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## Brief Outline of Key Provisions in Kerry-Lieberman *American Power Act*

Recently, six Senate Democrats sided with all 41 Republicans to oppose the EPA regulating greenhouse gas emissions. Despite their defeat, they sent a message that Congress and the various bureaucratic agencies are attempting to push through energy legislation that is unacceptable.

The most recent Democrat energy regulations come in the form of the misnamed *American Power Act*, introduced by Sens. Kerry (D-Mass.) and Lieberman (D-CT). ATR has outlined some of the provisions of this 2,000-plus page bill below.

### Part I: Encouraging Domestic Nuclear Power Generation

- Expediting the process for issuing combined construction and operating licenses for new qualified nuclear reactors
- Increasing the budget for the “Innovative Technology Loan and Guarantee Program” to \$54 billion dollars, making the Dept. of Energy cover 100% of cost associated with a delayed reactor (up to a 30 day period, and not to exceed \$500 million per license)
- Establishes the “Spent Recycling Research and Development Center of Excellence” to be the lead site for developing new nuclear and separation technology. (Main Secs. 1101, 1102, 1103, and 1104)

### Tax Provision: Subtitle B, Part 3, Offshore Oil and Gas

- Imposes a moratorium on new offshore drilling until the Deepwater Horizon disaster is resolved, and the cause of the explosion is determined by the Sec. of Interior
- Enacts new liability regulations to ensure there are enough funds to help states deal with possible environmental impacts of increased offshore drilling, including:
  - Revenue sharing between states if they use the money to protect coastlines and coastal ecosystems, and to invest the money in new preparedness capabilities in the event of future disasters
  - 37.5% of profits go to states, while 12.5% is allocated to state and federal programs under the Land and Water conservation Fund
- Bill also gives coastal states the power to veto proposed drilling plans if it's determined that the plans will negatively affect them if an accident occurs

### Sec. 1204: Reservation of Land Rights

- States may enact a law prohibiting leasing land for oil and gas production within 75 miles of their coast
- They can petition the Secretary for a withdrawal from the “5 Year Outer Continental Shelf Oil and Gas Leasing Program” after enacting said law
- If the Secretary of Energy fails to decline the petition within 90 days, the petition is automatically approved

722 12<sup>th</sup> Street N.W.

Fourth Floor

Washington, D.C.

20005

T:(202)785-0266

F:(202)785-0261

[www.atr.org](http://www.atr.org)

**Subtitle C—Coal**

- Part I—National Strategy for Carbon Capture and Sequestration
  - Establishes a task force to review federal and state law, EPA regulations, and private business mechanisms that could hinder the implementation of carbon capture technology. The force will be comprised of representatives from:
    - Departments of the Interior, Energy, Transportation, State, and Tribal Agencies, attorneys general, academia, and NGOs with relevant expertise
  - There is no mention how this task force will be funded or how big its budget will be
- Part II—Carbon Capture and Sequestration Deployment
  - Sec. 1414 creates a funding program to develop carbon capture and sequestration technology
  - The program will be funded by the sale of allowances
  - It will finance special projects that make carbon capture and sequestration technology more available commercially
  - Establishes the “Carbon Capture and Sequestration Program Partnership Council” which will make recommendations concerning the activities of the funding programs. One of members of the Council must be a representative from an “employee organization.”
  - Sec. 1415, the Secretary will collect a fee on all electric utilities derived from fossil fuels and it shall be set at different amounts depending on the type of fossil fuel. The money collected can only be used to implement activities initiated by Sec.1414, such as:
    - Issuing awards for grants, contracts, and cooperative agreements for companies who develop carbon capture technology or employ their use
    - The funds shall remain available until they are expended
- Part III—Commercial Deployment of Carbon Capture and Sequestration Technologies
  - To be eligible for allowances, a company must:
    - Install capture and sequestration technology
    - Reduce their carbon emissions by 50%
    - Bonus allowances will be available for companies that go beyond the minimum requirements
  - Sec. 721 Emission Allowances
    - The Administrator will make available 4,722 allowances in 2013, and each allowance will be worth 1 metric ton of CO<sub>2</sub> equivalent. The amount of allowances will fluctuate each year, but will be reduced to 1,043 by 2050 and each year afterwards
  - Sec. 724 Trading.
    - Any lawful holder of an allowance or offset credit may sell, transfer, or exchange it if they get a certification of transfer signed by the Administrator

- The bill establishes a system for tracking the sale of allowances and the records will be published online
- Sec. 781 Allocation of Emission Allowances
  - Electric consumers will get 51% of allowances in 2013. The percentage will decrease to 8.5% by 2029
  - Natural gas consumers will get 9% of allowances in 2016 and the percentage will decrease to 1.8% by 2029
  - Heating oil and propane consumers will get 1.9% of allowances in 2013 and the percentage will decrease to 0.3% by 2029

**Subtitle D—Renewable Energy and Energy Efficiency**

- Sec. 1601 Includes state mandates for the deployment of renewable energy, which include:
  - Improved building codes
  - Improved appliance standards

**Subtitle E—Part II Transportation Efficiency**

- Secs. 1711-1712
  - Creates “Metropolitan Planning Organizations” to devise strategies and targets for reducing greenhouse gas emissions
  - MPOs are policy boards of government organizations created by the Governor of the state and local city officials
  - Shall be comprised of:
    - local elected officials
    - officials of public agencies that administer or operate major modes of transportation in the metropolitan area
    - appropriate State officials
    - No exact budget yet, but they will be funded by government grants
  - These MPOs must design efforts to increase public transportation, walking & bicycling, zoning & other land use regulations, and carpooling

**Subtitle E—Regulation of Greenhouse Gas Markets**

- Secs. 2401-2416
  - The Commission can establish limits on the amount of trading that may be done in greenhouse gas instruments. One must be registered with the Commission in order to trade green house gas instruments
  - However, the Commission may make conditional or unconditional exemptions to any rule. Greenhouse gas trading organizations must also be registered by the Commission
  - All trading organizations must make information such as bids, offers, settlement prices, volume, and opening and closing ranges for all greenhouse gas instruments available to the public, in order to avoid market manipulation. If it is deemed necessary, the Commission can suspend all trading not to exceed a 90 day period

**Title III Consumer Protection**

- **Secs. 3001, 3101, 3102**
  - The administrator will distribute allowances to electricity, natural gas, and heating oil & propane consumers for the exclusive benefit of the retail ratepayer for the following year
- **Secs. 3201-3204**
  - Starting in 2013, there will be funding to relieve working families of the cost of compliance of the Act. The Secretary of the Treasury will determine the amount of each rebate allocated to consumers and the relief amount will be adjusted according to family size
  - The bill creates the “Energy Refund Program” which will be funded by up to 12.5% of revenues generated through the allowance auctions
  - The program will provide monthly cash refunds to eligible households to offset the cost of the bill

**Subtitle E—Clean Transportation**

- Part I. The Secretary will develop a national plan to develop standardized ports for people to charge their electric cars, establish new power standards for new electric vehicles, and implement pilot projects to test new developments
- The Secretary will have to develop the appropriate funding programs such as grants, and other financial incentives to ensure that electric utilities can participate in said pilot projects
- No exact budget yet, but according to the bill, “They are authorized to be appropriated to carry out this section such sums as are necessary.”

**Title XXII, Sec. 3206**

- Creates the Universal Trust Fund in 2026
  - Will be financed by proceeds from sales of allowances
  - 25% of which will be allocated for deficit reduction
  - 75% will be used for the refund program.
- **Secs. 4101 & 4103: Clean energy curriculum development grants**
  - The Secretary of Education can award grants to eligible partnerships for green job development and training programs
    - One of the partners must be:
      - a local educational agency
      - 2. a post-secondary institution
      - or a representative from the community, including: businesses, labor organizations, and industries with relevant experience
    - The bill also calls for the creation of “clean energy construction careers demonstration projects,” to promote middle class careers in green energy
    - For contractors to participate in one of these construction projects, they must comply with sec. 3 and 4 of executive order [13502](#). (The recent executive order favoring unions)

- The executive order strongly encourages the use of union labor for projects \$25 million and above
- Secs. 3 and 4 outline the use of project labor agreements and specifically in Sec. 3, if a executive agency does enter into a project labor agreement, individual contractors may be compelled to join the agreement with the union

Americans for Tax Reform continues to support an “all of the above” energy approach that incorporates a diverse variety of energy sources without mandates, subsidies, or taxes that artificially skew the market in favor of one form of energy over another.

For more information, please contact ATR Federal Affairs Manager Brian Johnson at 202.785.0266 or [bjohnson@atr.org](mailto:bjohnson@atr.org).