Certainly, the distinguished chairman of the subcommittee, Senator STEVENS, along with Senator KERRY, Senator HOLLINGS, Senator BREAUX, Senator LOTT—everyone worked so hard to do something that I think really will be for the benefit of all of the people who care about our waters, and use them either for commercial use or for recreation and conservation. Kudos to all.

I yield the floor.

MORNING BUSINESS

Mr. LOTT. Mr. President, we do have one issue we need to get resolved on this bill. While that is being worked on, I ask unanimous consent that there be a period of morning business for the next 30 minutes with time limited to 5 minutes each.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. LOTT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous-consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, is the Senate now in a period of morning business?

The PRESIDING OFFICER. The Senate is in a period of morning business, with a unanimous consent order limiting the time of each Senator to 5 minutes.

Mr. DORGAN. I ask unanimous consent that I be allowed to speak for 8 minutes.

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

GUNS IN SCHOOLS

Mr. DORGAN. Mr. President, this morning I was watching a morning television show and heard a report that was dumbfounding to me. It was a report on a decision by an appellate court of New York State dealing with a young man who had brought a gun to school. The gun had been discovered and taken from the youth. The boy was expelled from school. This case has made its way through the New York court system to the appellate court, which ruled Tuesday that the security guard had acted improperly in removing the gun from the boy who was in a school.

I came to the office this morning after hearing that report and asked for some information about the appellate court decision and got it. I read through it and there are times when you scratch your head and wonder why there are people serving in public office in any branch of government who are so completely devoid of common sense. I read this decision and wondered how anyone could really have decided that it is all right for a boy to carry a gun in school and not be punished for it.

There is a law on the books now, the Gun-Free Schools Act, that says schools must have zero tolerance for guns in our Nation's classrooms and hallways. I wrote it. I, along with the Senator from California, Senator FEINSTEIN, wrote this legislation that is now law. It says with respect to the issue of guns in schools, we are sending a message that is very clear anywhere in America.

The message ought to be clear to every student and every parent: There is zero tolerance for guns in schools. Do not bring a gun to school. If you do, you will face certain punishment. Now, that is law.

In the report I heard today about the court case in New York regarding the young man, identified as Juan, in the Bronx, at William Howard Taft High School, a security guard testified that he spotted what looked like the handle of a gun inside Juan's jacket. A search turned up the weapon, which was loaded. Juan was suspended for a year, and criminal charges were filed against him. A Bronx family court kicked out the charges, ruling that the outline of the gun was not clearly visible. The slight bulge was not, in any particular shape or form, remotely suspicious, so the security guard had conducted an unreasonable search. The appellate court went a step further and said, since the guard improperly removed the gun, the boy should not have been suspended from school.

I think that is nuts. When I get on an airplane to fly to North Dakota, I have to walk through a metal detector. They want to know whether I have a weapon on my person. They also have a right to search my briefcase and my luggage, and they have a right to determine that the people who board that airplane have no guns or weapons on them.

This court says that a security guard, or teachers, or principals have no right to determine whether a student with a suspicious bulge in his clothing has a gun in his pocket or in his jacket as he walks down a hallway or sits in a classroom at a school in the Bronx. Where is the common sense here? Of course, we have a right to determine that no kids in schools have guns. When a court says that a school has no right to expel a student who was caught with a gun by a security guard who saw a bulge in the student's pocket, then there is something fundamentally wrong with that court.

Now, as I said, I wrote the provision 2 years ago that says there is zero tolerance for guns in schools, and there are certain penalties for every student who brings a gun to school anywhere in this country. That does not vary from New Mexico to Indiana to North Dakota. If you bring a gun, you are expelled—no ifs, ands, or buts. This court decision, along with some background on other court decisions that I just heard about this morning on television, so angered me—to believe that we have the capacity in a country like this to prevent people from bringing guns onto airplanes but we can't expel a kid who is caught with a gun in school.

I have a young son in school today. He is 9 years old. He is sitting in a classroom in a wonderful school. I, just like every other parent in this country, want to make certain that if there is any kid that comes into that school, or any other school, with a gun, our children are safe, and that someone can intercept those students, and if they find a gun, they are going to remove the gun and the student. We have every right to expect that to be the case in our schools.

This court decision, as I said, denies all common sense. I fully intend to pursue additional Federal legislation, if necessary, in order to remedy this sort of circumstance. A country that can decide that people who board airplanes can be searched—and we can make certain that people will not take guns in airplanes—ought to be able to decide that children in school will be free from having another child in a classroom or in the hallway packing a .45 or a .38.

Parents ought to be able to believe that security guards who intercept people with guns in schools will be able to remove those students. Not too long ago, at a school about 2 miles from where I stand, a young boy was shot. I had visited that school about a month before the young boy was shot. I went to a school with nine students in the senior class, in a town of 300. But I wanted to tour this inner-city school and see what it was like. As I walked in, I went through a metal detector, and I saw security guards. I went into a school that is in a lockdown state when the school day begins. When the students are in, the doors are locked. They have metal detectors and security guards to try to make certain there are no students bringing in weapons and no unauthorized people are coming through the doors. Frankly, the security was pretty good at that school. They felt that there was a need to have substantial security.

About a month or so after I toured that school, a young boy was in the basement of that school in the lunch room at a water fountain. Another young boy named Jerome bumped him at the water fountain. For bumping the boy at the water fountain, Jerome was shot four times. I just read about it in the papers. I didn't know Jerome. He was shot four times and he lay on the floor critically wounded. He survived those wounds. He graduated from school. I visited with Jerome a couple of times, just trying to understand what is happening in these schools. It was prior to my passing legislation here dealing with the issue of zero tolerance and guns in schools. I found it unusual that a school with that security still had a boy in the cafeteria with a gun—a gun available to shoot

someone who bumped him at a water fountain.

Now comes, this morning, a court case where this boy Juan was in school 4 years ago. It has taken that long for this case to get through the courts. This boy isn't even in school anymore. But the decision is that a security guard at school improperly removed a gun from the pocket of this student. I find this so preposterous. I know if we talk to the judges, they would give a million reasons why they reached this decision. I don't want 10 reasons or 5 reasons. I want one person to give me one reason why we ought to believe it is ever appropriate for a young student to put a pistol in his pocket in order to go to school in this country.

If we can't keep guns out of schools, we can't take the first baby step in dealing with this country's education problems. So I come to the floor to express enormous dismay over what I heard and read this morning and to say to those who are making these decisions: If need be, there will be Federal legislation, once again, telling those who are trying to keep guns out of our schools that you have the authority to do it. We are going to give school officials the ability to keep our children safe.

I am not antigun. I hunt. In my State we have great hunting. But guns have no place in schools. No kid ought to bring a pistol to school. Those who do ought not to be told by the courts that it is OK. They ought to be told by parents and security guards, and by the law in this country, that it is not OK. If necessary, we are going to pass Federal legislation to make that occur.

Mr. President, I thank the Chair. I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Before the distinguished Senator from North Dakota leaves the floor, I would like to ask him a question or two.

I have been listening, with keen interest, to his addressing this issue that I know he has been involved in for a long, long time. I have some comments to make on this. But I simply would like to ask him, who brought the action? Under whose auspices was the case filed that he has just addressed, where the decision came down yesterday? Where was this case and who brought the action?

Mr. DORGAN. Well, I say to the Senator from Nebraska, this was in an appellate court of New York State. I don't have, at this moment, the information about who brought the action. I assume that attorneys on behalf of the student, or the student's parents, brought an action against the school and, also, of course, contested the criminal charges. This student who brought a gun to school, which was then seized by the security guard, eventually had the criminal charges against him dropped.

Mr. EXON. Were there any other organizations involved in this, to your knowledge? Or was it just an individual action by a parent?

Mr. DORGAN. Well, other organizations are quoted in the press stories, but there is not a reference about whether they were involved in the case. So I will not use their names, except to say that my expectation is that there are organizations who would join parents of the student and who would contest these sorts of policies. But it is beyond my comprehension to understand how anyone can argue anywhere that it is appropriate under any circumstance for a kid to pack a weapon to go to school. If we can't as parents, as school administrators, and as public officials decide that our schools are places where kids can learn and feel safe in an environment in which they can learn, then we cannot solve our education problems in this country.

Mr. EXON. I have not seen the information that the Senator from North Dakota has. I guess I am specifically asking whether or not there were other organizations who hired attorneys or had attorneys there representing those who brought the action.

Mr. DORGAN. I will get that information. I do not feel comfortable giving you the names of the other organizations named in the news articles I have because I do not know whether they were actively involved in bringing the case. But I hope by Monday or so to have all of that information, and I will come to the floor again and provide it for the Senator.

Mr. EXON. I appreciate that very, very much. The fact that the Senator has the courage to stand up on the floor of the U.S. Senate and make such an obvious, commonsense argument encourages me that we are beginning to look at some of the real problems in America. One of the problems in America today is kids with guns. Certainly I would agree with my friend from North Dakota. If we are powerless to do anything about that, regardless of the status, the opinion, the background of one court, or one judge, then we are in serious trouble.

As a former Governor who had appointed lots of judges, I have never launched an attack on the courts per se because I think by and large the courts do a good job. Unfortunately, it is obvious to me from some of the recent decisions that I have seen on a whole series of areas—it indicates to me that perhaps all too often the courts think they are not the third branch of Government but they are the branch of Government, and they seemingly are becoming all powerful.

There was a time when the courts of the United States were somewhat restrained and did not become activists for causes. It seems to me that all too often those who are foremost in bringing these actions have scrutinized the judiciary to the point where they know what judge to go to on a certain issue and what judge would be most likely to go along with this particular point of view. To me, that is not a good comment on the judiciary that is supposed to be under the law, ones that make legitimate decisions based on law. And breaking new ground in the judiciary at one time was somewhat reserved. These days the judiciary is breaking more new ground more often and, in the opinion of this Senator, more wrongly than ever before.

So I will be looking forward to hearing the next comment on this.

Mr. DORGAN. I am mindful of the dilemma of criticizing the courts. I generally don't do that. I may have used some intemperate language today to do so, but I am a little tired of the judiciary saying, ''Well, you know, don't ever comment about us. We are over here way above comment.'' I called a judge one day when I picked up the Washington Post some while ago. A couple of people put a pistol to a man's head in a pizza delivery murder and killed him. The trigger man was let out on, I think, $10,000 bond by the judge. I read that story. I thought to myself, ''What on Earth are we doing?'' I called the judge. The judge says, ''How dare you call me. You have no right to call me.'' I said, ''Of course, I have a right to call you.'' It turned out a lot of other people in that community called him, and he decided to change the bail. That young fellow was brought back to jail and was subsequently convicted of murder and put into prison.

But the point is that I do not criticize the judiciary lightly. I do not want to taint the judiciary. The fact is a lot of people are doing a lot of wonderful work, I am sure. But there are times when you see decisions come out that are so unsound and so devoid of common sense.

I try to be mindful of the point about criticizing the judiciary. But, frankly, I think sometimes they deserve a little criticism. I am going to do it when I feel they have made decisions like this that we can remedy with some Federal legislation, and they should know it is coming.

Mr. EXON. Mr. President, I thank my friend. I find myself aligned almost identically with the viewpoints that the Senator has just addressed. I was very much interested to see how a judge resented the fact that a U.S. Senator called him asking the reasons for the decision that the judge had rendered. That takes me to the place that, while I recognize the courts as the legitimate third force of government, the courts are not sacrosanct, and the courts had better get off of the kick that they seem to be increasingly on, as evidenced at least by the one instance that the Senator from North Dakota addressed. Judges are human beings like all of us. Those of us who are in public service expect to receive criticism. That is what making hard decisions is all about.

But I simply say that, from what I know of the case that the Senator from North Dakota referenced today about the most recent decision, probably the most recent outrage by at least one

court against what thinking people are trying to do to provide at least some degree of safe haven for our kids in school, highlights the point that the Senator from North Dakota is making and this Senator from Nebraska is making about the way things are happening today. The three equal branches of Government—the executive, the judiciary, and the legislative—had better be looked on.

I say as a legislator to the courts, ''Do your job but don't trample on us as a second-class part of the equal three-part series of our Government that has served this Nation and this country so well for so very long.''

ORDER OF PROCEDURE

Mr. EXON. Mr. President, before I yield the floor, I will simply advise the Senate that we were ready to take up a bill that came out of the Justice Department, and I think through misunderstanding it was temporarily delayed. I simply say that the previous matter before the Senate that was temporarily set aside has now been cleared for action—the pipeline safety bill, with amendments. As the manager on this side on that bill, I am prepared to move ahead, if that is the will of the majority.

I thank the Chair.

The PRESIDING OFFICER. The Chair in his capacity as a Senator from Missouri suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ACCOUNTABLE PIPELINE SAFETY AND PARTNERSHIP ACT OF 1996

Mr. EXON. May I inquire of the Chair, what is currently the procedure in the Senate and what matter are we on?

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1505) to reduce risks to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquid, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Accountable Pipeline Safety and Partnership Act of 1996''.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 60101(a) is amended—

(1) by striking the periods at the end of paragraphs (1) through (22) and inserting semicolons;

(2) by striking paragraph (21)(B) and inserting the following:

''(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term 'transporting gas' includes the movement of gas through regulated gathering lines;''; and

(3) by adding at the end the following:

''(23) 'risk management' means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;

''(24) 'risk management plan' means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; and

''(25) 'Secretary' means the Secretary of Transportation.''.

(b) GATHERING LINES.—Section 60101(b)(2) is amended by inserting '', if appropriate,'' after ''Secretary'' the first place it appears.

SEC. 4. GENERAL AUTHORITY.

(a) MINIMUM SAFETY STANDARDS.—Section 60102(a) is amended—

(1) by striking ''transporters of gas and hazardous liquid and to'' in paragraph (1)(A);

(2) by striking paragraph (1)(C) and inserting the following:

''(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.''; and

(3) by striking paragraph (2) and inserting the following:

''(2) The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.''.

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—Section 60102(b) is amended to read as follows:

''(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—

''(1) IN GENERAL.—A standard prescribed under subsection (a) shall be—

''(A) practicable; and

''(B) designed to meet the need for—

''(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

''(ii) protecting the environment.

''(2) FACTORS FOR CONSIDERATION.—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

''(A) relevant available—

''(i) gas pipeline safety information;

''(ii) hazardous liquid pipeline safety information; and

''(iii) environmental information;

''(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

''(C) the reasonableness of the standard;

''(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

''(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

''(F) comments and information received from the public; and

''(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

''(3) RISK ASSESSMENT.—In prescribing a standard referred to in paragraph (2), the Secretary shall—

''(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

''(B) identify the costs and benefits associated with the proposed standard;

''(C) include—

''(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

''(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and

''(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

''(4) REVIEW.—

''(A) IN GENERAL.—The Secretary shall—

''(i) submit risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and

''(ii) make that risk assessment information available to the general public.

''(B) PEER REVIEW PANELS.—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes—

''(i) an evaluation of the merit of the data and methods used; and

''(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.

''(C) REVIEW BY SECRETARY.—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

''(i) shall review the report;

''(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

''(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

''(5) SECRETARIAL DECISIONMAKING.—Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter only upon a reasoned determination that the benefits of the intended standard justify its costs.

''(6) EXCEPTIONS FROM APPLICATION.—The requirements of this subsection do not apply when—

''(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;