(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding after the item relating to chapter 11 the following:

"12. Negotiations and licensing between proprietors and performing rights societies .... 1201".

SEC. 4. REPORT ON CONSENT DECREE.

(a) IN GENERAL.—No later than 1 year after the date of the enactment of this Act, the Register of Copyrights shall submit a report to the Senate Committee on the Judiciary and the House of Representatives Committee on the Judiciary on the administration by the United States District Court for the Southern District of New York of the consent decree of March 14, 1950, in *United States* v. *American Society of Composers, Authors, and Publishers*, 1950 Trade Cas. ¶62,595 (S.D.N.Y. 1950) and the consent decree of December 29, 1966, in *United States* v. *Broadcast Music, Inc.*, 1966 Trade Cas. ¶71,941 (S.D.N.Y. 1966).

(b) CONTENTS.—The report under this section shall include—

(1) any recommendation for improvements so that adjudication under the consent decree may be less time-consuming and more cost-effective, especially for parties with fewer resources; and

(2) a determination whether a system of local or regional arbitration should be implemented.

SEC. 5. STATE COPYRIGHT LICENSING LAWS PREEMPTED.

Section 301 of title 17, United States Code, is amended by adding at the end the following:

''(g)(1) Any law, statute, or regulation of any State or local government which requires a performing rights society to license copyrighted musical compositions to a proprietor in a particular manner not required by this title, or to conduct such society's business in any manner not applicable to all businesses as a general manner, shall be deemed to be preempted by subsection (a) and of no force or effect.

''(2) For purposes of this subsection, the terms 'proprietor' and 'performing rights society' have the same meanings as such terms are defined under section 1201.''.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to relieve any performing rights society of any obligation under any consent decree or other court order governing the operation of such society, as such decree or order—

(1) is in effect on the date of the enactment of this Act;

(2) may be amended after such date; or

(3) may be issued or agreed to after such date.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect 90 days after the date of the enactment of this Act.

By Mr. LAUTENBERG (for himself and Mrs. BOXER):

S. 1620. A bill to amend the Water Resources Development Act of 1986 to provide for the construction, operation, and maintenance of dredged material disposal facilities, and for other purposes; to the Committee on Environment and Public Works.

THE ENVIRONMENTAL DREDGE DISPOSAL ACT OF 1996

Mr. LAUTENBERG. Mr. President, today I am joined by Senator BOXER in introducing the Environmental Dredge Disposal Act of 1996, a bill to establish a fair cost-sharing formula for the disposal of dredged material.

Mr. President, under existing law, the Federal Government helps assume the cost of the disposal or dumping at sea of dredged material associated with operation and maintenance of Federal channels. However, the Federal Government does not provide similar assistance for other methods of disposal, even when these other methods are more beneficial for the environment. This inconsistency makes no sense, and threatens the economic viability of large and small ports throughout the country.

My bill proposes to eliminate this inconsistency, and would ensure that the Federal cost-sharing formula related to disposal of dredged material applies regardless of where the dredged material is disposed. More technically, the bill amends the Water Resources Development Act of 1986 to make upland, aquatic, and confined aquatic dredged material disposal facilities associated with the construction, operation, and maintenance of a Federal navigation project for a harbor or inland harbor a general navigation feature of a project for the purpose of cost sharing. The bill includes safeguards to ensure that no single port receives a competitive advantage as a result of this bill.

Mr. President, in 1824, Congress assigned responsibility for improving navigation in the still-young Nation's waterways to the Federal Government. Federal maintenance of a channel system has always been important for interstate and foreign commerce, and for national security. That remains true today. Approximately 95 percent of the Nation's import-export cargo travels on ships through American ports.

Mr. President, dredging the channels of our Nation's ports, particularly the major load centers, or hubs, is not a discretionary item. It is essential. Similarly, it is essential that dredged materials be disposed of.

Unfortunately, many ports are experiencing serious problems with respect to disposal. These problems have plagued Federal channels and Federal facilities, such as military marine terminals, as well as local and private terminals. Ports that face immediate and near-term disposal problems include Boston, New Jersey-New York, Baltimore, Houston, and Oakland. Many more ports will face disposal problems in the next century.

Some ports, including New York Harbor, lack adequate disposal facilities, which has created great difficulty in obtaining Corps of Engineers and State dredging permits. The disposal capacity of many other ports is nearly full. This problem is likely to affect many more ports in the years ahead.

For many ports with inadequate disposal facilities, disposing dredged materials in the ocean is not a viable option, because of sediments that do not meet ocean disposal standards. Other methods of disposal will have to be pursued. Yet the costs associated with these alternatives often are high. Given the national interests at stake, the Federal Government needs to share in the costs of all viable alternatives.

Unfortunately, current law prevents such cost sharing in the case of facilities located on land. There is no real justification for this limitation. And without some modification of this law, many ports may well face a serious disposal crisis in the near future.

Mr. President, let me take a moment to comment on the environmental implications of this matter. Many ports are located in estuaries and coastal areas that represent significant natural resources. I recognize that some might believe that the protection and enhancement of those resources is inconsistent with the operation of a busy port. However, that is not true. In the New York metropolitan region and the bay area of northern California, for example, both ports and natural resources coexist, and provide important economic benefits. In my view, Federal policy should seek to promote both port commerce and environmental resources. This bill would help, by making possible the construction of confined disposal facilities that would support development in an environmentally constructive manner.

Mr. President, if commerce is to progress in this Nation, if import-export trade is to increase, if our Nation is to benefit from international trade agreements, our infrastructure must be prepared to make the transportation of goods efficient and cost effective. As Transportation Secretary Federico Peña has acknowledged, the port dredging problem is a national transportation problem. Secretary Peña organized the Interagency Working Group on the Dredging Process to determine how to improve Federal performance in several areas, including interagency coordination, the regulatory process, and disposal issues. The final report to the Secretary said:

> Over the past two decades, a number of factors have complicated the development, operation and maintenance of the nation's harbors, particularly in the area of dredged material management. These factors include increases in the demands of commerce, rapid evolution of shipping practices . . ., increasing environmental awareness and mounting environmental problems affecting coastal areas and ocean waters, heavy population shifts to coastal areas and a general increase in non-Federal responsibilities in the development and management of navigation projects. As a result, dredged material management has often become a contentious problem at all stages of harbor development and operation. . . . Left unattended, these problems could cause a crisis.

The report specifically discussed the problem of an inconsistent dredged material management policy, which would be addressed by this legislation.

I would note, Mr. President, that this legislation is supported by the American Association of Port Authorities, which represents more than 85 ports in 30 States.

Mr. President, I look forward to working with my colleagues and the corps to move this legislation forward.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD along with a letter signed by a number of organizations to Chairmen CHAFEE and SHUSTER expressing their support for equitable Federal cost sharing in the disposal of dredged material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Environmental Dredge Disposal Act of 1996''.

SEC. 2. DREDGED MATERIAL DISPOSAL FACILITIES.

Section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211) is amended by adding at the end the following:

''(f) DREDGED MATERIAL DISPOSAL FACILITIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, after the date of enactment of this subsection, the provision of upland, aquatic, and confined aquatic dredged material disposal facilities associated with the construction, operation, and maintenance of all Federal navigation projects for harbors and inland harbors (including diking and applying dredged material to beneficial use and other improvements necessary for the proper disposal of dredged material) shall be considered to be a general navigation feature of a project for the purpose of cost sharing under this section.

''(2) LIMITATIONS ON FEDERAL SHARE OF PROJECT COSTS.—

''(A) FUNDS NOT REQUIRED FOR OPERATION AND MAINTENANCE.—No funds comprising the Federal share of the costs associated with the construction of a dredged material disposal facility for the operation and maintenance of a Federal navigation project for a harbor or inland harbor in accordance with paragraph (1) that are eligible to be paid with sums appropriated out of the Harbor Maintenance Trust Fund under paragraph (3) shall be expended for construction until the Secretary, in the Secretary's discretion, determines that the funds are not required to cover eligible operation and maintenance costs assigned to commercial navigation.

''(B) MAXIMUM FEDERAL SHARE FOR OPERATION AND MAINTENANCE.—The Federal share of the costs of activities described in paragraph (3) for a project shall not exceed $25,000,000 for any fiscal year.

''(3) OPERATION AND MAINTENANCE COSTS.—For the purposes of section 210, eligible operation and maintenance costs shall include (in addition to eligible operation and maintenance costs assigned to commercial navigation)—

''(A) the Federal share of the costs of constructing dredged material disposal facilities associated with the operation and maintenance of all Federal navigation projects for harbors and inland harbors;

''(B) the costs of operating and maintaining dredged material disposal facilities associated with the construction, operation, and maintenance of all Federal navigation projects for harbors and inland harbors;

''(C) the Federal share of the costs of environmental dredging and disposal facilities for contaminated sediments that are in, or that affect the maintenance of, Federal navigation channels and the mitigation of environmental impacts resulting from Federal dredging activities; and

''(D) the Federal share of the costs of dredging, management, and disposal of in-place contaminated sediments and other environmental remediation in critical port and harbor areas to facilitate maritime commerce and navigation.

''(4) PREFERENCE.—In undertaking activities described in paragraph (3)(D), the Secretary shall give preference to port areas with respect to which, and in accordance with the extent that, annual payments of harbor maintenance fees exceed Federal expenditures for projects in the port area that are eligible for reimbursement out of the Harbor Maintenance Trust Fund.

''(5) APPLICABILITY.—This subsection applies to the provision of a dredged material disposal facility with respect to which, and to the extent that—

''(A) a contract for construction (or for construction of a usable portion of such a facility); or

''(B) a contract for construction of an associated navigation project (or usable portion of such a project);

has not been awarded on or before the date of enactment of this subsection.

''(6) AMENDMENT OF EXISTING AGREEMENTS.—

''(A) IN GENERAL.—Unless otherwise requested by the non-Federal interest within 30 days after the date of enactment of this subsection, each cooperative agreement entered into between the Secretary and a non-Federal interest under this section shall be amended, effective as of the date of enactment of this subsection, to conform to this subsection, including provisions relating to the Federal share of project costs for dredged material disposal facilities.

''(B) APPLICATION OF AMENDMENT.—An amendment to a cooperative agreement required by subparagraph (A) shall be applied prospectively.

''(7) EFFECT ON NON-FEDERAL COSTS OF OTHER DREDGED MATERIAL DISPOSAL FACILITIES.—Nothing in this subsection shall increase, or result in the increase of, the non-Federal share of the costs of any dredged material disposal facility required by the authorization for a project.''.

FEBRUARY 26, 1996.

Re action on a water resources development act.

Hon. JOHN CHAFEE,
Chairman, Senate Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

Hon. BUD SHUSTER,
Chairman, House Transportation and Infrastructure Committee, Rayburn House Office Building, Washington, DC.

DEAR GENTLEMEN: Our nation's deep-draft commercial navigation system is essential to U.S. trade, economic development and national security objectives. It is critical that Congress enact a Water Resources Development Act (WRDA) in 1996 to ensure the continued capital investment in our ports and waterways which is essential to the safe and efficient movement of cargo in international and domestic trade.

Over 95% of U.S. international trade moves through U.S. ports, and trade volumes are expected to triple by the year 2010. Shippers increasingly rely on larger vessels and just in time delivery of goods while, at the same time, there is public concern for the safe transit of these vessels. U.S. navigation channels must be improved and maintained to meet these demands.

More than 90 percent of our ports require regular maintenance dredging. These ports are diverse—they include our largest container ports, as well as other ports that principally handle such products as petroleum, steel, automobiles and fruit. Because many U.S. export commodities—grain, coal, and forest products, to name a few—face tough competition around the world, even marginal transportation cost increases affect their marketability and consequently, the nation's balance of trade. It is clear that dredging, whether to maintain existing depths or to deepen channels to meet the demand of the next generation of ocean carriers, is as essential to our nation's commerce as maintaining and improving our highways and railroads.

However, for the first time since the passage of the Water Resources Development Act of 1986, Congress failed to enact a biennial water resource bill in 1994, and did not live up to its commitment to the federal/port partnership. If a navigation project is economically justified and supported financially by the local project sponsor throughout the arduous planning process, the sponsor must be able to rely on dependable water resource authorization legislation and annual appropriations levels.

In addition to project authorization, one important provision that should be included in any WRDA bill would clarify that the cost of dredged material disposal facilities should be cost-shared at the same rate as other navigation project elements. The Senate Environment and Public Works Committee has already approved a WRDA bill, S. 640. The Committee Report on S. 640 noted that: ''With respect to the construction of dredged material disposal facilities, it is apparent that cost-sharing inconsistencies do exist. Federal and non-Federal cost-sharing responsibilities for dredged material disposal vary from project to project, region to region, and port to port depending on when the project was authorized. In addition, current cost-sharing policies favor open water disposal * * * [T]he Committee urges the Administration to report possible solutions to the Congress for consideration.''

The Report of the Federal Interagency Working Group on the Dredging Process also recommended this clarification of federal cost sharing for disposal in order to level the playing field in selection of disposal alternatives and to facilitate the implementation of important navigation projects and appropriate disposal options. As the federal government mandates more restrictive environmental regulation of dredged material disposal, it is appropriate that the federal government, where it does not do so already, share the costs to assure compliance with those environmental mandates and to provide for sufficient and safe disposal capacity.

The undersigned organizations urge you to make water infrastructure a top priority for your Committees this year. Congress must enact a Water Resources Development Act in 1996 and continue the vital investment in our national water resources and navigation infrastructure. Thank you.

Sincerely,

American Association of Port Authorities, American Institute of Merchant Shipping, American Maritime Congress, American Petroleum Institute, American Pilots Association, American President Lines, Inc., American Waterways Operators, Inc., Bay Area Planning Coalition, Crowley Maritime Corp., Dredging Contractors of America, Intermodal Conference of the American Trucking Associations, International Longshoremen's Association, International Longshoremen's and Warehousemen's Union, International Council of Cruise Lines, Lake Carriers Association, Maersk Line, Inc., Maritime Institute for Research and Industrial Development, Matson Navigation Company, Inc., National

Association of Waterfront Employers, National Waterways Conference, Pacific Northwest Waterways Association, Propeller Club of the United States, Sea-Land Service, Inc., Transportation Institute.

Mrs. BOXER. Today I am joining with Senator FRANK R. LAUTENBERG in introducing legislation that will not only bring balance in the economic burden sharing between our Nation's ports and the Federal Government but also will provide real improvements to our marine environments. Or, as one local editorial headline called it: ''Turning mush to marsh.''

I am talking about providing real economic incentives to make upland disposal of dredged material feasible for our ports. In many cases, this disposal can be used to restore wetlands, particularly for the San Francisco Bay Delta system.

The San Francisco Bay-Delta Estuary is the largest and most significant estuary along the entire west coast of the Americas. Estuaries are one of the most productive types of ecosystems in the world. At the same time, they are one of the most degraded by human activities. Habitat losses, huge fresh water diversions, and pollution—more than 60 percent of the entire runoff from the entire State of California drains into the estuary—have significantly altered the ecosystem. Bay filling has vastly depleted this habitat resource.

The bay area is also the center of a $5.4 billion-a-year economic engine providing 100,000 jobs relating to its role as a center of international maritime commerce.

Concern over environmental degradation resulted in ''mudlock'' between our ports and the environmental community. Sensing the need to establish rational, affordable, and environmentally responsible dredging policies, in 1990 the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the San Francisco Bay Regional Water Quality Control Board, the Bay Conservation and Development Commission joined with navigation and fishing interests, the environmental community, and the public at-large to establish a comprehensive long-term management strategy for bay area dredged material.

One of their successes was the establishment of the Sonoma baylands demonstration project, a congressional authorized dredged disposal site cost-shared between the Federal Government and local agencies. This former tidal wetlands was drained for agricultural use during the last century. The 325-acre site has helped restore needed wetlands in the region and reverse their decline. In addition, it provides habitat for two endangered species—the California clapper rail and the salt marsh harvest mouse.

But that was a one-time congressional demonstration project. We need to correct the underlying law that leaves local agencies with the full cost burden of establishing an upland site for disposal of dredge spoil.

Every year an average of 6 million cubic yards of sediments must be dredged from shipping channels and related navigation facilities throughout the bay area, which is the home of the ports of Oakland, Richmond, San Francisco, and Redwood City. The San Francisco Bay Conservation and Development Commission has concluded that in-bay disposal sites cannot accommodate future dredging and disposal needs.

The bay area's maritime industry is expected to need to dispose of about 300 million cubic yards of sediment over the next 50 years. Due to the growth of Pacific rim countries, export cargo moving through the west coast ports has doubled in the last 2 years. The entire maintenance dredging and channel deepening program provides the critical link for Pacific rim and world trade which contributes directly to our regional, State, and national economies.

In 1994, the Federal Government permitted an ocean disposal site nearly 60 miles off shore and included costly ocean floor monitoring procedures. Annual disposal capacity is limited at this site. Even if seemingly a viable option, in some instances weather and wave conditions impede access of the barges to this offshore site and increases the cost. Dredge material, some of which could be used to restore wetlands, is lost.

The creation of vital wetlands through the beneficial use of dredged material has proven to be highly popular in California.

Several bay area sites, both publicly and privately owned, studied in the course of the long term management strategy show clear development potential for both beneficial use and confined disposal. However, the process by which the Federal Government and local agencies share the costs and other responsibilities of dredging and disposal projects creates many barriers to completion, because it does not reflect real environmental and economic realities.

The Federal Government does not participate at all in upland disposal, while ocean disposal is cost shared by the Federal and State or local agencies. This inconsistency is prejudicial to those ports which have run out of aquatic disposal options and are forced to use upland disposal without any Federal financial assistance.

The availability of dredged disposal capacity is a growing concern in many areas of the country. We need consistent Federal-local sponsor cost sharing across all dredged material disposal methods. Uplands disposal that promotes environmental restoration should be given priority consideration.

That is why this bill is important. It would make the provision of upland, aquatic and confined aquatic, dredge material disposal facilities associated with the construction, operation, and maintenance of Federal navigation projects as a general navigation feature for the purpose of cost sharing.

A consistent Federal policy that provides for cost-sharing upland disposal facilities is a ''win-win'' for the environment and the economy of California. I urge my colleagues to support this legislation and demonstrate that we can save the environment and boost our local, regional, and national economies at the same time.

By Mr. HATCH:

S. 1622. A bill to amend the independent counsel statute to permit appointees of an independent counsel to receive travel reimbursements for successive 6-month periods after 1 year of service; to the Committee on the Judiciary.

AMENDMENTS TO THE INDEPENDENT COUNSEL REAUTHORIZATION ACT

Mr. HATCH. Mr. President, I rise to introduce an amendment to the Independent Counsel Reauthorization Act of 1994. My legislation would provide travel expense reimbursements to appointees of the Office of Independent Counsel for successive 6-month periods after 1 year of service.

This legislation is necessary because the Independent Counsel Reauthorization Act precludes attorneys and other staff fired by an independent counsel from receiving reimbursements for travel expenses they incur after they have worked for an independent counsel investigation for 18 months. Currently, the act authorizes only one 6-month extension for travel reimbursement purposes after 1 year of service.

As a result, employees of the Independent Counsel may be forced to resign as they approach their 18-month anniversaries in order to avoid incurring the additional expense of living away from home for an extended period of time. These employees must then be replaced with new personnel having less knowledge and experience, thereby causing harm and delay to the Independent Counsel's investigation.

The reimbursement limitation will begin to have full effect in the next 2 months, which is a critical time for the Independent Counsel's investigation. As the decision of the eighth circuit on March 15, 1996, reinstating the indictments against Gov. Jim Guy Tucker makes clear, the Independent Counsel's work has been effective in bringing to light public corruption at the highest levels. The trial of United States versus McDougal started on March 4, 1996. Seven employees, including four attorneys, will have reached their 18-month anniversaries by the end of the trial.

Mr. President, Congress included the 18 month limitation to control spending and fiscal irresponsibility. But we did not anticipate an investigation such as this one, in which many individuals have been temporarily relocated to a remote office. The Independent Counsel's ability to complete the investigation in a timely manner may be seriously hindered, and costs may actually increase, if we do not pass this legislation.

My legislation will remedy this problem by permitting Independent Counsel