

116TH CONGRESS  
2D SESSION

# S. 4520

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.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 10, 2020

Mrs. LOEFFLER introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## 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  
6       Adjustment 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.  
 Sec. 10. Determination of budgetary effects.

1 **SEC. 2. TRANSFER DATE.**

2 For purposes of this Act, the term “transfer date”  
 3 means the date that is 2 years after the date of enactment  
 4 of this Act.

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 SERV-  
 9 ICE-DISABLED VETERAN-OWNED BUSINESS DATA-  
 10 BASE.—Effective on the transfer date, section 8127 of  
 11 title 38, United States Code, is amended—

12 (1) in subsection (e), by striking “the Secretary  
 13 under subsection (f)” and inserting “the Adminis-  
 14 trator under section 36 of the Small Business Act”;

15 (2) in subsection (f)—

16 (A) by striking “the Secretary” each place  
 17 it appears, except in the last place it appears in

1 paragraph (2)(A), and inserting “the Adminis-  
2 trator”;

3 (B) in paragraph (1), by striking “small  
4 business concerns owned and controlled by vet-  
5 erans with service-connected disabilities” and  
6 inserting “small business concerns owned and  
7 controlled by service-disabled veterans”;

8 (C) in paragraph (2)—

9 (i) in subparagraph (A)—

10 (I) by striking “to access” and  
11 inserting “to obtain from the Sec-  
12 retary of Veterans Affairs”; and

13 (II) by inserting “, United States  
14 Code,” after “title 5”; and

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

17 “(B) For purposes of this subsection—

18 “(i) the Secretary of Veterans Affairs shall—

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

21 “(II) establish a system to permit the Ad-  
22 ministrator to access, but not alter, the  
23 verification of such status; and

24 “(ii) the Administrator shall verify—

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

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

5           “(C) The Administrator may not certify a concern  
6           under subsection (b) or section 36A if the Secretary of  
7           Veterans Affairs cannot provide the verification described  
8           under subparagraph (B)(i)(I).”;

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

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

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

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

17                 (i) in subparagraph (A)—

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

1 controlled by service-disabled veterans  
2 (under subsection (g) of this sec-  
3 tion)”;

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

6 (III) by striking “the Small Busi-  
7 ness Administration (as established  
8 under section 5(i) of the Small Busi-  
9 ness Act)” and inserting “the Admin-  
10 istration (as established under section  
11 5(i))”;

12 (ii) in subparagraph (B)—

13 (I) in clause (i)—

14 (aa) by striking “small busi-  
15 ness concern owned and con-  
16 trolled by veterans with service-  
17 connected disabilities” and in-  
18 serting “small business concern  
19 owned and controlled by service-  
20 disabled veterans”; and

21 (bb) by striking “the Small  
22 Business Act” and inserting “the  
23 Administration”; and

24 (II) in clause (ii)—

1 (aa) by amending subclause  
2 (I) to read as follows:

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

5 (bb) in subclause (II), by  
6 striking “the contracting officer  
7 of the Department” and inserting  
8 “the applicable contracting offi-  
9 cer”; and

10 (iii) by striking subparagraph (C);

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

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

15 “(k) ANNUAL TRANSFER FOR CERTIFICATION  
16 COSTS.—For each fiscal year, the Secretary of Veterans  
17 Affairs shall reimburse the Administrator in an amount  
18 necessary to cover any cost incurred by the Administrator  
19 for certifying small business concerns owned and con-  
20 trolled by veterans that do not qualify as small business  
21 concerns owned and controlled by service-disabled veterans  
22 for the Secretary for purposes of this section and section  
23 8128 of this title. The Administrator is authorized to ac-  
24 cept such reimbursement. The amount of any such reim-  
25 bursement shall be determined jointly by the Secretary

1 and the Administrator and shall be provided from fees col-  
 2 lected by the Secretary under multiple-award schedule  
 3 contracts. Any disagreement about the amount shall be  
 4 resolved by the Director of the Office of Management and  
 5 Budget.”; and

6 (5) in subsection (l) (relating to definitions), as  
 7 so redesignated—

8 (A) by redesignating paragraphs (1), (2),  
 9 and (3) as paragraphs (2), (3), and (4), respec-  
 10 tively; and

11 (B) by inserting before paragraph (2), as  
 12 so redesignated, the following:

13 “(1) The term ‘Administrator’ means the Ad-  
 14 ministrator of the Small Business Administration.”.

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

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

23 (1) SMALL BUSINESS ACT.—Section  
 24 3(q)(2)(C)(i)(III) of the Small Business Act (15  
 25 U.S.C. 632(q)(2)(C)(i)(III)) is amended by striking

1 “section 8127(f) of title 38, United States Code”  
2 and inserting “section 36”.

3 (2) TITLE 38.—Section 8128 of title 38, United  
4 States Code, is amended by striking “maintained by  
5 the Secretary under section 8127(f) of this title”  
6 and inserting “maintained by the Administrator of  
7 the Small Business Act under section 36 of the  
8 Small Business Act”.

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

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

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

19 (1) as prohibiting the Administrator of the  
20 Small Business Administration from combining the  
21 contents of the database described under section  
22 8127(f) of title 38, United States Code, with other  
23 databases maintained by the Administration; or

24 (2) as requiring the Administrator to use any  
25 system or technology related to the database de-

1 scribed under section 8127(f) of title 38, United  
2 States Code, on or after the transfer date to comply  
3 with the requirement to maintain a database under  
4 subsection (f) of section 36 of the Small Business  
5 Act (as transferred pursuant to section 3(b) of this  
6 Act).

7 (c) RECOGNITION OF THE ISSUANCE OF JOINT REG-  
8 ULATIONS.—The date specified under section 1832(e) of  
9 the National Defense Authorization Act for Fiscal Year  
10 2017 (15 U.S.C. 632 note) shall be deemed to be October  
11 1, 2018.

12 **SEC. 5. PROCUREMENT PROGRAM FOR SMALL BUSINESS**  
13 **CONCERNS OWNED AND CONTROLLED BY**  
14 **SERVICE-DISABLED VETERANS.**

15 (a) PROCUREMENT PROGRAM FOR SMALL BUSINESS  
16 CONCERNS OWNED AND CONTROLLED BY SERVICE-DIS-  
17 ABLED VETERANS.—Section 36 of the Small Business Act  
18 (15 U.S.C. 657f) is amended—

19 (1) by redesignating subsection (d) as para-  
20 graph (3), adjusting the margin accordingly, and  
21 transferring such paragraph to subsection (h) of  
22 such section, as added by paragraph (6) of this sub-  
23 section, so as to appear after paragraph (2);

24 (2) by striking subsection (e);

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

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

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

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

14                 “(1) certify whether a concern has status as a  
15                 small business concern owned and controlled by serv-  
16                 ice-disabled veterans; and

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

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

1 (6) by adding at the end the following:

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

11 “(h) ENFORCEMENT; PENALTIES.—

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

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

24 “(B) verification by the Administrator of  
25 the accuracy of any certification made or infor-

1           mation provided to the Administration by a  
2           small business concern under subsection (b).

3           “(2) EXAMINATIONS.—The procedures estab-  
4           lished under paragraph (1) shall provide for a pro-  
5           gram of examinations by the Administrator of any  
6           small business concern making a certification or pro-  
7           viding information to the Administrator under sub-  
8           section (b), to determine the veracity of any state-  
9           ments or information provided as part of such cer-  
10          tification or otherwise provided under subsection (b).

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

19                 (7) in paragraph (3) of subsection (h), as reded-  
20                 signed and transferred by paragraph (1) of this  
21                 subsection, by inserting “and section 36A” before  
22                 the period at the end.

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) in the matter preceding subparagraph

3 (A)—

4 (i) by striking the comma that imme-  
5 diately follows another comma; and

6 (ii) by striking “, a ‘small’ and in-  
7 serting “, a ‘small business concern owned  
8 and controlled by service-disabled vet-  
9 erans’, a ‘small business concern owned  
10 and controlled by veterans’, a ‘small’; and

11 (B) in paragraph (A), by striking “9, 15,  
12 or 31” and inserting “8, 9, 15, 31, 36, or  
13 36A”; and

14 (2) in subsection (e)—

15 (A) by striking the comma that imme-  
16 diately follows another comma; and

17 (B) by striking “, a ‘small’ and inserting  
18 “, a ‘small business concern owned and con-  
19 trolled by service-disabled veterans’, a ‘small  
20 business concern owned and controlled by vet-  
21 erans’, a ‘small’.

22 **SEC. 6. CERTIFICATION FOR SMALL BUSINESS CONCERNS**  
23 **OWNED AND CONTROLLED BY VETERANS.**

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

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

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

6 “(1) certify whether a concern has status as a  
7 small business concern owned and controlled by vet-  
8 erans; and

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

11 “(b) ENFORCEMENT; PENALTIES.—

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

15 “(A) the filing, investigation, and disposi-  
16 tion by the Administration of any challenge to  
17 the eligibility of a small business concern to re-  
18 ceive assistance under section 36 (including a  
19 challenge, filed by an interested party, relating  
20 to the veracity of a certification made or infor-  
21 mation provided to the Administration by a  
22 small business concern under subsection (a));  
23 and

24 “(B) verification by the Administrator of  
25 the accuracy of any certification made or infor-

1           mation provided to the Administration by a  
2           small business concern under subsection (a).

3           “(2) EXAMINATION OF APPLICANTS.—The pro-  
4           cedures established under paragraph (1) shall pro-  
5           vide for a program of examinations by the Adminis-  
6           trator of any small business concern making a cer-  
7           tification or providing information to the Adminis-  
8           trator under subsection (a), to determine the verac-  
9           ity of any statements or information provided as  
10          part of such certification or otherwise provided  
11          under subsection (a).”.

12 **SEC. 7. STATUS OF SELF-CERTIFIED SMALL BUSINESS CON-**  
13                           **CERNS OWNED AND CONTROLLED BY SERV-**  
14                           **ICE-DISABLED VETERANS.**

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

19               (1) if the concern files a certification applica-  
20               tion with the Administrator of the Small Business  
21               Administration before the end of the 1-year period  
22               beginning on the transfer date, maintain such self-  
23               certification until the Administrator makes a deter-  
24               mination with respect to such certification; and



1           (2) does not include employees.

2           (b) ABOLISHMENT.—The Center for Verification and  
3 Evaluation of the Department of Veterans Affairs, as de-  
4 fined under section 74.1 of title 38, Code of Federal Regu-  
5 lations, is abolished effective on the transfer date.

6           (c) TRANSFER OF FUNCTIONS.—Effective on the  
7 transfer date, all functions that, immediately before the  
8 transfer date, were functions of the Center for Verification  
9 and Evaluation shall be functions of the Small Business  
10 Administration.

11          (d) TRANSFER OF ASSETS.—So much of the property  
12 (including contracts for the procurement of property or  
13 services) and records used, held, available, or to be made  
14 available in connection with a function transferred under  
15 this section shall be available to the Small Business Ad-  
16 ministration at such time or times as the President directs  
17 for use in connection with the functions transferred.

18          (e) SAVINGS PROVISIONS.—

19           (1) CONTINUING EFFECT OF LEGAL DOCU-  
20 MENTS.—All orders, determinations, rules, regula-  
21 tions, permits, agreements, grants, contracts, certifi-  
22 cates, licenses, registrations, privileges, and other  
23 administrative actions—

24                   (A) which have been issued, made, grant-  
25                   ed, or allowed to become effective by the Presi-

1           dent, any Federal agency or official thereof, or  
2           by a court of competent jurisdiction, in the per-  
3           formance of functions which are transferred  
4           under this section; and

5                   (B) which are in effect on the transfer  
6           date, or were final before the transfer date and  
7           are to become effective on or after the transfer  
8           date,

9           shall continue in effect according to their terms until  
10          modified, terminated, superseded, set aside, or re-  
11          voked in accordance with law by the President, the  
12          Administrator of the Small Business Administration  
13          or other authorized official, a court of competent ju-  
14          risdiction, or by operation of law.

15               (2) PROCEEDINGS NOT AFFECTED.—The provi-  
16          sions of this section shall not affect any proceedings,  
17          including notices of proposed rulemaking, or any ap-  
18          plication for any license, permit, certificate, or finan-  
19          cial assistance pending before the Department of  
20          Veterans Affairs on the transfer date, with respect  
21          to functions transferred by this section but such pro-  
22          ceedings and applications shall be continued. Orders  
23          shall be issued in such proceedings, appeals shall be  
24          taken therefrom, and payments shall be made pursu-  
25          ant to such orders, as if this section had not been

1 enacted, and orders issued in any such proceedings  
2 shall continue in effect until modified, terminated,  
3 superseded, or revoked by a duly authorized official,  
4 by a court of competent jurisdiction, or by operation  
5 of law. Nothing in this paragraph shall be deemed  
6 to prohibit the discontinuance or modification of any  
7 such proceeding under the same terms and condi-  
8 tions and to the same extent that such proceeding  
9 could have been discontinued or modified if this sec-  
10 tion had not been enacted.

11 (3) SUITS NOT AFFECTED.—The provisions of  
12 this section shall not affect suits commenced before  
13 the transfer date, and in all such suits, proceedings  
14 shall be had, appeals taken, and judgments rendered  
15 in the same manner and with the same effect as if  
16 this section had not been enacted.

17 (4) NONABATEMENT OF ACTIONS.—No suit, ac-  
18 tion, or other proceeding commenced by or against  
19 the Department of Veterans Affairs, or by or against  
20 any individual in the official capacity of such indi-  
21 vidual as an officer of the Department of Veterans  
22 Affairs, shall abate by reason of the enactment of  
23 this section.

24 (5) ADMINISTRATIVE ACTIONS RELATING TO  
25 PROMULGATION OF REGULATIONS.—Any administra-

1       tive action relating to the preparation or promulga-  
2       tion of a regulation by the Department of Veterans  
3       Affairs relating to a function transferred under this  
4       section may be continued by the Administrator of  
5       the Small Business Administration with the same ef-  
6       fect as if this section had not been enacted.

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

13   **SEC. 9. REPORT.**

14       Not later than 1 year after the date of the enactment  
15      of this Act, and every 6 months thereafter until the trans-  
16      fer date, the Administrator of the Small Business Admin-  
17      istration and Secretary of Veterans Affairs shall jointly  
18      submit to the Committee on Appropriations, the Com-  
19      mittee on Small Business, and the Committee on Vet-  
20      erans' Affairs of the House of Representatives and the  
21      Committee on Appropriations, the Committee on Small  
22      Business and Entrepreneurship, and the Committee on  
23      Veterans' Affairs of the Senate a report on the planning  
24      for the transfer of functions and property required under

1 this Act and the amendments made by this Act on the  
2 transfer date, which shall include—

3           (1) a discussion of whether and how the  
4 verification database and operations of the Center  
5 for Verification and Evaluation of the Department  
6 of Veterans Affairs will be incorporated into the ex-  
7 isting certification database of the Small Business  
8 Administration;

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

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

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

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

19           (4) other pertinent information determined by  
20 the Administrator and the Secretary.

21 **SEC. 10. DETERMINATION OF BUDGETARY EFFECTS.**

22           The budgetary effects of this Act, for the purpose of  
23 complying with the Statutory Pay-As-You-Go Act of 2010,  
24 shall be determined by reference to the latest statement  
25 titled “Budgetary Effects of PAYGO Legislation” for this

1 Act, submitted for printing in the Congressional Record  
2 by the Chairman of the Senate Budget Committee, pro-  
3 vided that such statement has been submitted prior to the  
4 vote on passage.

○