in restrictions on underage pilots, following the one disaster that involved a young girl who was a pilot. We put in a provision requiring the FAA to deal with structures that interfere with air commerce.

My point is, as we get to the end of a session, we, of necessity, include in a bill extraneous matters totally beyond the scope. We know they are beyond the scope. As the chairman of the Defense Appropriations Committee, I knew all those items we brought to the floor earlier this week were beyond the scope of the conference, but we did not anticipate anyone would raise a point of order.

Anticipating that Senator KENNEDY would bring this point of order before the Senate, the leader made this point of order. I ask the Senate to keep in mind this will be a rather limited precedent, in my opinion. I do not know whether the Chair will agree with me, but clearly when you get to the end of a Congress some things have to be done. We did not have time to take up separate bills. We held a hearing on the bill in the Senate Commerce Committee dealing with the rights of victim-survivors of air disasters. They pleaded with us to include that bill in this legislation. We have done so.

In other words, this point of order is not only valid, in my judgment, against the amendment offered by Senator HOLLINGS, but against the other provisions where we have exceeded the scope in various matters on this bill. I ask the Senate, when the time comes to vote, to overrule the Chair. It will not be debatable, but I clearly expect a ruling from the Chair that this report does exceed the scope of the conference under the rules and, in these circumstances, I ask that the ruling of the Chair be overturned.

I yield to Senator MCCAIN.

Mr. MCCAIN. Mr. President, I yield such time as remains to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, with respect to this particular point of order, it would not set any precedent relative to anything dealing with the merits of the matter. It is dealing, once again, basically with a fundamental mistake made in the drafting of a measure that was caught some 2 months later, never discussed, never voted on and, of course, there were no hearings, or what have you.

So what we have done is taken this opportunity on a very germane matter, Federal Express is the sixth largest airline in the country, and brought in this particular correction. It has nothing to do with the merits of anything and no precedent will be set when we overrule this Chair.

Mr. President, I can tell you categorically, if this kind of a point of order was made on Monday, we would have had to close down the Government. You can go down and list the various things—$249.8 million emergency appropriations for counterterrorism that was not in the bill or in the conference. The measure under discussion here was at least in the conference. The FBI with $60 million, the Prevention Council, various appropriations for the EDA, the SBA, I could go down the list.

I am confident I can get support now when I remind the distinguished Senator from Massachusetts—the Massachusetts Biotechnology Research Institute, I am constantly getting a little card from my distinguished friend, and I love to do it. He said, you have to take care of me up there in Boston, and I said, I am glad to do it. It was not in either the House or the Senate, but I think we can get it in. We do that. I hope he can vote with me on this particular overriding of the Chair's ruling.

Mr. STEVENS. Mr. President, on another matter, I announce we will have a Governmental Affairs Committee meeting as soon as this vote starts in S–128 to consider reporting a nomination at the request of the administration, for the Administrator of the General Service Administration, and other nominations. I ask unanimous consent that be in order.

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

Mr. KENNEDY. Mr. President, I will not delay the resolution of this issue, but the issue is not germaneness. That is not the issue, whether this is germane. The issue is whether this material is outside the scope of what was sent to the Congress in the House and the Senate. That is the issue.

Today, it is a labor provision. Tomorrow, it may be water in the West, it may be land in the West, it may be civil rights, it may be health care, it may be any other issues which Members have some interest in. There is no such thing as a narrow precedent. We have had the precedent that was established about legislation on an appropriation by KAY BAILEY HUTCHISON. That has changed.

Certainly, the rules that govern this institution for the better part of my service in the U.S. Senate—now we are talking about a very significant and important difference—whether these matters are outside the scope. That is the issue, not whether it is germane or not germane, but whether it is outside the scope. The House Parliamentarian ruled it was outside the scope, and that is why the House of Representatives had to have a separate vote.

Now we are going to have a judgment about whether it is inside the scope or outside the scope. If the judgment is made that it is inside, I hope that would support the Chair. If it was made that it was outside, that we would support the Chair as well. It reflects, and will reflect for years to come, the whole basic institutional integrity of this body and how it will consider conference reports into the future. It is very important, significant, and powerful.

How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes remaining.

Mr. KENNEDY. I yield such time as the Senator may consume.

Mr. FEINGOLD. I want a moment to say a word about the point-of-order issue. A point was made by the Senator from South Carolina, I believe, that the same type of point of order could have been raised with regard to the continuing resolution earlier this week. I have not examined the issue closely, but I imagine that is true. But we should reflect a moment on the concept of what that was about versus the willingness of this body, perhaps, to overturn its own rules on something that is so specific to one corporation that it seems almost astonishing.

To what extent are we going to go as a body in the future in changing our rules, undoing our rules, overruling a point of order, to accommodate one provision that only has to do with one matter? I think there is a huge difference. I am not even sure it was appropriate with regard to the continuing resolution. I happen to have voted against it in part for that reason.

Surely, for us to start engaging in overruling points of order to benefit the needs of one corporation to try to overturn what is a continuing litigation or to affect the results of continuing litigation is a very troubling precedent for this body, as the Senator from Massachusetts has indicated.

I thank the Chair.

RULE 28 CHALLENGE TO THE FAA CONFERENCE REPORT

Mr. PRESSLER. Mr. President, the Senate soon will be voting on the motion to overrule the decision of the Chair with respect to the ruling that section 1223 of the conference report pending before the Senate violates rule 28 of the Senate by exceeding the scope of the authority of the conference committee. As chairman not only of the Committee on Commerce, Science, and Transportation which is the committee of jurisdiction in the Senate, but also as chairman of the conference committee that produced this report, I rise to ask my colleagues to overturn the ruling of the Chair in this matter.

Do I do so because I believe the provision was, in fact, within the scope of the conference? No, Mr. President, I admit this section, added by an amendment offered by the distinguished Senator from South Carolina, and the ranking member of the Commerce Committee, Senator HOLLINGS, was not contained in the legislation as initially passed by either the House or the Senate. I am also fully aware that Rule 28.2 of the Standing Rules of the Senate clearly states a conference committee ''shall not insert in their report matter not committed to them by either House.''

However, Mr. President, those on the opposite side of the issue know full well that this is done with some frequency when a particular situation necessitates such action. Those Members also know that as a result, sections in

many, if not most of the conference reports considered in this body would be subject to this same point of order. Do we raise such points of order? No, Mr. President, we do not. Why? Because all Members know full well that this is how we conduct our business and have done so throughout our history.

Indeed, in this very conference report, if we are to fully and fairly adopt the line of reasoning that section 1223 exceeds the scope of the conference, we need to look at several other sections of the report added by the conference committee I chaired that were in neither the House nor Senate passed versions of the underlying legislation. Let me give a few examples.

Section 302 of the conference report directs the Administrator of the Federal Aviation Administration to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards. Mr. President, this provision appears in neither the House nor the Senate bill. It was added in conference after it was made as one of the recommendations of Vice President GORE's Commission on Aviation Security, of which I am proud to be a member. It was included by the conferees because it was determined to be important enough for this Nation's airline security that Congress should not wait until next year to enact the recommendation.

For similar security reasons, the conference included Section 305(b) giving the FAA Administrator authority to deploy Government purchased explosive detection devices. Mr. President, I would point out that this provision was considered by the conferees at the request of the administration. Both the administration and members of the conference knew it was an important part of efforts to improve aviation security in this country. I have to admit, Mr. President, as such not much thought was given to whether it was technically within the authority of the conference committee to act.

As final examples I would cite section 503 concerning studies of minimum standards for pilot qualifications and of pay for training and section 1220 concerning structures interfering with air commerce. Again, neither was in the House or Senate bills. Again, the conference acted because it was important that Congress deal with the matters.

Mr. President, no Member has risen to raise a rule 28 point of order against these provisions. Why? Because none has become so unfairly politicized as section 1223. Indeed, the fact that the Senator from Massachusetts has raised the scope issue only against this one section of the report seems to indicate he may be less interested in the sanctity of the Senate rules than he is in making a political statement. I certainly will not waste the Senate's time by rehashing the arguments made over the last 3 days. Lord knows we have wasted far too much time already on this point.

I will simply summarize what I have already said. This is not about unfairly granting a special interest provision to a single large corporation. Interestingly, none of the Members that have raised that point on the floor of the Senate over the last 3 days served on the ICC conference last December that started all this. Thus, they simply are not in a position to know the facts.

Who does know the facts, Mr. President? Those of us who actually served on the ICC conference. Those of us who were actually in the room. Those of us who actually wrote the conference agreement. I was there, Mr. President. I know what did and did not happen and what was and was not agreed to. The Senator from South Carolina was there, Mr. President. He too, knows what we were about. We made a mistake. We inadvertently changed a section of Federal law we never voted to change. That is why Senator HOLLINGS offered this amendment in conference and why we included section 1223 in the conference report. We needed to correct our mistake. It starts there and it ends there Mr. President. We were doing nothing more or less than fixing an unfair situation we created in another bill.

Finally, Mr. President, those supporting the ruling of the Chair warn us that we are setting a very dangerous precedent if we overrule the Chair on this point of order. We are warned this will only be the beginning. That soon we will be faced with conference reports changing civil rights laws and making major revisions to health care. Mr. President, I prefer to give my colleagues more credit than that. Obviously, if, for example, a conference committee on a Commerce Committee bill like this one produces a report that rewrites our civil rights laws a point of order surely will be raised. Just as obviously, such a point of order would likely be sustained by a huge majority of the Members of this body. But that is not what we are talking about. What we are voting on today is whether to allow this Conference Committee to fix an honest mistake. It is that simple. I urge my colleagues to vote to overturn the ruling of the Chair.

Mr. President, let me also take just a moment to thank those individuals who have been so instrumental to the passage of this critical legislation. As has already been said, this process has taken the better part of the last 2 years. It would not have been possible without a great deal of dedication and hard work on the part of many of my colleagues and some very talented staff work.

My good friend from Arizona, Senator MCCAIN, has been a driving force behind this legislation. Senator MCCAIN skillfully managed this legislation and his outstanding work and leadership helped make this significant legislative accomplishment possible. I also want to commend my good friend from Alaska, Senator STEVENS, whose legislative skill and leadership contributed greatly to this legislation. Senator STEVENS' dedication to improving aviation safety and improving the treatment of families of aviation disaster victims is exemplary.

Let me also commend and thank my good friend from South Carolina, the ranking member of the Commerce Committee Senator HOLLINGS, who provided important leadership on this bipartisan legislation. Also, let me acknowledge the efforts of Senator FORD, the ranking member of the Aviation Subcommittee.

Mr. President, I would be remiss if I failed to acknowledge the outstanding contribution staff from the Commerce Committee and personal offices made in this process. For the past 2 years, staff has worked literally thousands of hours on this legislation. From the Commerce Committee, I wish to commend the outstanding efforts of Paddy Link, Tom Hohenthaner, Mike Reynolds, and Mike Korens from the majority staff and Kevin Curtin and Sam Whitehorn from the minority staff. I also want to commend the outstanding efforts of Chris Paul of Senator MCCAIN's staff, Mitch Rose and Earl Comstock of Senator STEVENS' staff, Amy Henderson of Senator HUTCHISON's staff and Tom Zoeller of Senator FORD's staff.

I thank them all for all the professionalism, dedication and hard work during both good times and bad. I think the final bill embodies the true spirit of bipartisan compromise and cooperation that is the mark of excellence in the legislative process. All involved should be proud.

Mr. LOTT. Mr. President, parliamentary inquiry. Has all time expired?

The PRESIDING OFFICER. The Chair wishes to inform the Senate that the Senator from Alaska has 3 minutes 37 seconds; the Senator from Massachussets has 2 minutes 50 seconds.

Mr. LOTT. We are prepared to yield back.

Mr. STEVENS. I yield back the remainder of my time.

Mr. KENNEDY. I yield my time.

The PRESIDING OFFICER. All time having been yielded, it is the opinion of the Chair that the conference report exceeds the scope, and the point of order is sustained.

Mr. LOTT. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? On this question, the clerk will call the roll.

Mr. KENNEDY. Mr. President, parliamentary inquiry. A ''yea'' vote is to sustain the Chair?

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS], the Senator from Texas [Mr. GRAMM], and the Senator from New Hampshire [Mr. GREGG], are necessarily absent.

I also announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] is absent on official business.

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—39

Akaka	Glenn	Moseley-Braun
Baucus	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Heflin	Nunn
Boxer	Helms	Pell
Bradley	Kennedy	Robb
Bumpers	Kerrey	Rockefeller
Byrd	Kerry	Santorum
Daschle	Kohl	Sarbanes
Dodd	Lautenberg	Simon
Dorgan	Levin	Specter
Exon	Lieberman	Wellstone
Feingold	Mikulski	Wyden

NAYS—56

Abraham	Ford	Mack
Ashcroft	Frahm	McCain
Bennett	Frist	McConnell
Bond	Gorton	Murkowski
Breaux	Grams	Nickles
Brown	Grassley	Pressler
Bryan	Hatch	Pryor
Burns	Hatfield	Reid
Chafee	Hollings	Roth
Cochran	Hutchison	Shelby
Cohen	Inhofe	Simpson
Conrad	Inouye	Smith
Coverdell	Jeffords	Snowe
Craig	Johnston	Stevens
D'Amato	Kassebaum	Thomas
DeWine	Kempthorne	Thompson
Domenici	Kyl	Thurmond
Faircloth	Lott	Warner
Feinstein	Lugar	

NOT VOTING—5

Campbell	Gramm	Leahy
Coats	Gregg	

The ruling of the Chair was rejected as the judgment of the Senate.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVENUE DIVERSION

Mr. FORD. Mr. President, I want to bring to my colleagues attention a very grave situation involving the illegal diversion of revenues at Los Angeles International Airport. As I understand it, the Mayor of Los Angeles transferred $31 million from the airport treasury to city coffers last week. Senator MCCAIN and I have worked together on legislation to prevent illegal revenue diversion. During our deliberations, we were very aware of the City of Los Angeles' efforts. I want to make clear that the action taken last week is clearly illegal. The amount paid is apparently based on an age-old dispute over how much the airport owes the city. I understand that the debt has already been repaid to the city once.

The Secretary of Transportation must recognize that he has the tools to enforce the law against illegal revenue diversion. First, he has the power to withhold grants for other, nonaviation purposes. The Federal Aviation Reauthorization Act contains even broader discretion for the Secretary and I urge him to send the message, loud and clear, that revenue diversion will not be tolerated. Under our bill, the Secretary may withhold grants and apportionments from any airport sponsor, or any multimodal transportation agency to which the sponsor is a member, if the sponsor diverts revenue illegally off of the airport. Furthermore, the Secretary is empowered to redeposit that money with the airport. The Secretary should exercise this authority and restore the money to LAX so that the important safety and security work needed on the airport can move forward.

Finally, I want to state that H.R. 3539 contains a pilot program for five airports. It would allow the Secretary to approve a long-term lease, which would include permitting revenue diversion. The conferees were very concerned about the ability to divert revenues under a privatization scheme. However, Los Angeles was the real concern. As a result, we limited the number and type of airports eligible for the pilot program. The Secretary should be aware that a large airport that continually frustrated the clear intent of Congress would clearly not meet the criteria for privatization contained in H.R. 3539.

Ms. SNOWE. Mr. President, I want to express my support for the conference report before the Senate which will help improve the safety and security of air travel in this country. I wish to commend Senator PRESSLER, Chairman of the Senate Commerce Committee and Senator MCCAIN, Chairman of the Aviation Subcommittee for their diligent work in bringing this bill to completion prior to the adjournment of the 104th Congress.

In the past 5 months, the Federal Aviation Administration [FAA] has come under intense scrutiny. After ValuJet flight 592 was swallowed by the silt and tall grass of the Everglades in May, the issue of FAA's ability to ensure the safety of the traveling public was brought into question. On July 17, the explosion of TWA flight 800 minutes after leaving New York's Kennedy Airport heightened public concern over not only the safety of our airplanes but the security of our airports as well.

This conference report cannot answer all of the questions surrounding these two devastating tragedies, but it does give the FAA the guidance and many of the tools it needs to regain the public's trust. And it reaffirms the commitment of the Congress to end that status quo at the agency.

First and foremost this bill will once and for all eliminate the question of the FAA's mission. On June 18, the Secretary of Transportation, Federico Peña, called on Congress to "* * *change the FAA charter to give it a single primary mission: safety and only safety." By removing the "dual and dueling missions" of safety and air carrier promotion, both the FAA and the public will know that safety is the sole mission of the agency. I introduced S. 1960 earlier this year with Chairman PRESSLER to carry out the Secretary's request, and the Senate-passed version of this bill included provisions I authored that established a process for elimination of the mandate. I am pleased that the conference report will lay this issue to rest, once and for all by allowing the FAA to focus solely and deliberately on assuring the safety of air travel.

Another important aspect of this bill addresses an area that has been tragically overlooked—the needs of the families of crash victims. The loss of a loved one in any accident is devastating. But this loss should not be compounded by the careless treatment of their family, and we have all heard heartbreaking stories of family members who learned of the death of their loved one from CNN because the airline could not or would not verify that they were on the plane. I believe that we can and must change the way families of plane crashes are treated. This bill will take some very important steps—such as requiring airlines to have a disaster plan in place, putting the National Transportation Safety Board [NTSB] in charge of overseeing family advocacy and requiring that airlines have adequate toll-free phone lines available for families in order to ensure they can get through when emergencies occur. We still need to do more, but these provisions are a necessary first step.

Regardless of the outcome of the investigation into the causes of the crash of TWA flight 800, the fact that it could have been downed by a bomb shocked us all. The conference report returns our attention to the need to address the serious issue of security at our airports. Again, it is only a first step, and the 105th Congress will be tasked with following through on the guidelines we have laid down in this bill, as there is much that needs to be done and many questions the FAA still has to answer about why we do not have one explosive detection device ready for installation at our airports—despite the provisions of the 1990 Aviation Security Improvement Act which required their installation by 1993.

Mr. President, I hope my colleagues will join me in supporting passage of the FAA reauthorization conference report.

Mr. HOLLINGS. Mr. President, the Senate Commerce Committee and its Aviation Subcommittee have worked hard to put together the Federal Aviation Authorization bill. The conference report on H.R. 3539 represents a fair compromise on many issues. My colleagues, Senator MCCAIN and Senator