

him for his comments, to which I subscribe. We have a problem throughout the Western United States with forest fires, not easily understood by those who don't experience the kind of hot, dry conditions we do in the summer with our forests.

People don't think there are forests in my State of Arizona. There are. In fact, about 5 years ago, we had a fire which burned an area—and this is big Ponderosa Pine country—burned an area almost the size of the State of Rhode Island.

Now, in Arizona and Montana, you can do that. But just think about that if it were in your State. One of the problems is, we have found that the Healthy Forest Act that we passed about 3 years ago, which was designed to limit litigation, has not done as good a job as we had hoped.

I think we need to revisit that in addition to providing more funding. I will conclude this point by saying that one of the best summers of my life was spent in the State of Montana in Glacier National Park helping to put out forest fires in that beautiful place.

I hope all of us can join together in an appropriate way to advance the cause about which the Senator from Montana was speaking.

Mr. TESTER. I thank the Senator from Arizona. I think communication and trust is critical if we are going to address the issues in our forests today. I think if we can develop good communication with all parties involved, we will help move our forests to a healthier level.

I thank the Senator for his comments.

FISA

Mr. KYL. Mr. President, I want to speak briefly to the issue, which, frankly, is keeping us in session right now, and explain a little bit about what is happening. Everyone in this body understands and agrees that we have an emergency on our hands that deals with our intelligence collection, and we need to address that emergency legislatively.

But there is a disagreement on exactly how to do that. We must resolve that disagreement before we leave here. We will be taking a month back in our home States visiting with constituents. When we come back we will be right on the anniversary of 9/11. There are ways that we can prevent another 9/11 by good intelligence collection as to warnings that might tell us what we need to do to prevent such an attack, but we cannot do that the way the law is currently written.

Obviously, this debate cannot get into a great deal of detail. But, suffice it to say, when the law relating to intelligence collection was written, it was written with a different kind of technology in mind. Technology has evolved over the years. In fact, it has evolved quite rapidly, and it is a simple fact that today's law does not match

today's technology. It does not permit the kind of intelligence collection that we can and should be doing.

Without, again, getting into details as to how much collection is being lost, it is fair to say that a significant amount, a significant percentage of intelligence that we could be collecting, we are not collecting, simply because of what is, in effect, an old-fashioned law, a law that can be changed, should be changed.

The kind of collection we are talking about is precisely the kind of information we need that can give us warning of an impending attack. I think it is also fair to say, without getting into detail, that at this time we are seeing increasing evidence of efforts on the part of our enemies—I am speaking specifically of groups such as al-Qaida—to find a way to attack the American homeland.

Given this increased effort on their part—and I would also suggest capability on their part—given that we know what they intend to do, and given that we know there is a great deal of intelligence out there we are not collecting simply because of an outmoded law, it is incumbent upon us to act and to act now.

We cannot leave to go back to our home States for a month without resolving this issue because of the nature of the threat and the fact that an entire month will have elapsed not being able to collect information that we deem vital to be able to give us the kind of warning that we need.

Now, there have been negotiations going on, not only in the Intelligence Committee but with leadership and, primarily Admiral McConnell, who is the Director of National Intelligence, who has brought this matter to our attention. But those negotiations have not resulted in an agreement we can pass in the House and the Senate before we leave. Time is running out. We will wait as long as it takes to resolve this problem. Anything less would be a dereliction of our duty.

I will just conclude by saying this: Prior to 9/11, Senator FEINSTEIN and I, as the chairman and ranking member of the Terrorism Subcommittee of the Judiciary Committee, predicted there would be a massive kind of attack on the United States by terrorists if we did not make substantial changes in the law, on which we had held hearings. We had put legislation in the hopper, and I urged our colleagues to take action on the legislation. They did not do so.

Two days after 9/11, we stood on the floor of the Senate and finally got agreement on some of these elements of legislation, some of which became part of the PATRIOT Act, some of which were part of the Tools to Fight Terrorism Act.

Let's do not let that happen again. The warnings are there. We have to be prepared to deal with them. We cannot leave without changing the law to fit the technology that currently exists,

and we will not permit this situation to erode to the point where we have to accept something that is not adequate or we have delay in getting the job done before we leave.

Mr. McCONNELL. Mr. President, will the Senator from Arizona yield for a question?

Mr. KYL. Mr. President, I am happy to yield.

Mr. McCONNELL. Isn't it the view of the Senator from Arizona—given the wide respect across this body and in the House as well that Admiral McConnell enjoys—that we should accept his judgment as to what is needed to solve this problem? Is he not, in the view of the Senator from Arizona, the expert on this subject? And is it not clear to everyone that his primary motivation is not to get into a political fight but to protect the homeland from another attack?

Mr. KYL. Mr. President, as usual, the minority leader has made an extraordinarily important point.

Admiral McConnell enjoys the confidence, I am sure, of every one of the Members of this body. When he briefed all of us about the problem, I did not see a dissenting voice in the classified briefing about the fact that we had to quickly do something to solve this problem.

I think everyone recognizes that he not only has the expertise but the motivation—only one motivation—to protect the American people. I do not think there is a political bone in his body. As a result, for anybody here in the Congress to play politics with the issue, to not accept the judgment of a man who is so widely respected and so properly motivated in this regard, would not only be a dereliction of duty but would, frankly, set up a potential threat to the United States from which we might not recover.

What I might do is just close my remarks and turn the floor over to the minority leader. I also know the Senator from New Mexico wants to make some comments. But perhaps he would allow the leader to make some comments.

I just want to make this point. Winston Churchill said after World War II that no war could have been more easily prevented. We all understand what he was talking about. The threat was there. The people who were going to cause the problem—Adolf Hitler, Nazi Germany—were clear in their intentions, but people did not act on the knowledge they had.

Mr. President, I submit the same thing is true here. If there is, God forbid, an attack on our homeland, I cannot imagine something that could have been more easily prevented by the kind of change we can make in this body today to ensure that the law that governs this intelligence collection keeps up with the technology.

It is up to us to take the good judgment of people such as Admiral McConnell, as the minority leader has said, and move on with this and not allow a

situation to develop where we would leave for the month of August not having solved this important problem.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, the solution to this problem is at the desk. The senior Senator from Missouri, the vice chair of the Intelligence Committee, and I placed a bill on the calendar earlier this week that Admiral McConnell has certified would give him and our intelligence community the ability to protect the homeland.

As Senator BOND and I pointed out earlier this week, this measure which is at the desk, which could be taken up and passed by the Senate at any time, would give the intelligence community what it needs before we go off for a month, leaving America without this additional protection. This would be a solution to the problem.

The Director of National Intelligence has pleaded with us in person about this issue which involves—as we all now know full well, whether we are on the Intelligence Committee or not—a glitch in the Foreign Intelligence Surveillance Act of 1978, commonly referred to around here as FISA, that is causing our intelligence community to miss significant, actionable intelligence.

Now, the principle behind the FISA law is the same today as it was 30 years ago. It is the principle that foreign terrorists are a legitimate—I repeat, legitimate—target for electronic surveillance. But because of changes in the way terrorists communicate, U.S. intelligence personnel are no longer able to act on this commonsense principle with the speed and the flexibility the law was originally meant to give them.

In a significant number of cases, our intelligence professionals are now in the position of having to obtain court orders to collect foreign intelligence concerning foreign targets overseas in another country. This is absolutely absurd and completely unacceptable. We have never believed the targeting of a foreign terrorist overseas should require a FISA warrant. Let me say that again. We are talking about terrorists overseas. Yet that is the outrageous situation we find ourselves in today. It would be even more outrageous not to correct this glaring problem immediately before we leave town. And we will. We will be here as long as it takes to get this right.

Congress created FISA in 1978 because it believed the terrorist threat was real. That belief has been tragically confirmed since the law was created. Intelligence officials remind us repeatedly that the threat remains real. An unclassified version of the recent National Intelligence Estimate tells us that al-Qaida is reconstituting itself and that its lethal intent is just as strong today as it was on the morning of September 11, 2001.

The legislation could not be more urgent. While the administration submitted FISA modernization language

months ago—this has been languishing for months—the only legislation before us is S. 1927, the McConnell-Bond bill, a bill specifically requested by the Director of National Intelligence.

We know this bill provides our intelligence community with the necessary tools to protect our homeland. We know if we pass this measure, the President will sign it into law. We know we have a duty to pass it today to protect the American people. So why wait? Why wait? This job must be done, and done now.

The recent National Intelligence Estimate on terrorism contained a finding that cooperation on the part of our allies may wane as 9/11 becomes a more distant memory and perceptions of the threat tend to recede. Has that memory faded so greatly in our own minds that we would leave for an August recess without taking the reasonable step of revising this law? I certainly hope not. It would be completely unacceptable. The intelligence community assures us that al-Qaida is not taking an August break.

The principle behind our electronic surveillance has not changed since 1978. But the terrorist threat has. As we have tried to adapt to this asymmetrical threat, the terrorists have adapted too—by using increasingly modern and increasingly lethal tools and technologies against us. They have used planes and, if they get their wish, they will use chemical and even nuclear weapons. They have killed our citizens and our soldiers by the thousands. And they have shown their intent to continue to kill on an even larger scale.

We must not let these enemies of America exploit a weakness that we can identify. We understand this weakness exists, and we need to fix it. Didn't we learn this lesson after 9/11? Some have blamed our failure to prevent those attacks on a failure of imagination. Some have said it was because we did not connect the dots. Well, we will never be able to connect the dots if we cannot collect them. Failure to pass this legislation would suggest an indifference on the part of Congress about our ability to connect those very dots.

Mr. President, I hope everybody understands the threat is real; the threat is urgent. We must not, we will not, leave for recess until we pass this urgent and necessary law.

Senator BOND and I and others will have more to say about this issue during the course of the day.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

AMERICA COMPETES ACT

Mr. BINGAMAN. Mr. President, I want to take a very few minutes to comment on the action of the Senate last night in passing and sending to the President the America COMPETES Act.

With the passage of the conference report, I hope we will begin a long-term

commitment by the Congress and by the executive branch to ensure our Nation continues to lead the world in innovation and economic competitiveness.

I will put in the record a full statement of the history that has led us to this point of hard work that has gone on by many in the Senate, in the House of Representatives, as well as in the private sector.

Yesterday, the House voted 357 to 57 to pass the conference report and in doing so affirmed that on large issues such as these we can work in a bipartisan way for the benefit of our Nation. Then, later last night, the Senate passed the conference report by unanimous consent.

This bill has been more than 2 years in the making. One primary impetus was in May of 2005, when Senator ALEXANDER and I asked the National Academies of Science to report on steps the Congress could take to keep the United States competitive in a rapidly changing global environment. That report, entitled, “Rising Above the Gathering Storm,” was spearheaded by Norm Augustine, former CEO of Lockheed Martin. It was released in October of 2005 and received significant attention in the U.S. media. The report clearly tapped into an increasing concern among many Americans about the challenges we face in competing against the rising national economies of countries such as India and China.

In January of 2006, Senator DOMENICI, Senator ALEXANDER, and I, along with 67 other cosponsors, introduced the Protecting America’s Competitiveness Edge Act, or PACE Act. This bill reflected the recommendations of the Augustine commission and covered a wide array of topics related to competitiveness, including increasing funding for research and education and other provisions designed to encourage a climate of entrepreneurship and innovation.

On a separate track, in December 2004, the Council on Competitiveness released their report entitled, “Innovate America.” Based upon that report, Senators ENSIGN and LIEBERMAN introduced S. 2802, entitled the American Innovation Act of 2006.

That summer, Senator Frist asked the authors of both bills and other interested Members, including the chairman of HELP, Senator ENZI and Ranking Member KENNEDY, to draft a comprehensive Senate bill which was introduced in the Senate as S. 3936, the National Competitiveness and Innovation Act. S. 3936 was introduced in the final days of the 109th Congress as a FIST-REID bill.

Continuing this bipartisan effort in the 110th Congress, Senators ALEXANDER, DOMENICI, and I introduced S. 761, the America COMPETES Act, which was taken up by the Senate and passed 88 to 8 in April of this year, with Senators REID and McCONNELL as the lead sponsors.