

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1681

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## 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       parency 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  
2           council to the board of governors.

3           “(2) MEMBERSHIP; APPOINTMENT BY PRESIDENT.—  
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 officers  
9           of the executive departments and senior officers  
10          of the Armed Forces whose positions and  
11          interests qualify them to contribute to carrying  
12          out the programs and purposes of the corporation.  
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 selected  
17          from the Armed Forces.

18          “(3) DUTIES.—The advisory council shall advise,  
19          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 procedures  
22          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       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.*



110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# **H. R. 1681**

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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.