To amend title 38, United States Code, to improve the appeals process of the Department of Veterans Affairs and to establish a commission to study judicial review of the determination of veterans’ benefits.

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2011

Mr. Filner introduced the following bill; which was referred to the Committee on Veterans’ Affairs

A BILL

To amend title 38, United States Code, to improve the appeals process of the Department of Veterans Affairs and to establish a commission to study judicial review of the determination of veterans’ benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans Appeals Improvement Act of 2011”.
SEC. 2. WAIVER OF REGIONAL OFFICE JURISDICTION OVER INCORPORATION OF SUPPLEMENTAL EVIDENCE INTO PREVIOUSLY SUBMITTED CLAIMS.

(a) WAIVER.—Section 7104 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(f) If a claimant submits new evidence in support of a case for which a substantive appeal has been filed, such evidence shall be submitted to the Board directly and not to a regional office of the Department, unless the claimant requests that the evidence be reviewed by the regional office before being submitted to the Board.”.

(b) EFFECTIVE DATE.—Subsection (f) of section 7104 of title 38, United States Code, as added by subsection (a) of this section, shall apply with respect to evidence submitted on or after the date that is 90 days after the date of the enactment of this Act.

SEC. 3. COMMISSION TO STUDY JUDICIAL REVIEW OF THE DETERMINATION OF VETERANS' BENEFITS.

(a) ESTABLISHMENT.—There is established a commission to be known as the “Veterans Judicial Review Commission” (in this section referred to as the “Commission”).

(b) DUTIES.—The Commission shall—
(1) evaluate the administrative and judicial ap-
pellate review processes of veterans’ and survivors’
benefits determinations; and

(2) make specific recommendations and offer
solutions to improve the accuracy, fairness, trans-
parency, predictability, timeliness, and finality of
such appellate review processes, including a rec-
ommendation as to whether the Court of Appeals for
Veterans Claims should have the authority to hear
class action or associational standing cases.

(c) Membership.—

(1) In general.—The Commission shall be
composed of 13 members appointed as follows:

(A) Two individuals appointed by the
Speaker of the House of Representatives.

(B) Two individuals appointed jointly by
the President of the Senate and the President
pro tempore.

(C) Two individuals appointed by the mi-
nority leader of the House of Representatives.

(D) Two individuals appointed by the mi-
nority leader of the Senate.

(E) Four individuals appointed by the
President.
(F) One individual appointed by the President, by and with the advice and consent of the Senate, who shall serve as chairperson.

(2) QUALIFICATIONS.—Individuals appointed under paragraph (1) shall—

(A) be specially qualified to serve on the Commission by virtue of their expert education, training, or experience associated with veterans’ benefits, judicial review, constitutional law, or other areas of expertise pertinent to the duties of the Commission; and

(B) include individuals who—

(i) are current or retired members of the judiciary;

(ii) are members of the legal or academic community; or

(iii) represent—

(I) veterans service organizations;

(II) legal service organizations;

or

(III) other affected entities.

(3) TERMS.—Each member shall be appointed for the life of the Commission.
(4) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(2) QUORUM.—A majority of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) PAY.—

(1) RATES OF PAY.—Except as provided in paragraph (2), members shall serve without pay.

(2) TRAVEL EXPENSE.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(f) STAFF.—

(1) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chairperson.

(2) STAFF.—Subject to rules prescribed by the Commission, the Chairperson may appoint additional personnel as the Chairperson considers appropriate.
(3) Applicability of certain civil service laws.—The director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(4) Experts and consultants.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) Staff to federal agencies.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(g) Powers of Commission.—

(1) Hearings and sessions.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may admin-
ister oaths or affirmations to witnesses appearing before it.

(2) **Powers of Members and Agents.**—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) **Obtaining Official Data.**—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) **Mails.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) **Administrative Support Services.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(h) **Reports.**—
(1) **INTERIM REPORT.**—Not later than July 1, 2012, the Commission shall submit to Congress an interim report of the evaluation and recommendations made under subsection (b).

(2) **FINAL REPORT.**—Not later than December 31, 2012, the Commission shall submit to Congress a final report on the activities of the Commission, including—

(A) specific recommendations and solutions proposed by the Commission under subsection (b), including a recommendation as to whether the Court of Appeals for Veterans Claims should have the authority to hear class action or associational standing cases;

(B) relevant background and statistical information associated with such recommendations and solutions; and

(C) other information the Commission determines appropriate.

(i) **TERMINATION.**—The Commission shall terminate on the date that is two years after the date on which the Commission submits the final report pursuant to section (h)(2).