

of the Blue Alert communications network.

Madam Speaker, while knowing that the Blue Alert system is not mandatory, resources should be made available to the 50 States and territories in order for the Blue Alert system network to work effectively and efficiently, otherwise the initial purpose of this bill will not be met under the current bill text before us today. However, I fully support the needs of the Blue Alert system. I urge that a grant program be made available to ensure that the law enforcement officers in the 50 States and territories are provided equal and fair treatment.

Again, I want to thank Chairman SMITH and Ranking Member CONYERS for their support of this bill, and I urge my colleagues to support this legislation.

Mr. SMITH of Texas. Madam Speaker, I am prepared to close. I reserve the balance of my time.

Mr. PIERLUISI. Madam Speaker, I yield as much time as he may consume to the gentleman from Texas (Mr. REYES).

Mr. REYES. Madam Speaker, I just wanted to add my support for this legislation and thank my colleagues from New York and Puerto Rico for introducing this very important piece of legislation.

As a former Border Patrol agent and chief in the United States Border Patrol, I had the experience of working both as an agent with all the other law enforcement agencies and then as a chief. I can tell you that there isn't a worse feeling than that phone call in the middle of the night that one of your agents or one of your officers has been injured or killed. That's why this legislation is so important not just to officers and agents across the country, but to their families.

I strongly urge that our colleagues support this very important piece of legislation and agree with my colleague from American Samoa that more than just the legislation, we ought to do everything we can to provide the funding to actually bring this critical program to fruition.

Again, I want to thank my colleagues and also Chairman SMITH for bringing this legislation to the floor, and I ask all our colleagues to strongly support it.

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

Mr. SMITH of Texas. Madam Speaker, I yield back the balance of my time as well.

Mr. BACA. Madam Speaker. I rise today in strong support of H.R. 365, the National Blue Alert Act.

This important bill directs the Attorney General to establish a national Blue Alert communications network within the Department of Justice to broadcast information when a law enforcement officer is seriously injured or killed in the line of duty.

It would also assign a Department of Justice officer to act as the national coordinator of the Blue Alert Communications Network.

The Blue Alert System would operate in a similar fashion as the "Amber Alert" system and would be implemented by law enforcement agencies and officers at all levels—local, State, and Federal.

Law enforcement officers and officials are among the bravest individuals in today's society.

Each day, they knowingly risk their personal safety and their lives to ensure that our communities are safer and more secure.

As such, we need to be sure to do all that we can to ensure their safety when possible.

Building and expanding on the existing blue alert networks in various states will ensure that important information is sent out in an efficient and timely manner.

I am proud to stand here today and offer my support for this important legislation.

I want to thank the gentleman from New York, Mr. GRIMM, for his hard work in bringing this important legislation before us today.

And I also want to thank all the brave men and women who work in law enforcement and sacrifice day in and day out for our safety.

I urge my colleagues to support this bill.

Ms. RICHARDSON. Madam Speaker, today I rise up in support of H.R. 365, the National Blue Alert Act of 2011. This bill would create a Federal information network that would make it easier to track down and prosecute those who seriously injure or kill State and Federal law enforcement officers.

In 2011 a total of 72 law enforcement officers were killed by perpetrators, 10 of which were in my home state of California. For the first time in 14 years there were more officers killed by gunfire than officers killed in traffic accidents.

Gun violence against law enforcement had declined in recent decades; however there was a 70 percent increase from 2008 to 2011. The cause for this increase is unknown, but with technology growing better each day, and methods becoming more sophisticated, these statistics should be going in the opposite direction.

Some officers attribute the rise in deaths to budget cuts and officers not having the necessary resources to ensure their own safety. Others believe that the new trend of sending officers to the most violent areas of the city as a preventative measure has led to the spike. Regardless, this is a problem that needs an immediate solution.

Due to this dramatic increase in only a few short years, the FBI conducted a study which showed many of the officers were killed while attempting to arrest or subdue a suspect who already had a history of violent crimes. With this information they implemented a new Federal program so that now when an officer pulls over a car and runs the license plate they will be informed if the suspect has a violent criminal record so they can be properly prepared.

While this new program is a step in the right direction, law enforcement officers will always be put in high risk situations. It is simply the nature of the job. They put their lives on the line everyday to protect the citizens of this country, and they deserve to know their government is doing everything it can to provide them with as much safety as possible.

The National Blue Alert Act of 2011 would ease the minds of officers, reassuring them of a quick and efficient response should anything happen to them while on duty. The bill would also increase the likelihood of catching a perpetrator who injures or kills an officer.

Madam Speaker, every stop an officer makes can be potentially fatal. Yet these men and women go to work every day because they know their service will save the lives of countless others. With this level of self sacrifice the very least we can do as elected officials is provide them with the reassurances within the National Blue Alert Act.

Today, I ask my colleagues to rise up in support of the National Blue Alert Act of 2011. A quick response may be all it takes to save the life of an officer who gives so much, and asks for so little in return.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 365, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. GRIMM. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## SECURITY IN BONDING ACT OF 2012

Mr. SMITH of Texas. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3534) to amend title 31, United States Code, to revise requirements related to assets pledged by a surety, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3534

*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 "Security in Bonding Act of 2012".*

### SEC. 2. SURETY BOND REQUIREMENTS.

*Chapter 93 of subtitle VI of title 31, United States Code, is amended—*

*(1) by adding at the end the following:*

#### **"§9310. Individual sureties**

*"If another applicable law or regulation permits the acceptance of a bond from a surety that is not subject to sections 9305 and 9306 and is based on a pledge of assets by the surety, the assets pledged by such surety shall—*

*"(1) consist of eligible obligations described under section 9303(a); and*

*"(2) be submitted to the official of the Government required to approve or accept the bond, who shall deposit the assets with a depository described under section 9303(b)."; and*

*(2) in the table of contents for such chapter, by adding at the end the following:*

*"9310. Individual sureties."*

### SEC. 3. GAO STUDY.

*(a) STUDY.—The Comptroller General of the United States shall carry out a study on the following:*

*(1) All instances during the 10-year period prior to the date of the enactment of this Act in which a surety bond proposed or issued by a surety in connection with a Federal project was—*

*(A) rejected by a Federal contracting officer; or*

*(B) accepted by a Federal contracting officer, but was later found to have been backed by insufficient collateral or to be otherwise deficient*

or with respect to which the surety did not perform.

(2) The consequences to the Federal Government, subcontractors, and suppliers of the instances described under paragraph (1).

(3) The percentages of all Federal contracts that were awarded to small disadvantaged businesses (as defined under section 124.1002(b) of title 13, Code of Federal Regulations) and disadvantaged business enterprises (as defined under section 26.5 of title 49, Code of Federal Regulations) as prime contractors in the 2-year period prior to and the 2-year period following the date of enactment of this Act, and an assessment of the impact of this Act and the amendments made by this Act upon such percentages.

(b) REPORT.—Not later than the end of the 3-year period beginning on the date of the enactment of this Act, the Comptroller General shall issue a report to the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Government Affairs of the Senate containing all findings and determinations made in carrying out the study required under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Puerto Rico (Mr. PIERLUISI) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

#### GENERAL LEAVE

Mr. SMITH of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 3534, as amended, currently under consideration.

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

There was no objection.

Mr. SMITH of Texas. Madam Speaker, I yield 5 minutes to the gentleman from New York (Mr. HANNA), who is the sponsor of this legislation.

Mr. HANNA. Madam Speaker, I introduced H.R. 3534 with my colleague, Mr. MULVANEY from South Carolina, to address an issue in the construction industry I know all too well: surety bonding.

Bonding is not something most people think about, but it was a daily reality in my business. The concept is simple. Contractors on a Federal construction project are required to post assets prior to entering a contract to prove that they are capable of paying their subcontractors and downstream paying their suppliers for work. It indicates that a contractor is capable of successfully completing a project and is supposed to protect taxpayers and small businesses downstream in the event of failure or nonpayment.

The business of bonding is predicted on a zero failure rate. The assets pledged to back a project must be real, easily convertible to cash, and held by the contracting officer for the duration of the project—and most are. Unfortunately, a loophole in these laws has been exploited. It has resulted in a number of cases where assets pledged to back a bond issued by an individual surety have been insufficient or illusory. This has left small businesses and

taxpayers without sufficient payment remedies, and in the case of one Colorado woman, nearly put her out of business.

A single stock or private residence, which is subject to huge changes in value or may have an existing first mortgage, are quite simply not acceptable assets to back multimillion-dollar projects. Madam Speaker, the Security in Bonding Act will remedy this problem by requiring individual sureties to pledge solely those assets described in contracting laws as “eligible obligations.” Further, it would require them to be placed in custody of the Federal Government just as they would using a corporate surety or posting an asset in lieu of corporate surety. This loophole is putting small businesses and workers and the taxpayer at risk. It is time to close this loophole and restore the integrity of the bonding process.

H.R. 3534 would ensure that if an individual surety bond is furnished for a Federal construction project, that small businesses and subcontractors providing goods and services on that contract will not need to worry about the integrity of their payment revenue. This bill provides the surety that small businesses need and subcontractors and citizens deserve from the Federal Government. Without it, good jobs and our limited taxpayer dollars will continue to be at risk.

In closing, I would like to extend a personal thanks to Chairman LAMAR SMITH for his leadership in advancing this legislation and for allowing me to join him during the committee's proceedings.

Madam Speaker, I urge my colleagues to support this legislation.

□ 1700

Mr. PIERLUISI. Madam Speaker, I rise in support of H.R. 3534, the Security in Bonding Act, and I yield myself such time as I may consume.

H.R. 3534 will strengthen the protection that surety bonds are intended to provide by requiring individual sureties to use low-risk cash assets, such as United States bonds, as collateral. At the same time, H.R. 3534 will require the Government Accountability Office to assess the impact of these enhanced collateral requirements on the availability of surety bonds for emerging businesses, and particularly for disadvantaged business enterprises, seeking to be prime contractors on Federal projects.

When the Federal Government enters into a contract, the American taxpayer, as well as those who subcontract with the contractor, should be protected. That is why, under current law, any Federal construction contract valued at \$150,000 or more requires a surety bond as a condition of the contract being awarded. The bond will pay the government and downstream contractors in the event that the contractor fails to perform the contract.

Bonds issued by so-called “corporate” sureties, which have been vet-

ted and preapproved by the Treasury Department, provide financial assurance to taxpayers and contractors in the event that a contractor fails to perform. On the other hand, bonds issued by individual sureties have not been so vetted and are not subject to strong collateral requirements.

Accordingly, I support H.R. 3534 for several reasons.

To begin with, any entity that provides a surety bond should be held to strong underwriting standards. For instance, we know very well what happens when industries, particularly those involving financing, are not closely regulated. Consider mortgage lenders, for example. In a vacuum of regulation, unscrupulous and predatory lenders engaged in practices that hurt not just their borrowers, but ultimately jeopardized the Nation's economy and the financial well-being of all Americans. Measures such as H.R. 3534 are intended to mandate more reliable collateral standards, which is a commendable goal. Such strengthened requirements should help to ensure that American taxpayers are not made to pay for the consequences of undercollateralized bonds.

In addition, this bill will protect so-called “downstream” subcontractors and suppliers who very much depend on the economic vitality and performance of the general contractor and its surety. Many such downstream subcontractors and suppliers are small businesses owned by members of historically disadvantaged groups, including racial minorities, women, and the disabled. Ensuring that unnecessarily heightened risk is avoided for minority-owned businesses is key to their economic survival as well as to our Nation's fiscal health. According to the Commerce Department, these businesses are an “integral part of local, national, and global business communities.” Measures such as H.R. 3534 that strengthen collateral requirements lessen the incidence of poor underwriting practices and undersecured surety bonds.

Finally, H.R. 3534, as amended in committee, will help to ensure that it does not result in too much of a good thing. Particularly during these difficult economic times, our role in Congress should not be to construct unnecessary or overly burdensome hurdles to those who want to enter into a particular business or industry.

To the extent that heightened collateral requirements might dissuade individual sureties from providing bonds on Federal projects, there is a risk that new businesses may have a more difficult time bidding on Federal projects. We need to ensure that these businesses continue to be vital contributors to our Nation's economy, not only as subcontractors, but also as prime contractors. This is why there was bipartisan agreement in committee to add language requiring the GAO to, among other things, assess the impact that the enactment of H.R. 3534 may

have on disadvantaged business enterprises' ability to successfully bid on Federal contracts. This analysis will help us monitor whether H.R. 3534 has any unintended consequences in this regard.

I thank Chairman SMITH for his willingness to work with us to reach a mutually agreeable result. I also commend the bill's sponsor, Representative RICHARD HANNA, as well as Representative JARED POLIS, the lead Democratic cosponsor, for their leadership on this important matter.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. MULVANEY) who is an original cosponsor of this legislation.

Mr. MULVANEY. I thank the gentleman from Texas.

This is not, Mr. Speaker, the most glamorous thing we're going to do in this 112th Congress. If you stop to think about it, there are not that many people who are aware of, let alone care about, what kind of security is offered on surety bonds.

I can assure you, it is important to some people. It really is. If you are the person who is entering into that contract, who is counting on somebody doing that work, the quality of that security in that surety bond is of the utmost importance to you. And as you heard the gentleman from New York (Mr. HANNA) mention, in certain cases, it could be a matter of life or death for your business. So I am proud to be the sponsor of this bill.

But that is not why I rise today, Mr. Speaker. I rise today to bring to light the fact that we are actually doing something on a bipartisan basis to help the country. We get a lot of criticism back home—I know we both do, the Republicans and the Democrats—for not being able to come together to fix things. And, yes, we do struggle, perhaps, to fix the big things, and maybe rightly so. We are unlikely to solve the issue of taxes versus spending here today, but it's nice to know that we're still able to get together from time to time on the small things.

Face it. It used to be, before this bill, that you could take marketable coal as collateral on a surety bond. That's outrageous. With this bill, we'll fix those types of things and actually make it safer to do business on a government contract. Again, is it the big things that stand between our country and its current lack of prosperity? Absolutely not. But it does make business better in the United States of America.

That's why I congratulate the gentleman from Texas (Mr. SMITH) and the ranking member, Mr. CONYERS. I also thank the gentleman from Missouri (Mr. GRAVES) and gentlelady from New York (Ms. VELÁZQUEZ) from the Small Business Committee who also took a look at this bill and also passed it on a bipartisan basis.

So with that, Mr. Speaker, I thank the gentleman. I thank my colleagues

from across the aisle for actually coming together today to try to do something to help the Nation advance. And with that, I encourage everyone to support this bill.

Mr. PIERLUISI. Mr. Speaker, I have no further requests for time, so I will yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time as well.

Mr. SMITH of Texas. Mr. Speaker, today the House continues its effort to restore the financial security of our country with consideration of H.R. 3534, the Security in Bonding Act of 2011. I thank Mr. HANNA for his sponsorship of this bill and Mr. GOWDY and Mr. POLIS, both members of the Judiciary Committee, for their support as well.

This bill protects the federal government from financial loss as it improves the effectiveness of surety bonds contractors must post when they perform construction projects for the United States.

Also, this bill protects small business subcontractors and enhances the financial security of the United States.

The bill amends federal acquisition law to require individual sureties to post only low-risk collateral to back up their bonds. If the prime contractor defaults, the government and subcontractors will have recourse to real, stable, valuable assets to make them whole.

The Miller Act, enacted in 1935, requires a contractor to obtain surety bonds in favor of the government when the contractor undertakes a construction job worth more than \$150,000. These surety bonds protect not only the United States but also subcontractors whom the prime contractor hires.

Unlike in the private sector, subcontractors on federal projects have no mechanic's lien rights; surety bonds are their sole protection.

A bid bond assures the federal contracting officer that the contractor bids in good faith and will complete the job if it is the winning bidder.

Similarly, a performance bond guarantees the United States that the contractor will not walk away from the job even if, for instance, the contractor found a more lucrative opportunity elsewhere.

The Federal Acquisition Regulation (FAR) currently allows a contractor to obtain a surety bond through a corporate surety or an individual surety. Alternatively, a contractor may deposit low-risk collateral, like T-bills or other cash equivalents, with the government to cover the project cost.

Corporate surety companies are regulated by the Treasury Department, which requires the sureties to be sufficiently funded in an amount over the risk of default on the bonds they underwrite. But individual sureties are not approved by the Treasury, and they may pledge collateral whose value may fluctuate. For example, the FAR allows an individual surety to pledge stocks and bonds or real property.

The lax collateral requirements for individual sureties have seriously harmed subcontractors and the federal government.

At a hearing on this bill in the Courts, Commercial and Administrative Law Subcommittee, the President of a minority-owned construction company in Colorado, testified that they lost \$100,000 because the prime contractor's individual surety bond was backed by valueless assets.

The federal government cannot afford to be left in the lurch because an individual surety bond proved to be worthless. American taxpayers deserve a government that acts carefully and with fiscal responsibility when it spends their money on construction projects.

I urge my colleagues to support this bill.

Mr. COBLE. Mr. Speaker, I rise in support of H.R. 3534.

Surety bonds are financial instruments used to provide financial security for large construction contracts. For example, prime contractors typically post payment bonds to assure subcontractors that they will be paid for their work. Prime contractors must also obtain bid and performance bonds to guarantee the owner that the work will be performed according to contract.

The federal government regularly contracts with privately-owned businesses to complete construction projects. In doing so, the government requires contractors to obtain surety bonds. But the security provided to the government by a surety bond is only as good as the capital or assets that stand behind the bond.

There are currently three ways a contractor can satisfy the federal government's requirement for adequate assurance of performance and payment. The contractor can obtain a bond from a corporate surety approved by the Treasury Department, give the United States a possessory security interest in low-risk, liquid assets, such as T-bills, cash, or cash equivalents, or the contractor can secure a bond from an individual surety.

In recent years, there have been a number of instances in which individual surety bonds have not provided the security they purport to offer. In some cases, this was because the value of the pledged assets had decreased significantly, like when the stock market suddenly dropped or real estate values plummeted.

H.R. 3534 addresses this problem by requiring individual sureties to pledge low-risk assets. This will benefit government and subcontractors, who typically get the short end of the stick.

I am happy to report that H.R. 3534 is supported by the American Subcontractors Association and the National Association of Minority Contractors.

I urge all members to vote "yea" on final passage for H.R. 3534.

The SPEAKER pro tempore (Mr. CHAFFETZ). The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3534, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1710

#### CHIMNEY ROCK NATIONAL MONUMENT ESTABLISHMENT ACT

Mr. BISHOP of Utah. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2621) to establish the Chimney Rock National Monument in the State of Colorado, and for other purposes, as amended.