

Union Calendar No. 225

116TH CONGRESS
1ST SESSION

H. R. 1615

[Report No. 116–280, Part I]

To transfer the responsibility of verifying small business concerns owned and controlled by veterans or service-disabled veterans to the Small Business Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2019

Mr. KELLY of Mississippi (for himself, Mr. CHABOT, Mr. STAUBER, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. FITZPATRICK, Mr. BERGMAN, Ms. KUSTER of New Hampshire, Mr. WATKINS, Mrs. RADEWAGEN, Ms. VELÁZQUEZ, Mr. DAVID P. ROE of Tennessee, Mr. DUNN, Mr. BANKS, Mr. CURTIS, Mr. BALDERSON, Mr. BURCHETT, Mr. CROW, Mr. HAGEDORN, Mr. BILIRAKIS, Mr. JOYCE of Pennsylvania, and Mr. STIVERS) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

NOVEMBER 12, 2019

Additional sponsors: Mr. KIM, Mr. PETERS, Mr. GOLDEN, Mr. SPANO, and Mr. KEVIN HERN of Oklahoma

NOVEMBER 12, 2019

Reported from the Committee on Small Business with an amendment

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

NOVEMBER 12, 2019

Committee on Veterans' Affairs discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 7, 2019]

A BILL

To transfer the responsibility of verifying small business concerns owned and controlled by veterans or service-disabled veterans to the Small Business Administration, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Verification Alignment and Service-disabled Business Ad-*
 6 *justment Act” or the “VA–SBA Act”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 8 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Transfer date.

Sec. 3. Amendment to and transfer of veteran-owned and service-disabled veteran-
owned business database.

Sec. 4. Additional requirements for database.

Sec. 5. Procurement program for small business concerns owned and controlled by
service-disabled veterans.

Sec. 6. Certification for small business concerns owned and controlled by veterans.

Sec. 7. Status of self-certified small business concerns owned and controlled by
service-disabled veterans.

Sec. 8. Transfer of the Center for Verification and Evaluation of the Department
of Veterans Affairs to the Small Business Administration.

Sec. 9. Report.

9 **SEC. 2. TRANSFER DATE.**

10 *For purposes of this Act, the term “transfer date”*
 11 *means the date that is 2 years after the date of enactment*
 12 *of this Act, except that such date may be extended an unlim-*
 13 *ited number of times by a period of not more than 6 months*
 14 *if the Administrator of the Small Business Administration*
 15 *and the Secretary of Veterans Affairs jointly issue a notice*
 16 *to Congress and the Law Revision Counsel of the House*
 17 *of Representatives containing—*

18 (1) *a certification that such extension is nec-*
 19 *essary;*

1 (2) *the rationale for and the length of such exten-*
2 *sion; and*

3 (3) *a plan to comply with the requirements of*
4 *this Act within the timeframe of the extension.*

5 **SEC. 3. AMENDMENT TO AND TRANSFER OF VETERAN-**
6 **OWNED AND SERVICE-DISABLED VETERAN-**
7 **OWNED BUSINESS DATABASE.**

8 (a) *AMENDMENT OF VETERAN-OWNED AND SERVICE-*
9 *DISABLED VETERAN-OWNED BUSINESS DATABASE.—Effec-*
10 *tive on the transfer date, section 8127 of title 38, United*
11 *States Code, is amended—*

12 (1) *in subsection (e)—*

13 (A) *by striking “the Secretary” and insert-*
14 *ing “the Administrator”; and*

15 (B) *by striking “subsection (f)” and insert-*
16 *ing “section 36 of the Small Business Act”;*

17 (2) *in subsection (f)—*

18 (A) *by striking “the Secretary” each place*
19 *such term appears, other than in the last place*
20 *such term appears under paragraph (2)(A), and*
21 *inserting “the Administrator”;*

22 (B) *in paragraph (1), by striking “small*
23 *business concerns owned and controlled by vet-*
24 *erans with service-connected disabilities” each*
25 *place such term appears and inserting “small*

1 *business concerns owned and controlled by serv-*
2 *ice-disabled veterans”;*

3 *(C) in paragraph (2)—*

4 *(i) in subparagraph (A), by striking*
5 *“to access” and inserting “to obtain from*
6 *the Secretary of Veterans Affairs”;* and

7 *(ii) by striking subparagraph (B) and*
8 *inserting the following:*

9 *“(B) For purposes of this subsection—*

10 *“(i) the Secretary of Veterans Affairs shall—*

11 *“(I) verify an individual’s status as a vet-*
12 *eran or a service-disabled veteran; and*

13 *“(II) establish a system to permit the Ad-*
14 *ministrator to access, but not alter, such*
15 *verification; and*

16 *“(ii) the Administrator shall verify—*

17 *“(I) the status of a business concern as a*
18 *small business concern; and*

19 *“(II) the ownership and control of such*
20 *business concern.*

21 *“(C) The Administrator may not certify a concern*
22 *under subsection (b) or section 36A if the Secretary of Vet-*
23 *erans Affairs cannot provide the verification described*
24 *under subparagraph (B)(i)(I).”;*

25 *(D) by striking paragraphs (4) and (7);*

1 (E) by redesignating paragraphs (5) and
2 (6) as paragraphs (4) and (5), respectively, and
3 redesignating paragraph (8) as paragraph (6);

4 (F) in paragraph (4), as so redesignated, by
5 striking “The Secretary” and inserting “The Ad-
6 ministrators”; and

7 (G) in paragraph (6), as so redesignated—

8 (i) in subparagraph (A)—

9 (I) by striking “verify the status
10 of the concern as a small business con-
11 cern or the ownership or control of the
12 concern” and inserting “certify the sta-
13 tus of the concern as a small business
14 concern owned and controlled by vet-
15 erans (under section 36A) or a small
16 business concern owned and controlled
17 by service-disabled veterans (under sec-
18 tion 36(g))”; and

19 (II) by striking “verification” and
20 inserting “certification”;

21 (ii) in subparagraph (B)—

22 (I) in clause (i), by striking
23 “small business concern owned and
24 controlled by veterans with service-con-
25 nected disabilities” and inserting

1 “small business concern owned and
2 controlled by service-disabled veterans”;
3 and

4 (II) in clause (ii)—

5 (aa) by amending subclause
6 (I) to read as follows:

7 “(I) the Secretary of Veterans Affairs or the
8 Administrator; or”; and

9 (bb) in subclause (II), by
10 striking “the contracting officer of
11 the Department” and inserting
12 “the applicable contracting offi-
13 cer”; and

14 (iii) by striking subparagraph (C);

15 (3) by redesignating subsection (k) (relating to
16 definitions) as subsection (l);

17 (4) by inserting after subsection (j) (relating to
18 annual reports) the following:

19 “(k) ANNUAL TRANSFER FOR CERTIFICATION
20 COSTS.—For each fiscal year, the Secretary of Veterans Af-
21 fairs shall reimburse the Administrator in an amount nec-
22 essary to cover any cost incurred by the Administrator for
23 certifying small business concerns owned and controlled by
24 veterans that do not qualify as small business concerns
25 owned and controlled by service-disabled veterans for the

1 *Secretary for purposes of this section and section 8128 of*
2 *this title. The Administrator is authorized to accept such*
3 *reimbursement. The amount of any such reimbursement*
4 *shall be determined jointly by the Secretary and the Admin-*
5 *istrator and shall be provided from fees collected by the Sec-*
6 *retary under multiple-award schedule contracts. Any dis-*
7 *agreement about the amount shall be resolved by the Direc-*
8 *tor of the Office of Management and Budget.”; and*

9 (5) *subsection (l) (relating to definitions), as so*
10 *redesignated, by adding at the end the following:*

11 “(4) *The term Administrator means the Admin-*
12 *istrator of the Small Business Administration.”.*

13 (b) *TRANSFER OF REQUIREMENTS RELATING TO*
14 *DATABASE TO THE SMALL BUSINESS ACT.—Effective on*
15 *the transfer date, subsection (f) of section 8127 of title 38,*
16 *United States Code (as amended by subsection (a)), is*
17 *transferred to section 36 of the Small Business Act (15*
18 *U.S.C. 657f), inserted so as to appear after subsection (e).*

19 (c) *CONFORMING AMENDMENTS.—The following*
20 *amendments shall take effect on the transfer date:*

21 (1) *SMALL BUSINESS ACT.—Section*
22 *3(q)(2)(C)(i)(III) of the Small Business Act (15*
23 *U.S.C. 632(q)(2)(C)(i)(III)) is amended by striking*
24 *“section 8127(f) of title 38, United States Code” and*
25 *inserting “section 36”.*

1 (2) *TITLE 38.*—Section 8128 of title 38, United
2 *States Code, is amended by striking “section 8127(f)*
3 *of this title” and inserting “section 36 of the Small*
4 *Business Act”.*

5 **SEC. 4. ADDITIONAL REQUIREMENTS FOR DATABASE.**

6 (a) *ADMINISTRATION ACCESS TO DATABASE BEFORE*
7 *THE TRANSFER DATE.*—During the period between the date
8 *of the enactment of this Act and the transfer date, the Sec-*
9 *retary of Veterans Affairs shall provide the Administrator*
10 *of the Small Business Administration with access to the*
11 *contents of the database described under section 8127(f) of*
12 *title 38, United States Code.*

13 (b) *RULE OF CONSTRUCTION.*—Nothing in this Act or
14 *the amendments made by this Act may be construed—*

15 (1) *as prohibiting the Administrator of the*
16 *Small Business Administration from combining the*
17 *contents of the database described under section*
18 *8127(f) of title 38, United States Code, with other*
19 *databases maintained by the Administration; or*

20 (2) *as requiring the Administrator to use any*
21 *system or technology related to the database described*
22 *under section 8127(f) of title 38, United States Code,*
23 *on or after the transfer date to comply with the re-*
24 *quirement to maintain a database under subsection*

1 (f) of section 36 of the Small Business Act (as trans-
2 ferred pursuant to section 3(b) of this Act).

3 (c) **RECOGNITION OF THE ISSUANCE OF JOINT REGU-**
4 **LATIONS.**—The date specified under section 1832(e) of the
5 National Defense Authorization Act for Fiscal Year 2017
6 (15 U.S.C. 632 note) shall be deemed to be October 1, 2018.

7 **SEC. 5. PROCUREMENT PROGRAM FOR SMALL BUSINESS**
8 **CONCERNS OWNED AND CONTROLLED BY**
9 **SERVICE-DISABLED VETERANS.**

10 (a) **PROCUREMENT PROGRAM FOR SMALL BUSINESS**
11 **CONCERNS OWNED AND CONTROLLED BY SERVICE-DIS-**
12 **ABLED VETERANS.**—Section 36 of the Small Business Act
13 (15 U.S.C. 657f) is amended—

14 (1) by striking subsections (d) and (e);

15 (2) by redesignating subsections (a), (b), and (c)
16 as subsections (c), (d), and (e) respectively;

17 (3) by inserting before subsection (c), as so reded-
18 ignated, the following:

19 “(a) **CONTRACTING OFFICER DEFINED.**—For purposes
20 of this section, the term ‘contracting officer’ has the mean-
21 ing given such term in section 2101 of title 41, United
22 States Code.

23 “(b) **CERTIFICATION OF SMALL BUSINESS CONCERNS**
24 **OWNED AND CONTROLLED BY SERVICE-DISABLED VET-**
25 **ERANS.**—With respect to a procurement program or pref-

1 *erence established under this Act that applies to prime con-*
2 *tractors, the Administrator shall—*

3 “(1) *certify the status of the concern as a ‘small*
4 *business concern owned and controlled by service-dis-*
5 *abled veterans’; and*

6 “(2) *require the periodic recertification of such*
7 *status.’;*”

8 (4) *in subsection (d), as so redesignated, by*
9 *striking “and that the award can be made at a fair*
10 *market price” and inserting “, that the award can be*
11 *made at a fair market price, and if each concern is*
12 *certified by the Administrator as a small business*
13 *concern owned and controlled by service-disabled vet-*
14 *erans’; and*

15 (5) *by adding at the end the following:*

16 “(g) *CERTIFICATION REQUIREMENT.—Notwith-*
17 *standing subsection (c), a contracting officer may only*
18 *award a sole source contract to a small business concern*
19 *owned and controlled by service-disabled veterans or a con-*
20 *tract on the basis of competition restricted to small business*
21 *concerns owned and controlled by service-disabled veterans*
22 *if such a concern is certified by the Administrator as a*
23 *small business concern owned and controlled by service-dis-*
24 *abled veterans.*”

25 “(h) *ENFORCEMENT; PENALTIES.—*

1 “(1) *VERIFICATION OF ELIGIBILITY.*—*In carrying out this section, the Administrator shall establish procedures relating to—*

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4 “(A) *the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under subsection (b)); and*

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11 “(B) *verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under subsection (b).*

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16 “(2) *EXAMINATIONS.*—

17 “(A) *EXAMINATION OF APPLICANTS.*—*The procedures established under paragraph (1) shall provide for a program of examinations by the Administrator of any small business concern making a certification or providing information to the Administrator under subsection (b), to determine the veracity of any statements or information provided as part of such certification or otherwise provided under subsection (b).*

1 “(B) *EXAMINATION OF CERTIFIED CON-*
2 *CERNS.—The procedures established under para-*
3 *graph (1) shall provide for the examination of*
4 *risk-based samples of small business concerns*
5 *certified under subsection (b), or of any small*
6 *business concern that the Administrator believes*
7 *poses a particular risk or with respect to which*
8 *the Administrator receives specific and credible*
9 *information alleging that the small business con-*
10 *cern no longer meets eligibility requirements to*
11 *be certified as a small business concern owned*
12 *and controlled by service-disabled veterans.*

13 “(3) *PENALTIES.—In addition to the penalties*
14 *described in section 16(d), any small business concern*
15 *that is determined by the Administrator to have mis-*
16 *represented the status of that concern as a small busi-*
17 *ness concern owned and controlled by service-disabled*
18 *veterans for purposes of subsection (b), shall be subject*
19 *to—*

20 “(A) *section 1001 of title 18, United States*
21 *Code;*

22 “(B) *sections 3729 through 3733 of title 31,*
23 *United States Code; and*

24 “(C) *section 8127(g) of title 38, United*
25 *States Code.*

1 “(i) *PROVISION OF DATA.*—Upon the request of the Ad-
2 ministrator, the head of any Federal department or agency
3 shall promptly provide to the Administrator such informa-
4 tion as the Administrator determines to be necessary to
5 carry out subsection (b) or to be able to certify the status
6 of the concern as a small business concern owned and con-
7 trolled by veterans under section 36A.”.

8 (b) *PENALTIES FOR MISREPRESENTATION.*—Section
9 16 of the Small Business Act (15 U.S.C. 645) is amended—

10 (1) in subsection (d)(1)—

11 (A) by striking “, a” and inserting “, a
12 ‘small business concern owned and controlled by
13 service-disabled veterans’, a ‘small business con-
14 cern owned and controlled by veterans’, a”;

15 (B) in paragraph (A), by striking “9, 15, or
16 31” and inserting “8, 9, 15, 31, 36, or 36A”;
17 and

18 (2) in subsection (e), by striking “, a” and in-
19 serting “, a ‘small business concern owned and con-
20 trolled by service-disabled veterans’, a ‘small business
21 concern owned and controlled by veterans’, a”.

1 **SEC. 6. CERTIFICATION FOR SMALL BUSINESS CONCERNS**
2 **OWNED AND CONTROLLED BY VETERANS.**

3 *The Small Business Act (15 U.S.C. 631 et seq.) is*
4 *amended by inserting after section 36 the following new sec-*
5 *tion:*

6 **“SEC. 36A. CERTIFICATION OF SMALL BUSINESS CONCERNS**
7 **OWNED AND CONTROLLED BY VETERANS.**

8 *“(a) IN GENERAL.—With respect to the program estab-*
9 *lished under section 8127 of title 38, United States Code,*
10 *the Administrator shall—*

11 *“(1) certify the status of the concern as a ‘small*
12 *business concern owned and controlled by veterans’;*
13 *and*

14 *“(2) require the periodic recertification of such*
15 *status.*

16 *“(b) ENFORCEMENT; PENALTIES.—*

17 *“(1) VERIFICATION OF ELIGIBILITY.—In car-*
18 *rying out this section, the Administrator shall estab-*
19 *lish procedures relating to—*

20 *“(A) the filing, investigation, and disposi-*
21 *tion by the Administration of any challenge to*
22 *the eligibility of a small business concern to re-*
23 *ceive assistance under this section (including a*
24 *challenge, filed by an interested party, relating*
25 *to the veracity of a certification made or infor-*
26 *mation provided to the Administration by a*

1 *small business concern under subsection (a));*
2 *and*

3 “(B) *verification by the Administrator of*
4 *the accuracy of any certification made or infor-*
5 *mation provided to the Administration by a*
6 *small business concern under subsection (a).*

7 “(2) *EXAMINATION OF APPLICANTS.—The proce-*
8 *dures established under paragraph (1) shall provide*
9 *for a program of examinations by the Administrator*
10 *of any small business concern making a certification*
11 *or providing information to the Administrator under*
12 *subsection (a), to determine the veracity of any state-*
13 *ments or information provided as part of such certifi-*
14 *cation or otherwise provided under subsection (a).*

15 “(3) *PENALTIES.—In addition to the penalties*
16 *described in section 16(d), any small business concern*
17 *that is determined by the Administrator to have mis-*
18 *represented the status of that concern as a small busi-*
19 *ness concern owned and controlled by veterans for*
20 *purposes of subsection (a), shall be subject to—*

21 “(A) *section 1001 of title 18, United States*
22 *Code;*

23 “(B) *sections 3729 through 3733 of title 31,*
24 *United States Code; and*

1 “(C) section 8127(g) of title 38, United
2 States Code.”.

3 **SEC. 7. STATUS OF SELF-CERTIFIED SMALL BUSINESS CON-**
4 **CERNS OWNED AND CONTROLLED BY SERV-**
5 **ICE-DISABLED VETERANS.**

6 (a) *IN GENERAL.*—Notwithstanding any other provi-
7 sion of law, any small business concern that self-certified
8 as a small business concern owned and controlled by serv-
9 ice-disabled veterans shall—

10 (1) *if the concern files a certification application*
11 *with the Administrator of the Small Business Admin-*
12 *istration before the end of the 1-year period beginning*
13 *on the transfer date, maintain such self-certification*
14 *until the Administrator makes a determination with*
15 *respect to such certification; and*

16 (2) *if the concern does not file such a certifi-*
17 *cation application before the end of the 1-year period*
18 *beginning on the transfer date, lose, at the end of such*
19 *1-year period, any self-certification of the concern as*
20 *a small business concern owned and controlled by*
21 *service-disabled veterans.*

22 (b) *NON-APPLICABILITY TO DEPARTMENT OF VET-*
23 *ERANS AFFAIRS.*—Subsection (a) shall not apply to partici-
24 pation in contracts (including subcontracts) with the De-
25 partment of Veterans Affairs.

1 (c) *NOTICE.*—*The Administrator shall notify any*
2 *small business concern that self-certified as a small business*
3 *concern owned and controlled by service-disabled veterans*
4 *about the requirements of this Act, including the transfer*
5 *date and any extension of such transfer date made pursuant*
6 *to section 2, and make such notice publicly available, on—*

7 (1) *the date of the enactment of this Act; and*

8 (2) *the date on which an extension described*
9 *under section 2 is approved.*

10 **SEC. 8. TRANSFER OF THE CENTER FOR VERIFICATION AND**
11 **EVALUATION OF THE DEPARTMENT OF VET-**
12 **ERANS AFFAIRS TO THE SMALL BUSINESS AD-**
13 **MINISTRATION.**

14 (a) *ABOLISHMENT.*—*The Center for Verification and*
15 *Evaluation of the Department of Veterans Affairs defined*
16 *under section 74.1 of title 38, Code of Federal Regulations,*
17 *is abolished effective on the transfer date.*

18 (b) *TRANSFER OF FUNCTIONS.*—*All functions that, im-*
19 *mediately before the effective date of this section, were func-*
20 *tions of the Center for Verification and Evaluation shall—*

21 (1) *on the date of enactment of this Act, be func-*
22 *tions of both the Center for Verification and Evalua-*
23 *tion and the Small Business Administration, except*
24 *that the Small Business Administration shall not*
25 *have any authority to carry out any verification*

1 *functions of the Center for Verification and Evalua-*
2 *tion; and*

3 (2) *on the transfer date, be functions of the*
4 *Small Business Administration.*

5 (c) *TRANSFER OF ASSETS.—So much of the personnel,*
6 *property, records, and unexpended balances of appropria-*
7 *tions, allocations, and other funds employed, used, held,*
8 *available, or to be made available in connection with a*
9 *function transferred under this section shall be available to*
10 *the Small Business Administration at such time or times*
11 *as the President directs for use in connection with the func-*
12 *tions transferred.*

13 (d) *REFERENCES.—Any reference in any other Federal*
14 *law, Executive order, rule, regulation, or delegation of au-*
15 *thority, or any document of or pertaining to a function of*
16 *the Center for Verification and Evaluation that is trans-*
17 *ferred under this section is deemed, after the transfer date,*
18 *to refer to the Small Business Administration.*

19 **SEC. 9. REPORT.**

20 *Not later than the end of the 1-year period beginning*
21 *on the date of the enactment of this Act, and every 6 months*
22 *thereafter until the transfer date, the Administrator of the*
23 *Small Business Administration and Secretary of Veterans*
24 *Affairs shall jointly issue a report to the Committees on*
25 *Appropriations, Small Business, and Veterans' Affairs of*

1 *the House of Representatives and the Committees on Appro-*
2 *priations, Small Business and Entrepreneurship, and Vet-*
3 *erans' Affairs of the Senate on the planning for the transfer*
4 *of functions and property required under this Act and the*
5 *amendments made by this Act on the transfer date. Such*
6 *report shall include—*

7 (1) *whether and how the verification database*
8 *and operations of the Center for Verification and*
9 *Evaluation of the Department of Veterans Affairs will*
10 *be incorporated into the existing certification data-*
11 *base of the Small Business Administration;*

12 (2) *projections for the numbers and timing, in*
13 *terms of fiscal year, of—*

14 (A) *already verified concerns that will come*
15 *up for recertification; and*

16 (B) *self-certified concerns that are expected*
17 *to apply for certification;*

18 (3) *an explanation of how outreach to veteran*
19 *service organizations, the service-disabled veteran-*
20 *owned and veteran-owned small business community,*
21 *and other stakeholders will be conducted; and*

22 (4) *other pertinent information determined by*
23 *the Administrator and the Secretary.*

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[Report No. 116-280, Part I]

A BILL

To transfer the responsibility of verifying small business concerns owned and controlled by veterans or service-disabled veterans to the Small Business Administration, and for other purposes.

NOVEMBER 12, 2019

Reported from the Committee on Small Business with an amendment

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Committee on Veterans' Affairs discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed