

REED and Senators LEVIN and LANDRIEU for putting forth a balanced and thoughtful alternative.

Everyone in this body agrees that Washington should be doing as much as it can to create jobs for middle-class Americans. But if the financial crisis of 2008 taught us anything, it is that smart regulation of our capital markets is a key element of sustained economic growth.

Unfortunately, this legislation would eliminate key investor protections and allow for fraud and abuse to flourish in a shadowy world of unregistered securities. According to John Coates and Bob Pozen of the Harvard Law and Business Schools, respectively, the House bill “could spur more shady deals than new jobs.” John Coffee of Columbia Law School has called it the “the boiler room legalization act”—a reference to brokerage operations that profit from unloading questionable securities on unsuspecting and inexperienced investors.

Over the past few days, opposition to the House bill has extended far beyond economists, with investor and consumer protection groups, ranging from the Council of Institutional Investors and the North American Securities Administrators Association to the AARP and Consumer Federation of America, calling for substantial changes. These groups have encouraged the Senate to reexamine many of the House bill’s provisions, including ones that would allow unregulated Web sites to sell unregistered stock to middle-class investors; permit stock brokers to advertise risky private offerings on billboards and in cold calls to seniors homes; and strip away the corporate governance and executive compensation transparency requirements that we worked so hard to pass in the 2010 Wall Street reform bill.

Senators JACK REED, CARL LEVIN, and MARY LANDRIEU have worked around the clock to produce an alternative that maintains key investor protections. I commend them for their work, and am proud to cosponsor their substitute amendment. I hope we can use this amendment as a starting point to negotiate a compromise final bill—one which achieves the goal of making capital more accessible to small startups, without making the markets riskier for average investors. If we do not take the time to get this important bill right, I fear we will live to regret our haste.

SEC Chairman Mary Schapiro framed well the dangers of undercutting securities regulations when she warned, “if the balance is tipped to the point where investors are not confident there are appropriate protections, investors will lose confidence in our markets, and capital formation will ultimately be made more difficult and expensive.” Let’s pass a capital formation bill that strikes the right balance between capital formation and investor protections. In my time as U.S. Attorney and Attorney General, I have seen the dev-

astation that financial fraud can inflict on a family, and I have seen how unscrupulous con men, stock jobbers, fraudsters, and boiler room operators can be. It is worth it to take the trouble to protect against the crooks who could take advantage of the loopholes this bill leaves to exploit innocent victims. I urge my colleagues to support the Reed-Levin-Landrieu alternative and to oppose the House-passed bill. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader.

STOP TRADING ON CONGRESSIONAL KNOWLEDGE ACT OF 2012

Mr. REID. Mr. President, as the Senate is aware, there are differences between the Senate and the House work product on the STOCK Act. This legislation limits insider trading by Members of Congress. It certainly would have been my preference to work out these differences between the two Houses through a conference committee. I know that is the preference of the Republican leader. That is the usual practice.

But we have been advised there would be objection to going to conference by consent. I have tried it and tried it and we cannot break through that. That means it would take filing and adopting three separate cloture motions over the course of weeks to get to conference; that is, if we can be successful on the first two. So we need to address this issue more quickly because otherwise we do not address it at all, and we need to address it.

As a consequence, I am going to file cloture in the motion to concur with the House bill on the STOCK Act. It is my hope we can resolve this matter expeditiously, and I hope we can thereby make clear Congress’s intent to prohibit insider trading by Members of Congress.

I now ask the Chair to lay before the Senate a message from the House with respect to S. 2038.

The PRESIDING OFFICER. The Chair lays before the Senate the following message from the House, which the clerk will report.

The bill clerk read as follows:

Resolved, that the bill from the Senate (S. 2038) entitled “An Act to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes,” do pass with an amendment.

(The amendment is printed in the Proceedings of the House on February 9, 2012.)

Mr. REID. Mr. President, I move to concur in the House amendment to S. 2038.

I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid motion to concur in the House amendment to S. 2038, the Stop Trading on Congressional Knowledge Act.

Harry Reid, Jeff Bingaman, Daniel K. Inouye, Joseph I. Lieberman, Tim Johnson, Daniel K. Akaka, Richard J. Durbin, Charles E. Schumer, John Barrasso, Scott P. Brown, Mitch McConnell, Jon Kyl, Richard C. Shelby, Rob Portman, John Cornyn, John Hoeven, Marco Rubio, Lisa Murkowski, Jeff Sessions, Mike Johanns, Tom Coburn, Susan M. Collins

MOTION TO CONCUR WITH AMENDMENT NO. 1940

Mr. REID. Mr. President, I move to concur in the House amendment to S. 2038, with an amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to S. 2038 with an amendment numbered 1940.

The amendment is as follows:

At the end, add the following new section:
SEC. ____.

This Act shall become effective 5 days after enactment.

Mr. REID. Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1941 TO AMENDMENT NO. 1940

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1941 to amendment No. 1940.

The amendment is as follows:

In the amendment, strike “5 days” and insert “4 days”.

MOTION TO REFER WITH AMENDMENT NO. 1942

Mr. REID. Mr. President, I have a motion to refer the House message to the Committee on Homeland Security and Governmental Affairs with instructions to report back forthwith with an amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message on S. 2038 to the Committee on Homeland Security and Governmental Affairs with an amendment numbered 1942.

The amendment is as follows:

At the end, add the following new section:
SEC. ____.

This Act shall become effective 3 days after enactment.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1943

Mr. REID. Mr. President, I have an amendment to my instructions which has also been filed at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1943 to the instructions of the motion to refer the House message on S. 2038.

The amendment is as follows:

In the amendment, strike "3 days" and insert "2 days".

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1944 TO AMENDMENT NO. 1943

Mr. REID. Mr. President, I have a second-degree amendment to my instructions which is also at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1944 to amendment No. 1943.

The amendment is as follows:

In the amendment, strike "2 days" and insert "1 day".

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived with respect to the cloture motion I have just filed.

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

JUMPSTART OUR BUSINESS
STARTUPS ACT—Continued

Mr. REID. Mr. President, I ask unanimous consent that Senator REED be recognized for 2 minutes and Senator LANDRIEU for 2 minutes. I ask unanimous consent that those two Senators be recognized.

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

Mr. REED. Mr. President, I thank the majority leader. I rise because in a moment we will be voting on the Reed-Landrieu-Levin substitute amendment. This legislation corrects glaring defects in the House-proposed bill on a so-called jobs bill. It protects investors. It allows capital formation, but it does not do that at the expense of investors.

We have taken all the major provisions of the House bill with respect to the IPO onramp. We have not deleted them, we have improved them. We have lowered the threshold in terms of the size of the business so these IPO onramps can be designed for small businesses, not for businesses of \$1 billion in annual revenue.

We have gone ahead and looked at the aspects of regulation A in the

House, and we agree there should be an increase in the limit from \$5 million to \$50 million. But we have made improvements. For example, the House bill will allow people to solicit these securities under regulation A without audited financials. I think at a minimum the investing public should have some audited financials to rely upon.

We have taken provisions with respect to the ability to go dark—the ability to stop reporting if you have 2,000 or less record owners—and we have raised the limit from the existing 1 to 750 beneficial owners. But we haven't opened it broadly so that large well-known companies could suddenly stop reporting their financial information on a routine basis.

We have looked at the reg D offerings in terms of a private offering versus a public offering, and we have given the Securities and Exchange Commission the ability, in this age of the Internet and of Twitter, to make adjustments so that a private offering under reg D would not be compromised because it gets into the media through Twitter, et cetera. But we haven't opened it to general solicitation, as the House bill does.

By the way, our bill actually tries to create jobs, not just opportunities to raise funds through Wall Street. With Senator LANDRIEU's help, we have strong small business provisions in there. We include the Ex-Im Bank provisions of Senator CANTWELL. We worked very closely with Senators MERKLEY, BENNET, and BROWN of Massachusetts to include a crowdfunding provision which is much superior.

If we do not achieve cloture, we will see, by default, a bad House bill on its way to becoming law.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator has used 2 minutes.

The Senator from Louisiana.

Ms. LANDRIEU. Following up on the leadership of the good Senator from Rhode Island, let me say there are many reasons—many reasons—to vote against cloture on the House bill, and I will get to that in a minute. But I am urging my colleagues to vote yes on cloture for the Reed-Landrieu-Levin substitute.

We have tried to address the many concerns raised by the House bill in our substitute. If we vote yes on cloture for our substitute, we can then go into some more meaningful debate on the Senate floor, and this bill needs some additional debate.

Mary Schapiro from the SEC said, clearly, the House bill goes too far. The Chamber of Commerce even says there are concerns in the House bill. AARP is opposed to the House bill. Securities and Exchange Commissioner Mary Schapiro wrote last week:

H.R. 3606 would remove certain important measures put in place to enforce separation between the research analysts and investment bankers who work for the same firms. These careful principles were put in after the scandals that ensued on Wall Street.

This bill has flown out of the House. Even BARNEY FRANK said what we are doing in the Senate, by slowing it down and amending it, is the right thing. So I urge my colleagues to give our substitute a chance. They can vote yes on Senator CANTWELL's amendment, and vote no on cloture to the House bill so we can continue this important debate in the Senate.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 1833 to H.R. 3606, an Act to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies.

Harry Reid, Mary L. Landrieu, Ben Nelson, Carl Levin, Jon Tester, Mark Begich, Patty Murray, Mark R. Warner, Christopher A. Coons, Robert Menendez, Thomas R. Carper, Joseph I. Lieberman, Debbie Stabenow, Robert P. Casey, Jr., Jeanne Shaheen, Tom Udall, Jim Webb, Barbara Boxer.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 1833 to H.R. 3606, an act to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 45, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—54

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bingaman	Johnson (SD)	Reed
Blumenthal	Kerry	Reid
Boxer	Klobuchar	Rockefeller
Brown (MA)	Kohl	Sanders
Brown (OH)	Landrieu	Schumer
Cantwell	Lautenberg	Shaheen
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Conrad	Manchin	Udall (NM)
Coons	McCaskill	Warner
Durbin	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden

NAYS—45

Alexander	Boozman	Coburn
Ayotte	Burr	Cochran
Barrasso	Chambliss	Collins
Blunt	Coats	Corker