

flags rule. On May 28, 2010, the FTC announced that it would delay enforcing its red flags rule through December 31, 2010, and asked Congress to pass legislation that would resolve any questions about which entities should be covered as “creditors” and to obviate the need for further enforcement delays.

Mr. BEGICH. I thank the Senator. Unless this bipartisan bill becomes law, many small businesses for which identity theft is not a threat could be required to spend time and effort to comply with the red flags rule implementing the FACT Act. This could require them to take time away from growing their businesses and creating jobs. Small businesses are the economic driver of our country, and in a time of high unemployment and stagnant economic growth, businesses should be focused on job creation, and should not have to spend the money to comply with regulatory burdens disproportionate to the scope of the identity theft problem.

This bill would address what the chairman of the FTC, Jon Leibowitz, called “the unintended consequences of the legislation establishing the red flags rule.” While this list isn’t exclusive, many small businesses such as doctor’s and dentist’s offices, pharmacies, veterinary clinics, accounting offices, and other types of health care providers and other service providers were classified as “creditors” because they sometimes let clients pay after they provide their services. This legislation makes clear that these small businesses should not be swept under the red flags rule in the future just because they allow payment to be deferred, when they don’t offer or maintain accounts that pose a reasonably foreseeable risk of identity theft.

I would ask the chairman of the Banking Committee if he agrees with my description of what the Red Flag Program Clarification Act of 2010 will accomplish?

Mr. DODD. Yes, I agree that this bill narrows the applicability of the red flag identity theft provisions of the FACT Act to cover those creditors where identity thieves can do the most harm—creditors that use consumer reports, furnish information to consumer reporting agencies, and other creditors that loan money, such as payday lenders, that do not necessarily use consumer reports or furnish information to consumer reporting agencies.

The legislation also makes clear that lawyers, doctors, dentists, orthodontists, pharmacists, veterinarians, accountants, nurse practitioners, social workers, other types of health care providers and other service providers will no longer be classified as “creditors” for the purposes of the red flags rule just because they do not receive payment in full from their clients at the time they provide their services, when they don’t offer or maintain accounts that pose a reasonably foreseeable risk of identity theft.

Mr. THUNE. I applaud the FTC’s cooperation in delaying implementation

of their red flags rule to wait for congressional clarification on this issue and thank Senator DODD for his assistance in drafting this legislation. I am confident that our efforts to provide a legislative solution that protects consumers and businesses alike can be achieved through this legislation.

Mrs. MURRAY. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3987

*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 “Red Flag Program Clarification Act of 2010”.

#### SEC. 2. SCOPE OF CERTAIN CREDITOR REQUIREMENTS.

(a) AMENDMENT TO FCRA.—Section 615(e) of the Fair Credit Reporting Act (15 U.S.C. 1681m(e)) is amended by adding at the end the following:

“(4) DEFINITIONS.—As used in this subsection, the term ‘creditor’—

“(A) means a creditor, as defined in section 702 of the Equal Credit Opportunity Act (15 U.S.C. 1691a), that regularly and in the ordinary course of business—

“(i) obtains or uses consumer reports, directly or indirectly, in connection with a credit transaction;

“(ii) furnishes information to consumer reporting agencies, as described in section 623, in connection with a credit transaction; or

“(iii) advances funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person;

“(B) does not include a creditor described in subparagraph (A)(iii) that advances funds on behalf of a person for expenses incidental to a service provided by the creditor to that person; and

“(C) includes any other type of creditor, as defined in that section 702, as the agency described in paragraph (1) having authority over that creditor may determine appropriate by rule promulgated by that agency, based on a determination that such creditor offers or maintains accounts that are subject to a reasonably foreseeable risk of identity theft.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from Washington.

#### UNEMPLOYMENT INSURANCE REAUTHORIZATION

Mrs. MURRAY. Madam President, I came to the floor this afternoon to speak on behalf of thousands of families in my home State of Washington who stand to lose everything they have because a few Republican Senators continue to put politics ahead of policy. Men and women in my State from Seattle to Spokane, who lost their jobs through no fault of their own, get up

every single day; they scour the want ads; they send out their resumes and desperately try to find work in an economy that continues to struggle. These workers do not want to be where they are. They would like nothing more than to be back on the job doing what many of them have been doing for years—working hard and adding value to their companies and contributing to their communities and providing for their families.

But while they struggle to find work, many of them depend on the unemployment insurance programs we put in place to keep their heads above water. This support has allowed these families to put food on the table, to stay in their homes, and to pay for their children’s health care. These programs are not extravagant. But for a lot of our workers today, they made all the difference.

Workers such as a woman named Judy Curtis, who lives in Mill Creek, WA, wrote to my office urging us to do everything we could to reauthorize this program. She is a single mom who worked hard her whole life to support herself and her developmentally disabled son Sean. She told me she has been laid off twice since this downturn began and has been looking for a new job every day but without any luck.

Her unemployment insurance is going to be cut off on January 15 unless we reauthorize it. She does not know how she and her son are going to make it if that happens. So it is because of stories like hers that I am so disappointed we are once again throwing families into a state of uncertainty and turmoil by allowing these emergency unemployment programs to expire today. It does not make any sense.

Our economy still has a long way to go on the road to recovery. There are five job seekers for every open position today. The unemployment rate stands at 9.6 percent, and Senate Republicans think now is a good time to cut families off from the support on which they depend? We cannot allow this to happen. We cannot sit on the sidelines while more families are pushed into bankruptcy and lose their health care and their homes are foreclosed on. We cannot stand by and watch as our working families who have already been pushed to the brink by this financial crisis—that they did not create by the way—are now shoved to the edge through no fault of their own. It is wrong and it does not make sense. It does not make sense to pull billions of dollars out of our economy. It does not make sense to remove purchasing power from so many families. And it does not make sense to lose the multiplier effect of these funds that keep millions of workers on the job. It certainly does not make any sense to do this right before the holidays.

I have to say, I find it very interesting that some of the Senators who oppose extending this support for middle-class families are the very same ones who have no problem extending

the Bush tax cuts for the richest Americans that will cost us almost \$1 trillion. They talk about helping the economy. But economists across the board agree that unemployment insurance programs are one of the best ways to provide a much needed boost. So for those Republicans it is not about the deficit, it is not about what is best for the economy, it is certainly not about good policy, it is about politics, plain and simple.

I am going to keep fighting to maintain these emergency unemployment compensation benefits through next year for Judy Curtis's family, for thousands of families like hers across Washington State, and for millions in America. These programs were not meant to continue indefinitely. But until our economy gets back on track, it would be devastating to cut those families off from this critical lifeline now.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Dispatch proceeded to call the roll.

Mr. BROWN of Ohio. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

Mr. BROWN of Ohio. I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

#### UNEMPLOYMENT COMPENSATION

Mr. BROWN of Ohio. Mr. President, I come to the floor to share letters from Ohioans from all corners of my State, letters mostly from people who have lost their jobs and depend on something called unemployment insurance. It is insurance, not welfare, not giveaways. People work at a business. Their employer pays into the unemployment insurance fund. Obviously, it is money the employee does not get as income, so we could say it either way: the employee pays or the employer pays. Either way it is insurance. They pay into a fund. When someone loses their job, they get assistance from the fund. This is why it works so well.

When the unemployment rate is above a certain level, a relatively high unemployment rate, we always have extended and maintained unemployment insurance benefits for those workers who have lost jobs. We do that for two reasons: One, because it is the right thing to do if someone loses their job. Whether it is in Boulder in the State of the Presiding Officer or in Galion, OH, it is the humanitarian thing to do. That worker who has lost their job can at least pay most of their bills then, at least stay in the apartment or house and pay the mortgage, pay the rent, pay for food, take care of the kids. They wouldn't be able to without the unemployment insurance monthly payments.

The second reason we do it is, as one of JOHN MCCAIN's chief economic advisers said repeatedly, a dollar in unemployment benefits is about the best stimulus for the economy one could have. When we give a tax cut to a millionaire, as most of my Republican colleagues want to do, if we give \$10,000 to a millionaire, they will likely not spend it. They have already spent their money on what they want because they have more than enough to do that. So a tax cut doesn't mean much to them. But an unemployment check means that an unemployed worker will spend that money in the community, at the grocery store, buying shoes for the kids, paying the property tax, paying for their rent and gas bill, paying for gas in the car to go around looking for jobs. The money is recirculated. It is a good economic stimulus and the right thing to do for the worker who has lost their job. That is why the Presiding Officer and others have fought so hard to make sure those benefits are there. It is not welfare; it is insurance.

In spite of what some conservative politicians like to suggest, that it is people sitting around who don't want to work, almost everybody I talked to—whether it was in Conneaut or Midleton or Sidney or Portsmouth—who lost a job wants to go back to work. Unemployment compensation is never as much as the person is making on the job. That is under a formula. That is why they want to go back to work. Plus these are hard-working people who understand that they need to keep looking for a job.

For every job out there, there are roughly five people seeking a job. That is a national figure. But in Ohio, it is no better. That is why I am going to share these letters.

I will start with Timothy from Fairfield. That is a prosperous suburban Cincinnati community in Butler County in southwest Ohio. It happens everywhere, not just the inner city, not just rural Appalachia. It is not just small towns or medium-size cities. It is generally pretty affluent suburbs.

He writes:

Unemployment extensions end in about two weeks and once again my family worries about what the future will bring.

The last delay made us unable to pay many bills on time and we still have not fully recovered.

If another delay happens we will certainly be put in such a hole that I don't see us getting out of.

Not to mention it's the holiday season and I really don't know what I would tell my 4 and 7 year old if Christmas wasn't as it has been in the past.

I am in the manufacturing field. I worked as an inspector and quality engineer.

This next week will be my first of my final 20 weeks of Ohio emergency unemployment. I search for openings in quality inspectors and quality engineers within a 50 mile radius of our town.

How is he going to afford gas if his unemployment extension runs out?

I found zero results. I have been applying for retail jobs, janitorial jobs, and maintenance jobs.

If I even get to interview the answer is the same. You are way overqualified for this job.

I was told that the new sporting goods store had over 3,000 applicants.

Are both sides willing to do what needs to be done to avoid another delay? I don't know what we will do if the extension is not passed in time.

It is unbelievable that my conservative colleagues are willing to give tax cuts to millionaires and billionaires but are unwilling to maintain unemployment benefits for people such as Timothy. When one thinks about that, it is also the anxiety that somebody like Tim feels about his children, about his house, about his being able to provide what he needs during the Christmas season or any other season. So many people in this country have to wait until the Republicans drop their filibuster in order for us to maintain these benefits. That is pretty unconscionable.

Kelly from Summit County, the Akron area in northeast Ohio, writes:

Please help get the unemployment extension passed during this session.

I am about to exhaust my benefits in three weeks. Everyday I look for employment, but to no avail.

My mortgage company leaves no room for late or missing payments.

I don't need the money for Christmas—I need it to pay my bills and my mortgage.

There will be no Christmas this year, especially when I begin to get behind on payments.

Kelly says what so many are saying in letters to our office, that this is essential. Getting this relatively meager unemployment assistance, not a lot of money but enough to at least pay her rent—although I don't know if Kelly is male or female—but to pay the rent, not Christmas presents, nothing elaborate, not even Christmas dinner but to just pay the rent.

Richard from Summit County says:

I am writing to share the reality of my situation that I'm sure millions are also experiencing. Today I filed my final claim for unemployment. This is the moment that made me lay awake at night. The reality is at our home there will be no Thanksgiving and no Christmas this year. I hear carols being played, I see ads for Christmas sales. It makes me depressed like never before. I feel the gifts and celebrations are meant for other people—the "haves." No more money for my diabetes medicine, dental checkups, eye drops for glaucoma. Never have I felt like throwing in the towel before now.

I just wish my colleagues would talk to people like Richard: When I hear carols being played for Christmas sales, it makes me depressed like never before. I feel the gifts and celebrations are meant for other people. No more money for my diabetes meds, no more dental checkups, no more eye drops for glaucoma.

Unemployment benefits are not going to make him comfortable or rich, but it will help him get through these rough times. Instead, to make a political point, my colleagues are saying we are not going to maintain unemployment benefits.

The last one I will read is from Jacqueline from Cuyahoga County in the Cleveland area: