

WASHINGTON, D.C. — On Jan. 17, U.S. Senator Martin Heinrich, D-N.M., a member of the Senate Select Committee on Intelligence, spoke on the Senate floor to express concern with Section 702 of the Foreign Intelligence Surveillance Amendments Act and urged his Senate colleagues to oppose the statute's reauthorization until necessary privacy reforms are included.

Senator Heinrich is a cosponsor of the Uniting and Strengthening America by Reforming and Improving the Government's High-Tech Surveillance (USA RIGHTS) Act, introduced by U.S. Senators Ron Wyden (D-Ore.) and Rand Paul (R-Ky.), that reforms Section 702 of the Foreign Intelligence Surveillance Act to end warrantless backdoor searches of Americans' calls, emails, and other communications that are routinely swept up under a program designed to spy on foreign targets.

The sweeping authority has been clouded in secrecy, in part because the government refuses to answer essential questions about how it impacts Americans, including how many American communications the government collects.

Below are Heinrich's remarks as prepared for delivery:

The Senate will be voting soon on a bill to reauthorize the FISA Amendments Act.

Most Americans likely do not recognize the name of the bill, but they probably know what this bill addresses – our government's surveillance of communications.

As a member of the Senate Intelligence Committee, I have learned a great deal about our post-9-11 surveillance laws and how they have been implemented.

And I have determined that there are reforms that need to be made to the FISA Amendments Act – specifically Section 702 – before we renew this law. The biggest flaw in Section 702 is in how it has been interpreted.

The language of the law – the collection of foreign intelligence of U.S. persons reasonably believed to be located outside the United States – anticipates that incidental or accidental collection of Americans' emails and phone calls would occur.

But under the FISA Amendments Act as written, there is nothing to prohibit the intelligence community from searching through a pile of communications collected under this statute to deliberately search for the phone calls or emails of specific Americans.

This is not what Congress intended when the law was written.

And now we are being asked to vote on this law at the last minute with no amendments allowed.

Many of us have called this the "back door search loophole" – since it allows the government to search for Americans' communications without a warrant.

The USA Rights Act – of which I am a cosponsor – includes a fix to this loophole. It also includes other key reforms to the statute that I support. But that commonsense bill isn't on the floor today.

The bill before us today would actually take us backward. It doesn't require a warrant to search for Americans' communications.

It makes it quite easy to resume the "about" collections on Americans, a practice that the government has abandoned.

It grants new authorities to allow Section 702 data to be used in domestic criminal prosecutions of Americans.

I strongly believe that the federal government needs a way to monitor foreign communications to ensure that we remain a step ahead of terrorists and those who threaten our national security.

The FISA Amendments Act has been beneficial to the protection of our national security.

I don't question the value of the foreign intelligence that this law provides.

But I also strongly believe that we need to balance the civil liberties, embodied in our Constitution, with our national security imperatives.

It is the responsibility of Congress to find that balance.

The bill that is before us today could come closer to that standard if we improve it through the adoption of amendments that I and my colleagues would offer if we had the opportunity.

But this bill is being fast-tracked and we are left with only the choice of an up or down vote. The American people deserve better than the legislation put before us today.

I urge my colleagues to consider the gravity of the issues at hand and to oppose reauthorization until we can have an opportunity for real debate and real reform.

Visit www.heinrich.senate.gov .

By Martin Heinrich

Senator for New Mexico