



Written by [Raven Clabough](#) on November 21, 2011

STOCK Act, Banning Congress from Insider Trading, is Revived

In 2006, Democratic Representatives Louise Slaughter (left) and Tim Walz introduced the STOCK Act (Stop Trading On Congressional Knowledge), intended to stop members of Congress from benefiting from insider knowledge of stocks. The legislation was placed on the congressional backburner — that is, until it was featured on CBS's *60 Minutes*. Now the bill has moved to center stage and has garnered a significant number of co-sponsors in the Congress.



The *60 Minutes* episode aired on Sunday, November 13, and by the following Friday, the number of co-sponsors of the bill had shot from 9 to 91.

The CBS report incriminated congressmen on both sides of the aisle, specifically citing three: Spencer Bachus (R-Ala.), Nancy Pelosi (D-Calif.), and John Boehner (R-Ohio). According to *60 Minutes*, Spencer Bachus bet on option funds which would increase in value after the stock market dropped. He took that action after having sat in on several confidential meetings in September of 2008 regarding the nations financial crisis.

Likewise, Nancy Pelosi, 2007-2010 Speaker of the House, invested in a stock offering from Visa in 2008 while simultaneously preventing a bill on tough Visa regulations from making it to the House floor for a vote.

The report also implicated John Boehner, who was instrumental in defeating the public option before purchasing stocks in health insurance companies which increased in value as a result of the defeat of the public option.

Though all three lawmakers have denied any wrongdoing, an increasing number of congressmen now agree that it is necessary to pass a tougher law on congressional insider trading, as current law scarcely addresses the subject. The *Buffalo News* explains:

Current law defines the practice in part as a violation of confidentiality either to a company or the source of information and lawmakers aren't seen as having any such duty of confidentiality.

"Members of Congress should live under the same laws as everyone else," declared Sen. Scott Brown (R-Mass.), who introduced a version of the STOCK Act which is slightly less stringent than Gillibrand's. "If they trade on inside knowledge to line their own pockets, they should be punished," he added.

Slaughter's bill includes several provisions. First, it indicates that members and employees of Congress, as well as the executive branch, are to be prohibited from buying and selling securities, commodity futures, or swaps based on inside knowledge. Additionally, those who are not members of Congress but have somehow benefited from nonpublic information obtained from members of Congress or from the



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executive branch are not to engage in trading investments based on that knowledge. Likewise, lawmakers are prohibited from disclosing (for the purposes of investment) any information on legislation. Further, members of Congress as well as their employees are required to report the purchase, sale, and exchange of any stock in excess of \$1,000 within 90 days of the transaction.

The Bureau of National Affairs [claims](#) that the STOCK Act would effectively level the playing field between corporate and congressional insiders.

Representative Slaughter was surprised by the sudden popularity of her bill following the *60 Minutes* report. She explained, I got to the Rochester airport and I was besieged by people who said, I watched *60 Minutes*.

Slaughter was motivated to create the legislation several years ago after reading *Wall Street Journal* reports about day trading among House Republican staff members. The idea is that if theres insider trading in the commercial world, you can go to prison for years, she explained. Theres no reason on earth to set members of Congress above that standard.

When the act was first introduced, it received minimal support and failed to come to the House floor for a vote. We tried, but there was no interest whatsoever, noted Slaughter. Nobody thought it was a problem.

Critics of the bill asserted that it was unnecessary, because there are already laws in effect to prosecute any lawmaker caught engaging in insider trading. For instance, lawyer Robert L. Walker, of the Wiley Rein LLP firm, states that the Securities and Exchange Commission is already in place to pursue such cases against congressmen. They dont have any immunity, said Walker, the former chief counsel and staff director for the House and Senate ethics committees.

However, according to the SEC, trading stocks based on advance knowledge of action in Congress is [not](#) insider trading.

Others disagree. Its really quite outrageous, contends Craig Holman, the legislative representative for the Washington-based consumer rights advocacy group Public Citizen. If you just take a look at the statistics, members of Congress are either geniuses when it comes to stock trading or they are in fact trading off of some of this insider information.

Several published studies have implied that members of Congress are in fact profiting from insider information.

CNBC reports, A pair of recent academic studies found that House members beat the market in their personal stock trading by about 6 percent, and Senators beat the market by about 10 percent.

A 2011 study entitled Abnormal Returns from the Common Stock Investments of Members of the U.S. House of Representatives reveals the findings of four university professors that a portfolio replicating the purchases of House members beats the market by 55 basis points per month, or six percent annually. The study analyzed 16,000 common stock transactions made by around 300 House delegates between 1985 and 2001. It also found that purchases made by Democrats outperformed those of Republicans.

Overall we find that the common stocks purchased by Members of the U.S. House of Representatives earn statistically significant positive abnormal returns. Our results indicate that Representatives, like Senators, also trade with a substantial information advantage, wrote the studys authors, Alan Ziobrowski of Georgia State University, James Boyd of Lindenwood University, Ping Cheng of Florida



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Atlantic University, and Brigitte Ziobrowski of Augusta State University.

Still, skeptics of the bill contend that it is too difficult to prove that insider trading has taken place.

There ought to be empirical research done to determine whether or not there's actual trading going on, urged Jan Baran, a partner at the law firm of Wiley Rein LLP, who specializes in government ethics rules. All we're doing now is speculating.

Though the bill was initially met with skepticism by members of Congress, it has since gained some popularity as lawmakers have begun to see its necessity, because it clarifies the vague language found in the current law.

Senator Kirsten Gillibrand (D-N.Y.) has introduced the Senate version of the bill currently with nine co-sponsors which she asserts is getting stronger every day. "The more and more people are talking about this," she adds, "the more and more there's going to be local outrage."

The House version of the STOCK Act, presently in the Judiciary Subcommittee on the Constitution, could see some movement following the increase in sponsors.



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