

110TH CONGRESS
1ST SESSION

S. 655

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”.

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

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) Substantive changes to the Congressional
5 Charter of The American National Red Cross have
6 not been made since 1947.

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

15 (3) In an October 2006 report of the Board of
16 Governors, entitled “American Red Cross Govern-
17 ance for the 21st Century” (the “Governance Re-
18 port”), the Board of Governors recommended
19 changes to the Congressional Charter, bylaws, and
20 other governing documents of The American Na-
21 tional Red Cross to modernize and enhance the ef-
22 fectiveness of the Board of Governors and govern-
23 ance structure of The American National Red Cross.

24 (4) It is in the national interest to create a
25 more efficient governance structure of The American
26 National Red Cross and to enhance the Board of

1 Governors' ability to support the critical mission of
2 The American National Red Cross in the 21st cen-
3 tury.

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

12 (A) reviewing and approving the mission
13 statement for The American National Red
14 Cross;

15 (B) approving and overseeing the corpora-
16 tion's strategic plan and maintaining strategic
17 oversight of operational matters;

18 (C) selecting, evaluating, and determining
19 the level of compensation of the corporation's
20 chief executive officer;

21 (D) evaluating the performance and estab-
22 lishing the compensation of the senior leader-
23 ship team and providing for management suc-
24 cession;

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

4 (F) holding management accountable for
5 performance;

6 (G) providing oversight of the financial
7 stability of the corporation;

8 (H) ensuring the inclusiveness and diver-
9 sity of the corporation;

10 (I) providing oversight of the protection of
11 the brand of the corporation; and

12 (J) assisting with fundraising on behalf of
13 the corporation.

14 (6)(A) The selection of members of the Board
15 of Governors is a critical component of effective gov-
16 ernance for The American National Red Cross, and,
17 as such, it is in the national interest that The Amer-
18 ican National Red Cross amend its bylaws to provide
19 a method of selection consistent with that described
20 in the Governance Report.

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

23 (i) 30 chartered unit-elected members of
24 the Board of Governors are selected by a non-
25 Board committee which includes 2 members of

1 the Board of Governors and other individuals
2 elected by the chartered units themselves;

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

6 (iii) 8 members of the Board of Governors
7 are appointed by the President of the United
8 States.

9 (C) The new method of selection described in
10 the Governance Report reflects the single category of
11 members of the Board of Governors that will result
12 from the implementation of this Act:

13 (i) All Board members (except for the
14 chairman of the Board of Governors) would be
15 nominated by a single committee of the Board
16 of Governors taking into account the criteria
17 outlined in the Governance Report to assure the
18 expertise, skills, and experience of a governing
19 board.

20 (ii) The nominated members would be con-
21 sidered for approval by the full Board of Gov-
22 ernors and then submitted to The American
23 National Red Cross annual meeting of delegates
24 for election, in keeping with the standard cor-
25 porate practice whereby shareholders of a cor-

1 poration elect members of a board of directors
2 at its annual meeting.

3 (7) The United States Supreme Court held The
4 American National Red Cross to be an instrumen-
5 tality of the United States, and it is in the national
6 interest that the Congressional Charter confirm that
7 status and that any changes to the Congressional
8 Charter do not affect the rights and obligations of
9 The American National Red Cross to carry out its
10 purposes.

11 (8) Given the role of The American National
12 Red Cross in carrying out its services, programs,
13 and activities, and meeting its various obligations,
14 the effectiveness of The American National Red
15 Cross will be promoted by the creation of an organi-
16 zational ombudsman who—

17 (A) will be a neutral or impartial dispute
18 resolution practitioner whose major function
19 will be to provide confidential and informal as-
20 sistance to the many internal and external
21 stakeholders of The American National Red
22 Cross;

23 (B) will report to the chief executive officer
24 and the audit committee of the Board of Gov-
25 ernors; and

1 (C) will have access to anyone and any
2 documents in The American National Red
3 Cross.

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

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

10 (2) trust is fostered by effective governance and
11 transparency, which are the principal goals of the
12 recommendations of the Board of Governors in the
13 Governance Report and this Act;

14 (3) Federal and State action play an important
15 role in ensuring effective governance and trans-
16 parency by setting standards, rooting out violations,
17 and informing the public; and

18 (4) while The American National Red Cross is
19 and will remain a Federally chartered instrumen-
20 tality of the United States, and it has the rights and
21 obligations consistent with that status, The Amer-
22 ican National Red Cross nevertheless should main-
23 tain appropriate communications with State regu-
24 lators of charitable organizations and should cooper-

1 ate with them as appropriate in specific matters as
2 they arise from time to time.

3 **SEC. 3. ORGANIZATION.**

4 Section 300101 of title 36, United States Code, is
5 amended—

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

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

14 **SEC. 4. PURPOSES.**

15 Section 300102 of title 36, United States Code, is
16 amended—

17 (1) by striking “and” at the end of paragraph
18 (3);

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

21 (3) by adding at the end the following para-
22 graph:

23 “(5) to conduct other activities consistent with
24 the foregoing purposes.”.

1 **SEC. 5. MEMBERSHIP AND CHAPTERS.**

2 Section 300103 of title 36, United States Code, is
3 amended—

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

6 (2) in subsection (b)(1)—

7 (A) by striking “board of governors” and
8 inserting “corporation”; and

9 (B) by inserting “policies and” before
10 “regulations related”; and

11 (3) in subsection (b)(2)—

12 (A) by inserting “policies and” before
13 “regulations shall require”; and

14 (B) by striking “national convention” and
15 inserting “annual meeting”.

16 **SEC. 6. BOARD OF GOVERNORS.**

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

19 **“§ 300104. Board of governors**

20 “(a) BOARD OF GOVERNORS.—

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

1 “(2) NUMBER.—The board of governors shall
2 fix by resolution, from time to time, the number of
3 members constituting the entire board of governors,
4 provided that—

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

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

11 Procedures to implement the preceding sentence
12 shall be provided in the bylaws.

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

15 “(A) CHAIRMAN.—

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

1 “(ii) VACANCIES.—Vacancies in the
2 office of the chairman, including vacancies
3 resulting from the resignation, death, or
4 removal by the President of the chairman,
5 shall be filled in the same manner de-
6 scribed in clause (i).

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

14 “(B) OTHER MEMBERS.—

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

21 “(ii) VACANCIES.—Vacancies in any
22 such elected board position and in any
23 newly created board position may be filled
24 by a vote of the remaining members of the
25 board of governors in accordance with such

1 procedures as may be provided in the by-
2 laws.

3 “(b) TERMS OF OFFICE.—

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

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

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

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

1 tion with the term of office of each member of the
2 board of governors elected at an annual meeting ex-
3 piring at the third annual meeting following the an-
4 nual meeting at which such member was elected.

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

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

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

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

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

23 “(4) may remove members of the board of gov-
24 ernors (other than the chairman), officers, and em-

1 ployees under such procedures as may be provided in
2 the bylaws or a resolution of the board of governors.

3 “(d) ADVISORY COUNCIL.—

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

6 “(2) MEMBERSHIP; APPOINTMENT BY PRESI-
7 DENT.—

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

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

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

1 “(e) ACTION WITHOUT MEETING.—Any action re-
2 quired or permitted to be taken at any meeting of the
3 board of governors or of any committee thereof may be
4 taken without a meeting if all members of the board or
5 committee, as the case may be, consent thereto in writing,
6 or by electronic transmission and the writing or writings
7 or electronic transmission or transmissions are filed with
8 the minutes of proceedings of the board or committee.
9 Such filing shall be in paper form if the minutes are main-
10 tained in paper form and shall be in electronic form if
11 the minutes are maintained in electronic form.

12 “(f) VOTING BY PROXY.—

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

16 “(2) EXCEPTION.—The board may allow the
17 election of governors by proxy during any emer-
18 gency.

19 “(g) BYLAWS.—

20 “(1) IN GENERAL.—The board of governors
21 may—

22 “(A) at any time adopt bylaws; and

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

1 “(2) EMERGENCY BYLAWS.—Any bylaws adopt-
 2 ed pursuant to paragraph (1)(B) may provide spe-
 3 cial procedures necessary for managing the corpora-
 4 tion during the emergency. All provisions of the reg-
 5 ular bylaws consistent with the emergency bylaws re-
 6 main effective during the emergency.

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

8 “(1) the term ‘entire board’ means the total
 9 number of members of the board of governors that
 10 the corporation would have if there were no vacan-
 11 cies; and

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

14 **SEC. 7. POWERS.**

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

18 **SEC. 8. ANNUAL MEETING.**

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

21 **“§ 300107. Annual meeting**

22 “(a) IN GENERAL.—The annual meeting of the cor-
 23 poration is the annual meeting of delegates of the chap-
 24 ters.

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

3 “(c) PLACE OF MEETING.—The board of governors
4 is authorized to determine that the annual meeting shall
5 not be held at any place, but may instead be held solely
6 by means of remote communication subject to such proce-
7 dures as are provided in the bylaws.

8 “(d) VOTING.—

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

18 “(2) ESTABLISHMENT OF NUMBER OF
19 VOTES.—

20 “(A) IN GENERAL.—The board of gov-
21 ernors shall determine on an equitable basis the
22 number of votes that each chapter is entitled to
23 cast, taking into consideration the size of the
24 membership of the chapters, the populations

1 served by the chapters, and such other factors
2 as may be determined by the board.

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

6 **SEC. 9. ENDOWMENT FUND.**

7 Section 300109 of title 36, United States Code is
8 amended—

9 (1) by striking “nine” from the first sentence
10 thereof; and

11 (2) by striking the second sentence and insert-
12 ing the following: “The corporation shall prescribe
13 policies and regulations on terms and tenure of of-
14 fice, accountability, and expenses of the board of
15 trustees.”.

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

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

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

1 **SEC. 11. COMPTROLLER GENERAL OF THE UNITED STATES**
2 **AND OFFICE OF THE OMBUDSMAN.**

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

7 **“§ 300111. Authority of the Comptroller General of**
8 **the United States**

9 “The Comptroller General of the United States is au-
10 thorized to review the corporation’s involvement in any
11 Federal program or activity the Government carries out
12 under law.

13 **“§ 300112. Office of the Ombudsman**

14 “(a) ESTABLISHMENT.—The corporation shall estab-
15 lish an Office of the Ombudsman with such duties and
16 responsibilities as may be provided in the bylaws or a reso-
17 lution of the board of governors.”

18 “(b) REPORT.—

19 “(1) IN GENERAL.—The Office of the Ombuds-
20 man shall submit annually to the appropriate Con-
21 gressional committees a report concerning any
22 trends and systemic matters that the Office of the
23 Ombudsman has identified as confronting the cor-
24 poration.

25 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
26 TEES.—For purposes of paragraph (1), the appro-

1 appropriate Congressional committees are the following
2 committees of Congress:

3 “(A) SENATE COMMITTEES.—The appro-
4 priate Congressional committees of the Senate
5 are—

6 “(i) the Committee on Finance;

7 “(ii) the Committee on Foreign Rela-
8 tions;

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

11 “(iv) the Committee on Homeland Se-
12 curity and Governmental Affairs; and

13 “(v) the Committee on the Judiciary.

14 “(B) HOUSE COMMITTEES.—The appro-
15 priate Congressional committees of the House
16 of Representatives are—

17 “(i) the Committee on Energy and
18 Commerce;

19 “(ii) the Committee on Foreign Af-
20 fairs;

21 “(iii) the Committee on Homeland Se-
22 curity;

23 “(iv) the Committee on the Judiciary;
24 and

1 “(v) the Committee on Ways and
2 Means.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for chapter 3001 of title 36, United States Code, is
5 amended by striking the item relating to section 300111
6 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 Senate March 15, 2007.

Attest:

Secretary.

110TH CONGRESS
1ST Session

S. 655

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.