

107TH CONGRESS  
1ST SESSION

# S. 766

To impose notification and reporting requirements in connection with grants of waivers of the limitation on certain procurements of the Department of Defense that is known as the Berry amendment, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 24, 2001

Mr. HUTCHINSON introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To impose notification and reporting requirements in connection with grants of waivers of the limitation on certain procurements of the Department of Defense that is known as the Berry amendment, 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. NOTIFICATION AND REPORTING REQUIRE-**  
4 **MENTS REGARDING WAIVER OF THE BERRY**  
5 **AMENDMENT LIMITATION.**

6 (a) ANNUAL REPORT.—(1) After the end of each fis-  
7 cal year, the Secretary of Defense shall submit to Con-  
8 gress a report on the waivers of the limitation on use of

1 funds set forth in section 9005 of Public Law 102–396  
 2 (popularly known as the “Berry amendment”) that were  
 3 granted under any provision of law during that fiscal year  
 4 for procurements made by the Defense Logistics Agency  
 5 for the military departments.

6 (2) The report for a fiscal year shall include the fol-  
 7 lowing:

8 (A) The number of waivers.

9 (B) For each waiver—

10 (i) the reasons for the waiver;

11 (ii) the date of the notification of the mili-  
 12 tary department concerned under subsection  
 13 (b); and

14 (iii) a description of the items procured  
 15 pursuant to the waiver, together with the  
 16 amount of the procurement.

17 (C) The number of instances in which the Sec-  
 18 retary of Defense waived the notification require-  
 19 ment under subsection (b).

20 (b) NOTIFICATION.—(1) Not later than 14 days be-  
 21 fore granting a waiver of the limitation referred to in sub-  
 22 section (a)(1) for a procurement to be made by the De-  
 23 fense Logistics Agency for a military department, the Sec-  
 24 retary of Defense shall transmit to the Secretary of the

1 military department a notification of the determination to  
2 waive the limitation.

3 (2) The Secretary of Defense may waive the applica-  
4 bility of the notification requirement under paragraph (1)  
5 in any case in which the Secretary determines that a delay  
6 of the procurement to satisfy the requirement is not con-  
7 sistent with a need to expedite the procurement in the na-  
8 tional security interests of the United States.

9 (c) SYSTEM FOR DATA COLLECTION.—The Secretary  
10 of Defense shall establish a system for—

11 (1) monitoring the granting of waivers of the  
12 limitation referred to in subsection (a)(1); and

13 (2) recording the waivers and the reasons for  
14 the waivers.

15 (d) DEFINITION.—In this section, the term “waiver”,  
16 with respect to the limitation referred to in subsection  
17 (a)(1), means a determination authorized under section  
18 9005 of Public Law 102–396 that a particular procure-  
19 ment is covered by an exception provided in that section.

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