Analysis of S. 1733, The Kerry-Boxer Clean Energy Jobs and American Power Act

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With the introduction of the "Clean Energy Jobs & American Power Act" by Senators Kerry and Boxer on September 30, 2009, the race is on in the U.S. Senate to put America on the road to a clean energy economy and tackle global warming. We applaud their leadership, and are pleased that this bill includes some key improvements that the grassroots have been calling for since the House of Representatives passed H.R. 2454, the Waxman-Markey "American Clean Energy and Security Act" this June.

We must, however, push hard to preserve these victories, address our concerns, and ensure the strongest possible bill in the months ahead. 1Sky's nationwide campaign is in full gear, calling for bold action now in the face of well-funded opposition by dirty coal and big oil who prioritize their own profits over our economic recovery, our health, our national security, our planet, and our people. We have not a moment to lose.

1Sky urges senators to support provisions in the Kerry-Boxer bill that:

1. **Transition us away from dirty fossil fuels of the past and toward the clean energy of the future:** The Clean Energy Jobs & American Power Act leaves key Clean Air Act provisions intact, thus maintaining existing mechanisms to regulate dirty coal technology. These provisions are crucial for ending the construction of new dirty coal plants that use outdated technology and ensuring that the oldest, dirtiest coal plants reduce their global warming pollution.

2. **Take serious steps to cut global warming pollution as soon as possible:** Cut carbon pollution from fossil fuels at least 20% by 2020. Targets for cutting carbon in Kerry-Boxer are 3% stronger than the House bill, but new eliminations of coverage for methane and industrial processes mean we lose 2.5% of what was achieved by strengthening the targets.

3. **Lay the foundation to create millions of clean energy jobs:** The Kerry-Boxer bill includes some key job-creating and job-training programs necessary to jumpstart America's transition to a clean energy economy. Provisions in the new bill ensure that new clean energy jobs will be accessible to the broadest range of American workers.

As the Senate begins to allocate valuable emissions allowances generated by placing a cap on carbon, 1Sky urges senators to:

4. **Maximize public benefit:** Maximize the number of allowances used to create clean energy jobs, train workers to fill them, and bolster support for a global climate deal by investing in adaptation, avoided deforestation, and the export of clean technology. Do not distribute allowances freely to dirty coal plants and oil companies who have been reaping record profits in recent years.

[1] This 1Sky analysis covers S.1733, the Kerry-Boxer "Clean Energy Jobs and American Power Act" as introduced on September 30th, 2009. For questions or comments contact Jason Kowalski via email at jason@1sky.org or by phone at 301.270.4550 ext. 233.

By maintaining its strengthened provisions, and investing in a clean energy future, the Kerry-Boxer bill has the potential to:

- **Usher in a powerful clean energy economy strong enough to create millions of career-track green-collar jobs for American workers**. Provisions in the bill ensure equitable treatment of low-income consumers and marginalized communities through targeted rebates, worker training funds, energy efficiency programs, and community development assistance.
- **Save hundreds of billions of dollars in energy costs, cutting energy waste** for consumers and businesses across the economy by encouraging investment in efficient buildings, appliances, vehicles, and industrial processes. Clean energy investments and money sent to consumers will allow the overwhelming majority of Americans to achieve net energy cost savings, while reducing reliance on dirty fuels nationwide.
- **Reduce our dangerous dependence on foreign oil** and help make our country energy independent through energy efficiency and renewable energy.
- **Limit global warming pollution** by providing incentives for clean energy to thrive, and investing in emissions reductions worldwide. In its current form, analysis shows that the Kerry-Boxer bill achieves reductions in global warming pollution of at least 28.5% below U.S. 2005 levels by 2020 (17% below 1990 levels) via the combined effect of a cap on carbon and complementary policies.

Selected Provisions of The Kerry-Boxer "Clean Energy Jobs and American Power Act"

Key Items	Selected Provisions	1Sky Goals
Targets & Offsets	**2020 Near-term Targets** ✓ At least 28.5% below 2005 levels (17% below 1990 levels), from a combination of the cap and complementary policies. This represents a slight 0.5% improvement from the House-passed bill. ✓ 17% of these total reductions below 2005 levels are from the cap (20% below 2005 levels over 85% of the economy), and the rest are required from domestic emissions cuts outside the cap (1.5%), avoided tropical deforestation (10%), and potentially more cuts via offset substitution requirements (0-5%) and Clean Air Act performance standards outside the cap. ✓ Targets for cutting carbon in the Senate bill are 3% stronger than the House-passed bill, but new rollbacks in regulations for methane and industrial processes are equivalent to setting these targets back 2.5%, thereby gutting most of what was achieved by strengthening them. With respect to economy-wide 2005 emissions, the Senate bill represents a net strengthening of only 0.5% over the House-passed bill in the year 2020. **2050 Long-term Targets** ✓ At least 75% below 2005 levels total via the cap and complementary policies (71% below 1990 levels). These targets are the same as those in the House-passed bill. **International Offsets** ✓ High levels of international carbon offsets may be purchased in place of domestic emissions reductions – up to 1.25 billion tons annually, 0.25 billion fewer than the maximum allowed in the House-passed bill. These offsets are paired with stringent quality standards and regulatory requirements, including an offset substitution requirement starting in 2018, in which companies need to buy 1.25 offsets for every 1 ton of carbon pollution they want to offset. **Domestic Offsets** ✓ High levels of domestic carbon offsets – up to 1.5 billion tons annually – may also be purchased in place of	**2020 Near-term Targets** Cut carbon emissions by *at least* 35% below 2005 levels by 2020 (equivalent to at least 25% below 1990 levels), in line with the latest Intergovernmental Panel on Climate Change (IPCC) analysis. Achieving these targets will be far easier than initially expected; the most recent Department of Energy forecast for U.S. emissions in the absence of climate legislation shows that energy-related emissions in 2020 will be 1% *lower* than 2005 levels, in sharp contrast to the 17% increase forecast just two years ago. That analysis also predicts a 10.7% decline in energy-related emissions between 2005 and 2009. **2050 Long-term Targets** 1Sky supports carbon cuts of at least 80% by 2050, in line with the latest IPCC analysis. **Offsets** 1Sky is concerned that the Kerry-Boxer bill, like the House bill, continues to allow very high levels of carbon offsets. 1Sky advocates direct investments in emissions reductions rather than offsets which can be substituted for necessary domestic reductions in fossil fuel consumption. If offsets are allowed, they must comply with strict quality and additionality criteria, especially offset credits for land use changes. The EPA is best-equipped to oversee a domestic offsets program.

	domestic emissions reductions: 0.5 billion more than the House-passed bill allowed. The Kerry-Boxer bill gives the President the authority to choose which agencies oversee the domestic offset program, while the House-passed bill gives that authority to the USDA. **Biomass Emissions** ✓ Carbon emissions associated with biomass energy production are not accounted for in the bill. This omission could reduce the potential emissions reductions achieved by the bill by as much as 6%. ✓ The Kerry-Boxer bill restores a provision in existing law which was stripped by the House bill and mandates full lifecycle emissions accounting for biofuels when determining if they meet eligibility for the renewable fuel standard (RFS).	**Biomass Emissions** Biomass emissions should be accounted for on a full lifecycle basis to ensure both potential benefits and potential carbon debts are recognized. The "biomass emissions loophole" in both the House and Senate bills will encourage the use of inefficient, higher impact forms of biomass while punishing efficient, more environmentally sound biomass. 1Sky supports the strengthened accounting methods for international indirect land use impacts in the Senate bill.
Coal	**Clean Air Act Performance Standards for Coal** ✓ In contrast to the House-passed bill, the Senate bill maintains the Environmental Protection Agency (EPA's) ability to regulate dirty coal technology through the Clean Air Act. In the Senate bill, New Source Review (NSR) and New Source Performance Standards (NSPS) can be used to ensure that we get real pollution reductions from old dirty coal plants, and end investment in outdated coal technology for new and expanded coal plants. **Other Clean Air Act Authorities** ✓ The full scope of the Clean Air Act is available for use to regulate carbon pollution. This allows the EPA to continue issuing industry-specific technology standards for large-scale polluters, and set efficiency standards for vehicles. **Performance Standards for New Coal Plants** ✓ Any new coal plant permitted after 2009 is required to reduce 50% of their global warming pollution sometime between 2013 and 2025 – sooner if carbon capture and storage (CCS) plants come online by 2020. These performance standards do not apply to the expansion of existing coal plants. ✓ After 2020, performance standards require that new coal plants reduce global warming pollution at least 65%. ✓ Performance standards may be met through biomass co-firing, natural gas retrofits, efficiency gains, or carbon capture and storage when available at the required scale. **Ratepayer Surcharges to Fund New Coal Plants with CCS** ✓ Adds a fee to electricity bills that will help utilities pay for new coal plants with CCS. Ratepayer surcharges amount to approximately $1 billion per year.	**Clean Air Act Performance Standards** Maintaining Clean Air Act provisions in the Senate bill gives us a necessary mechanism to regulate dirty coal technology which contributes heavily to our global warming pollution. Without this complement to the cap, new clean energy deployment will be at risk. Due to new efficiency policies, electricity demand is predicted to flatten out in coming years and our existing fleet of old dirty coal plants is not forecasted to modernize or phase out fast enough to deploy new renewable energy. The House-passed bill stripped the Clean Air Act of its ability to set technology standards for dirty coal plants. This rollback creates a loophole that would allow coal plants to expand existing capacity without meeting current performance standards. Modifications to existing coal plants resulting in a significant increase in carbon emissions must be subject to the same performance standards as new plants. We must also ensure that the oldest, dirtiest coal plants meet current performance standards once they reach the end of their intended lifespan. **Ratepayer Funding For New Coal Plants:** Instead of charging ratepayers or using public funds to underwrite coal plant modernization, public investment should support proven renewable energy and efficiency projects that are already commercialized, create more jobs, and save consumers more money than coal.
Clean Energy & Energy Efficiency	**Efficiency Standards for Buildings** ✓ The House bill set building efficiency standards at 30% by 2010, and 50% by 2016. The Senate bill requires the EPA to set national standards for energy efficiency in buildings each year from 2014-2030, but does not contain explicit standards. ✓ Establishes a building retrofits program (also in the House bill) directing the EPA and Department of Energy (DOE) to work with states and local governments to improve energy efficiency of existing buildings (known as REEP,	**Efficiency Standards** 1Sky supports strong and explicit energy efficiency standards and investments. Strong efficiency standards have the potential to save our economy billions of dollars that would have been spent on fossil fuels, while also encouraging innovation and creating new jobs.

	Retrofits for Energy and Environmental Performance). ✓ Additional programs invest in state-based efficiency work, building off of the successful block grant program (known as EECBG) funded by the Recovery Act. **Clean Energy Deployment** ✓ Specific carve-outs are written into clean energy provisions that would distribute allowance value directly to large-scale renewable energy projects. **Opportunities for Low-Income Communities and Displaced Workers** ✓ Creates targeted worker-training programs that give low-income communities access to green construction and community development jobs. Examples include the establishment of the Green Construction Careers Demonstration Project and funding for the Green Jobs Act. ✓ Authorizes funding to improve the energy efficiency of public and assisted housing while ensuring stable electricity rates for low-income families. ✓ Includes a strong safety net for workers dislocated from fossil fuel industries. **Transportation and Planning** ✓ Requires states to use a certain percentage of carbon funds for public-transportation and planning programs, whereas the House bill gave states the option of investing in public transportation or clean energy. Transit grants are authorized to help states and metropolitan planning organizations meet these new national standards for cutting transport-based emissions. ✓ Directs the EPA to set efficiency standards for new non-road vehicles and engines such as marine vessels and locomotives. Allows states to set higher fuel-economy rules for taxis. **Renewable Energy and Efficiency Standards Not Addressed in this Bill** ✓ A Renewable Electricity Standard (RES), an Energy Efficiency Resource Standard (EERS), additional energy efficiency standards, and smart grid planning are being dealt with in other bills, and will likely be considered further on the Senate floor.	**Clean Energy Deployment** Rapid deployment of renewable energy technology will be necessary to ensure a low-carbon future. Renewable energy is one of the fastest growing sectors of the economy, and carries with it the potential to create millions of new jobs and revitalize our economy. **Opportunities for Low-Income Communities and Displaced Workers** 1Sky is very supportive of provisions that help build a more inclusive clean energy economy. These elements have the potential to build green pathways out of poverty, giving well-paid career-track jobs to communities most in need of such opportunities. **Transportation and Planning** 1Sky is supportive of extensive investments in public and carbon-free transportation options and common-sense planning initiatives that encourage smart growth, and allow local economies to thrive. **Renewable Electricity and Efficiency Standards** 1Sky calls for a Renewable Electricity Standard (RES) of at least 25% by 2025 and stand-alone Energy Efficiency Resource Standard (EERS) of at least 10% by 2020. These standards would ensure extensive renewable energy deployment, and energy savings that will take full advantage of available efficiency resources. 1Sky is also supportive of additional energy efficiency standards for appliances and industrial processes.
Market Oversight and Price Control	**Carbon Market Regulation** ✓ Includes placeholder language that will eventually lead to streamlined carbon market oversight under the Commodities Future Trading Commission (CFTC), whereas the House-passed bill has multiple regulators. **Price Collar** ✓ Creates a carbon price ceiling and floor (i.e. a "collar") that allows for more price certainty and less potential for speculation than in the House-passed bill. The price ceiling in each bill starts at $28, and uses an allowance "reserve" to ensure price certainty without "busting" the cap. Both the House and Senate bills set a price floor starting at $10, and rising over time.	**Carbon Market Regulation** 1Sky supports strong market oversight that cuts down on speculation, market manipulation, and price volatility. An effective, high-integrity program is necessary to encourage investment in clean energy and transition us away from dirty fossil fuels. **Price Collar** 1Sky does not support any price controls that would "bust" the cap on carbon by allowing more global warming pollution than the legislation intends.
Nuclear Power	✓ Includes supportive placeholder language promoting nuclear power as a future energy source. ✓ Authorizes funding for nuclear safety research grants, and worker-training programs specifically for nuclear power workers.	1Sky does not support public investment in nuclear power. Public monies should support renewable energy and efficiency projects that create more jobs and save consumers more money than investments in nuclear power would.

Natural Gas	✓ Establishes a new program that would reward electric utilities for reducing emissions by switching from coal and oil to natural gas. ✓ Establishes a grant program making new natural gas plants eligible for their own pot of CCS money, similar to the funds available to coal.	1Sky does not support public investment in new fossil fuel infrastructure. Natural gas is a stepping stone that will help turn the economy away from dirty coal, but public investment in natural gas infrastructure must not come at the expense of more necessary investments in renewable energy or energy efficiency.
Allocations	✓ Contains placeholder language that will be filled in at a later date. ✓ Each year polluters will need to purchase one permit for every ton of pollution they emit. These valuable pollution permits, or "allowances" are "allocated" to states, administrative entities, federal programs, and the private sector. In the House-passed bill, the majority of these allowances will eventually be sold to polluters in return for revenue to carry out various purposes.	Maximize the number of allowances used to create clean energy jobs, train workers to fill them, and bolster support for a global climate deal. *See detailed recommendations below.*

1Sky Recommendations for the U.S. Senate:

<u>Support and defend strong provisions in the Kerry-Boxer bill by</u>:

1. **Ensuring that legislation is complemented by a mechanism to regulate dirty coal technology.**

    - The Kerry-Boxer bill leaves key Clean Air Act provisions intact. Provisions like New Source Review (NSR) and New Source Performance Standards (NSPS) are crucial for ending the construction of new dirty coal plants that use outdated technology, and making sure that the oldest, dirtiest coal plants control their global warming pollution.

2. **Ensuring that legislation maintains a 2020 pollution reduction target of at least 20%.**

    - Carbon cuts from fossil fuels must remain set at least 20% by 2020. Targets for cutting carbon in Kerry-Boxer are 3% stronger than the House bill, but new rollbacks in coverage for methane and industrial processes eliminate 2.5% of what was achieved by strengthening the targets. As they currently stand, the targets are only marginally stronger (0.5%) than the House targets – we can't afford to let them slip.

3. **Laying the foundation to create millions of clean energy jobs:**

    - The Kerry-Boxer bill includes some key job-creating and job-training programs necessary to jumpstart America's transition to a clean energy economy. Provisions in the new bill ensure that new clean energy jobs will be accessible to the broadest range of American workers. These key provisions include funding for the Green Jobs Act, and the creation of the Green Construction Careers Demonstration Project, Retrofits for Energy and Environmental Performance (REEP), and allowance accounts for State and Local Investment in Energy Efficiency and Renewable Energy.

<u>1Sky urges the Senate to invest allowance value in projects that will create clean energy jobs, train workers to fill them, and bolster support for a global climate deal</u>. Valuable emissions allowances have yet to be allocated in this version of the bill. Billions of dollars in revenue from the sale of these allowances must be used for public benefit, not for private gain.

1. **Take advantage of the lowest cost options for emissions reductions by maximizing investments in energy efficiency.**

    - Mandate that one-third of the allowance value allocated to electric distribution utilities (LDCs) be used for energy efficiency, consistent with the energy efficiency requirement for natural gas utilities currently included in the House-passed bill. Investments in energy efficiency will save consumers more money than direct rate subsidies, and reduce the overall cost of the program.

2. **Do not distribute allowances freely to merchant coal generators and oil refineries.**

   - Allowances given freely to merchant coal generators and oil refineries do not help energy consumers, do not increase clean energy deployment, and do not create new jobs in emerging industries. In the House-passed bill, 7% of allowance value was given to these entities freely, with no strings attached.
   - Preserve the effectiveness and integrity of this clean energy legislation by making sure valuable allowances are invested in clean energy, energy efficiency, and new jobs in these emerging industries – not given away for free to dirty coal and big oil who generated record profits in recent years.

3. **Use allowances to create clean energy jobs and train workers to fill them.**

   - Bolster funding for programs that support clean technology research, development, and deployment, and energy efficiency.

   - Support the development of next-generation electric vehicles and other transportation technologies.

   - Ensure funding for effective provisions from the House-passed bill that create well-paid employment and training opportunities in the clean energy and energy efficiency sectors while ensuring access for low-income communities. One example, included in Kerry-Boxer is funding for the Green Jobs Act to train workers, particularly those from disadvantaged communities, for jobs in the clean energy economy.

4. **Provide substantial support for international adaptation and international clean technology cooperation; both investments are vital to achieving a global international agreement to tackle climate change.**

   - Dedicate at least 3% of allowance value to international adaptation and 2% of allowance value to international clean energy technology partnerships. Setting aside allowances for these purposes fulfils our responsibility as the largest historic emitter of global warming pollution, and will improve the prospects for an effective international climate agreement in Copenhagen this December.

   - Maintain the 5% of allowance value set-aside for the international reduced deforestation program adopted by the House-passed bill. Deforestation and forest degradation account for roughly 20% of global greenhouse gas emissions. Reducing harmful forestry practices decreases global warming pollution and helps lay the groundwork for widespread sequestration of carbon pollution over time since forests absorb the carbon pollution that causes global warming.