

To address these competing concerns, the bill before us places an emphasis on the use of cellulosic biomass as a means of producing ethanol. Cellulosic ethanol holds great promise for the future of renewable fuels because it uses what now constitutes agricultural residue waste or low-value plant matter, and it contributes fewer greenhouse gas emissions to our atmosphere than either corn-based ethanol or conventional gasoline. The challenge with cellulosic ethanol is that it is not yet available on a commercial basis. This is a young industry that requires two things before its product can be widely deployed: (1) technological breakthroughs that will allow it to be produced on a cost effective commercial scale; and (2) the support of the Federal Government. To that end, the bill mandates the use of 16 billion gallons of cellulosic ethanol by 2022.

A dramatic expansion of alternative fuels was initially proposed by President Bush in his State of the Union address this year, and an expansion of renewable fuels was later championed by the Senate in the energy bill it passed on June 21, 2007. Both proposals, however, contained serious flaws that would have made implementation of this policy extremely difficult or failed to capture the promises of new technology.

First, both proposals would have kept the current RFS in place at EPA under the Clean Air Act and created a new, additive program under which authority is directly assigned to the President, presumably permitting delegation to an unspecified entity of the Executive Branch. This would have caused a tremendous amount of regulatory uncertainty for the obligated parties who must meet the mandates of the RFS and would have caused bureaucratic duplication of a character that often bedevils the Federal Government. The compromise bill before us properly amends the current program, and in doing so makes significant changes to the existing renewable fuel standard, many of which require EPA to modify its existing regulations. Section 210(a) and (c) of the bill govern the transition from the existing RFS program to the modified RFS program. Section 210(a) provides that the increase in the renewable fuels mandate level for 2008 goes into effect without additional rulemaking by EPA. The other statutory changes to the RFS do not go into effect until January 1, 2009, by which time EPA is required to have completed a rulemaking to amend its RFS regulations.

Second, while cellulosic ethanol holds great promise, it is not commercially available today. If we are going to formulate policy to encourage its successful deployment, we must also be prepared to fall short and in so doing, plan for a worst-case scenario. The earlier Senate-passed bill failed to do so. The compromise bill before us couples an aggressive, technology-forcing schedule for cellulosic biofuels with a "safety net" for refiners in new Clean Air Act Section 211(o)(7)(D).

On an annual basis, EPA must compare the projected domestic production for cellulosic biofuels for the following calendar year to the level set in the statute. For any calendar year in which projected domestic production is less than the mandate level set in the statute, EPA is required to revise the mandate level so that it equals projected domestic production. EPA will thus be waiving the requirement to meet the amount of the mandate set in the statute that is higher than projected domestic produc-

tion. Obligated parties, such as refiners, will then have to turn in credits at the end of the year in an amount equal to the revised mandate; they will not have to turn in credits equal to the mandated level set in the statute. If EPA issues such a waiver, the bill authorizes and requires EPA to make credits available for sale pursuant to new Clean Air Act Section 211(o)(7)(D). Absent such a credit provision, artificially high prices might be charged for biofuels, which could occur in a tight market. The credit provision effectively caps the price for cellulosic biofuels if cellulosic technology is not deployed as rapidly as required by the bill.

Third, neither the President's proposal nor the Senate bill ensured that cellulosic technology would significantly assist in meeting the challenge of reducing greenhouse gas emissions from the transportation sector. One of the important potential benefits of cellulosic biofuels is that their lifecycle greenhouse gas emissions are predicted to be 80 to 110 percent lower than those of gasoline, although there is some uncertainty about the reduction level because cellulosic technology and the lifecycle greenhouse gas analytical methodology are still under development. This bill requires that cellulosic biofuels achieve at least a 60 percent reduction. Cellulosic biofuels that do not achieve at least a 60 percent reduction in lifecycle greenhouse gas emissions can get credit as advanced biofuels if they achieve at least a 50 percent reduction.

Section 210(b) of the bill before us also adds subparagraph 211(o)(12) to the Clean Air Act to clarify that nothing in subsection 211(o) or rules issued thereunder shall affect or be construed to affect the regulatory status of carbon dioxide or any other greenhouse gas, or to expand or limit regulatory authority regarding carbon dioxide or any other greenhouse gas, for purposes of other provisions of the Clean Air Act. The reference in Section 204(b) of the bill to Clean Air Act Section 211(o)(12) does not change this intent in any way, but merely ensures that Section 204(b) is not read as overriding new Clean Air Act Section 211(o)(12).

Fourth, the bill before us provides more specificity than the President's proposal or the Senate bill about what qualifies as renewable biomass. New Clean Air Act Section 211(o)(1)(I) adds some important environmental safeguards to the RFS program, including ones that will help protect certain wildlife habitats and special eco-systems.

The bill before us also contains other new provisions designed to make the program more workable. Under certain circumstances where an insufficient volume of biofuels are produced to meet the mandated levels set in the statute, new Section 211(o)(7)(F) of the Clean Air Act directs the administrator to reset the mandate levels for future years. In doing so, the administrator is to use the same criteria, standards and processes as he is required to use by new Clean Air Act Section 211(o)(2)(B)(ii) when setting mandated levels post-2022. The reference to new Clean Air Act Section 211(o)(2)(B)(ii) incorporates new Clean Air Act Section 211(o)(2)(B)(iii) and (iv). It is the intent of Congress that these criteria will ensure that, if the administrator sets the applicable volume of advanced biofuel under new Clean Air Act Section 211(o)(17)(7) for any particular year, it shall be at least the same percentage of the applicable volume of renewable fuel in the previous calendar year.

When the administrator must establish mandated levels of cellulosic biofuels, new Clean Air Act Section 211(o)(2)(B)(iv) directs the administrator to set the mandate at a level that the administrator expects can be met without the use of the safety net provisions in new Clean Air Act Section 211(o)(7)(D). Nonetheless, the safety net provisions would continue to be available if needed.

Although the mandatory requirements of the RFS program are limited to transportation fuels, it is possible that renewable fuel could also replace petroleum-based fuel used for home heating or jets. Rather than expand the mandated coverage of the RFS program to include home heating oil or jet fuel, which might result in additional obligated parties or make implementation of the program more burdensome, new Clean Air Act Section 211(o)(5)(E) gives the administrator discretion to allow RFS credits to be earned for renewable fuel sold for home heating or as jet fuel.

MAKE THE R&D TAX CREDIT
PERMANENT

HON. BILL SALI

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 28, 2007

Mr. SALI. Mr. Speaker, in just a few days the Research and Development Tax Credit expires. Sadly, this will not be the first time Congress allowed this to happen. The world of business has its own challenges without adding the stressful uncertainty on whether the R&D tax credit will be available next year. A permanent extension of the R&D tax credit can go miles in advancing our competitive edge in the global economy.

Manufacturers, small companies, and any firm that does research relies on the R&D tax credit. Businesses must constantly meet changing consumer demands and do so by offering products and services, which makes R&D essential. Companies benefit from a R&D tax credit by improving their products and services. Congress has needlessly placed hardship and unnecessary risk on industries by not making this tax credit a reliable and predictable part of their business calculus.

We missed an opportunity to change that. When the House reconvenes, let us make the R&D tax credit permanent.

PERSONAL EXPLANATION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 28, 2007

Mr. MARKEY. Madam Speaker, on December 19, 2007, I was unavoidably detained and missed rollcall vote 1186 on H.R. 2764. Had I been present, I would have voted "nay."