populations
20 served by the chapters, and such other factors
21 as may be determined by the board.

22 “(B) PERIODIC REVIEW.—The board of
23 governors shall review the allocation of votes at
24 least every 5 years.”.

1 **SEC. 9. ENDOWMENT FUND.**

2 Section 300109 of title 36, United States Code, is
3 amended—

4 (1) by striking “nine” from the first sentence
5 thereof; and

6 (2) by striking the second sentence and inserting
7 the following: “The corporation shall prescribe
8 policies and regulations on terms and tenure of of-
9 fice, accountability, and expenses of the board of
10 trustees.”.

11 **SEC. 10. ANNUAL REPORT AND AUDIT.**

12 Subsection (a) of section 300110 of title 36, United
13 States Code, is amended to read as follows:

14 “(a) SUBMISSION OF REPORT.—As soon as prac-
15 ticable after the end of the corporation’s fiscal year, which
16 may be changed from time to time by the board of gov-
17 ernors, the corporation shall submit a report to the Sec-
18 retary of Defense on the activities of the corporation dur-
19 ing such fiscal year, including a complete, itemized report
20 of all receipts and expenditures.”.

21 **SEC. 11. COMPTROLLER GENERAL OF THE UNITED STATES
22 AND OFFICE OF THE OMBUDSMAN.**

23 (a) IN GENERAL.—Chapter 3001 of title 36, United
24 States Code, is amended by redesignating section 300111
25 as section 300113 and by inserting after section 300110
26 the following new sections:

1 **“§ 300111. Authority of the Comptroller General of**
2 **the United States**

3 “The Comptroller General of the United States is au-
4 thorized to review the corporation’s involvement in any
5 Federal program or activity the Government carries out
6 under law.

7 **“§ 300112. Office of the Ombudsman**

8 “(a) ESTABLISHMENT.—The corporation shall estab-
9 lish an Office of the Ombudsman with such duties and
10 responsibilities as may be provided in the bylaws or a reso-
11 lution of the board of governors.

12 “(b) REPORT.—The Office of the Ombudsman shall
13 submit a report annually to Congress concerning any
14 trends and systemic matters that the Office of the Om-
15 budsman has identified as confronting the corporation.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 3001 of title 36, United States Code, is
18 amended by striking the item relating to section 300111
19 and inserting the following:

“300111. Authority of the Comptroller General of the United States.
“300112. Office of the Ombudsman.
“300113. Reservation of right to amend or repeal.”.

