Mr. President, I thank both managers of the bill, the

chairman of the Governmental Affairs Committee and the ranking member,

Senator Lieberman, for the great work they are doing on this bill. I

know it is not easy, but it is vital that we achieve the kinds of

reforms the 9/11 Commission and the Senate Select Committee on

Intelligence and others, over the years, have said would help make our

Nation stronger.

Yesterday, I proposed an amendment to this bill which dealt with a

relatively narrow area but one I think is certainly relevant to what

the 9/11 Commission recommended and, indeed, to the ultimate purpose of

making America a safer place. Unfortunately, it is one that tends to be

overlooked. That does not have to do with our physical security,

potential cause of death and injury to the American people on our own

soil but, rather, a body blow to our economic security.

Indeed, one of the consequences of 9/11 was not just the terrible

loss of life and injury but also the disruption to our economy, which

resulted in chaos and many people being laid off work because of the

economic disruption.

This amendment had to do with cyber-security. I know it is something

we do not think about very much but, indeed, now that we are so

dependent upon computers for our way of life, to enhance our

productivity, to communicate with one another, to do business, we

somehow perhaps take for granted that they will always be secure. And

particularly when it comes to our water utilities, our communications

systems, our transportation systems, and financial networks, there is a

very real danger that cyber-terrorists, those who would try to attack

and dismantle and disrupt our financial, transportation,

communications, and utility networks could wreak a terrible blow to the

American economy.

Now, my interest in this subject dates back several years to when I

convened a panel in Texas, the State Infrastructure Protection Advisory

Committee, as attorney general. We met hundreds of hours with both

private and public sector participants, as well as people in the

academic community, to try to figure out what we could do, No. 1, to

identify what the problem was, and what we could do to make it better.

Well, what we found is that in many instances because of liability

concerns, because of concerns about trying to achieve and maintain

public confidence in one's business or product, that the private sector

was much better prepared than the Government was for cyber-attacks.

I am pleased to say that Congress has begun to work to address this

critical need for security in our computer networks by passing the

Federal Information Security Management Act, or FISMA. Its purpose is

to improve the information security of our computer networks and

support Federal agencies by requiring top-to-bottom agency planning for

information security and compliance with mandatory standards and

benchmarks developed by the National Institute of Standards and

Technology.

FISMA also requires Federal agencies to conduct an annual evaluation

of their computer security programs and to submit an effectiveness

report to the Office of Management and Budget, the OMB.

For several years, the House Government Reform Subcommittee, chaired

by Congressman Adam Putnam, the Technology, Information Policy,

Intergovernmental Relations and the Census Subcommittee, has been

working with the General Accounting Office to produce a report card for

24 Federal agencies to see how well they are complying with

congressional intent as expressed in FISMA, the Federal Information

Security Management Act.

What I would like to show you, Mr. President and my colleagues, is

the report card that has been generated because I think it is

indicative of the problems we have had and, indeed, the problems we

still have, and how modest our improvement has been.

Indeed, you can see from this chart showing the Federal computer

security report card, issued on December 9, 2003, that overall

Government wide, Government agencies, when it came to security of their

computer systems, got a D, not a grade any one of us would be proud to

take home. But I must say, as bad as a D is, in 2003, it is better than

the F that many agencies got in 2002, before Congress began to get

involved in trying to upgrade the security of our computer networks.

But you can see, some of these agencies have improved from an F to a

D. Indeed, the Department of Defense in 2002 had an F. In 2003, it got

a D. The Small Business Administration went from an F to a C-. But we

have some--the Department of the Interior, the Department of

Agriculture, the Department of Housing and Urban Development, the

Department of State--that in 2002 got an F and in 2003 got an F.

So I am not sure Congress is as successful as we should be or as we

would like to be in getting the attention of the people who work in

those agencies and who should be committed to carrying out this

information security provision and protecting our Government computer

systems from the potential of cyber-attack and the potential disruption

to our economy.

But I want to say in conclusion on that matter how much I appreciate

the willingness of the Senator from Maine, the distinguished chair of

the Governmental Affairs Committee, and the Senator from Connecticut,

the distinguished ranking member of that committee, to work with us and

consider this amendment and, indeed, to agree that the amendment should

go forward because I think this is an easily overlooked but,

nevertheless, a very important part of our security.

Mr. President, I have two other amendments that have not yet been

filed that I will obviously not call up but I would like to just

preview for my colleagues. I have talked, also, to the chairman of the

bill and the ranking member. We are going to continue to work with them

and their staffs to try to make sure these matters can be worked out,

if that is at all possible, much in the same manner we worked out this

cyber-security provision.

These matters have to do with other recommendations of the 9/11

Commission. Here again, the job that is before us is vast, indeed, as

reflected by the 41 different recommendations of the 9/11 Commission

and the need for intelligence reform reflected in the bill before us.

But perhaps it is because of the perspective I have as a Senator from

the State of Texas, which has the longest border of any State with the

country of Mexico--and, of course, beyond Mexico on to Central America

and South America--the source of many concerns relative to human

smuggling and to enforcement of our immigration and other laws related

to those issues.

First, we intend to offer an amendment to increase the penalties that

can be assessed upon a successful prosecution for the crime of human

smuggling. As the 9/11 Commission said: There is evidence to suggest

that, since 1999, human smugglers have facilitated the travel of

terrorists associated with more than a dozen extremist groups and that

human smugglers clearly have the credentials necessary to aid terrorist

travel. They also noted that many countries, because of their lack of

security, make human smuggling an attractive avenue for terrorists in

need of travel facilitation.

In terms of our southern border, Under Secretary of the Department of

Homeland Security Asa Hutchinson has told me and others that there is

no documented instance of a terrorist actually coming across our

southern border, but the truth is, it is very porous. If the motivation

is high enough and the price is right, the same person who can be

smuggled across the border for economic reasons because they want to

come to work in this country outside of our laws, someone from a

country other than Mexico, perhaps an Islamic extremist, somebody who

wanted to take advantage of that porous border would, indeed, hire a

human smuggler to bring them across our southern border into the United

States and do us harm.

It is important that our Federal policy and our criminal laws reflect

both the strongest possible concern about this issue and express the

will of Congress that human smugglers will be punished in a way

commensurate with the threat they pose to the American people.

The truth is, we cannot ignore this issue and believe that it is just

related to people who want to come here and work. Money talks. And

where human smugglers exist, they will go to the highest bidder to

deliver their services in a way that could indeed deliver terrorists on

to our soil. That relates to one amendment on which we will continue to

work with the distinguished chairman and ranking member and their

staffs to see if we can work out an agreement.

The next amendment relates to another provision in the 9/11

Commission report. The Commission, under the subheading ``Immigration

Law and Enforcement,'' said:

Again, on page 383 of the 9/11 Commission report, the Commission

said:

This amendment, which we intend to file and call up later--and we

will continue to work with the managers of the bill on it--has to do

with the authority of State and local law enforcement authorities to

detain a certain narrow class of persons who are illegally in the

country. Those relate to what I would think are three noncontroversial

categories: Those who are absconders--in other words, 80,000 felons who

are in the country illegally and running from justice. We don't have

the capacity to know exactly where they are now because we have,

unfortunately, ignored the crisis in our immigration enforcement for

many years.

Indeed, more than that, there are approximately, according to some

guesses, between 300,000 and 400,000 people under final orders of

deportation in the United States, and we simply don't have the Federal

authorities sufficient to locate them and enforce final orders of

deportation.

This bill would narrowly address those who are under final orders of

removal, those who have signed voluntary departure agreements, and

those who have revoked visas. It would not, as some previous

legislation that has been filed both here and in the House, offer an

opportunity for local and State law enforcement officials to enforce a

whole broad range of our immigration laws. This relates to a narrow

group who are absconders from justice, including convicted felons and

others, and reaffirms the authority of State and local law enforcement

both to enforce those violations in the normal course of carrying out

their duties and will make sure that we get the army of additional law

enforcement authorities to assist the current Federal authorities who

are mainly located along our border region when it comes to our border

security and homeland security interests.

Finally, this bill would direct the Department of Homeland Security

to take custody within 48 hours of these persons so detained by State

or local officials or else pay the locality to detain these particular

class of aliens. Currently, the process is that once someone has been

identified and perhaps detained for a violation of one of a host of our

immigration laws, the common practice is to tell them to come back for

a future hearing for deportation. It is no surprise to any of us that

about 90 percent of them melt into the landscape and are never heard

from again.

Simply put, we need to have law enforcement authorities at all

levels--national, State, and local--join forces, as the 9/11 Commission

recommended, to deal with this certain narrow class of people who are

under final orders of deportation from our country, those who have

signed voluntary departure agreements, and those who have had their

visas revoked. These are people who have exercised any right they may

have to due process and should have no further recourse.

I look forward to working with the manager and the ranking member and

their staffs to try to see if we can work this out.