

**AMENDMENT TO H.R. 5136, AS REPORTED
OFFERED BY MR. INSLEE OF WASHINGTON**

At the end of title VIII, add the following new section:

1 SEC. 839. CONSIDERATION OF UNFAIR COMPETITIVE AD-
2 VANTAGE IN EVALUATION OF OFFERS FOR
3 KC-~~X~~ AERIAL REFUELING AIRCRAFT PRO-
4 GRAM.

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

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

18 (c) REQUIREMENT TO TAKE FINDINGS INTO AC-
19 COUNT IN AWARD OF CONTRACT.—In awarding a contract

1 for the KC-~~135~~ aerial refueling aircraft program (or any
2 successor to that program), the Secretary of Defense shall
3 take into account the findings of the report submitted
4 under subsection (b).

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

