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.

So why are we even thinking about passing a law making Tennesseans build 50-story wind turbines on our scenic mountains or buy it from South Dakota, which means running a lot of transmission lines through backyards, when the Tennessee Valley Authority says wind power is available when needed only 12 percent of the time?

So these are the two bad ideas that have had our clean energy consensus stuck on the sidelines for the last year.

There is another idea we should be focusing on, actually it should be our first priority; that is, the oilspill that has caused such destruction in the gulf coast. The bill we understand the majority leader may be bringing out this afternoon—of course, we do not know what is in it; it was written in secret—bringing it out this afternoon, may be the bill that came out of the Environment and Public Works Committee, which would, in effect, end offshore exploration for natural gas and oil.

That sounds pretty good, particularly in light of the fact that it has been 99 days since this terrible oilspill began. But what will happen if we were to, in effect, end offshore exploration of natural gas and oil? It means we would be depending more on oil from overseas. We use 20 million barrels of petroleum product a day. Unless we get busy with electric cars, we are still going to be using 20 million barrels a day.

It will probably mean higher prices, since about one-third of our natural gas and oil that we produce in the United States comes from the Gulf of Mexico. It would mean lost jobs in large amounts. The number of lost jobs is estimated, in a study released by IHS Global Insight on July 22—if we have a de facto end of independent oil production of offshore natural gas and oil in the gulf, the job loss would be 300,000 jobs by 2020; $147 billion in tax revenues over that time.

So, in addition to depending more on foreign oil, higher prices, lost jobs, it means we would depend on leaky tankers to bring that foreign oil—some from countries that do not like us—over to the United States so we could use it. So that is a bad idea as well—not a very good proposal.

There is a better way to approach the problem of dealing with an oilspill that has been offered by Senator MCCONNELL and other Republicans last week. Here is what it would do: Instead of ending offshore exploration for natural gas and oil, which is what unlimited liability requirements, in effect, would do, it would fashion a proposal that is much like the proposal we use for the 104 nuclear powerplants we have operating in this country.

They operate under a law called Price-Anderson. Price-Anderson is an industry-funded insurance program that spreads the liability for any nuclear accident among all the operators of nuclear plants. It is important to note, we have never had to use it. Even though we have not built a nuclear plant in 30 years, there has not been a single death in the United States as a result of a nuclear incident at a commercial nuclear plant or as a result of a nuclear accident on one of our Navy ships, which have been operating with reactors since the 1950s.

But the Republican proposal, instead of saying unlimited liability, which sounds good but has all the problems I just mentioned, would employ a risk-based approach and allow the President to establish liability limits for offshore facilities by taking into account risk-based factors. There could be unlimited liability.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator has 1 minute remaining.

Mr. ALEXANDER. There could be unlimited liability. But the President, in setting those risk-based factors, could take into account that there might be a company with a spotless record operating at drilling 500 feet for oil, but there might be a company with not as good a record operating in 5,000 feet deep water.

In addition, the proposal would allow for collective responsibility. Instead of big oil companies just sitting around watching the one that spills clean up, everybody would have a stake in the game. In addition to that, it would not drive out of business the smaller oil companies and only leave big oil as the only ones that could risk unlimited liability and drill in the gulf, such big national oil companies as the Chinese, Venezuelan, or Saudi Arabians.

So I would recommend to my colleagues that the Republican proposal is where we should begin because a risk-based liability proposal would allow independent explorers for oil and gas to continue to operate, would not drive them out of business.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALEXANDER. I ask unanimous consent for 1 additional minute to finish my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. The 1.6 million of us who fly daily would not stop flying after a tragic airplane crash. We would find out what happened and do our best to make it safe. We cannot simply stop drilling after a tragic oilspill unless we want to rely more on foreign oil, run up our prices, turn our oil drilling over to a few big oil companies, and all our oil hauling over to more leaky tankers. I hope that instead of the proposal we have been hearing about, we can focus on the clean energy, low-cost consensus Republicans have advocated, and that the President has proposed as well, electric cars, nuclear power, energy research and development, and clean air.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNS. Mr. President, may I inquire how much time is remaining?

The PRESIDING OFFICER. There is 8½ minutes remaining.

CAP AND TRADE

Mr. JOHANNS. Mr. President, I rise to talk about legislation that I intend to introduce today, both as an amendment to the small business bill and as a stand-alone measure.

With the BP oilspill in the headlines, we are rumored to tackle energy legislation later this week. For months, energy legislation has been held up while the majority attempted to find 60 votes for a very unpopular cap-and-trade aspect to this legislation.

But just last week, Americans sought to hear great news when they saw headlines such as ''The Climate Bill is Dead,'' ''Democrats Call Off Climate Bill Effort.''

You have to imagine that around the country, thousands of Americans and small businesses breathed a sigh of relief that they would not be forced to bear yet another financial burden, a hidden tax increase in these trying times.

But, unfortunately, I believe the sigh of relief was premature and here is why. Some in Washington have been keeping a wish list of policies they want to complete after—and I emphasize after—the November elections. At the very top of that list is the national energy tax called cap and trade. So after the elections this November, the American people could be in for quite a surprise.

After voters have cleared out of the polling places and the yard signs are all taken down, after the voting booths have disappeared from the high school gymnasiums and the church basements, after the American people have exercised their constitutional right and made their claims regarding the future direction of this great Nation, well after all that, be warned because the politicians will return to Washington to advance an agenda that they did not have a chance of advancing at all prior to the election.

During this postelection time, we are likely to see what is called a lameduck session. You see, the newly elected will not be here on the floor after the election in that interim until they are sworn in, nor will they be on the House floor. Yet we may be conducting business with many who are not returning to office and therefore are no longer accountable to their constituents; will not stand for another election.

You see, therein lies the danger, a last gasp by this Congress to push an agenda that was dead on arrival prior to the election. But, I suggest today, do not take my word for this. Simply listen to the most senior members of the party that controls the White House, the House, and the Senate. In an interview on Friday, a senior Democratic Senator openly discussed the plan to have cap and trade in the lameduck session. The headline could not be more clear: ''Democrats May Take Up Broad Climate Legislation After Election.''

Why is that the plan, you might ask? Why could not the Senate advance this