

## Union Calendar No. 52

110TH CONGRESS  
1ST SESSION

# H. R. 1681

[Report No. 110-87]

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.

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### IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2007

Mr. LANTOS (for himself, Ms. ROS-LEHTINEN, Mr. FLAKE, Ms. JACKSON-LEE of Texas, Mr. WEXLER, Mr. ACKERMAN, Mr. SIRES, and Mr. SCOTT of Georgia) introduced the following bill; which was referred to the Committee on Foreign Affairs

APRIL 16, 2007

Additional sponsors: Mr. JOHNSON of Georgia, Mr. GORDON of Tennessee, and Mr. MCHUGH

APRIL 16, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on March 26, 2007]

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## 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 National*  
5 *Red Cross Governance Modernization Act of 2007”.*

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

7        (a) *FINDINGS.—Congress makes the following findings:*

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

11            (2) *In February 2006, the board of governors of*  
12 *The American National Red Cross (the “Board of*  
13 *Governors”) commissioned an independent review*  
14 *and analysis of the Board of Governors’ role, composi-*  
15 *tion, size, relationship with management, governance*  
16 *relationship with chartered units of The American*  
17 *National Red Cross, and whistleblower and audit*  
18 *functions.*

19            (3) *In an October 2006 report of the Board of*  
20 *Governors, entitled “American Red Cross Governance*  
21 *for the 21st Century” (the “Governance Report”), the*  
22 *Board of Governors recommended changes to the Con-*  
23 *gressional Charter, bylaws, and other governing docu-*

1        *ments of The American National Red Cross to mod-*  
2        *ernize and enhance the effectiveness of the Board of*  
3        *Governors and governance structure of The American*  
4        *National Red Cross.*

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

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 with*  
14        *the recommendations described in the Governance Re-*  
15        *port, to clarify the role of the Board of Governors and*  
16        *to outline the areas of its responsibility, including—*

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

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

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

1           (D) evaluating the performance and estab-  
2           lishing the compensation of the senior leadership  
3           team and providing for management succession;

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

7           (F) holding management accountable for  
8           performance;

9           (G) providing oversight of the financial sta-  
10          bility of the corporation;

11          (H) ensuring the inclusiveness and diversity  
12          of the corporation;

13          (I) ensuring the chapters of the corporation  
14          are geographically and regionally diverse;

15          (J) providing oversight of the protection of  
16          the brand of the corporation; and

17          (K) assisting with fundraising on behalf of  
18          the corporation.

19          (6)(A) *The selection of members of the Board of*  
20          *Governors is a critical component of effective govern-*  
21          *ance for The American National Red Cross, and, as*  
22          *such, it is in the national interest that The American*  
23          *National Red Cross amend its bylaws to provide a*  
24          *method of selection consistent with that described in*  
25          *the Governance Report.*

1           (B) *The new method of selection should replace*  
2 *the current process by which—*

3                 (i) *30 chartered unit-elected members of the*  
4 *Board of Governors are selected by a non-Board*  
5 *committee which includes 2 members of the*  
6 *Board of Governors and other individuals elected*  
7 *by the chartered units themselves;*

8                 (ii) *12 at-large members of the Board of*  
9 *Governors are nominated by a Board committee*  
10 *and elected by the Board of Governors; and*

11                (iii) *8 members of the Board of Governors*  
12 *are appointed by the President of the United*  
13 *States.*

14           (C) *The new method of selection described in the*  
15 *Governance Report reflects the single category of*  
16 *members of the Board of Governors that will result*  
17 *from the implementation of this Act:*

18                 (i) *All Board members (except for the chair-*  
19 *man of the Board of Governors) would be nomi-*  
20 *nated by a single committee of the Board of Gov-*  
21 *ernors taking into account the criteria outlined*  
22 *in the Governance Report to assure the expertise,*  
23 *skills, and experience of a governing board.*

24                 (ii) *The nominated members would be con-*  
25 *sidered for approval by the full Board of Gov-*

1            *ernors and then submitted to The American Na-*  
2            *tional Red Cross annual meeting of delegates for*  
3            *election, in keeping with the standard corporate*  
4            *practice whereby shareholders of a corporation*  
5            *elect members of a board of directors at its an-*  
6            *nual meeting.*

7            *(7) The United States Supreme Court held The*  
8            *American National Red Cross to be an instrumen-*  
9            *tality of the United States, and it is in the national*  
10           *interest that the Congressional Charter confirm that*  
11           *status and that any changes to the Congressional*  
12           *Charter do not affect the rights and obligations of The*  
13           *American National Red Cross to carry out its pur-*  
14           *poses.*

15           *(8) Given the role of The American National Red*  
16           *Cross in carrying out its services, programs, and ac-*  
17           *tivities, and meeting its various obligations, the effec-*  
18           *tiveness of The American National Red Cross will be*  
19           *promoted by the creation of an organizational om-*  
20           *budsman who—*

21           *(A) will be a neutral or impartial dispute*  
22           *resolution practitioner whose major function will*  
23           *be to provide confidential and informal assist-*  
24           *ance to the many internal and external stake-*  
25           *holders of The American National Red Cross;*

1           (B) will report to the chief executive officer  
2           and the audit committee of the Board of Gov-  
3           ernors; and

4           (C) will have access to anyone and any doc-  
5           uments in *The American National Red Cross*.

6           (b) *SENSE OF CONGRESS.*—*It is the sense of Congress*  
7           *that—*

8           (1) *charitable organizations are an indispensable*  
9           *part of American society, but these organizations can*  
10          *only fulfill their important roles by maintaining the*  
11          *trust of the American public;*

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

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

20          (4) *while The American National Red Cross is*  
21          *and will remain a Federally chartered instrumen-*  
22          *tality of the United States, and it has the rights and*  
23          *obligations consistent with that status, The American*  
24          *National Red Cross nevertheless should maintain ap-*  
25          *propriate communications with State regulators of*

1 *charitable organizations and should cooperate with*  
2 *them as appropriate in specific matters as they arise*  
3 *from time to time; and*

4 *(5) while The American National Red Cross is*  
5 *and will remain a Federally chartered instrumen-*  
6 *tality of the United States, and it has the rights and*  
7 *obligations consistent with that status, The American*  
8 *National Red Cross nevertheless should maintain ap-*  
9 *propriate communications and collaborations with*  
10 *local, community, and faith-based non-profit organi-*  
11 *zations, including those organizations that work with-*  
12 *in minority communities.*

13 **SEC. 3. ORGANIZATION.**

14 *Section 300101 of title 36, United States Code, is*  
15 *amended—*

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

19 *(2) in subsection (b), by inserting at the end the*  
20 *following new sentence: “The corporation may con-*  
21 *duct its business and affairs, and otherwise hold itself*  
22 *out, as the ‘American Red Cross’ in any jurisdic-*  
23 *tion.”.*

1 **SEC. 4. PURPOSES.**

2 *Section 300102 of title 36, United States Code, is*  
3 *amended—*

4 *(1) by striking “and” at the end of paragraph*  
5 *(3);*

6 *(2) by striking the period at the end of para-*  
7 *graph (4) and inserting “; and”; and*

8 *(3) by adding at the end the following para-*  
9 *graph:*

10 *“(5) to conduct other activities consistent with*  
11 *the foregoing purposes.”.*

12 **SEC. 5. MEMBERSHIP AND CHAPTERS.**

13 *Section 300103 of title 36, United States Code, is*  
14 *amended—*

15 *(1) in subsection (a), by inserting “, or as other-*  
16 *wise provided,” before “in the bylaws”;*

17 *(2) in subsection (b)(1)—*

18 *(A) by striking “board of governors” and*  
19 *inserting “corporation”; and*

20 *(B) by inserting “policies and” before “reg-*  
21 *ulations related”; and*

22 *(3) in subsection (b)(2)—*

23 *(A) by inserting “policies and” before “reg-*  
24 *ulations shall require”; and*

25 *(B) by striking “national convention” and*  
26 *inserting “annual meeting”.*

1 **SEC. 6. BOARD OF GOVERNORS.**

2 *Section 300104 of title 36, United States Code, is*  
3 *amended to read as follows:*

4 **“§ 300104. Board of governors**

5 *“(a) BOARD OF GOVERNORS.—*

6 *“(1) IN GENERAL.—The board of governors is the*  
7 *governing body of the corporation with all powers of*  
8 *governing and directing, and of overseeing the man-*  
9 *agement of the business and affairs of, the corpora-*  
10 *tion.*

11 *“(2) NUMBER.—The board of governors shall fix*  
12 *by resolution, from time to time, the number of mem-*  
13 *bers constituting the entire board of governors, pro-*  
14 *vided that—*

15 *“(A) as of March 31, 2009, and thereafter,*  
16 *there shall be no fewer than 12 and no more*  
17 *than 25 members; and*

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

21 *Procedures to implement the preceding sentence shall*  
22 *be provided in the bylaws.*

23 *“(3) APPOINTMENT.—The governors shall be ap-*  
24 *pointed or elected in the following manner:*

25 *“(A) CHAIRMAN.—*

1           “(i) *IN GENERAL.*—*The board of gov-*  
2           *ernors, in accordance with procedures pro-*  
3           *vided in the bylaws, shall recommend to the*  
4           *President an individual to serve as chair-*  
5           *man of the board of governors. If such rec-*  
6           *ommendation is approved by the President,*  
7           *the President shall appoint such individual*  
8           *to serve as chairman of the board of gov-*  
9           *ernors.*

10           “(ii) *VACANCIES.*—*Vacancies in the of-*  
11           *fice of the chairman, including vacancies re-*  
12           *sulting from the resignation, death, or re-*  
13           *moval by the President of the chairman,*  
14           *shall be filled in the same manner described*  
15           *in clause (i).*

16           “(iii) *DUTIES.*—*The chairman shall be*  
17           *a member of the board of governors and,*  
18           *when present, shall preside at meetings of*  
19           *the board of governors and shall have such*  
20           *other duties and responsibilities as may be*  
21           *provided in the bylaws or a resolution of the*  
22           *board of governors.*

23           “(B) *OTHER MEMBERS.*—

24           “(i) *IN GENERAL.*—*Members of the*  
25           *board of governors other than the chairman*

1           *shall be elected at the annual meeting of the*  
2           *corporation in accordance with such proce-*  
3           *dures as may be provided in the bylaws.*

4           “(ii) *VACANCIES.—Vacancies in any*  
5           *such elected board position and in any*  
6           *newly created board position may be filled*  
7           *by a vote of the remaining members of the*  
8           *board of governors in accordance with such*  
9           *procedures as may be provided in the by-*  
10          *laws.*

11          “(b) *TERMS OF OFFICE.—*

12           “(1) *IN GENERAL.—The term of office of each*  
13          *member of the board of governors shall be 3 years, ex-*  
14          *cept that—*

15           “(A) *the board of governors may provide*  
16          *under the bylaws that the terms of office of mem-*  
17          *bers of the board of governors elected to the board*  
18          *of governors before March 31, 2012, may be less*  
19          *than 3 years in order to implement the provi-*  
20          *sions of subparagraphs (A) and (B) of subsection*  
21          *(a)(2); and*

22           “(B) *any member of the board of governors*  
23          *elected by the board to fill a vacancy in a board*  
24          *position arising before the expiration of its term*  
25          *may, as determined by the board, serve for the*

1           *remainder of that term or until the next annual*  
2           *meeting of the corporation.*

3           “(2) *STAGGERED TERMS.*—*The terms of office of*  
4           *members of the board of governors (other than the*  
5           *chairman) shall be staggered such that, by March 31,*  
6           *2012, and thereafter,  $\frac{1}{3}$  of the entire board (or as*  
7           *near to  $\frac{1}{3}$  as practicable) shall be elected at each suc-*  
8           *cessive annual meeting of the corporation with the*  
9           *term of office of each member of the board of gov-*  
10          *ernors elected at an annual meeting expiring at the*  
11          *third annual meeting following the annual meeting at*  
12          *which such member was elected.*

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

17          “(c) *COMMITTEES AND OFFICERS.*—*The board—*

18                 “(1) *may appoint, from its own members, an ex-*  
19                 *ecutive committee to exercise such powers of the board*  
20                 *when the board is not in session as may be provided*  
21                 *in the bylaws;*

22                 “(2) *may appoint such other committees or advi-*  
23                 *sory councils with such powers as may be provided in*  
24                 *the bylaws or a resolution of the board of governors;*

1           “(3) shall appoint such officers of the corpora-  
2           tion, including a chief executive officer, with such du-  
3           ties, responsibilities, and terms of office as may be  
4           provided in the bylaws or a resolution of the board  
5           of governors; and

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

10          “(d) *ADVISORY COUNCIL.*—

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

13           “(2) *MEMBERSHIP; APPOINTMENT BY PRESI-*  
14           *DENT.*—

15           “(A) *IN GENERAL.*—The advisory council  
16           shall be composed of no fewer than 8 and no  
17           more than 10 members, each of whom shall be  
18           appointed by the President from principal offi-  
19           cers of the executive departments and senior offi-  
20           cers of the Armed Forces whose positions and in-  
21           terests qualify them to contribute to carrying out  
22           the programs and purposes of the corporation.

23           “(B) *MEMBERS FROM THE ARMED*  
24           *FORCES.*—At least 1, but not more than 3, of the

1           *members of the advisory council shall be selected*  
2           *from the Armed Forces.*

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

8           “(e) *ACTION WITHOUT MEETING.*—*Any action re-*  
9           *quired or permitted to be taken at any meeting of the board*  
10           *of governors or of any committee thereof may be taken with-*  
11           *out a meeting if all members of the board or committee,*  
12           *as the case may be, consent thereto in writing, or by elec-*  
13           *tronic transmission and the writing or writings or elec-*  
14           *tronic transmission or transmissions are filed with the min-*  
15           *utes of proceedings of the board or committee. Such filing*  
16           *shall be in paper form if the minutes are maintained in*  
17           *paper form and shall be in electronic form if the minutes*  
18           *are maintained in electronic form.*

19           “(f) *VOTING BY PROXY.*—

20           “(1) *IN GENERAL.*—*Voting by proxy is not al-*  
21           *lowed at any meeting of the board, at the annual*  
22           *meeting, or at any meeting of a chapter.*

23           “(2) *EXCEPTION.*—*The board may allow the elec-*  
24           *tion of governors by proxy during any emergency.*

25           “(g) *BYLAWS.*—

1           “(1) *IN GENERAL.*—*The board of governors*  
2           *may—*

3                     “(A) *at any time adopt bylaws; and*

4                     “(B) *at any time adopt bylaws to be effec-*  
5                     *tive only in an emergency.*

6           “(2) *EMERGENCY BYLAWS.*—*Any bylaws adopted*  
7           *pursuant to paragraph (1)(B) may provide special*  
8           *procedures necessary for managing the corporation*  
9           *during the emergency. All provisions of the regular*  
10           *bylaws consistent with the emergency bylaws remain*  
11           *effective during the emergency.*

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

13                     “(1) *the term ‘entire board’ means the total*  
14                     *number of members of the board of governors that the*  
15                     *corporation would have if there were no vacancies;*  
16                     *and*

17                     “(2) *the term ‘emergency’ shall have such mean-*  
18                     *ing as may be provided in the bylaws.”.*

19   **SEC. 7. POWERS.**

20           *Subsection (a)(1) of section 300105 of title 36, United*  
21           *States Code, is amended by striking “bylaws” and inserting*  
22           *“policies”.*

23   **SEC. 8. ANNUAL MEETING.**

24           *Section 300107 of title 36, United States Code, is*  
25           *amended to read as follows:*

1 **“§ 300107. Annual meeting**

2 “(a) *IN GENERAL.*—*The annual meeting of the cor-*  
3 *poration is the annual meeting of delegates of the chapters.*

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

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

11 “(d) *VOTING.*—

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

21 “(2) *ESTABLISHMENT OF NUMBER OF VOTES.*—

22 “(A) *IN GENERAL.*—*The board of governors*  
23 *shall determine on an equitable basis the number*  
24 *of votes that each chapter is entitled to cast, tak-*  
25 *ing into consideration the size of the membership*  
26 *of the chapters, the populations served by the*

1           *chapters, and such other factors as may be deter-*  
2           *mined by the board.*

3                   “(B) *PERIODIC REVIEW.*—*The board of gov-*  
4           *ernors shall review the allocation of votes at least*  
5           *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 inserting*  
12          *the following: “The corporation shall prescribe policies*  
13          *and regulations on terms and tenure of office, ac-*  
14          *countability, and expenses of the board of trustees.”.*

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

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

18                   “(a) *SUBMISSION OF REPORT.*—*As soon as practicable*  
19   *after the end of the corporation’s fiscal year, which may*  
20   *be changed from time to time by the board of governors,*  
21   *the corporation shall submit a report to the Secretary of*  
22   *Defense on the activities of the corporation during such fis-*  
23   *cal year, including a complete, itemized report of all re-*  
24   *ceipts 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 the  
6 following new sections:

7 **“§ 300111. Authority of the Comptroller General of the**  
8 **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 re-  
16 sponsibilities as may be provided in the bylaws or a resolu-  
17 tion 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 trends  
22 and systemic matters that the Office of the Ombuds-  
23 man has identified as confronting the corporation.

24 “(2) *APPROPRIATE CONGRESSIONAL COMMIT-*  
25 *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                *appropriate 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                *appropriate Congressional committees of the House of*  
16                *Representatives are—*

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

19                        “(ii) *the Committee on Foreign Affairs;*

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

22                        “(iv) *the Committee on the Judiciary;*  
23                        *and*

24                        “(v) *the Committee on Ways and*  
25                        *Means.”.*

1           **(b) CLERICAL AMENDMENT.**—*The table of sections for*  
2 *chapter 3001 of title 36, United States Code, is amended*  
3 *by striking the item relating to section 300111 and insert-*  
4 *ing 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.*”.

Union Calendar No. 52

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

**H. R. 1681**

[Report No. 110-87]

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**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.

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APRIL 16, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed