

are driving the increasing ease of piracy on peer-to-peer filesharing networks. Such business models exploit children, cheat artists, and threaten the future development of commerce on the Internet.

Indeed, our government recognizes that its enforcement powers are appropriate when protecting intellectual property and public safety. Recently, in a speech to the United States Chamber of Commerce, Deputy Attorney General James B. Comey, Jr. asserted that the Department of Justice should assist private enforcement of intellectual property rights if any of three criteria are met: (1) the level of piracy becomes particularly egregious; (2) public health and safety are put at risk; or (3) private civil remedies fail to adequately deter illegal conduct.

In the case of peer-to-peer filesharing, all three criteria may be met. The level of piracy on these networks is not merely egregious, it is unprecedented. Public health and safety are also directly threatened by business models that tempt children toward piracy and pornography and then use them as "human shields" against law enforcement.

Finally, the recording industry and other affected rights holders have tried—so far largely unsuccessfully—to use civil remedies to halt the operations of those who would profit by turning teenagers and college students into copyright pirates or pornography distributors.

As a result, our creative industries' only remaining option to deter piracy is to bring enough civil enforcement actions against users of filesharing software. Tens of thousands of continuing civil enforcement actions might be needed to generate the necessary deterrence. I doubt that any nongovernmental organization has the resources or moral authority to pursue such a campaign.

If enforcement actions against end-users were really the best or only way to enforce copyrights on the Internet, then civil enforcement authority would be necessary. But there may be other ways to combat this piracy at the root, not at the branch. I thus invite the Department of Justice and other federal law enforcement agencies to work with me, Senator LEAHY and other members of the Judiciary Committee to determine how the enforcement powers of the federal government can best be deployed to solve the problems arising from piracy and pornography on peer-to-peer filesharing networks.

I also understand that others may be developing proposals to increase criminal enforcement authority against piracy, and I hope to work with them on such proposals. Today, I stand with Senator LEAHY to buttress the enforcement of copyrights by enabling the Department of Justice to proceed with a robust program of civil enforcement.

For the reasons I have just delineated, I urge my colleagues to join us in supporting the Protecting Intellec-

tual Rights Against Theft and Expropriation Act.

By Mrs. BOXER:

S. 2240. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, at the end of 2002, the Maritime Transportation Security Act became law.

I was a member of the conference committee on that bill, and I think it was a good first step in improving security at our nation's ports.

It had many good provisions, such as the creation of national and regional maritime transportation/port security plans to be approved by the Coast Guard; better coordination of federal, state, local, and private enforcement agencies; and the establishment of a grant program for port authorities, waterfront facilities operators, and state and local agencies to provide security infrastructure improvements.

The problem was that the bill had no guaranteed funding mechanism. As a result, we are underfunding port security. Since the passage of the Maritime Transportation Security Act, the Department of Homeland Security has released \$517 million in port security grants. This is not enough. According to the Coast Guard, it is estimated that the ports directly need \$1.4 billion this year and \$6 billion over the next ten years. Yet, the Administration only requested \$46 million in its fiscal year 2005 budget.

Last year, I visited many of California's ports including Crescent City in the north down through Stockton to Los Angeles/Long Beach in the south. I have seen what the ports are confronting. They need more funding for homeland security.

And, with over 40 percent of the nation's goods imported through California's ports, freight rail is extremely important to the nation's commerce. A terrorist attack at a California port would not only be tragic but would be devastating for our nation's economy.

So, today, I am introducing the Senate version of a bill introduced by Representative MILLENDER-MCDONALD. This legislation will provide more funding to the ports. Specifically, it will: create a Port Security Grant Program in the Department of Homeland Security; provide \$800 million per year for five years in grant funding; and—this is very important to California's ports—allow the federal government to make multiyear grants to help finance larger projects similar to what is done with many of our airports for aviation security.

I hope that the Senate will act on this bill. Now is not the time to slow down or delay our efforts to increase and improve transportation security. The job is not done, and it must be done.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 324—EX-PRESSING THE SENSE OF THE SENATE RELATING TO THE EXTRAORDINARY CONTRIBUTIONS RESULTING FROM THE HUBBLE SPACE TELESCOPE TO SCIENTIFIC RESEARCH AND EDUCATION, AND TO THE NEED TO RECONSIDER FUTURE SERVICE MISSIONS TO THE HUBBLE SPACE TELESCOPE

Ms. MIKULSKI (for herself and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 324

Whereas discoveries from the Hubble Space Telescope have dominated space science news over the last 10 years;

Whereas the Hubble Space Telescope has provided proof of black holes, insights into the birth and death of stars, spectacular views of Comet Shoemaker-Levy 9's collision with Jupiter, the age of the Universe, and evidence that the expansion of the Universe is accelerating;

Whereas the inspiring scientific discoveries from the Hubble Space Telescope reach millions of students each year and have been important in encouraging students to study the sciences;

Whereas the inspiring scientific discoveries from the Hubble Space Telescope reach millions of students each year and have been important in encouraging students to study the sciences;

Whereas the 2000 National Academy of Sciences Decadal Survey endorsed a plan to maintain the Hubble Space Telescope until 2010;

Whereas the Hubble Space Telescope has been the National Aeronautics and Space Administration's most scientifically productive mission, accounting for 35 percent of all National Aeronautics and Space Administration discoveries in the last 20 years;

Whereas the demand for research time on the Hubble Space Telescope in 2003 was approximately 8 times that available;

Whereas approximately \$200,000,000 worth of instruments have largely been built, including scientific instruments that would provide significant improvements in Hubble's scientific power and including replacement gyroscopes and batteries, which could keep the telescope in operation until 2011 or 2012 and make the Hubble Space Telescope's final years its most scientifically capable and productive;

Whereas the distinguished panel that studied scientific priorities for ultraviolet and optical astronomy in 2003 considered the continued operation of the Hubble Space Telescope by means of the SM-4 servicing mission to be its highest priority; and

Whereas the American Astronomical Society, the largest professional scientific association for astronomers and astrophysicists, believes a panel of experts should review the decision to limit prematurely the lifespan of the Hubble Space Telescope: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the extraordinary contributions resulting from the Hubble Space Telescope to scientific research and education;

(2) strongly recommends that the Administrator of the National Aeronautics and Space Administration appoint an independent panel of expert scientists and engineers inside and outside of the National Aeronautics

and Space Administration to examine all possible options for safely carrying out the planned servicing mission to the Hubble Space Telescope and assess alternative servicing methods; and

(3) expresses its strong sentiment that the National Aeronautics and Space Administration should continue all planning, preparation, and astronaut training activities for the SM-4 servicing mission without interruption until the expert panel issues its report and until the National Aeronautics and Space Administration provides a timetable of compliance with recommendation R6.4-1 of the Columbia Accident Investigation Board report, which calls for "a fully autonomous capability for all missions to address the possibility that an International Space Station mission fails to achieve the correct orbit, fails to dock successfully, or is damaged during or after undocking", since National Aeronautics and Space Administration compliance with the recommendation will allow both a Hubble servicing mission and missions to the International Space Station to be carried out safely.

Ms. MIKULSKI. Mr. President, I rise to submit a Senate Resolution with my distinguished colleague from Kansas, Senator BROWNBAC. This Resolution expresses the desire of the Senate for NASA to undertake a comprehensive independent review of the decision to terminate the final servicing mission for the Hubble Space Telescope and that all planning and preparation activities continue during this period.

On January 14, 2004, the NASA Administrator announced that he was terminating the final servicing mission for the Hubble Telescope that was scheduled to be launched in 2007.

When the NASA Administrator announced his decision, I was shocked. Hubble has been the most successful NASA program since Apollo. In fact, it is arguably the greatest scientific instrument since Galileo's telescope.

Pictures from Hubble have helped scientists prove that the universe is expanding, that black holes exist, and how stars are born and how stars die.

Earlier this month, the Space Telescope Science Institute released what may be considered the greatest photograph ever taken of the universe. It is a picture showing what the universe was like almost 12 billion years ago. Galaxies and stars never seen before are shown in extraordinary detail that will usher in a new era of discovery for years to come.

With the scientific value of Hubble undisputed, I was shocked that there was no report, analysis or study that supported the Administrator's decision.

It is imperative that we have a full understanding of all the issues, including the potential risks, scientific benefits and alternative servicing methods for a Hubble servicing mission. This decision is too important to be left to just one person. We need the best advice from the best minds to determine Hubble's future.

Let me be clear. I want to stand up for Hubble. I will always stand up for the safety of our astronauts. We must do everything possible to ensure the safety of our astronauts, whether they

are traveling to the Space Station or fixing Hubble. Putting safety first means that NASA must fully implement all of the recommendations of the Columbia Accident Investigation Board as soon as possible. As the Ranking Member of the Appropriations Subcommittee that funds NASA, working on a bi-partisan basis with my distinguished colleague from Missouri, Senator BOND, we are committed to providing whatever resources are needed to ensure that safety of our astronauts and the safety of the Space Shuttle.

Before an irrevocable decision is made about Hubble's future, I want the best minds in science and engineering to tell us what are the risks and how can we reduce them.

I know many of my colleagues share these concerns. That's why Senator BROWNBAC and I are submitting this resolution today. The decision to terminate the Hubble servicing mission represents a major change in our science and space policies. Congress, the American people and the world deserve nothing less than a rigorous and independent review so we can fully understand all of the issues surrounding a servicing mission.

Finally, I want to thank the outstanding employees of the Goddard Space Flight Center and Space Telescope Science Institute. Without their hard work and dedication to the cause of science, exploration and discovery, Hubble would not be what it is today, the greatest scientific instrument mankind has ever created.

Mr. BROWNBAC. Mr. President, I recognize the significant scientific accomplishments of the Hubble Space Telescope. Space telescopes such as Hubble are an important part of our future space program and the President's vision for revitalized human exploration of space.

Several months ago NASA made a decision to forego planned Space Shuttle servicing missions for the Hubble Space Telescope. This is a difficult and complicated issue and technical experts reasonably differ on the best approach. I believe that NASA might benefit from the counsel of the best experts the nation can muster inside and outside of the Government. Correspondingly, I've joined my colleague Senator MIKULSKI in urging NASA to sponsor a comprehensive study on the full range of options and risks associated with various approaches for maintaining the Hubble Space Telescope and its capabilities. I would also hope that this study would include imaginative new concepts for robotic servicing.

As we fulfill the promise of space exploration the President has outlined, the enormous success of the Hubble Space Telescope and other NASA successes such as the recent Mars Rover Program provide us with a sound basis upon which to build. NASA can count on my continued support of their endeavors to provide unlimited opportunity to future generations of Americans.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2936. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2936. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV add the following:

Subtitle G—Provisions Designed To Restrict Use of Abusive Tax Shelters and Offshore Tax Havens

SEC. 499. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking "a penalty" and all that follows through the period in the first sentence of subsection (a) and inserting "a penalty determined under subsection (b)", and

(3) by inserting after subsection (a) the following new subsections:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

"(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 415(b) of this Act, such section, and the amendment made by such section, shall not take effect.