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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend title 38, United States Code, to limit the obligation or expenditure of funds by the Secretary of Veterans Affairs for certain purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BERGMAN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 38, United States Code, to limit the obligation or expenditure of funds by the Secretary of Veterans Affairs for certain 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.**

4 This Act may be cited as the “VA Contracting and
5 Procurement Act”.

1 **SEC. 2. LIMITATION ON OBLIGATION OR EXPENDITURE OF**
2 **FUNDS BY THE SECRETARY OF VETERANS AF-**
3 **FAIRS FOR CERTAIN PURPOSES.**

4 (a) CONTRACTS AND PERSONAL SERVICES.—Section
5 513 of title 38, United States Code, is amended—

6 (1) by inserting “(a) IN GENERAL.—” before
7 “The Secretary”; and

8 (2) by adding at the end the following new sub-
9 section:

10 “(b) LIMITATION ON OBLIGATION OR EXPENDITURE
11 OF FUNDS.—(1) Subject to paragraph (2), the Secretary
12 may not obligate or expend more than \$50,000,000 for
13 any contract or agreement under this section unless funds
14 for such agreement have been specifically authorized by
15 law.

16 “(2) The limitation under paragraph (1) shall not
17 apply during—

18 “(A) a war declared by Congress;

19 “(B) a case described in section 4(a)(1) of the
20 War Powers Resolution (Public Law 93–148; 50
21 U.S.C. 1543(a)(1);

22 “(C) a national emergency declared by the
23 President under the National Emergencies Act
24 (Public Law 94–412; 50 U.S.C. 1601 et seq.);

25 “(D) a major disaster declared by the President
26 under section 401 of the Robert T. Stafford Disaster

1 Relief and Emergency Assistance Act (42 U.S.C.
2 5170) if—

3 “(i) such agreement is to be carried out in
4 a State affected by such major disaster; and

5 “(ii) a medical facility of the Department
6 is affected by such major disaster; or

7 “(E) a public health emergency declared by the
8 Secretary of Health and Human Services under sec-
9 tion 319 of the Public Health Service Act (42
10 U.S.C. 247d).”.

11 (b) VETERANS COMMUNITY CARE PROGRAM.—Sec-
12 tion 1703 of title 38, United States Code, is amended—

13 (1) by redesignating subsection (q) as sub-
14 section (r); and

15 (2) by inserting after subsection (p) the fol-
16 lowing new subsection (q):

17 “(q) LIMITATION ON OBLIGATION OR EXPENDITURE
18 OF FUNDS.—(1) Subject to paragraph (2), the Secretary
19 may not obligate or expend more than \$50,000,000 for
20 any agreement under this section unless funds for such
21 agreement have been specifically authorized by law.

22 “(2) The limitation under paragraph (1) shall not
23 apply during—

24 “(A) a war declared by Congress;

1 “(B) a case described in section 4(a)(1) of the
2 War Powers Resolution (Public Law 93–148; 50
3 U.S.C. 1543(a)(1);

4 “(C) a national emergency declared by the
5 President under the National Emergencies Act
6 (Public Law 94–412; 50 U.S.C. 1601 et seq.);

7 “(D) a major disaster declared by the President
8 under section 401 of the Robert T. Stafford Disaster
9 Relief and Emergency Assistance Act (42 U.S.C.
10 5170) if—

11 “(i) such agreement is to be carried out in
12 a State affected by such major disaster; and

13 “(ii) a medical facility of the Department
14 is affected by such major disaster; or

15 “(E) a public health emergency declared by the
16 Secretary of Health and Human Services under sec-
17 tion 319 of the Public Health Service Act (42
18 U.S.C. 247d).”.

19 (c) AGREEMENTS TO ADMINISTER THE FURNISHING
20 OF HEALTH CARE IN DEPARTMENT FACILITIES.—Section
21 1721 of title 38, United States Code, is amended—

22 (1) in the section heading, by adding “**and to**
23 **enter into agreements**” after “REGULATIONS”
24 (and conforming the table of sections at the begin-
25 ning of such chapter accordingly);

1 (2) by inserting “(a) RULES AND REGULA-
2 TIONS.—” before “Rules and regulations”; and

3 (3) by adding at the end the following new sub-
4 section:

5 “(b) AGREEMENTS.—(1) The Secretary may enter
6 into an agreement (including an agreement regarding in-
7 formation technology) to administer the furnishing of care
8 described in subsection (a).

9 “(2) Subject to paragraph (2), the Secretary may not
10 obligate or expend more than \$50,000,000 for any agree-
11 ment under this section unless funds for such agreement
12 have been specifically authorized by law.

13 “(3) The limitation under paragraph (2) shall not
14 apply during—

15 “(A) a war declared by Congress;

16 “(B) a case described in section 4(a)(1) of the
17 War Powers Resolution (Public Law 93–148; 50
18 U.S.C. 1543(a)(1);

19 “(C) a national emergency declared by the
20 President under the National Emergencies Act
21 (Public Law 94–412; 50 U.S.C. 1601 et seq.);

22 “(D) a major disaster declared by the President
23 under section 401 of the Robert T. Stafford Disaster
24 Relief and Emergency Assistance Act (42 U.S.C.
25 5170) if—

1 “(i) such agreement is to be carried out in
2 a State affected by such major disaster; and

3 “(ii) a medical facility of the Department
4 is affected by such major disaster; or

5 “(E) a public health emergency declared by the
6 Secretary of Health and Human Services under sec-
7 tion 319 of the Public Health Service Act (42
8 U.S.C. 247d).”.

9 (d) ADMINISTRATION OF EDUCATIONAL BENE-
10 FITS.—Subchapter III of chapter 36 of title 38, United
11 States Code, is amended by inserting after section 3698A
12 the following new section (and conforming the table of sec-
13 tions at the beginning of such chapter accordingly):

14 “**§ 3698B. Limitation on obligation or expenditure of**
15 **funds**

16 “(a) LIMITATION.—The Secretary may not obligate
17 or expend more than \$50,000,000 for any agreement
18 under this chapter unless—

19 “(1) funds for such agreement have been spe-
20 cifically authorized by law; or

21 “(2)(A) the Secretary has submitted a notifica-
22 tion described in subsection (b) regarding such
23 agreement;

24 “(B) 30 legislative days have elapsed after the
25 date of such submission; and

1 “(C) Congress has not enacted a joint resolu-
2 tion described in subsection (c) regarding such
3 agreement.

4 “(b) NOTIFICATION.—(1) A notification described in
5 this subsection is a notification—

6 “(A) submitted by the Secretary to the Com-
7 mittees on Veterans’ Affairs of the Senate and the
8 House of Representatives; and

9 “(B) that describes a proposed agreement sub-
10 ject to the limitation under subsection (a).

11 “(2) A notification under this subsection shall include
12 the following with respect to such proposed agreement:

13 “(A) The purpose.

14 “(B) The scope.

15 “(C) The estimated total cost.

16 “(D) The anticipated period of performance.

17 “(c) JOINT RESOLUTION.—A joint resolution of dis-
18 approval described in this subsection is a joint resolu-
19 tion—

20 “(1) introduced not later than 10 legislative
21 days after receipt of a notification under subsection
22 (b);

23 “(2) the matter after the resolving clause of
24 which is as follows: ‘That Congress disapproves the
25 proposed agreement described by the Secretary of

1 Veterans Affairs in the notification submitted under
2 section 3698B of title 38, United States Code, on
3 _____.’;
4 the blank space being filled with the appropriate
5 date; and

6 “(3) considered pursuant to the expedited pro-
7 cedures in subsections (d), (f), and (g) of section
8 802 of title 5.”.

9 (e) ADMINISTRATION OF BENEFITS.—Chapter 53 of
10 title 38, United States Code, is amended by adding at the
11 end the following new section (and conforming the table
12 of sections at the beginning of such chapter accordingly):

13 **“§ 5322. Limitation on obligation or expenditure of**
14 **funds**

15 “(a) LIMITATION.—Subject to subsection (b), the
16 Secretary may not obligate or expend more than
17 \$50,000,000 for any agreement under this chapter unless
18 funds for such agreement have been specifically authorized
19 by law.

20 “(b) APPLICABILITY.—The limitation under sub-
21 section (a) shall not apply during—

22 “(1) a war declared by Congress;

23 “(2) a case described in section 4(a)(1) of the
24 War Powers Resolution (Public Law 93–148; 50
25 U.S.C. 1543(a)(1);

1 “(3) a national emergency declared by the
2 President under the National Emergencies Act
3 (Public Law 94–412; 50 U.S.C. 1601 et seq.);

4 “(4) a major disaster declared by the President
5 under section 401 of the Robert T. Stafford Disaster
6 Relief and Emergency Assistance Act (42 U.S.C.
7 5170) if—

8 “(A) such agreement is to be carried out
9 in a State affected by such major disaster; and

10 “(B) a medical facility of the Department
11 is affected by such major disaster; or

12 “(5) a public health emergency declared by the
13 Secretary of Health and Human Services under sec-
14 tion 319 of the Public Health Service Act (42
15 U.S.C. 247d).”.

16 (f) **PROCUREMENT OF HEALTH-CARE ITEMS.**—Sec-
17 tion 8127 of title 38, United States Code, is amended—

18 (1) in subsection (c), by striking “subsection
19 (a) or (b)” and inserting “subsection (a), (b), or
20 (c)”;

21 (2) in subsection (d), by adding at the end the
22 following new paragraph:

23 “(4) The term ‘domestic preference statute’ has
24 the meaning given such term in section 70923(f) of

1 the Infrastructure Investment and Jobs Act (Public
2 Law 117–58; 41 U.S.C. 8301 note).”;

3 (3) by redesignating subsections (c) and (d), as
4 amended, as subsections (d) and (e), respectively;
5 and

6 (4) by inserting after subsection (b) the fol-
7 lowing new subsection (c):

8 “(c)(1) The Secretary shall procure a health-care
9 item for an All-Hazards Emergency Cache of the Depart-
10 ment in compliance with the domestic preference statutes.

11 “(2) The limitation under paragraph (1) shall not
12 apply if, during an emergency, the Secretary determines
13 that procurement in compliance with the domestic pref-
14 erence statutes would threaten the health or safety of vet-
15 erans.

16 “(3) Not later than 30 days after procuring a health-
17 care item pursuant to paragraph (2), the Secretary shall
18 submit to the Committees on Veterans’ Affairs of the Sen-
19 ate and House of Representatives a written notice. Such
20 notice shall include—

21 “(A) an identification of the emergency;

22 “(B) an identification of the health-care item
23 procured;

24 “(C) an estimate of the cost of such procure-
25 ment; and

1 “(D) an explanation why the Secretary could
2 not procure the health-care item in compliance with
3 the domestic preference statutes.

4 “(4) Not later than November 1 of each year, the
5 Secretary shall certify to the Committees on Veterans’ Af-
6 fairs of the Senate and House of Representatives whether
7 the Secretary complied with the limitation under para-
8 graph (1) during the fiscal year that ended most re-
9 cently.”.

10 (g) SMALL BUSINESS CONCERNS OWNED AND CON-
11 TROLLED BY VETERANS: CONTRACTING GOALS AND
12 PREFERENCES.—Section 8127 of title 38, United States
13 Code, is amended—

14 (1) by redesignating subsection (m) as sub-
15 section (n); and

16 (2) by inserting after subsection (l) the fol-
17 lowing new subsection (m):

18 “(m) LIMITATION ON OBLIGATION OR EXPENDITURE
19 OF FUNDS.—(1) Subject to paragraph (2), the Secretary
20 may not obligate or expend more than \$50,000,000 for
21 any agreement under this section unless funds for such
22 agreement have been specifically authorized by law.

23 “(2) The limitation under paragraph (1) shall not
24 apply during—

25 “(A) a war declared by Congress;

1 “(B) a case described in section 4(a)(1) of the
2 War Powers Resolution (Public Law 93–148; 50
3 U.S.C. 1543(a)(1);

4 “(C) a national emergency declared by the
5 President under the National Emergencies Act
6 (Public Law 94–412; 50 U.S.C. 1601 et seq.);

7 “(D) a major disaster declared by the President
8 under section 401 of the Robert T. Stafford Disaster
9 Relief and Emergency Assistance Act (42 U.S.C.
10 5170) if—

11 “(i) such agreement is to be carried out in
12 a State affected by such major disaster; and

13 “(ii) a medical facility of the Department
14 is affected by such major disaster; or

15 “(E) a public health emergency declared by the
16 Secretary of Health and Human Services under sec-
17 tion 319 of the Public Health Service Act (42
18 U.S.C. 247d).”.

19 (h) SHARING OF HEALTH-CARE RESOURCES.—Sec-
20 tion 8153 of title 38, United States Code, is amended by
21 adding at the end the following new subsection:

22 “(h)(1) Subject to paragraph (2), the Secretary may
23 not obligate or expend more than \$50,000,000 for any
24 agreement under this section unless funds for such agree-
25 ment have been specifically authorized by law.

1 “(2) The limitation under paragraph (1) shall not
2 apply during—

3 “(A) a war declared by Congress;

4 “(B) a case described in section 4(a)(1) of the
5 War Powers Resolution (Public Law 93–148; 50
6 U.S.C. 1543(a)(1);

7 “(C) a national emergency declared by the
8 President under the National Emergencies Act
9 (Public Law 94–412; 50 U.S.C. 1601 et seq.);

10 “(D) a major disaster declared by the President
11 under section 401 of the Robert T. Stafford Disaster
12 Relief and Emergency Assistance Act (42 U.S.C.
13 5170) if—

14 “(i) such agreement is to be carried out in
15 a State affected by such major disaster; and

16 “(ii) a medical facility of the Department
17 is affected by such major disaster; or

18 “(E) a public health emergency declared by the
19 Secretary of Health and Human Services under sec-
20 tion 319 of the Public Health Service Act (42
21 U.S.C. 247d).”.

22 **SEC. 3. PROCUREMENT OF PROSTHETIC APPLIANCES AND**
23 **SURGICAL IMPLANTS.**

24 (a) IN GENERAL.—Section 8123 of title 38, United
25 States Code, is amended to read as follows (and the table

1 of sections at the beginning of chapter 81 of such title
2 is amended accordingly):

3 **“§ 8123. Procurement of prosthetic appliances and**
4 **surgical implants**

5 “(a) **AUTHORITY.**—The Secretary may procure pros-
6 thetic appliances and surgical implants by purchase, man-
7 ufacture, contract, or in such other manner that the Sec-
8 retary determines to be proper.

9 “(b) **CATALOG.**—(1) The Secretary shall maintain a
10 catalog of prosthetic appliances and surgical implants that
11 the Secretary procures by purchase or contract.

12 “(2) The Secretary shall coordinate with the Sec-
13 retary of Defense to ensure that such catalog requires the
14 same data regarding a prosthetic appliance or surgical im-
15 plant that is required by the Defense Health Agency.

16 “(3) The Secretary shall implement a process by
17 which a manufacturer of a prosthetic appliance or surgical
18 implant may propose to the Secretary a proposed revision
19 to such catalog (including with regards to form, size, gen-
20 eration, or model)—

21 “(A) by standardized and electronic means;

22 “(B) that minimizes the documentation re-
23 quired by such a manufacturer.

1 “(c) PURCHASE ORDERS FOR SURGICAL IM-
2 PLANTS.—The Secretary shall procure all surgical im-
3 plants used in a medical procedure through—

4 “(1) a firm-fixed price single purchase order
5 submitted and processed through the Prosthetic and
6 Sensory Aids Service of the Department;

7 “(2) in accordance with the Federal Acquisition
8 Regulation; and

9 “(3) a process that—

10 “(A) eliminates duplicative billing; and

11 “(B) allows the Secretary to correct errors
12 in real time.

13 “(d) DEFINITIONS.—In this section:

14 “(1) The term ‘Federal Acquisition Regulation’
15 means the Federal Acquisition Regulation issued
16 pursuant to section 1303(a)(1) of title 41.

17 “(2) The term ‘firm-fixed price’ has the mean-
18 ing given such term in the Federal Acquisition Reg-
19 ulation.

20 “(3) The term ‘prosthetic appliance’ includes
21 any service or product required in the fitting, sup-
22 plying, training, or use of a prosthetic appliance.

23 “(4) The term ‘surgical implant’ includes any
24 item used in a surgery regarding a surgical implant,

1 including an implantable device, a screw, guidewire,
2 or surgical tool.”.

3 (b) IMPLEMENTATION.—The Secretary of Veterans
4 Affairs shall implement—

5 (1) subsection (c) of such section, as added by
6 this section, not later than one year after the date
7 of the enactment of this Act; and

8 (2) subsection (b) of such section, as added by
9 this section, not later than three years after the date
10 of the enactment of this Act. Until the Secretary im-
11 plements such subsection, the Secretary shall accept
12 a proposed revision described in such subsection dur-
13 ing at least two periods, prescribed by the Secretary,
14 per year.