

the families of these soldiers, and to reassure our military servicemembers and their families that such demeaning and disgusting displays will never occur again.

In May, the President signed into law H.R. 5037, the Respect for America's Fallen Heroes Act, which prohibits demonstrations at Arlington National Cemetery and other cemeteries under the control of the National Cemetery Administration.

Approximately 650,000 funerals are conducted each year for our veterans and Active Duty military; however, only 90,000 of these are held at the Nation's 121 Federal cemeteries. Many veterans and servicemembers are laid to rest at private cemeteries. S. 4042 will expand the current law to all military funerals to ensure that all are afforded the utmost respect and dignity.

S. 4042 prohibits any person from intentionally disrupting or impeding access to a military funeral. An offense under this section is punishable by a fine of up to 1 year in jail. This bill is clearly constitutional as its predecessor was under Congress' broad authority under Article I, section 7 to raise and support armies. Congress has the authority to support America's soldiers by acting to preserve the dignity of their funeral ceremonies.

This bill is modeled after an ordinance upheld by the Supreme Court as a constitutional time, place, and manner restriction. The Senate passed S. 4042 yesterday by unanimous consent. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker I yield myself such time as I may consume.

I rise in support of the Respect for the Funerals of Fallen Heroes Act, a bill that would promote respect for the funerals of fallen heroes by prohibiting disruptive activities at funerals of deceased members of the Armed Forces.

This bill would build on the respect for America's Fallen Heroes Act by providing similar protection for the funerals of all deceased members or former members of the Armed Services, not only at Federal cemeteries but also at private cemeteries, funeral homes, and houses of worship. I think that we have found that this bill is consistent with constitutional considerations, and I urge that the House support this suspension.

Mr. Speaker, I yield back the balance of my time.

Mr. CANNON. Mr. Speaker, I have no further speakers.

Mr. CONYERS. Mr. Speaker, I would yield to the gentleman from Oregon as much time as he may consume.

Mr. WU. Mr. Speaker, I thank the gentleman from Michigan.

I was one of the Members of the House of Representatives who was originally troubled by the House version of the bill and by the balance it struck between respect for the fallen heroes of this Nation and the Federal Constitution for which they died. I am

pleased to support a much improved version of this bill returned from the other Chamber. And I thank Mr. DURBIN directly for his good work on this bill to remove the unfettered discretion of Federal officials and to limit some of the proscribed activities to include intent and intent to disturb. I am pleased to support this bill in its final form.

Mr. CANNON. Mr. Speaker, I would like to yield to the gentleman from Indiana (Mr. BUYER) such time as he may consume.

Mr. BUYER. Well, it sure hasn't taken very long. Mr. WU, I guess, would oppose a Republican bill but support Mr. DURBIN's bill. I would invite the gentleman; you know, not long ago you and I got into a debate on this floor and what I asked the gentleman to do is to read the bill. What I would welcome the gentleman again is to read the bill, because the bill that you said you didn't like then, you should like it now. Or you like this one now but you didn't like it then?

What is interesting here is that when we came to this floor, what they have done in this bill is they have essentially taken exactly what we had done earlier in the year and actually said: Okay, for Federal lands, for national cemeteries in Arlington, we already have that bill. We are going to put now a section just after it, and the very same time, manner, place, content neutral restrictions that have been constitutionally upheld are going to be in this bill. I would just ask the gentleman to remain consistent.

Mr. WU. Mr. Speaker, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Oregon.

Mr. WU. In the original House version of the bill, the person in control of Federal property was given virtually unfettered discretion in determining what activities were acceptable and what activities were not.

I had hoped in the closing hours of this session that we would come together in comity to respect both the fallen dead and the Constitution, which is certainly my intent.

Mr. BUYER. I reclaim my time. Your interpretation of unfettered discretion is a great attempt at artful words, but that is not what we did in that bill.

What I am most concerned about here, and let's just pause for a second. When we came to the floor and we did the Fallen Heroes bill, we did this because we wanted to make sure it was narrowly tailored. And we said, what is our nexus? Our nexus here is Federal land of exclusive jurisdiction. So I remember a conversation about this, and Mr. CONYERS, and it is very important: Federal land. And so we said, okay, Arlington, owned by the United States Army and our national cemeteries. This now is about everything else. So the intent here is solid.

It is unfortunate that we have come to the floor to talk about the standards of dignity at a military funeral. We

really shouldn't be having to do that. That is what is sad about this. And I think we all agree that we need to set the standards of dignity. We are talking about now setting a misdemeanor with regard to, we are going to set the content out there with regard to all of these funerals; and my only concern here is, is I do not want this stricken down as overbreadth under the doctrine that the Supreme Court to do that, and I am hopeful that doesn't happen. And I will yield to the scholars of the Judiciary Committee here. But I just want to let you know when we came to the floor and did this before, we did this for it to be narrowly tailored, and hopefully the Supreme Court doesn't strike it down. But I just wanted to speak and say why we did it one way not months ago, and now obviously we are doing it a little bit differently.

Mr. CONYERS. I wanted to thank the gentleman for yielding, and recall that he was a distinguished member of the Judiciary Committee himself for a considerable period of time. We will keep in mind the conversations that we have had here tonight in the closing hours.

Mr. Speaker, I yield back the balance of my time.

Mr. CANNON. Mr. Speaker, I would just like to make a couple comments. I thank Mr. CONYERS for his very gracious response, and want to point out that Mr. BUYER was a member of the Judiciary Committee, and himself is a scholar on these issues, and obviously emotional and concerned as he has been an active member of the military and continues, I believe, in the Reserve. And so I want to thank him for his comments and recognize the intensity of his feelings.

Mr. Speaker, I urge my colleagues to support this measure, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Utah (Mr. CANNON) that the House suspend the rules and pass the Senate bill, S. 4042.

The question was taken; and (two-thirds of those voting having responded in the affirmative) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FUNDING AGREEMENTS

Mr. CANNON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6427) to increase the amount in certain funding agreements relating to patents and nonprofit organizations to be used for scientific research, development, and education, and for other purposes.

The Clerk read as follows:

H.R. 6427

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

SECTION 1. FUNDING AGREEMENTS.

Section 202(c)(7)(E)(i) of title 35, United States Code, is amended—

(1) by inserting “(or in the case of a facility with an annual budget of less than \$40,000,000, 15 percent of the annual budget of the facility)” after “equal to 5 percent of the annual budget of the facility”; and

(2) by inserting “(or in the case of a facility with an annual budget of less than \$40,000,000, 15 percent of the annual budget of the facility)” after “exceeds 5 percent of the annual budget of the facility”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. CANNON) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Utah.

GENERAL LEAVE

Mr. CANNON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 6427 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. CANNON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6427 and urge its adoption by the House.

The bill changes the way a particular royalty formula under the Bayh-Dole Act. This is the landmark 1980 law that governs protection of patented inventions developed with the assistance of Federal funding. In brief, H.R. 6427 allows small government-owned, contractor-operated laboratories and their affiliated universities or nonprofits to receive a fair percentage of revenue from a successful patent that they license. The bill produces an equitable result for small entities that perform important research in a number of scientific fields, all of which benefits the American people.

I commend the gentleman from Iowa (Mr. LATHAM) for his work on this issue; I urge the House to pass H.R. 6427 for expeditious consideration by the other body.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself as much time as I may consume.

Of course we support this legislation, because the bill merely amends the extent to which small nonprofits can keep the profits of inventions they develop in conjunction with the Federal Government.

Under the Bayh-Dole Act of 1980, the Federal Government will provide funds to nonprofits, including universities, for the purpose of conducting important research. Because the government is not equipped to do so, the nonprofits are allowed to patent any discoveries, sell and license the inventions, and keep a portion of the profits. Currently, the nonprofit can keep an amount of the profits up to 5 percent of its annual budget; the balance of the profits must be returned to the taxpayers.

Because of the unique situation of small universities, the bill would permit them to retain a higher percentage of the profits. While small universities may have small budgets, their research and development costs might not be small and can have a significant impact upon their budgets themselves. This legislation would permit small entities, those with a budget of less than \$40 million, could retain a higher portion of the profits, up to 15 percent of their budgets.

This is a simple, straightforward proposition, we have heard no objection to it, and I am pleased to urge that it be passed this evening.

Mr. Speaker, I yield back the balance of my time.

Mr. CANNON. Mr. Speaker, I am pleased to yield so much time as the gentleman from Iowa (Mr. LATHAM) may consume.

Mr. LATHAM. Mr. Speaker, I thank the gentleman from Utah and I also thank the gentleman from Michigan for supporting this legislation.

H.R. 6427 has no budgetary impact at all. This bill would raise from 5 percent to 15 percent the percentage of patent royalties that can be retained by the government-owned, contractor-operated labs and universities and nonprofits with annual budgets of \$40 million or less in any given fiscal year under the patent laws.

The bill would provide relief to smaller contracts, and incentivize these labs and universities to reinvest in their research and educational operations. The bill would only raise the ceiling for very small budgets. The majority of these contracts have much larger budgets of \$100 million or more, and for those current larger budgets the 5 percent threshold would remain.

This bill has no opposition, and ensures that these contracts have the necessary funding to continue their successful pursuit of revolutionary inventions by keeping a larger percentage of the patent royalty. The thrust of this bill is to give incentives for smaller institutions and labs to continue investing in research and development. These smaller contracts of \$40 million or less should not be penalized for their success just because they reach the current statutory 5 percent ceiling more quickly than the larger contracts in the hundreds of millions of dollars.

Raising the ceiling to 15 percent for these smaller contracts is fair. The bill makes the royalty regime more equitable for all.

Mr. Speaker, again I appreciate the support of both sides of the aisle.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CANNON. Mr. Speaker, I yield myself such time as I may consume.

I would just like to say that at an earlier phase of my life I had the great privilege of working with the people who helped develop these policies that allowed for the privatization of Federal R&D.

This is a simple bill that makes enormous sense and the underlying bill that it amends has resulted in massive improvements in the lives of all Americans. This is a sensible adjustment to that, and I suggest that all of our colleagues support this reasonable bill.

Mr. Speaker, I yield back the balance of my time.

□ 0030

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. CANNON) that the House suspend the rules and pass the bill, H.R. 6427.

The question was taken; and (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

POOL AND SPA SAFETY ACT

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3718) to increase the safety of swimming pools and spas by requiring the use of proper anti-entrapment drain covers and pool and spa drainage systems, by establishing a swimming pool safety grant program administered by the Consumer Product Safety Commission to encourage States to improve their pool and spa safety laws and to educate the public about pool and spa safety, and for other purposes.

The Clerk read as follows:

S. 3718

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Pool and Spa Safety Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Federal swimming pool and spa drain cover standard.
- Sec. 4. State swimming pool safety grant program.
- Sec. 5. Minimum State law requirements.
- Sec. 6. Education program.
- Sec. 7. Definitions.
- Sec. 8. CPSC report.

SEC. 2. FINDINGS.

The Congress finds that—

- (1) of injury-related deaths, drowning is the second leading cause of death in children aged 1 to 14 in the United States;
- (2) many children die due to pool and spa drowning and entrapment, such as Virginia Graeme Baker, who at age 7 drowned by entrapment in a residential spa;
- (3) in 2003, 782 children ages 14 and under died as a result of unintentional drowning;
- (4) adult supervision at all aquatic venues is a critical safety factor in preventing children from drowning; and
- (5) research studies show that the installation and proper use of barriers or fencing, as well as additional layers of protection, could substantially reduce the number of childhood residential swimming pool drownings and near drownings.

SEC. 3. FEDERAL SWIMMING POOL AND SPA DRAIN COVER STANDARD.

(a) CONSUMER PRODUCT SAFETY RULE.—The provisions of subsection (b) shall be considered to be a consumer product safety rule