Suspend the Rules and Pass the Bill, H.R. 1615, with an Amendment
(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
1ST SESSION

H. R. 1615

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. VEÍÁZQUEZ, Mr. DAVID P. ROE of Tennessee, Mr. DUNN, Mr. BANKS, Mr. CURTIS, Mr. BALDERSO´N, 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.

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,
SECTI0N 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Verification Alignment and Service-disabled Business Adjustment Act” or the “VA–SBA Act”.

(b) TABLE OF CONTENTS.—The table of contents for 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. Dollar threshold for sole source awards to small business concern owned and controlled by service-disabled veterans.
Sec. 5. Additional requirement for database.
Sec. 6. Procurement program for small business concerns owned and controlled by service-disabled veterans.
Sec. 7. Certification for small business concerns owned and controlled by veterans.
Sec. 8. Status of self-certified small business concerns owned and controlled by service-disabled veterans and veterans.
Sec. 9. Transfer of the Center for Verification and Evaluation of the Department of Veterans Affairs to the Small Business Administration.
Sec. 10. Report.
Sec. 11. Determination of Budgetary Effects.

SEC. 2. TRANSFER DATE.

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

(1) a certification that such extension is necessary;
(2) the rationale for and the length of such extension; and

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

SEC. 3. AMENDMENT TO AND TRANSFER OF VETERAN-OWNED AND SERVICE-DISABLED VETERAN-OWNED BUSINESS DATABASE.

(a) Amendment of Veteran-Owned and Service-Disabled Veteran-Owned Business Database.—Effective on the transfer date, section 8127 of title 38, United States Code, is amended—

(1) in subsection (e)—

(A) by striking “the Secretary” and inserting “the Administrator”; and

(B) by striking “subsection (f)” and inserting “section 36 of the Small Business Act”;

(2) in subsection (f)—

(A) by striking “the Secretary” each place such term appears, other than under paragraph (7) and in the last place such term appears under paragraph (2)(A), and inserting “the Administrator”;

(B) in paragraph (2)—
(i) in subparagraph (A), by striking “to access” and inserting “to obtain from the Secretary of Veterans Affairs”; and

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

“(B) For purposes of this subsection—

“(i) the Secretary of Veterans Affairs shall—

“(I) verify an individual’s status as a veteran or a service-disabled veteran; and

“(II) establish a system to permit the Administrator to access, but not alter, such verification; and

“(ii) the Administrator shall verify—

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

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

“(C) If the Administrator receives an application from an individual with respect to a business concern for inclusion in the database, but the individual’s status as a veteran or service-disabled veteran, the business concern’s status as a small business concern, or the ownership and control of such business concern cannot be verified under subpara-
graph (B), the Administrator may not include the
business concern in the database maintained by the
Administrator.”;

(C) by striking paragraphs (4) and (7);

(D) by redesignating paragraphs (5) and
(6) as paragraphs (4) and (5), respectively, and
redesignating paragraph (8) as paragraph (6);
and

(E) in paragraph (6), as so redesignated—

(i) in subparagraph (B)(ii)—

(I) by amending subclause (I) to
read as follows:

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

(II) in subclause (II), by striking
“the contracting officer of the Depart-
ment” and inserting “the applicable
contracting officer”; and

(ii) by striking subparagraph (C);

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

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

“(k) ANNUAL TRANSFER FOR CERTIFICATION
COSTS.—For each fiscal year, the Secretary of Veterans
Affairs shall reimburse the Administrator in an amount necessary to cover any cost incurred by the Administrator for certifying small business concerns owned and controlled by veterans that do not qualify as small business concerns owned and controlled by service-disabled veterans for the Secretary for purposes of this section and section 8128. The Administrator is authorized to accept such reimbursement. The amount of any such reimbursement shall be determined jointly by the Secretary and the Administrator and shall be provided from fees collected by the Secretary under multiple-award schedule contracts. Any disagreement about the amount shall be resolved by the Director of the Office of Management and Budget.”;

(5) in subsection (k) (relating to definitions), as so redesignated, by adding at the end the following:

“(4) The term ‘Administrator’ means the Administrator of the Small Business Administration.”.

(b) TRANSFER OF REQUIREMENTS RELATING TO DATABASE TO THE SMALL BUSINESS ACT.—Effective on the transfer date, subsection (f) of section 8127 of title 38, United States Code (as amended by subsection (a)), is transferred to section 36 of the Small Business Act (15 U.S.C. 657f), inserted so as to appear after subsection (e).
(c) CONFORMING AMENDMENTS.—The following amendments shall take effect on the transfer date:


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

SEC. 4. DOLLAR THRESHOLD FOR SOLE SOURCE AWARDS TO SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) SMALL BUSINESS ACT.—Effective on the transfer date, section 36(c) of the Small Business Act, as redesignated by section 6(a)(2), is amended—

(1) by striking the first dollar figure and inserting “$7,000,000”; and

(2) by striking the second dollar figure and inserting “$5,000,000”.

(b) TITLE 38.—Effective on the transfer date, paragraph (2) of section 8127(c) of title 38, United States Code, is amended to read as follows:
“(2) the anticipated award price of the contract will not exceed the amount described under section 36(c) of the Small Business Act; and”.

SEC. 5. ADDITIONAL REQUIREMENT FOR DATABASE.

(a) Administration Access to Database Before the Transfer Date.—During the period between the date of the enactment of this Act and the transfer date, the Secretary of Veterans Affairs shall provide the Administrator of the Small Business Administration with access to the contents of the database described under section 8127(f) of title 38, United States Code.

(b) Rule of Construction.—Nothing in this Act or the amendments made by this Act may be construed as prohibiting the Administrator of the Small Business Administration from combining the contents of the database described under section 8127(f) of title 38, United States Code, with other databases maintained by the Administration.

SEC. 6. PROCUREMENT PROGRAM FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

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

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

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

(3) by inserting before subsection (c), as so redesignated, the following:

“(a) CONTRACTING OFFICER DEFINED.—For purposes of this section, the term ‘contracting officer’ has the meaning given such term in section 2101 of title 41, United States Code.

“(b) CERTIFICATION OF SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—With respect to a procurement program or preference established under this Act or any other Federal law applicable to small business concerns owned and controlled by service-disabled veterans, the Administrator shall—

“(1) certify the status of the concern as a ‘small business concern owned and controlled by service-disabled veterans’; and
“(2) require the periodic recertification of such status.”;

(4) in subsection (d), as so redesignated, by striking “and that the award can be made at a fair market price” and inserting “, that the award can be made at a fair market price, and if each concern is certified by the Administrator as a small business concern owned and controlled by service-disabled veterans”; and

(5) by adding at the end the following:

“(g) Certification Requirement.—Notwithstanding subsection (c), a contracting officer may only award a sole source contract to a small business concern owned and controlled by service-disabled veterans or a contract on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if such a concern is certified by the Administrator as a small business concern owned and controlled by service-disabled veterans.

“(h) Enforcement; Penalties.—

“(1) Verification of eligibility.—In carrying out this section, the Administrator shall establish procedures relating to—

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

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

“(2) EXAMINATIONS.—

“(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 in-
formation provided as part of such certification
or otherwise provided under subsection (b).

“(B) Examination of Certified Con-
cerns.—The procedures established under
paragraph (1) shall provide for the examination
of risk-based samples of small business con-
cerns certified under subsection (b), or of any small business concern that the Administrator believes poses a particular risk or with respect to which the Administrator receives specific and credible information alleging that the small business concern no longer meets eligibility requirements to be certified as a small business concern owned and controlled by service-disabled veterans.

“(3) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a small business concern owned and controlled by service-disabled veterans for purposes of subsection (b), shall be subject to—

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

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

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

“(i) PROVISION OF DATA.—Upon the request of the Administrator, the head of any Federal department or agency shall promptly provide to the Administrator such
information as the Administrator determines to be necessary to carry out subsection (b) or to be able to certify the status of the concern as a small business concern owned and controlled by veterans under section 36A.”.

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

(1) in subsection (d)(1)—

(A) by striking “,, a” and inserting “, a ‘small business concern owned and controlled by service-disabled veterans’, a ‘small business concern owned and controlled by veterans’, a”; and

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

(2) in subsection (e), by striking “,, a” and inserting “, a ‘small business concern owned and controlled by service-disabled veterans’, a ‘small business concern owned and controlled by veterans’, a”.

SEC. 7. CERTIFICATION FOR SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY VETERANS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 36 the following new section:
“SEC. 36A. CERTIFICATION OF SMALL BUSINESS CONCERNS
OWNED AND CONTROLLED BY VETERANS.

“(a) IN GENERAL.—With respect to the program established under section 8127 of title 38, United States Code, the Administrator shall—

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

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

“(b) ENFORCEMENT; PENALTIES.—

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

“(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 (a)); and

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

“(2) 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 (a), to determine the veracity of any statements or information provided as part of such certification or otherwise provided under subsection (a).

“(3) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a small business concern owned and controlled by veterans for purposes of subsection (a), shall be subject to—

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

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

“(C) section 8127(g) of title 38, United States Code.”.
SEC. 8. STATUS OF SELF-CERTIFIED SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS AND VETERANS.

(a) In General.—Notwithstanding any other provision of law, any small business concern that self-certified as a small business concern owned and controlled by veterans or a small business concern owned and controlled by service-disabled veterans shall—

(1) if the concern files a certification application with the Administrator of the Small Business Administration before the end of the 1-year period beginning on the transfer date, maintain such self-certification until the Administrator makes a determination with respect to such certification; and

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

(b) Non-Applicability to Department of Veterans Affairs.—Subsection (a) shall not apply to participation in contracts (including subcontracts) with the Department of Veterans Affairs.

(c) Notice.—The Administrator shall notify any small business concern that self-certified as a small busi-
ness concern owned and controlled by veterans or a small
business concern owned and controlled by service-disabled
veterans about the requirements of the Verification Align-
ment and Service-disabled Business Adjustment Act, in-
cluding the transfer date and any extension of such trans-
fer date made pursuant to section 2, and make such notice
publicly available, on—

(1) the date of the enactment of this Act; and
(2) the date on which an extension described
under section 2 is approved.

SEC. 9. TRANSFER OF THE CENTER FOR VERIFICATION
AND EVALUATION OF THE DEPARTMENT OF
VETERANS AFFAIRS TO THE SMALL BUSI-
NESS ADMINISTRATION.

(a) ABOLISHMENT.—The Center for Verification and
Evaluation of the Department of Veterans Affairs defined
under section 74.1 of title 38, Code of Federal Regula-
tions, is abolished effective on the transfer date.

(b) TRANSFER OF FUNCTIONS.—All functions that,
immediately before the effective date of this section, were
functions of the Center for Verification and Evaluation
shall—

(1) on the date of enactment of this Act, be
functions of both the Center for Verification and
Evaluation and the Small Business Administration,
except that the Small Business Administration shall not have any authority to carry out any verification functions of the Center for Verification and Evaluation; and

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

(e) TRANSFER OF ASSETS.—So much of the personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred under this section shall be available to the Small Business Administration at such time or times as the President directs for use in connection with the functions transferred.

(d) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a function of the Center for Verification and Evaluation that is transferred under this section is deemed, after the transfer date, to refer to the Small Business Administration.

SEC. 10. REPORT.

Not later than the end of the 1-year period beginning on the date of the enactment of this Act, and every 6 months thereafter until the transfer date, the Administrator of the Small Business Administration and Secretary of Veterans Affairs shall jointly issue a report to the Com-
mittees on Appropriations, Small Business, and Veterans’ Affairs of the House of Representatives and the Com- mittees on Appropriations, Small Business and Entrepreneur- ship, and Veterans’ Affairs of the Senate on the planning for the transfer of functions and property required under this Act and the amendments made by this Act on the transfer date. Such report shall include—

(1) whether and how the verification database and operations of the Center for Verification and Evaluation of the Department of Veterans Affairs will be incorporated into the existing certification database of the Small Business Administration;

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

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

(B) self-certified concerns that are ex- pected to apply for certification;

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

(4) other pertinent information determined by the Administrator and the Secretary.
SEC. 11. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.