

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 732
OFFERED BY MR. RUIZ OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Veterans Access to
3 Speedy Review Act”.

4 SEC. 2. BOARD OF VETERANS’ APPEALS VIDEO HEARINGS.

5 Section 7107 of title 38, United States Code, is
6 amended—

7 (1) in subsection (d), by amending paragraph
8 (1) to read as follows:

9 “(1)(A) Upon request for a hearing, the Board shall
10 determine, for purposes of scheduling the hearing for the
11 earliest possible date, whether a hearing before the Board
12 will be held at its principal location or at a facility of the
13 Department or other appropriate Federal facility located
14 within the area served by a regional office of the Depart-
15 ment. The Board shall also determine whether to provide
16 a hearing through the use of the facilities and equipment
17 described in subsection (e)(1) or by the appellant person-
18 ally appearing before a Board member or panel.

1 “(B) The Board shall notify the appellant of the de-
2 terminations of the location and type of hearing made
3 under subparagraph (A). Upon notification, the appellant
4 may request a different location or type of hearing as de-
5 scribed in such subparagraph. If so requested, the Board
6 shall grant such request and ensure that the hearing is
7 scheduled at the earliest possible date without any undue
8 delay or other prejudice to the appellant.”; and

9 (2) in subsection (e), by amending paragraph
10 (2) to read as follows:

11 “(2) Any hearing provided through the use of the fa-
12 cilities and equipment described in paragraph (1) shall be
13 conducted in the same manner as, and shall be considered
14 the equivalent of, a personal hearing”.

15 **SEC. 3. PRIORITY FOR PROCESSING CLAIMS OF THE DE-**
16 **PARTMENT OF VETERANS AFFAIRS.**

17 (a) IN GENERAL.—Subchapter I of chapter 51 of title
18 38, United States Code, is amended by adding at the end
19 the following new section:

20 **“§ 5109C. Priority for processing claims**

21 “(a) PRIORITY.—In processing claims for compensa-
22 tion under this chapter, the Secretary shall provide the
23 following claimants with priority over other claimants:

24 “(1) Veterans who have attained the age of 70.

25 “(2) Veterans who are terminally ill.

1 “(3) Veterans with life-threatening illnesses.

2 “(4) Homeless veterans (as defined in section
3 2002 of this title).

4 “(5) Veterans who were awarded the Medal of
5 Honor.

6 “(6) Veterans who are former prisoners of war.

7 “(7) Veterans whose claims are being reviewed
8 again in relation to a previously denied claim relat-
9 ing to military sexual trauma.

10 “(8) Veterans whom the Secretary determines,
11 on a case-by-case basis, are seriously or very seri-
12 ously injured.

13 “(9) Veterans whom the Secretary determines,
14 on a case-by-case basis, should be given priority
15 under this section based on an application for good
16 cause established by the Secretary.

17 “(b) REGULATIONS.—The Secretary shall prescribe
18 regulations to carry out subsection (a).”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of such chapter is amended by inserting
21 after the item relating to section 5109B the following new
22 item:

“5109C. Priority for processing claims.”.

1 **SEC. 4. EVALUATION OF BACKLOG OF DISABILITY CLAIMS**
2 **AND APPEALS OF CLAIMS OF DEPARTMENT**
3 **OF VETERANS AFFAIRS.**

4 (a) IN GENERAL.—There is established a commission
5 or task force to evaluate the backlog of claims within the
6 Department of Veterans Affairs and the appeals process
7 of claims.

8 (b) STUDIES.—

9 (1) BACKLOG STUDY.—

10 (A) IN GENERAL.—The Commission or
11 Task Force, acting through the subcommittee
12 described in subsection (d)(2)(A), shall carry
13 out a study on the backlog of claims, including
14 the current process the Secretary of Veterans
15 Affairs uses to evaluate claims and appeals and
16 the laws and regulations applicable to such
17 claims and appeals. Such study shall be a com-
18 prehensive evaluation and assessment of the
19 backlog of claims, an analysis of possible im-
20 provements to the procedures used to process
21 such claims, and any related issues that the
22 Commission or Task Force considers relevant.

23 (B) MATTERS INCLUDED.—In carrying out
24 the study under subparagraph (A), the Com-
25 mission or Task Force shall examine the fol-
26 lowing:

1 (i) The backlog of claims, including
2 an analysis of—

3 (I) the most effective means to
4 quickly and accurately resolve all
5 claims pending as of the date of the
6 study; and

7 (II) with respect to the Depart-
8 ment, the annual funding, number of
9 full-time employees, workload manage-
10 ment practices, and the progress, as
11 of the date of the study, of the stra-
12 tegic plan.

13 (ii) Possible improvements to the
14 claims process, including an evaluation and
15 recommendations with respect to whether
16 substantive and structural changes to the
17 overall claims process are required.

18 (iii) In carrying out the evaluation
19 and recommendations under subparagraph
20 (B), an examination of—

21 (I) options that make no major
22 substantive changes to the claims
23 process;

24 (II) options that maintain the
25 process but make minor changes; and

1 (III) options that make broad
2 changes to the process.

3 (2) APPEALS PROCESS STUDY.—

4 (A) IN GENERAL.—The Commission or
5 Task Force, acting through the subcommittee
6 described in subsection (d)(2)(B), shall carry
7 out a study on the anticipated increase of ap-
8 peals of claims, including the current appeals
9 process and the laws and regulations applicable
10 to such appeals. Such study shall be a com-
11 prehensive evaluation and assessment of such
12 anticipated increase of appeals claims, an anal-
13 ysis of possible improvements to the procedures
14 used to process such appeals, and any related
15 issues that the Commission or Task Force con-
16 siders relevant.

17 (B) MATTERS INCLUDED.—In carrying out
18 the study under subparagraph (A), the Com-
19 mission or Task Force shall examine the fol-
20 lowing:

21 (i) The anticipated surge in appeals of
22 claims, including an analysis of—

23 (I) the most effective means to
24 quickly and accurately resolve pending
25 appeals and future appeals;

1 (II) with respect to both the
2 Board and the Court of Appeals for
3 Veterans Claims, the annual funding,
4 number of full-time employees, work-
5 load management practices, and the
6 progress, as of the date of the study,
7 of the strategic plan; and

8 (III) the efficiency, effectiveness,
9 and utility of the Veterans Benefits
10 Management System with respect to
11 appeals operations, including an iden-
12 tification of key changes that may
13 need to be implemented to such sys-
14 tem.

15 (ii) Possible improvements to the ap-
16 peals process, including an evaluation and
17 recommendations with respect to whether
18 substantive and structural changes to the
19 overall appeals process are required.

20 (iii) In carrying out the evaluation
21 and recommendations under clause (ii), an
22 examination of—

23 (I) options that make no major
24 substantive changes to the appeals
25 process;

- 1 (II) options that maintain the
- 2 process but make minor changes;
- 3 (III) options that make broad
- 4 changes to the process;
- 5 (IV) the necessity of the multi-
- 6 tiered levels of appeals at the regional
- 7 office level, including filing a notice of
- 8 disagreement, receipt of a statement
- 9 of the case, supplemental statement of
- 10 the case (if applicable), and sub-
- 11 stantive appeal (VA Form 9);
- 12 (V) the role of the Board and the
- 13 Appeals Management Center, includ-
- 14 ing—
- 15 (aa) the effectiveness of the
- 16 workload management of the
- 17 Board and the Center;
- 18 (bb) whether the Board and
- 19 Center should be regionalized or
- 20 maintain the centralized struc-
- 21 ture in the District of Columbia;
- 22 (cc) whether Board members
- 23 should be required to pass the
- 24 administrative law judges certifi-
- 25 cation examination; and

1 (dd) whether the Board
2 should continue to require de
3 novo review of appeals; and

4 (VI) the role of the Court of Ap-
5 peals for Veterans Claims and the
6 United States Court of Appeals for
7 the Federal Circuit, including—

8 (aa) the continued effective-
9 ness and necessity of a multi-
10 tiered structure of judicial re-
11 view;

12 (bb) whether the Court of
13 Appeals for Veterans Claims
14 should have Article I or Article
15 III status;

16 (cc) expansion of either the
17 Court of Appeals for Veterans
18 Claims or the United States
19 Court of Appeals for the Federal
20 Circuit jurisdiction, including by
21 allowing such courts to hear class
22 action lawsuits with respect to
23 claims; and

24 (dd) the possibility of ex-
25 panding judicial review of claims

1 to all Federal circuit courts of
2 appeals or allowing judicial re-
3 view beyond the Court of Appeals
4 for Veterans Claims only by the
5 Supreme Court.

6 (3) CONSIDERATION.—In carrying out the stud-
7 ies under paragraph (1)(A) and (2)(A) and making
8 any recommendations under this section, the Com-
9 mission or Task Force shall consider the following:

10 (A) The interests of veterans, including
11 with respect to accuracy, fairness, and trans-
12 parency in the claims process of the Depart-
13 ment.

14 (B) The values and requirements of the
15 Constitution, including with respect to compli-
16 ance with procedural and substantive due proc-
17 ess.

18 (C) The public interest, including with re-
19 spect to the responsible use of available re-
20 sources.

21 (D) With respect to the study conducted
22 under paragraph (1)(A), the importance of the
23 claimant friendly, nonadversarial nature of the
24 claims process.

1 (E) With respect to the study conducted
2 under paragraph (2)(A), the importance of an
3 appeals process that is efficient and easily un-
4 derstandable by a claimant.

5 (4) ROLE OF SECRETARY, CHAIRMAN OF THE
6 BOARD, AND CHIEF JUDGE.—

7 (A) INFORMATION.—In carrying out each
8 study under paragraph (1)(A) and (2)(A), at
9 times that the Commission or Task Force de-
10 termines appropriate, the Commission or Task
11 Force shall submit to the Secretary of Veterans
12 Affairs, the Chairman of the Board, and the
13 Chief Judge of the Court of Appeals for Vet-
14 erans Claims, as the case may be, information
15 with respect to remedies and solutions that the
16 Commission or Task Force identifies pursuant
17 to such a study.

18 (B) IMPLEMENTATION.—The Secretary,
19 the Chairman of the Board, and the Chief
20 Judge shall each—

21 (i) fully consider the remedies and so-
22 lutions submitted to the Secretary, the
23 Chairman, or the Chief Judge, as the case
24 may be, under subparagraph (A);

1 (ii) implement such remedies and so-
2 lutions as the Secretary, the Chairman, or
3 the Chief Judge, respectively, determines
4 appropriate; and

5 (iii) submit to Congress justification
6 for failing to implement any such remedy
7 or solution.

8 (C) PLAN.—The Commission or Task
9 Force shall submit to the Secretary, the Chair-
10 man of the Board, and the Chief Judge a fea-
11 sible, timely, and cost-effective plan to eliminate
12 the backlog of appeals of claims based on the
13 remedies and solutions identified pursuant to
14 the study under paragraph (2)(A) and the in-
15 formation submitted under subparagraph (A).

16 (c) COMPREHENSIVE REPORTS.—

17 (1) INITIAL COMPREHENSIVE REPORT.—Not
18 later than 60 days after the date on which the Com-
19 mission or Task Force first meets, the Commission
20 or Task Force shall submit to the President and
21 Congress an initial comprehensive report on the
22 studies conducted under paragraphs (1)(A) and
23 (2)(A) of subsection (b), including—

24 (A) the findings of the causes of the back-
25 log of claims;

1 (B) a proposed plan to handle the antici-
2 pated surge in appeals of claims; and

3 (C) the level of cooperation the Commis-
4 sion or Task Force has received from the Sec-
5 retary and the heads of other departments or
6 agencies of the Federal Government.

7 (2) INTERIM COMPREHENSIVE REPORTS.—Not
8 later than 90 days after the date on which the Com-
9 mission or Task Force first meets, and each 30-day
10 period thereafter ending on the date on which the
11 Commission or Task Force submits the final com-
12 prehensive report under paragraph (3), the Commis-
13 sion or Task Force shall submit to the President
14 and Congress a comprehensive report on—

15 (A) the progress of the Secretary with re-
16 spect to implementing solutions to expedite the
17 elimination of the backlog of claims pursuant to
18 subsection (b)(4)(B)(ii);

19 (B) the progress of the Secretary, the
20 Chairman of the Board, and the Chief Judge of
21 the Court of Appeals for Veterans Claims with
22 respect to implementing solutions to complete
23 appeals of claims in a timely manner in a time-
24 ly manner pursuant to such subsection; and

1 (C) the level of cooperation the Commis-
2 sion or Task Force has received from the Sec-
3 retary and the heads of other departments or
4 agencies of the Federal Government.

5 (3) FINAL COMPREHENSIVE REPORT.—Not
6 later than 180 days after the date on which the
7 Commission or Task Force first meets, the Commis-
8 sion or Task Force shall submit to the President
9 and Congress a comprehensive report on the fol-
10 lowing:

11 (A) With respect to the study conducted
12 under subsection (b)(1)(A)—

13 (i) The findings, conclusions, and rec-
14 ommendations of the Commission or Task
15 Force with respect to the matters referred
16 to in such subsection.

17 (ii) The recommendations of the Com-
18 mission or Task Force for revising and im-
19 proving the backlog of claims and the pro-
20 cedures used to process claims.

21 (iii) The progress of the Secretary
22 with respect to implementing solutions to
23 expedite the elimination of the backlog of
24 claims pursuant to subsection (b)(4)(B)(ii).

1 (iv) Other information and rec-
2 ommendations with respect to claims as
3 the Commission or Task Force considers
4 appropriate.

5 (B) With respect to the study conducted
6 under subsection (b)(2)(A)—

7 (i) The findings, conclusions, and rec-
8 ommendations of the Commission or Task
9 Force with respect to the matters referred
10 to in such subsection.

11 (ii) The recommendations of the Com-
12 mission or Task Force for revising and im-
13 proving the appeals process;

14 (iii) The information described in sub-
15 section (b)(4)(A).

16 (iv) The feasible, timely, and cost ef-
17 fective plan described in subsection
18 (b)(4)(C).

19 (v) The progress of the Secretary, the
20 Chairman of the Board, and the Chief
21 Judge of the Court of Appeals for Vet-
22 erans Claims with respect to implementing
23 solutions to provide timely appeals of
24 claims.

1 (vi) Other information and rec-
2 ommendations with respect to the appeals
3 process as the Commission or Task Force
4 considers appropriate.

5 (d) MEMBERSHIP.—

6 (1) NUMBER AND APPOINTMENT.—The Com-
7 mission or Task Force shall be composed of 15
8 members, appointed as follows:

9 (A) Two members appointed by the Speak-
10 er of the House of Representatives, one of
11 whom shall be designated to serve upon the
12 Subcommittee on the Backlog of Claims and
13 one of whom shall be designated to serve upon
14 the Subcommittee on Appeals.

15 (B) Two members appointed by the minor-
16 ity leader of the House of Representatives, one
17 of whom shall be designated to serve upon the
18 Subcommittee on the Backlog of Claims and
19 one of whom shall be designated to serve upon
20 the Subcommittee on Appeals.

21 (C) Two members appointed by the major-
22 ity leader of the Senate, one of whom shall be
23 designated to serve upon the Subcommittee on
24 the Backlog of Claims and one of whom shall

1 be designated to serve upon the Subcommittee
2 on Appeals.

3 (D) Two members appointed by the minor-
4 ity leader of the Senate, one of whom shall be
5 designated to serve upon the Subcommittee on
6 the Backlog of Claims and one of whom shall
7 be designated to serve upon the Subcommittee
8 on Appeals.

9 (E) Three members appointed by the
10 President, two of whom shall be designated to
11 serve upon the Subcommittee on the Backlog of
12 Claims and one of whom shall be designated to
13 serve upon the Subcommittee on Appeals.

14 (F) One member appointed by the Sec-
15 retary of Defense, whom shall be designated to
16 serve upon the Subcommittee on the Backlog of
17 Claims.

18 (G) Two members appointed by the Sec-
19 retary of Veterans Affairs, one of whom shall be
20 designated to serve upon the Subcommittee on
21 the Backlog of Claims and one of whom shall
22 be designated to serve upon the Subcommittee
23 on Appeals.

24 (H) One member appointed by the Chief
25 Judge of the Court of Appeals for Veterans

1 Claims, whom shall be designated to serve upon
2 the Subcommittee on Appeals.

3 (2) SUBCOMMITTEES.—The Commission or
4 Task Force shall have two subcommittees as follows:

5 (A) A Subcommittee on the Backlog of
6 Claims consisting of the eight members des-
7 ignated in accordance with paragraph (1).

8 (B) A Subcommittee on Appeals consisting
9 of the seven members designated in accordance
10 with paragraph (1).

11 (3) QUALIFICATIONS.—Each member appointed
12 under paragraph (1) shall be appointed based on the
13 experience of the member as a veteran or on the
14 subject matter expertise or other relevant experience
15 of the member.

16 (4) ADVISORS.—

17 (A) IN GENERAL.—In addition to the 15
18 members appointed under paragraph (1), the
19 Commission or Task Force shall—

20 (i) have five nonvoting, nonmember
21 advisors, appointed by a majority of the
22 Commission or Task Force, each from a
23 different organization that represents the
24 interests of veterans; and

1 (ii) seek advice from experts from
2 nongovernmental organizations (including
3 veterans service organizations and military
4 organizations), the Internet technology in-
5 dustry, and the insurance industry.

6 (B) ADVICE.—Individuals described in
7 clause (i) and (ii) of subparagraph (A) shall
8 provide advice to both subcommittees described
9 in paragraph (2).

10 (5) CHAIRMAN.—The President shall designate
11 a member of the Commission or Task Force who is
12 appointed by the President and designated to serve
13 upon the Subcommittee on the Backlog of Claims to
14 serve as the chairman of the Commission or Task
15 Force. The chairman may designate a member to
16 serve as the chairman of the Subcommittee on the
17 Backlog of Claims and a member to serve as the
18 chairman of the Subcommittee on Appeals to chair
19 such subcommittees as the designee of the chairman
20 of the Commission or Task Force.

21 (6) PERIOD OF APPOINTMENT.—Members of
22 the Commission or Task Force shall be appointed
23 for the life of the Commission or Task Force. A va-
24 cancy shall not affect its powers.

1 (7) VACANCY.—A vacancy on the Commission
2 or Task Force shall be filled in the manner in which
3 the original appointment was made.

4 (8) APPOINTMENT DEADLINE.—The appoint-
5 ment of members of the Commission or Task Force
6 established in this section shall be made not later
7 than 15 days after the date of the enactment of this
8 Act.

9 (e) MEETINGS.—

10 (1) INITIAL MEETING.—The Commission or
11 Task Force shall hold its first meeting not later
12 than 15 days after the date on which a majority of
13 the members are appointed.

14 (2) MEETINGS.—The Commission or Task
15 Force shall meet at the call of the chairman.

16 (3) QUORUM.—A majority of the members of
17 the Commission or Task Force shall constitute a
18 quorum, but a lesser number may hold hearings.

19 (f) POWERS OF THE COMMISSION OR TASK FORCE.—

20 (1) HEARINGS.—The Commission or Task
21 Force may hold such hearings, sit and act at such
22 times and places, take such testimony, and receive
23 such evidence as the Commission or Task Force con-
24 siders advisable to carry out the purposes of this
25 section.

1 (2) INFORMATION FROM FEDERAL AGENCIES.—

2 The Commission or Task Force may secure directly
3 from any department or agency of the Federal Gov-
4 ernment such information as the Commission or
5 Task Force considers necessary to carry out the pro-
6 visions of this section. Upon request of the chair-
7 man, the head of such department or agency shall
8 furnish such information to the Commission or Task
9 Force.

10 (3) POSTAL SERVICES.—The Commission or
11 Task Force may use the United States mails in the
12 same manner and under the same conditions as
13 other departments and agencies of the Federal Gov-
14 ernment.

15 (4) GIFTS.—The Commission or Task Force
16 may accept, use, and dispose of gifts or donations of
17 service or property.

18 (g) PERSONNEL MATTERS.—

19 (1) COMPENSATION OF MEMBERS.—Each mem-
20 ber of the Commission or Task Force who is not an
21 officer or employee of the United States shall be
22 compensated at a rate equal to the daily equivalent
23 of the annual rate of basic pay prescribed for level
24 IV of the Executive Schedule under section 5315 of
25 title 5, United States Code, for each day (including

1 travel time) during which the member is engaged in
2 the performance of the duties of the Commission or
3 Task Force. All members of the Commission or
4 Task Force who are officers or employees of the
5 United States shall serve without compensation in
6 addition to that received for their services as officers
7 or employees of the United States.

8 (2) TRAVEL EXPENSES.—The members of the
9 Commission or Task Force shall be allowed travel
10 expenses, including per diem in lieu of subsistence,
11 at rates authorized for employees of agencies under
12 subchapter I of chapter 57 of title 5, United States
13 Code, while away from their homes or regular places
14 of business in the performance of service of the
15 Commission or Task Force.

16 (3) STAFF.—

17 (A) APPOINTMENT.—The chairman of the
18 Commission or Task Force may, without regard
19 to the civil service laws and regulations, appoint
20 an executive director and such other personnel
21 as may be necessary to enable the Commission
22 or Task Force to perform its duties. The ap-
23 pointment of an executive director shall be sub-
24 ject to the approval of the Commission or Task
25 Force.

1 (B) COMPENSATION.—The chairman of
2 the Commission or Task Force may fix the
3 compensation of the executive director and
4 other personnel without regard to the provisions
5 of chapter 51 and subchapter III of chapter 53
6 of title 5, United States Code, relating to classi-
7 fication of positions and General Schedule pay
8 rates, except that the rate of pay for the execu-
9 tive director and other personnel may not ex-
10 ceed the rate payable for level V of the Execu-
11 tive Schedule under section 5316 of such title.

12 (4) DETAIL OF GOVERNMENT EMPLOYEES.—
13 Upon request of the chairman of the Commission or
14 Task Force, the head of any department or agency
15 of the Federal Government may detail, on a nonre-
16 imbursable basis, any personnel of that department
17 or agency to the Commission or Task Force to assist
18 it in carrying out its duties.

19 (5) PROCUREMENT OF TEMPORARY AND INTER-
20 MITTENT SERVICES.—The chairman of the Commis-
21 sion or Task Force may procure temporary and
22 intermittent services under section 3109(b) of title
23 5, United States Code, at rates for individuals which
24 do not exceed the daily equivalent of the annual rate

1 of basic pay prescribed for level V of the Executive
2 Schedule under section 5316 of such title.

3 (h) TERMINATION OF COMMISSION OR TASK
4 FORCE.—The Commission or Task Force shall terminate
5 60 days after the date on which the Commission or Task
6 Force submits the final comprehensive report under sub-
7 section (c)(3).

8 (i) FUNDING.—

9 (1) IN GENERAL.—The Secretary shall, upon
10 the request of the chairman of the Commission or
11 Task Force, make available to the Commission or
12 Task Force such amounts as the Commission or
13 Task Force may require to carry out the duties of
14 the Commission or Task Force under this section.

15 (2) AVAILABILITY.—Any sums made available
16 to the Commission or Task Force shall remain avail-
17 able, without fiscal year limitation, until the termi-
18 nation of the Commission or Task Force.

19 (j) DEFINITIONS.—In this section:

20 (1) The term “appeals process” means the
21 process to appeal the determination by the Secretary
22 of a claim beginning with the notice of disagreement
23 filed pursuant to section 7105 of title 38, United
24 States Code, and ending with the review of a deci-

1 sion by the Supreme Court pursuant to section
2 7292(e) of such title.

3 (2) The term “Board” means the Board of Vet-
4 erans’ Appeals.

5 (3) The term “strategic plan” means the Stra-
6 tegic Plan to Eliminate the Compensation Claims
7 Backlog, published by the Secretary of Veterans Af-
8 fairs on January 25, 2013.

