

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for the consideration of unfair competitive advantage in the evaluation of offers for the KC-X aerial refueling aircraft program.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

S. 3454

To authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. MURRAY

Viz:

1 At the end of subtitle E of title VIII, add the fol-
2 lowing:

3 **SEC. 858. CONSIDERATION OF UNFAIR COMPETITIVE AD-**
4 **VANTAGE IN EVALUATION OF OFFERS FOR**
5 **KC-X AERIAL REFUELING AIRCRAFT PRO-**
6 **GRAM.**

7 (a) REQUIREMENT TO CONSIDER UNFAIR COMPETI-
8 TIVE ADVANTAGE.—In awarding a contract for the KC-

1 X aerial refueling aircraft program (or any successor to
2 that program), the Secretary of Defense shall, in evalu-
3 ating any offers submitted to the Department of Defense
4 in response to a solicitation for offers for such program,
5 consider any unfair competitive advantage that an offeror
6 may possess.

7 (b) REPORT.—Not later than 60 days after submis-
8 sion of offers in response to any such solicitation, the Sec-
9 retary of Defense shall submit to the congressional defense
10 committees a report on any unfair competitive advantage
11 that any offeror may possess.

12 (c) REQUIREMENT TO TAKE FINDINGS INTO AC-
13 COUNT IN AWARD OF CONTRACT.—In awarding a contract
14 for the KC–X aerial refueling aircraft program (or any
15 successor to that program), the Secretary of Defense shall
16 take into account the findings of the report submitted
17 under subsection (b).

18 (d) UNFAIR COMPETITIVE ADVANTAGE.—In this sec-
19 tion, the term “unfair competitive advantage”, with re-
20 spect to an offer for a contract, means a situation in which
21 the cost of development, production, or manufacturing is
22 not fully borne by the offeror for such contract.