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**DUNCAN HUNTER NATIONAL DEFENSE AUTHORIZATION ACT  
FOR FISCAL YEAR 2009 -- (House of Representatives - May 22,  
2008)**

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The SPEAKER pro tempore. Pursuant to House Resolution 1218 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 5658.

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AMENDMENT NO. 8 OFFERED BY MR. BOREN

The Acting CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 110-666.

Mr. BOREN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. *Boren*:

At the end of subtitle D of title III, add the following new section:

**SEC. 335. EXCEPTION TO ALTERNATIVE FUEL PROCUREMENT  
REQUIREMENT.**

Section 526 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 42 U.S. C. 17142) is amended--

(1) by striking ``No Federal agency'' and inserting ``(a) *Requirement.* --Except as provided in subsection (b), no Federal agency''; and

(2) by adding at the end the following:

`` (b) *Exception.*--Subsection (a) does not prohibit a Federal agency from entering into a contract to purchase a generally available fuel that is not an alternative or synthetic fuel or predominantly produced from a nonconventional petroleum source, if--

`` (1) the contract does not specifically require the contractor to provide an alternative or synthetic fuel or fuel from a nonconventional petroleum source;

`` (2) the purpose of the contract is not to obtain an alternative or synthetic fuel or fuel from a nonconventional petroleum source; and

`` (3) the contract does not provide incentives for a refinery upgrade or expansion to allow a refinery to use or increase its use of fuel from a nonconventional petroleum source.".

The Acting CHAIRMAN. Pursuant to House Resolution 1218, the gentleman from Oklahoma (Mr. *Boren*) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Oklahoma.

Mr. BOREN. Mr. Chairman, I yield myself as much time as I may consume.

Today, I rise in support of my amendment to the Duncan Hunter National

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Defense Authorization Act for Fiscal Year 2009 that would bring additional clarity to the language in section 526 of the Energy Independence and Security Act of 2007.

First, I would like to thank Chairman *Skelton* and Ranking Member *Hunter* for their exceptional work in crafting this important piece of legislation that is extremely vital for the defense needs of this Nation. This is a good bill. I believe it will address the readiness needs of our Armed Forces for the near and distant future. Our servicemembers that so bravely protect and defend our Nation deserve nothing less than our full support.

Mr. Chairman, my amendment now being considered before this Chamber would amend section 526 of the Energy Independence and Security Act in a manner that would address the concerns that I share with many of my fellow colleagues within this Chamber.

Section 526 prohibits any Federal agency from entering into a contract to purchase alternative or synthetic fuels for mobility-related purposes, unless the life-cycle greenhouse gas emissions of such fuels are less than that of conventional petroleum-based fuels.

While I recognize the positive intent behind section 526 to reduce greenhouse gas emissions, I have strong concerns about how it will affect the ability of DOD to provide for the future energy needs of our Armed Forces.

Section 526 falls short of determining what alternative or synthetic fuels Federal agencies are prohibited from contracting to purchase. It also does not clearly define "nonconventional petroleum sources." This ambiguity in the law, therefore, creates uncertainty as to whether the Department of Defense can procure generally available fuels that contain mix-in amounts of fuel derived from nonconventional petroleum sources, such as oil sands.

My amendment would amend section 526 to allow DOD and other Federal agencies to enter into contracts to purchase generally available fuels that are not predominantly derived from nonconventional fuel sources. Any contract to purchase such fuel must specify that the lifecycle greenhouse emissions are less than that of conventional petroleum sources.

If my amendment is adopted, it would not repeal section 526. Rather, it will improve section 526 to provide additional clarity that is needed to meet the future energy needs of our Armed Forces.

Mr. Chairman, this amendment reflects an agreement--this is very important--this is an agreement that was reached with the respective committees of jurisdiction, House leadership and myself. I am very pleased that we were able to reach a compromise on the language of this amendment that is mutually acceptable to all parties.

Therefore, I urge my colleagues from both sides of the aisle to support the adoption of this amendment.

I want to thank the chairman.

I reserve the balance of my time.

Mr. HUNTER. I rise in opposition to the amendment, Mr. Chairman.

The Acting CHAIRMAN. The gentleman from California is recognized for 10 minutes.

Mr. HUNTER. Thank you, Mr. Chairman.

First, Mr. Chairman, I want to congratulate Mr. *Boren* who is a great member of the Armed Services Committee for bringing this amendment, and I think we recognize a real problem with section 526, which is really a section, and his amendment does take away some of the onus of section 526.

Section 526 really weds us to high-grade Middle Eastern oil. It says that if you come up with other types of fuel that are alternatives, but that might have a greenhouse gas footprint higher than this high-end Middle Eastern oil, and there are very few types of petroleum-based fuels which do that, you can't use it.

Mr. *Boren* has taken some of the onus off of that by saying that if it's not predominantly that type of oil, meaning you can use, for example, tar sands from Canada and other types, that section 526 does not apply.

Now, the problem is, I'm reading the last of the amendment, and one of the conditions is that the contracts under which this petroleum product would flow says the contract--and I'm quoting from the last of the amendment--the contract does not provide incentives for a refinery upgrade or expansion to allow a refinery to use or increase its use of fuel from a nonconventional petroleum source.

And I think we should be doing everything we can to expand refineries. I don't think we've built a refinery in decades, and we all sat in this Chamber and watched gas prices go through the roof here not too long ago when they had just a couple of refineries down for repair.

So I know Mr. *Boren's* heart's in the right place, and he's brought us at least halfway across the river here. I guess what I'd like to see is the double *Boren* amendment that takes us all the way and eliminates section 526.

I congratulate the gentleman. I know a lot of our Members are going to probably support this because it, in fact, does take us part way home. I wish we could go all the way, and I thank the gentleman for his amendment.

I reluctantly oppose it because I would like to see the full loaf here.

I reserve the balance of my time.

Mr. BOREN. Mr. Chairman, I want to thank the ranking member for his friendship. I know this is his last term here on Capitol Hill, and he's been a great leader for our committee. He's also a fellow deer hunter friend of mine, and I would also like to see the double Boren amendment. We're going to try to take half a loaf right now and work on this in the future.

At this time, I would like to yield 1 1/2 minutes to my great friend and colleague from the State of Texas (Mr. *Ortiz*).

Mr. ORTIZ. Mr. Chairman, I rise in support of the amendment offered by my good friend from Oklahoma (Mr. *Boren*).

You know, the Canadian ambassador to the United States and some oil companies have expressed concern about the application of section 526 to petroleum derived from oil sands.

North American oil sands are vital to United States oil supplies. Oil sands represent approximately 5 percent of the total U.S. oil supply and are mixed in with fuel derived from other sources.

This amendment addresses the concerns that have been raised, while preserving the overall intent of section 526. Section 526 establishes a positive goal for future alternative fuels greenhouse gas emissions. This amendment clarifies section 526 while retaining the standards it sets for greenhouse gas emissions.

This amendment would simply provide an exception to section 526 by exempting contracts for generally available fuels that are not predominantly produced from nonconventional petroleum sources, thereby addressing the uncertainty regarding the presence of fuel from oil sands mixed with fuel from other sources in existing commercial processes. And my friends, all I can say is there's always a first time.

I'd like to compliment my friend for coming up with this amendment, and I urge my colleagues to support this amendment.

Mr. HUNTER. Mr. Chairman, I would like to yield at this time 3 minutes to Mr. *Upton*, the gentleman from Michigan.

Mr. UPTON. Mr. Chairman, I rise in support of the amendment, though I wish it could do a lot more. I appreciate your remarks, my friend from Oklahoma, and certainly my good friend from Texas, a member of the House Armed Services Committee, and I, in large part, echo the remarks of my good friend, the former chairman and now ranking member, Mr. *Hunter*.

Section 526, I'm not sure where it really came from. It was a provision that was snuck in a major energy bill this last year, and it somehow became law. And sadly, as we talk to our Canadian fronts, they're producing 1.5 million barrels of oil a day, 1.5 million barrels a day from oil shale, tar sands rather, in Alberta, and they want to send it to their good friends to the south, the United States of America. And this section 527 stops it at the border. It prevents it from coming in.

Now, I think we all know that we have a supply problem in this country which is why the price of gasoline continues to go up as it has every single day. And until we get the message out that we need more supply so that we can counter this price increase, they're going to continue to go up. It's crazy to think that our friends, the Canadians, who have all of this up there and want to send it to us down here in the Lower 48, cannot do that.

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As I sat down with their ambassador a few weeks ago and their energy minister as well, they're producing at least 1.5 million barrels a day. They're anticipating within 4 or 5 years they're going to be producing as much as 4 million barrels a day. They can't consume that all perhaps, and guess what they're going to do. They're likely to build a pipeline, and they're going to send it west. It's going to end up in China or someplace else, rather than coming down and be refined in this country and used by our motorists across the country.

So, for me, I'd like to repeal the whole section, and I know the gentleman doesn't do that in this amendment. But it's a step in the right direction, and I would like to think that we can hold our nose and be able to support this amendment, make it part of going to conference and perhaps even make it better when it emerges from the House and the Senate.

I appreciate the gentleman's willingness to work with Members on both sides, and I certainly appreciate a number of my colleagues on that side of the aisle who are looking to work with me to try and repeal

the whole section. But we realize that the Rules Committee was not going to say ``yes" to us, and this is one step.

We'd like to take a giant step, which this bill does not do, but at least it is going in the right direction, increasing our supply to a degree so that maybe we can have some downward pressure on the price of gasoline at the pump for all Americans across the country.

Mr. BOREN. I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I think we've had a good discussion, and I appreciate the gentleman's amendment and his contribution to the committee, and we would yield back at this time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. *Boren*).

The amendment was agreed to.