

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4216
OFFERED BY MRS. BIGGS OF SOUTH CAROLINA**

Strike all after the enacting clause and insert the
following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Made-in-America De-
3 fense Act”.

4 SEC. 2. SENSE OF CONGRESS.

5 Congress—

6 (1) believes the expeditious delivery of defense
7 articles and services to allies and partners strength-
8 ens American national security;

9 (2) notes that the Department of Defense con-
10 tracting process often adds significant amounts of
11 time to the delivery of defense articles and services
12 to allies and partners, and in some cases these arti-
13 cles and services could be appropriately transferred
14 more quickly using direct commercial sales; and

15 (3) supports the ongoing and periodic review of
16 the FMS-Only List to ensure that defense articles
17 and services that can be appropriately transferred

1 using direct commercial sales are not included on
2 the FMS-Only list.

3 **SEC. 3. REVIEW AND REPORT.**

4 (a) REVIEW.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of the enactment of this Act, and annually
7 thereafter, the Secretary of State, in coordination
8 with the Secretary of Defense, shall carry out a re-
9 view of defense articles and defense services that are
10 eligible to be provided under the foreign military
11 sales program under chapter 2 of the Arms Export
12 Control Act, but not eligible to be provided under di-
13 rect commercial sales under section 38 of such Act,
14 in order to identify those articles and services that
15 should also be eligible to be provided under direct
16 commercial sales.

17 (2) MATTERS TO BE ADDRESSED.—The review
18 required by this subsection shall address the fol-
19 lowing with respect to each defense article and de-
20 fense services identified under this subsection:

21 (A) The average length of time to complete
22 a transfer of the article or service under the
23 foreign military sales program compared to
24 such a transfer under a direct commercial sale,
25 measured from the initial submission of the let-

1 ter of request to the delivery of the article or
2 service.

3 (B) The impact on the workload for the
4 Department of State and Department of De-
5 fense by reason of a transfer of the article or
6 service under a direct commercial sale.

7 (C) The benefits to United States national
8 security and United States competitiveness by
9 reason of a transfer of the article or service
10 under a direct commercial sale.

11 (b) REPORT.—

12 (1) IN GENERAL.—Not later than 30 days after
13 the completion of each review required by subsection
14 (a), the Secretary of State, in coordination of the
15 Secretary of Defense, shall submit to the appro-
16 priate congressional committees a report that con-
17 tains the results of the review, including—

18 (A) the average time to transfer the re-
19 viewed defense articles or services during the
20 previous reporting period through the foreign
21 military sales program and through direct com-
22 mercial sales and how those averages compare
23 to the averages reported in the previous report-
24 ing period;

25 (B) the leading causes of delays;

1 (C) any steps taken to reduce those delays;

2 and

3 (D) any defense articles and services added
4 to or removed from the FMS-Only list during
5 the preceding reporting period, as well as the
6 justification for such decisions.

7 (2) FORM.—The report required by this sub-
8 section shall be submitted in unclassified form, but
9 may contain a classified annex.

10 (3) DEFINITIONS.—In this subsection—

11 (A) the term “appropriate congressional
12 committees” means—

13 (i) the Committee on Foreign Affairs
14 and the Committee on Armed Services of
15 the House of Representatives; and

16 (ii) the Committee on Foreign Rela-
17 tions and the Committee on Armed Serv-
18 ices of the Senate; and

19 (B) the term “FMS-only list” means the
20 list maintained by the Secretary of State of de-
21 fense articles and defense services that are eligi-
22 ble to be provided under the foreign military
23 sales program under chapter 2 of the Arms Ex-
24 port Control Act, but not eligible to be provided

1 under direct commercial sales under section 38
2 of such Act.

