

110TH CONGRESS
1ST SESSION

H. R. 1681

AN ACT

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 2007”.

6 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) Substantive changes to the Congressional
10 Charter of The American National Red Cross have
11 not been made since 1947.

12 (2) In February 2006, the board of governors
13 of The American National Red Cross (the “Board of
14 Governors”) commissioned an independent review
15 and analysis of the Board of Governors’ role, com-
16 position, size, relationship with management, govern-
17 ance relationship with chartered units of The Amer-
18 ican National Red Cross, and whistleblower and
19 audit functions.

20 (3) In an October 2006 report of the Board of
21 Governors, entitled “American Red Cross Govern-
22 ance for the 21st Century” (the “Governance Re-
23 port”), the Board of Governors recommended
24 changes to the Congressional Charter, bylaws, and
25 other governing documents of The American Na-

1 tional Red Cross to modernize and enhance the ef-
2 fectiveness of the Board of Governors and govern-
3 ance structure of The American National Red Cross.

4 (4) It is in the national interest to create a
5 more efficient governance structure of The American
6 National Red Cross and to enhance the Board of
7 Governors' ability to support the critical mission of
8 The American National Red Cross in the 21st cen-
9 tury.

10 (5) It is in the national interest to clarify the
11 role of the Board of Governors as a governance and
12 strategic oversight board and for The American Na-
13 tional Red Cross to amend its bylaws, consistent
14 with the recommendations described in the Govern-
15 ance Report, to clarify the role of the Board of Gov-
16 ernors and to outline the areas of its responsibility,
17 including—

18 (A) reviewing and approving the mission
19 statement for The American National Red
20 Cross;

21 (B) approving and overseeing the corpora-
22 tion's strategic plan and maintaining strategic
23 oversight of operational matters;

1 (C) selecting, evaluating, and determining
2 the level of compensation of the corporation's
3 chief executive officer;

4 (D) evaluating the performance and estab-
5 lishing the compensation of the senior leader-
6 ship team and providing for management suc-
7 cession;

8 (E) overseeing the financial reporting and
9 audit process, internal controls, and legal com-
10 pliance;

11 (F) holding management accountable for
12 performance;

13 (G) providing oversight of the financial
14 stability of the corporation;

15 (H) ensuring the inclusiveness and diver-
16 sity of the corporation;

17 (I) ensuring the chapters of the corpora-
18 tion are geographically and regionally diverse;

19 (J) providing oversight of the protection of
20 the brand of the corporation; and

21 (K) assisting with fundraising on behalf of
22 the corporation.

23 (6)(A) The selection of members of the Board
24 of Governors is a critical component of effective gov-
25 ernance for The American National Red Cross, and,

1 as such, it is in the national interest that The Amer-
2 ican National Red Cross amend its bylaws to provide
3 a method of selection consistent with that described
4 in the Governance Report.

5 (B) The new method of selection should replace
6 the current process by which—

7 (i) 30 chartered unit-elected members of
8 the Board of Governors are selected by a non-
9 Board committee which includes 2 members of
10 the Board of Governors and other individuals
11 elected by the chartered units themselves;

12 (ii) 12 at-large members of the Board of
13 Governors are nominated by a Board committee
14 and elected by the Board of Governors; and

15 (iii) 8 members of the Board of Governors
16 are appointed by the President of the United
17 States.

18 (C) The new method of selection described in
19 the Governance Report reflects the single category of
20 members of the Board of Governors that will result
21 from the implementation of this Act:

22 (i) All Board members (except for the
23 chairman of the Board of Governors) would be
24 nominated by a single committee of the Board
25 of Governors taking into account the criteria

1 outlined in the Governance Report to assure the
2 expertise, skills, and experience of a governing
3 board.

4 (ii) The nominated members would be con-
5 sidered for approval by the full Board of Gov-
6 ernors and then submitted to The American
7 National Red Cross annual meeting of delegates
8 for election, in keeping with the standard cor-
9 porate practice whereby shareholders of a cor-
10 poration elect members of a board of directors
11 at its annual meeting.

12 (7) The United States Supreme Court held The
13 American National Red Cross to be an instrumen-
14 tality of the United States, and it is in the national
15 interest that the Congressional Charter confirm that
16 status and that any changes to the Congressional
17 Charter do not affect the rights and obligations of
18 The American National Red Cross to carry out its
19 purposes.

20 (8) Given the role of The American National
21 Red Cross in carrying out its services, programs,
22 and activities, and meeting its various obligations,
23 the effectiveness of The American National Red
24 Cross will be promoted by the creation of an organi-
25 zational ombudsman who—

1 (A) will be a neutral or impartial dispute
2 resolution practitioner whose major function
3 will be to provide confidential and informal as-
4 sistance to the many internal and external
5 stakeholders of The American National Red
6 Cross;

7 (B) will report to the chief executive officer
8 and the audit committee of the Board of Gov-
9 ernors; and

10 (C) will have access to anyone and any
11 documents in The American National Red
12 Cross.

13 (b) SENSE OF CONGRESS.—It is the sense of Con-
14 gress that—

15 (1) charitable organizations are an indispen-
16 sable part of American society, but these organiza-
17 tions can only fulfill their important roles by main-
18 taining the trust of the American public;

19 (2) trust is fostered by effective governance and
20 transparency, which are the principal goals of the
21 recommendations of the Board of Governors in the
22 Governance Report and this Act;

23 (3) Federal and State action play an important
24 role in ensuring effective governance and trans-

1 parenthood by setting standards, rooting out violations,
2 and informing the public;

3 (4) while The American National Red Cross is
4 and will remain a Federally chartered instrumen-
5 tality of the United States, and it has the rights and
6 obligations consistent with that status, The Amer-
7 ican National Red Cross nevertheless should main-
8 tain appropriate communications with State regu-
9 lators of charitable organizations and should cooper-
10 ate with them as appropriate in specific matters as
11 they arise from time to time; and

12 (5) while The American National Red Cross is
13 and will remain a Federally chartered instrumen-
14 tality of the United States, and it has the rights and
15 obligations consistent with that status, The Amer-
16 ican National Red Cross nevertheless should main-
17 tain appropriate communications and collaborations
18 with local, community, and faith-based non-profit or-
19 ganizations, including those organizations that work
20 within minority communities.

21 **SEC. 3. ORGANIZATION.**

22 Section 300101 of title 36, United States Code, is
23 amended—

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

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

9 **SEC. 4. PURPOSES.**

10 Section 300102 of title 36, United States Code, is
11 amended—

12 (1) by striking “and” at the end of paragraph
13 (3);

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

16 (3) by adding at the end the following para-
17 graph:

18 “(5) to conduct other activities consistent with
19 the foregoing purposes.”.

20 **SEC. 5. MEMBERSHIP AND CHAPTERS.**

21 Section 300103 of title 36, United States Code, is
22 amended—

23 (1) in subsection (a), by inserting “, or as oth-
24 erwise provided,” before “in the bylaws”;

25 (2) in subsection (b)(1)—

1 (A) by striking “board of governors” and
 2 inserting “corporation”; and

3 (B) by inserting “policies and” before
 4 “regulations related”; and
 5 (3) in subsection (b)(2)—

6 (A) by inserting “policies and” before
 7 “regulations shall require”; and

8 (B) by striking “national convention” and
 9 inserting “annual meeting”.

10 **SEC. 6. BOARD OF GOVERNORS.**

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

13 **“§ 300104. Board of governors**

14 “(a) BOARD OF GOVERNORS.—

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

20 “(2) NUMBER.—The board of governors shall
 21 fix by resolution, from time to time, the number of
 22 members constituting the entire board of governors,
 23 provided that—

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

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

7 Procedures to implement the preceding sentence
8 shall be provided in the bylaws.

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

11 “(A) CHAIRMAN.—

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

21 “(ii) VACANCIES.—Vacancies in the
22 office of the chairman, including vacancies
23 resulting from the resignation, death, or
24 removal by the President of the chairman,

1 shall be filled in the same manner de-
2 scribed in clause (i).

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

10 “(B) OTHER MEMBERS.—

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

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

24 “(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 advisory council to the board of governors.

2 “(2) MEMBERSHIP; APPOINTMENT BY PRESIDENT.—

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

10 “(B) MEMBERS FROM THE ARMED
11 FORCES.—At least 1, but not more than 3, of
12 the members of the advisory council shall be selected from the Armed Forces.

13 “(3) DUTIES.—The advisory council shall advise, report directly to, and meet, at least 1 time per
14 year with the board of governors, and shall have
15 such name, functions and be subject to such procedures as may be provided in the bylaws.

16 “(e) ACTION WITHOUT MEETING.—Any action required or permitted to be taken at any meeting of the
17 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 Subsection (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 insert-
7 ing 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.—

13 “(1) IN GENERAL.—The Office of the Ombuds-
14 man shall submit annually to the appropriate Con-
15 gressional committees a report concerning any
16 trends and systemic matters that the Office of the
17 Ombudsman has identified as confronting the cor-
18 poration.

19 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—For purposes of paragraph (1), the appro-
21 priate Congressional committees are the following
22 committees of Congress:

23 “(A) SENATE COMMITTEES.—The appro-
24 priate Congressional committees of the Senate
25 are—

26 “(i) the Committee on Finance;

1 “(ii) the Committee on Foreign Rela-
2 tions;

3 “(iii) the Committee on Health, Edu-
4 cation, Labor, and Pensions;

5 “(iv) the Committee on Homeland Se-
6 curity and Governmental Affairs; and

7 “(v) the Committee on the Judiciary.

8 “(B) HOUSE COMMITTEES.—The appro-
9 priate Congressional committees of the House
10 of Representatives are—

11 “(i) the Committee on Energy and
12 Commerce;

13 “(ii) the Committee on Foreign Af-
14 fairs;

15 “(iii) the Committee on Homeland Se-
16 curity;

17 “(iv) the Committee on the Judiciary;
18 and

19 “(v) the Committee on Ways and
20 Means.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for chapter 3001 of title 36, United States Code, is
23 amended by striking the item relating to section 300111
24 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.”.

Passed the House of Representatives April 17, 2007.

Attest:

Clerk.

110TH CONGRESS
1ST Session

H. R. 1681

AN ACT

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.