

**[Discussion Draft]**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 1379**  
**OFFERED BY MR. MILLER OF FLORIDA**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. DEVELOPMENT OF EVIDENCE BY BOARD OF**  
2 **VETERANS' APPEALS.**

3 (a) IN GENERAL.—Subsection (e) of section 7105 of  
4 title 38, United States Code, is amended to read as fol-  
5 lows:

6 “(e)(1) If, either at the time or after the agency of  
7 original jurisdiction receives a substantive appeal, the  
8 claimant or the claimant’s representative, if any, identifies  
9 or submits evidence to either the agency of original juris-  
10 diction or the Board of Veterans’ Appeals for consider-  
11 ation in connection with the issue or issues with which  
12 disagreement has been expressed, or if any evidence so  
13 submitted or identified requires that further evidence be  
14 gathered pursuant to section 5103A of this title, all such  
15 evidence shall be subject to initial review by the Board.

16 “(2)(A) If the Board determines that there is insuffi-  
17 cient evidence to make a decision in a claimant’s appeal

1 case, the Board shall take such steps as may be necessary  
2 to develop the evidence necessary to make a decision in  
3 the case. The Secretary shall ensure that the Board has  
4 access to such information as may be necessary to develop  
5 evidence under this paragraph.

6 “(B) If new evidence is developed under this para-  
7 graph, the Board shall ensure that the claimant or the  
8 claimant’s representative, if any, has an opportunity to re-  
9 view and respond to the new evidence.

10 “(3)(A) Except as provided in subparagraph (B), the  
11 Board may not remand any appeal case to the Veterans  
12 Benefits Administration.

13 “(B) If the Board determines that a claim is inex-  
14 tricably intertwined with a claim for which the agency of  
15 original jurisdiction has not yet made a decision and that  
16 it would be inappropriate to render a decision about the  
17 claim before the Board without also rendering a decision  
18 about the other claim, the Board shall remand the claim  
19 before the Board to the agency of original jurisdiction.

20 “(4)(A) The Board shall establish an office to develop  
21 evidence that the Board determines necessary to decide  
22 an appeal.

23 “(B) The Secretary shall ensure that the Veterans  
24 Benefits Administration cooperates with the Board of Vet-  
25 erans’ Appeals in carrying out subparagraph (A).”.

1 (b) TRANSFER OF EMPLOYEES.—In order to carry  
2 out subsection (e) of section 7105 of title 38, United  
3 States Code, as amended by subsection (a), the Secretary  
4 of Veterans Affairs shall transfer employees of the Vet-  
5 erans Benefits Administration who, prior to the enactment  
6 of this Act, were responsible for processing claims re-  
7 manded by the Board of Veterans' Appeals to positions  
8 within the office established pursuant to paragraph (4)(A)  
9 of such subsection in a number the Secretary determines  
10 sufficient to carry out such subsection.

11 (c) EFFECTIVE DATE.—Subsection (e) of section  
12 7105 of title 38, United States Code, as amended by sub-  
13 section (a), shall take effect on the date that is 180 days  
14 after the date of the enactment of this Act.

