Mr. FRANKEN. I ask for another couple minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CORNYN. Reserving the right to object, I ask that another couple minutes be added to our time. If that is OK with the Senator from Minnesota, I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRANKEN. I thank the Senator from Texas. The fact is, after Citizens United, the U.S. subsidiaries of foreign companies will be able to spend as much as they want in our elections, even if they are under foreign control. President Obama alluded to this in his State of the Union Address, and Justice Stevens said it explicitly in his dissent.

More and more American companies are coming under foreign ownership and control. According to the Congressional Research Service, between 1998 and 2007, there was a 50-percent increase in the number of mergers and acquisitions where a foreign firm acquired a U.S. firm. But our laws are out of date. They do not protect against election spending from those foreign-controlled companies.

There are basically only three restrictions on election spending by foreign companies: One, you cannot be headquartered or incorporated abroad. The subsidiary has to be headquartered here, such as BP America.

You cannot use money you have earned abroad in our elections. You can use money earned here.

You cannot let foreign citizens decide how to spend that money. But the boards of these companies kind of know how, Citgo, say, might want to spend its money. One company that could pass the test and spend unlimited amounts of their money in our elections is Citgo, 100-percent owned by Hugo Chavez and the Venezuela Government. Here is another company that can pass the test: British Petroleum or, rather, its subsidiary, British Petroleum America. This is unacceptable.

The DISCLOSE Act updates our laws and says that if a foreign entity has a controlling stake in a company, as defined by most States' corporate control standards—or if a foreign entity controls the board of directors of a company, that company should not spend one dime in our elections.

Madam President, I thank the Senator from Texas. I yield back my time. I have no time to yield back. I am done.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Madam President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. There is 32 minutes 23 seconds remaining.

DISCLOSE ACT

Mr. CORNYN. Madam President, I am going to talk about the so-called DISCLOSE Act that we will vote on this afternoon at 2:45. Of course, this is a cloture vote which will require 60 votes to proceed to the bill.

At the time the cloture motion was filed, the bill was so new that it was not even available on the Senate's Web site. Unfortunately, this represents a trend where we have seen legislation come to the floor that is so new and unavailable to the American people to read that they are left to wonder what actually is in the bill.

This particular version of the bill was introduced less than a week ago. Sadly, I have concluded that this bill represents another attempt by my colleagues to push through legislation without adequate time for deliberation and review. In this case, it has pretty dramatic and dire consequences.

It will reduce freedom of speech in a way that is inconsistent with the first amendment of the U.S. Constitution, it creates more Federal regulation, and it does not give the American people the opportunity to review the legislation and to weigh in because they cannot understand what are the ramifications. So in the short time we have between now and 2:45, I would like to weigh in a little bit to hopefully inform anyone who is listening what this particular piece of legislation will do.

I fear that what this legislation does, in sum, is to protect incumbents—protect incumbents—which is not the type of legislation that I think most of our constituents would want to see us pass. I believe they would prefer legislation, if any legislation would be necessary, that would not restrict freedom of speech but would encourage freedom of speech and more political participation in our elections and the process. But this bill doesn't do that. This bill protects incumbents by suppressing the speech of some while letting other speakers speak without any limitation whatsoever. In other words, what this bill does is it picks winners and losers in the political speech contest—something the first amendment does not allow us to do.

I would also say that in the rushing to judgment on the part of the proponents of this bill, we are left to speculate as to what impact the Citizens United decision by the U.S. Supreme Court will really have and whether for-profit corporations will actually use this decision to spend money in elections. I happen to believe there is very little chance most corporations' shareholders will allow their money to be spent for the purpose of advertising on issues in upcoming political elections because they are going to either want the money returned in a dividend to the shareholders or they are going to want money invested to create a growing business and to create a better return on their investment. They are not going to want their money used for the purposes for which the proponents of this legislation fear, in my view.

The fact is, this bill will fundamentally remake the rules and regulations governing the exercise of free speech in American elections. We should be extra cautious in legislating in this area for three reasons:

First, regulation of speech always raises significant first amendment considerations. The first amendment is the cornerstone of our democracy. Political speech about candidates for elected office is at the core of the values protected by the first amendment.

Second, regulation of campaign speech often comes with unintended consequences. Back in 2002—I wasn't here at the time—the Bipartisan Campaign Reform Act was passed. It was also known as the BCRA or McCain-Feingold. I believe it was passed with the very best of intentions, but it has not prevented the exponential increase in the amount of money spent in elections in America since that time. In the 2008 election cycle, President Obama and Senator MCCAIN raised and spent nearly twice as much money as President Bush and Senator KERRY did in 2004—almost twice as much in 4 years. In fact, together, the two Presidential candidates in 2008 spent more money for the general election than did all the Presidential candidates between 1976 and 2000 combined. The so-called Bipartisan Campaign Reform Act of 2002 has also led to another unintended consequence: it has led to a proliferation of interest groups using section 527 of the Internal Revenue Code or some other provision of the law to pour massive amounts of money into campaigns with even less transparency than has existed before.

The third reason we should be especially careful when regulating political speech is that Senators have an inherent conflict of interest. Our jobs depend on the rules surrounding campaigns and elections, so there is a natural temptation by the Senate majority to change the rules in a way that helps its own chances of reelection. The question is, Does this bill resist that temptation to rewrite the rules to benefit the majority party, to protect incumbents, or does this bill succumb to that temptation? I submit that this bill succumbs to that temptation in the haste to push through rules that will protect, in the view of the proponents of this legislation, incumbents in the election that will be held almost 100 days from now.

This bill would silence critics of the majority party—it is that simple—and it would protect the closest allies and special interests aligned with the majority party.

This bill treats similarly situated parties differently. That is what I mean by picking winners and losers. It would silence businesses with some foreign shareholders, but it would protect unions with significant foreign membership. It would silence businesses with government contracts, but it would protect unions of government employees and unions that work on those same government contracts. It would silence companies that have received TARP funds but protect the

unions that represent those same companies' employees.

Labor unions aren't the only allies of the majority party to receive special treatment in this bill. The bill protects limited liability partnerships and other business models favored by the legal profession. It creates carve-outs reminiscent of what we saw happen in the health care bill with the ''Louisiana purchase'' and the ''Cornhusker kickback.'' It creates a carve-out for the largest, wealthiest, and most powerful Washington-based special interest groups, such as the National Rifle Association and the American Association of Retired Persons, AARP.

The bill also tends to favor large businesses over small businesses and Washington-based interest groups over grassroots interests. How does this bill do that? Well, simply because it creates such a Byzantine labyrinth of regulations and disclosure requirements that only large organizations with the money to hire the very best lawyers will be able to figure out how they can exercise their first amendment rights. There are enough loopholes that a corporation or a union large and sophisticated enough to set up the right legal structure can continue to speak and spend money to exercise their first amendment rights, but a small business or a grassroots group of citizens is unlikely to have either those sorts of political connections or the money to be able to hire the specialized expertise to allow them to navigate this labyrinth. And if you can't afford to comply with the bill's onerous regulations, then you are not allowed to speak at all.

Why are some of my colleagues supporting the bill? I can think of two reasons:

First, some of my colleagues fear the righteous judgment of the American people in this coming election on November 2. They are trying to change the rules in the middle of the game to suppress the speech of those who might disagree with these incumbent Senators who are standing for reelection so that the American people won't have all sides of the story when they go to vote on November 2. Bradley Smith, a former Chairman of the Federal Election Commission, put it this way. He said the so-called DISCLOSE Act should stand for the ''Democrat Incumbents Seeking to Contain Losses by Outlawing Speech in Elections''—the DISCLOSE Act.

Second, it is clear that some folks in Washington just like suppressing speech they do not agree with. Other attempts have included asking citizens to forward their neighbors' criticisms about the administration to the White House e-mail account—remember when that happened—and sending cease-and-desist letters—this is something the administration did during the health care debate—to companies that criticized their health care bill. And of course there have been well-documented efforts to bring back the so-called Fairness Act, which is anything but.

I don't know, though, whether my colleagues who are pushing this bill are doing so in order to protect their political power or, frankly, in an arrogant display of disdain for the views and opinions of the American people—the kinds of views we have seen displayed at townhall meetings, at tea party rallies, and other spontaneous movements around this country. It is absolutely the fact that the first amendment was written to protect freedom of speech, even the speech we don't like and don't agree with. I believe the first amendment of the U.S. Constitution and freedom of speech have made us stronger and freer and has helped inform policymakers so that we can make better decisions because we have considered all points of view.

But whatever the reason the proponents of this bill have for offering this bill, I would point out—and I don't think it is a coincidence—that the chief House proponent is the current chairman of the Democratic Congressional Campaign Committee and the chief proponent in the Senate is the former chairman of the Democratic Senatorial Campaign Committee. I don't think that is coincidental.

Whatever the reason, I oppose this bill, and I urge my colleagues to oppose this afternoon's cloture motion.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, will you let me know when 9 minutes has expired?

The ACTING PRESIDENT pro tempore. I will.

ENERGY

Mr. ALEXANDER. Madam President, I wish to thank the Senator from Texas for his lucid explanation of this DISCLOSE Act, and I like the name he used for it. As the Republican leader has said, this is a piece of legislation that is primarily about saving the jobs of Democratic Members of Congress. I think the American people would rather we spend our time saving their jobs during a time of 10 percent unemployment.

I would like to talk about that for a minute because one way to save American jobs is to stop sending jobs overseas looking for cheap energy, which is what the Democratic proposals have been about this year.

We hear that maybe this afternoon the majority leader will propose an energy bill. It is being proposed in a way that has become all too familiar here. It is being written in secret, offered at the last minute, and there will be time for little debate. We have 1 or 2 days at most to work on this bill, given the need to consider the President's nomination of Ms. Kagan for the U.S. Supreme Court, and there apparently will be no amendments. So last minute, written in secret, little debate, no amendments, big issue—that sounds a lot like what happened at Christmas with the health care bill. But the question to ask is why have we waited so long on an energy bill?

In defense of the majority leader, he has a lot on his plate, and he has a tough job in trying to figure out what comes first, and it takes a while to get anything done in the Senate. The last time we had a great success with energy bills—2005–2007—they were offered in a bipartisan way. I remember working with Senator Domenici and Senator BINGAMAN on those bills. We did a lot of good and changed the direction of the country on clean energy in 2005 in the Energy bill. But it took a number of weeks on the floor of the Senate to do that, and any serious effort on energy would take that amount of time here as well.

So why have we not had an energy bill? We have had a clear consensus on how to have cheap energy. For years, Republicans have said: Why don't we build 100 new nuclear plants? That is 70 percent of our carbon-free electricity. Why don't we set as a goal electrifying half our cars and trucks? That is the single best way to reduce our use of oil, including oil from foreign countries. Why don't we support doubling energy research and development? That is the best way to get a 500-mile battery for electric cars and reduce the price of solar power by a factor of 4, which is what we need to do in order to be able to put solar on our rooftops and supplement the energy we need. But we haven't had bills like that. There are even 16 Senators—6 Republican, 9 Democrats, 1 independent—who are cosponsors of the Carper-Alexander bill on clean air. We know what to do about sulfur, nitrogen, and mercury, so why don't we do it? We have 16 Senators ready to do it.

Instead, the other side has been focused on two bad ideas—one has been a national energy tax in the middle of a recession, and the second bad idea has been a so-called national renewable electricity standard, which basically boils down a requirement to build 50-story wind turbines to try to produce electricity in this large country. Let me give one fact on that. Denmark has pushed its wind turbines up to 20 percent of its electrical capacity. We often hear on the floor what a great thing Denmark has done. That is about as many windmills as you can have and still have a viable electricity grid. But Denmark hasn't closed a single coal plant. It is still highly dependent on fossil fuels. It has to give away almost half of its wind-generated electricity to Germany and Sweden at bargain prices because it comes at a time it is not needed. And Denmark has some of the most expensive electricity in Europe. Meanwhile, France has gone 80 percent nuclear. Its per capita carbon emissions are 30 percent lower than Denmark, and it has so much cheap electricity that France is making $3 billion a year exporting it to other countries.