

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5891
OFFERED BY MR. LUTTRELL OF TEXAS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Veteran Appeals Deci-
3 sion Clarity Act”.

**4 SEC. 2. BOARD OF VETERANS’ APPEALS: JURISDICTION;
5 ELEMENTS OF DECISIONS.**

6 (a) JURISDICTION.—Section 7104 of title 38, United
7 States Code, is amended, in subsection (a)—

8 (1) by inserting “(1)” before “All questions”;
9 and

10 (2) by adding at the end the following new
11 paragraphs:

12 “(2) The Board shall determine, in the first instance,
13 whether the Board has jurisdiction regarding a matter.

14 “(3) If the Board, on its own initiative, raises a ques-
15 tion of a potential jurisdictional defect, the Board shall
16 notify the parties and allow the parties an opportunity to
17 respond.”.

1 (b) ELEMENTS OF DECISIONS.—Subsection (d) of
2 such section is amended as follows:

3 (1) In paragraph (2)—

4 (A) in subparagraphs (A) and (B), by
5 striking “; and” both places it appears and in-
6 serting a semicolon;

7 (B) by redesignating subparagraph (B), as
8 amended, as subparagraph (C); and

9 (C) by inserting, after subparagraph (A),
10 the following new subparagraph (B):

11 “(B) if such evidence was not considered
12 as described in subparagraph (A), identifying
13 the time when such evidence was received and
14 the provision of section 7113 of this title that
15 establishes that such evidence may not be re-
16 ceived at such time; and”.

17 (2) By redesignating paragraph (3) as para-
18 graph (4).

19 (3) By inserting, after paragraph (2), the fol-
20 lowing new paragraph (3):

21 “(3) the written determination of the Board
22 whether the notice of disagreement was adequate
23 and timely filed under section 7105 of this title;
24 and”.

1 (c) CONFORMING AMENDMENT.—Section 7105 of
2 such title is amended by striking subparagraph (C) of
3 paragraph (1) of subsection (b).

