

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6540

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IN THE SENATE OF THE UNITED STATES

DECEMBER 21, 2010

Received

DECEMBER 22, 2010

Read twice and referred to the Committee on Armed Services

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## AN ACT

To require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Defense Level Playing  
3 Field Act”.

4 **SEC. 2. CONSIDERATION OF UNFAIR COMPETITIVE ADVAN-**  
5 **TAGE IN EVALUATION OF OFFERS FOR KC-X**  
6 **AERIAL REFUELING AIRCRAFT PROGRAM.**

7 (a) **REQUIREMENT TO CONSIDER UNFAIR COMPETI-**  
8 **TIVE ADVANTAGE.**—In awarding a contract for the KC–  
9 X aerial refueling aircraft program (or any successor to  
10 that program), the Secretary of Defense shall, in evalu-  
11 ating any offers submitted to the Department of Defense  
12 in response to a solicitation for offers for such program,  
13 consider any unfair competitive advantage that an offeror  
14 may possess.

15 (b) **REPORT.**—Not later than 60 days after submis-  
16 sion of offers in response to any such solicitation, the Sec-  
17 retary of Defense shall submit to the congressional defense  
18 committees a report on any unfair competitive advantage  
19 that any offeror may possess.

20 (c) **REQUIREMENT TO TAKE FINDINGS INTO AC-**  
21 **COUNT IN AWARD OF CONTRACT.**—In awarding a contract  
22 for the KC–X aerial refueling aircraft program (or any  
23 successor to that program), the Secretary of Defense shall  
24 take into account the findings of the report submitted  
25 under subsection (b).

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

Passed the House of Representatives December 21,  
2010.

Attest:

LORRAINE C. MILLER,

*Clerk.*