

121

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1615
OFFERED BY MR. KELLY OF MISSISSIPPI**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

5 (b) TABLE OF CONTENTS.—The table of contents for
6 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.

7 SEC. 2. TRANSFER DATE.

8 For purposes of this Act, the term “transfer date”
9 means the date that is 2 years after the date of enactment
10 of this Act, except that such date may be extended an un-
11 limited number of times by a period of not more than 6

1 months if the Administrator of the Small Business Admin-
2 istration and the Secretary of Veterans Affairs jointly
3 issue a notice to Congress and the Law Revision Counsel
4 of the House of Representatives containing—

5 (1) a certification that such extension is nec-
6 essary;

7 (2) the rationale for and the length of such ex-
8 tension; and

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

11 **SEC. 3. AMENDMENT TO AND TRANSFER OF VETERAN-**
12 **OWNED AND SERVICE-DISABLED VETERAN-**
13 **OWNED BUSINESS DATABASE.**

14 (a) AMENDMENT OF VETERAN-OWNED AND SERV-
15 ICE-DISABLED VETERAN-OWNED BUSINESS DATA-
16 BASE.—Effective on the transfer date, section 8127 of
17 title 38, United States Code, is amended—

18 (1) in subsection (e)—

19 (A) by striking “the Secretary” and insert-
20 ing “the Administrator”; and

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

23 (2) in subsection (f)—

24 (A) by striking “the Secretary” each place
25 such term appears, other than in the last place

1 such term appears under paragraph (2)(A), and
2 inserting “the Administrator”;

3 (B) in paragraph (1), by striking “small
4 business concerns owned and controlled by vet-
5 erans with service-connected disabilities” each
6 place such term appears and inserting “small
7 business concerns owned and controlled by serv-
8 ice-disabled veterans”

9 (C) in paragraph (2)—

10 (i) in subparagraph (A), by striking
11 “to access” and inserting “to obtain from
12 the Secretary of Veterans Affairs”; and

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

15 “(B) For purposes of this subsection—

16 “(i) the Secretary of Veterans Affairs
17 shall—

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

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

23 “(ii) the Administrator shall verify—

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

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

3 “(C) The Administrator may not certify a con-
4 cern under section 36(b) or section 36A if the Sec-
5 retary of Veterans Affairs cannot provide the
6 verification described under subparagraph
7 (B)(i)(I).”;

8 (D) by striking paragraphs (4) and (7);

9 (E) by redesignating paragraphs (5) and
10 (6) as paragraphs (4) and (5), respectively, and
11 redesignating paragraph (8) as paragraph (6);

12 (F) in paragraph (4), as so redesignated,
13 by striking “The Secretary” and inserting “The
14 Administrator”; and

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

16 (i) in subparagraph (A)—

17 (I) by striking “verify the status
18 of the concern as a small business
19 concern or the ownership or control of
20 the concern” and inserting “certify
21 the status of the concern as a small
22 business concern owned and controlled
23 by veterans (under section 36A) or a
24 small business concern owned and

1 controlled by service-disabled veterans
2 (under section 36(g))”; and

3 (II) by striking “verification”
4 and inserting “certification”;

5 (ii) in subparagraph (B)—

6 (I) in clause (i), by striking
7 “small business concern owned and
8 controlled by veterans with service-
9 connected disabilities” and inserting
10 “small business concern owned and
11 controlled by service-disabled vet-
12 erans”; and

13 (II) in clause (ii)—

14 (aa) by amending subclause
15 (I) to read as follows:

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

18 (bb) in subclause (II), by
19 striking “the contracting officer
20 of the Department” and inserting
21 “the applicable contracting offi-
22 cer”; and

23 (iii) by striking subparagraph (C);

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

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

3 “(k) ANNUAL TRANSFER FOR CERTIFICATION
4 COSTS.—For each fiscal year, the Secretary of Veterans
5 Affairs shall reimburse the Administrator in an amount
6 necessary to cover any cost incurred by the Administrator
7 for certifying small business concerns owned and con-
8 trolled by veterans that do not qualify as small business
9 concerns owned and controlled by service-disabled veterans
10 for the Secretary for purposes of this section and section
11 8128. The Administrator is authorized to accept such re-
12 imbursement. The amount of any such reimbursement
13 shall be determined jointly by the Secretary and the Ad-
14 ministrator and shall be provided from fees collected by
15 the Secretary under multiple-award schedule contracts.
16 Any disagreement about the amount shall be resolved by
17 the Director of the Office of Management and Budget.”;
18 and

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

21 “(4) The term ‘Administrator’ means the Ad-
22 ministrator of the Small Business Administration.”.

23 (b) TRANSFER OF REQUIREMENTS RELATING TO
24 DATABASE TO THE SMALL BUSINESS ACT.—Effective on
25 the transfer date, subsection (f) of section 8127 of title

1 38, United States Code (as amended by subsection (a)),
2 is transferred to section 36 of the Small Business Act (15
3 U.S.C. 657f), inserted so as to appear after subsection (e).

4 (c) CONFORMING AMENDMENTS.—The following
5 amendments shall take effect on the transfer date:

6 (1) SMALL BUSINESS ACT.—Section
7 3(q)(2)(C)(i)(III) of the Small Business Act (15
8 U.S.C. 632(q)(2)(C)(i)(III)) is amended by striking
9 “section 8127(f) of title 38, United States Code”
10 and inserting “section 36”.

11 (2) TITLE 38.—Section 8128 of title 38, United
12 States Code, is amended by striking “section
13 8127(f) of this title” and inserting “section 36 of
14 the Small Business Act”.

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

16 (a) ADMINISTRATION ACCESS TO DATABASE BEFORE
17 THE TRANSFER DATE.—During the period between the
18 date of the enactment of this Act and the transfer date,
19 the Secretary of Veterans Affairs shall provide the Admin-
20 istrator of the Small Business Administration with access
21 to the contents of the database described under section
22 8127(f) of title 38, United States Code.

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

1 (1) as prohibiting the Administrator of the
2 Small Business Administration from combining the
3 contents of the database described under section
4 8127(f) of title 38, United States Code, with other
5 databases maintained by the Administration; or

6 (2) as requiring the Administrator to use any
7 system or technology related to the database de-
8 scribed under section 8127(f) of title 38, United
9 States Code on or after the transfer date to comply
10 with the requirement to maintain a database under
11 subsection (f) of section 36 of the Small Business
12 Act (as transferred pursuant to section 3(b) of this
13 Act).

14 (c) RECOGNITION OF THE ISSUANCE OF JOINT REG-
15 ULATIONS.—The date specified under section 1832(e) of
16 the National Defense Authorization Act for Fiscal Year
17 2017 (15 U.S.C. 632 note) shall be deemed to be October
18 1, 2018.

19 **SEC. 5. PROCUREMENT PROGRAM FOR SMALL BUSINESS**
20 **CONCERNS OWNED AND CONTROLLED BY**
21 **SERVICE-DISABLED VETERANS.**

22 (a) PROCUREMENT PROGRAM FOR SMALL BUSINESS
23 CONCERNS OWNED AND CONTROLLED BY SERVICE-DIS-
24 ABLED VETERANS.—Section 36 of the Small Business Act
25 (15 U.S.C. 657f) is amended—

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

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

4 (3) by inserting before subsection (c), as so re-
5 designated, the following:

6 “(a) CONTRACTING OFFICER DEFINED.—For pur-
7 poses of this section, the term ‘contracting officer’ has the
8 meaning given such term in section 2101 of title 41,
9 United States Code.

10 “(b) CERTIFICATION OF SMALL BUSINESS CON-
11 CERNS OWNED AND CONTROLLED BY SERVICE-DISABLED
12 VETERANS.—With respect to a procurement program or
13 preference established under this Act that applies to prime
14 contractors, the Administrator shall—

15 “(1) certify the status of the concern as a
16 ‘small business concern owned and controlled by
17 service-disabled veterans’; and

18 “(2) require the periodic recertification of such
19 status.”;

20 (4) in subsection (d), as so redesignated, by
21 striking “and that the award can be made at a fair
22 market price” and inserting “, that the award can
23 be made at a fair market price, and if each concern
24 is certified by the Administrator as a small business

1 concern owned and controlled by service-disabled
2 veterans”; and

3 (5) by adding at the end the following:

4 “(g) CERTIFICATION REQUIREMENT.—Notwith-
5 standing subsection (e), a contracting officer may only
6 award a sole source contract to a small business concern
7 owned and controlled by service-disabled veterans or a
8 contract on the basis of competition restricted to small
9 business concerns owned and controlled by service-disabled
10 veterans if such a concern is certified by the Administrator
11 as a small business concern owned and controlled by serv-
12 ice-disabled veterans.

13 “(h) ENFORCEMENT; PENALTIES.—

14 “(1) VERIFICATION OF ELIGIBILITY.—In car-
15 rying out this section, the Administrator shall estab-
16 lish procedures relating to—

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

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

5 “(2) EXAMINATIONS.—

6 “(A) EXAMINATION OF APPLICANTS.—The
7 procedures established under paragraph (1)
8 shall provide for a program of examinations by
9 the Administrator of any small business concern
10 making a certification or providing information
11 to the Administrator under subsection (b), to
12 determine the veracity of any statements or in-
13 formation provided as part of such certification
14 or otherwise provided under subsection (b).

15 “(B) EXAMINATION OF CERTIFIED CON-
16 CERNS.—The procedures established under
17 paragraph (1) shall provide for the examination
18 of risk-based samples of small business con-
19 cerns certified under subsection (b), or of any
20 small business concern that the Administrator
21 believes poses a particular risk or with respect
22 to which the Administrator receives specific and
23 credible information alleging that the small
24 business concern no longer meets eligibility re-
25 quirements to be certified as a small business

1 concern owned and controlled by service-dis-
2 abled veterans.

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

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

12 “(B) sections 3729 through 3733 of title
13 31, United States Code; and

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

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

23 (b) PENALTIES FOR MISREPRESENTATION.—Section
24 16 of the Small Business Act (15 U.S.C. 645) is amend-
25 ed—

1 (1) in subsection (d)(1)—

2 (A) by striking “,, a” and inserting “, a
3 ‘small business concern owned and controlled by
4 service-disabled veterans’, a ‘small business con-
5 cern owned and controlled by veterans’, a”; and

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

9 (2) in subsection (e), by striking “,, a” and in-
10 serting “, a ‘small business concern owned and con-
11 trolled by service-disabled veterans’, a ‘small busi-
12 ness concern owned and controlled by veterans’, a”.

13 **SEC. 6. CERTIFICATION FOR SMALL BUSINESS CONCERNS**

14 **OWNED AND CONTROLLED BY VETERANS.**

15 The Small Business Act (15 U.S.C. 631 et seq.) is
16 amended by inserting after section 36 the following new
17 section:

18 **“SEC. 36A. CERTIFICATION OF SMALL BUSINESS CONCERNS**

19 **OWNED AND CONTROLLED BY VETERANS.**

20 “(a) IN GENERAL.—With respect to the program es-
21 tablished under section 8127 of title 38, United States
22 Code, the Administrator shall—

23 “(1) certify the status of the concern as a
24 ‘small business concern owned and controlled by vet-
25 erans’; and

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

3 “(b) ENFORCEMENT; PENALTIES.—

4 “(1) VERIFICATION OF ELIGIBILITY.—In car-
5 rying out this section, the Administrator shall estab-
6 lish procedures relating to—

7 “(A) the filing, investigation, and disposi-
8 tion by the Administration of any challenge to
9 the eligibility of a small business concern to re-
10 ceive assistance under this section (including a
11 challenge, filed by an interested party, relating
12 to the veracity of a certification made or infor-
13 mation provided to the Administration by a
14 small business concern under subsection (a));
15 and

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

20 “(2) EXAMINATION OF APPLICANTS.—The pro-
21 cedures established under paragraph (1) shall pro-
22 vide for a program of examinations by the Adminis-
23 trator of any small business concern making a cer-
24 tification or providing information to the Adminis-
25 trator under subsection (a), to determine the verac-

1 ity of any statements or information provided as
2 part of such certification or otherwise provided
3 under subsection (a).

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

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

12 “(B) sections 3729 through 3733 of title
13 31, United States Code; and

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

16 **SEC. 7. STATUS OF SELF-CERTIFIED SMALL BUSINESS CON-**
17 **CERNS OWNED AND CONTROLLED BY SERV-**
18 **ICE-DISABLED VETERANS.**

19 (a) IN GENERAL.—Notwithstanding any other provi-
20 sion of law, any small business concern that self-certified
21 as a small business concern owned and controlled by serv-
22 ice-disabled veterans shall—

23 (1) if the concern files a certification applica-
24 tion with the Administrator of the Small Business
25 Administration before the end of the 1-year period

1 beginning on the transfer date, maintain such self-
2 certification until the Administrator makes a deter-
3 mination with respect to such certification; and

4 (2) if the concern does not file such a certifi-
5 cation application before the end of the 1-year pe-
6 riod beginning on the transfer date, lose, at the end
7 of such 1-year period, any self-certification of the
8 concern as a small business concern owned and con-
9 trolled by service-disabled veterans.

10 (b) NON-APPLICABILITY TO DEPARTMENT OF VET-
11 ERANS AFFAIRS.—Subsection (a) shall not apply to par-
12 ticipation in contracts (including subcontracts) with the
13 Department of Veterans Affairs.

14 (c) NOTICE.—The Administrator shall notify any
15 small business concern that self-certified as a small busi-
16 ness concern owned and controlled by service-disabled vet-
17 erans about the requirements of this Act, including the
18 transfer date and any extension of such transfer date
19 made pursuant to section 2, and make such notice publicly
20 available, on—

21 (1) the date of the enactment of this Act; and

22 (2) the date on which an extension described
23 under section 2 is approved.

1 **SEC. 8. TRANSFER OF THE CENTER FOR VERIFICATION**
2 **AND EVALUATION OF THE DEPARTMENT OF**
3 **VETERANS AFFAIRS TO THE SMALL BUSI-**
4 **NESS ADMINISTRATION.**

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

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

13 (1) on the date of enactment of this Act, be
14 functions of both the Center for Verification and
15 Evaluation and the Small Business Administration,
16 except that the Small Business Administration shall
17 not have any authority to carry out any verification
18 functions of the Center for Verification and Evalua-
19 tion; and

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

22 (c) **TRANSFER OF ASSETS.**—So much of the per-
23 sonnel, property, records, and unexpended balances of ap-
24 propriations, allocations, and other funds employed, used,
25 held, available, or to be made available in connection with
26 a function transferred under this section shall be available

1 to the Small Business Administration at such time or
2 times as the President directs for use in connection with
3 the functions transferred.

4 (d) REFERENCES.—Any reference in any other Fed-
5 eral law, Executive order, rule, regulation, or delegation
6 of authority, or any document of or pertaining to a func-
7 tion of the Center for Verification and Evaluation that is
8 transferred under this section is deemed, after the transfer
9 date, to refer to the Small Business Administration.

10 **SEC. 9. REPORT.**

11 Not later than the end of the 1-year period beginning
12 on the date of the enactment of this Act, and every 6
13 months thereafter until the transfer date, the Adminis-
14 trator of the Small Business Administration and Secretary
15 of Veterans Affairs shall jointly issue a report to the Com-
16 mittees on Appropriations, Small Business, and Veterans'
17 Affairs of the House of Representatives and the Commit-
18 tees on Appropriations, Small Business and Entrepreneur-
19 ship, and Veterans' Affairs of the Senate on the planning
20 for the transfer of functions and property required under
21 this Act and the amendments made by this Act on the
22 transfer date. Such report shall include—

23 (1) whether and how the verification database
24 and operations of the Center for Verification and
25 Evaluation of the Department of Veterans Affairs

1 will be incorporated into the existing certification
2 database of the Small Business Administration;

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

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

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

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

13 (4) other pertinent information determined by
14 the Administrator and the Secretary.

