

time. She pursued education as her course of studies and earned her teaching credential at the university.

She began her 45 years as a northern California educator in Calistoga, Piedmont, and Redwood City High Schools before becoming an English instructor at San Francisco City College. She earned a reputation at the college as an administrator who could easily adapt to any assignment. She later spent 25 years as principal of Galileo Adult School which eventually became a part of the San Francisco Community College district. She was also loaned out for several other projects; as a counselor with the U.S. Department of Employment for women trainees for aircraft jobs, and to Contra Costa County to set up new community colleges. She also served as a member of the United Nations Educational, Scientific and Cultural Organization Commission. She enriched the lives of countless young people as their teacher with her intelligence, common sense, warmth, and wisdom and contributed greatly to the improvement of the administration in all the institutions she served.

Upon her retirement from education, Phebe Bostwick committed herself to volunteering in a number of organizations including the Little House Senior Center where she was program director and president of its council, volunteering at the Center for 20 years. She was a forceful advocate for seniors as a member of the California Senior Legislature where she represented 103,000 older adults of San Mateo County. She chaired the Legislative Committee, often testified at hearings, and was a featured speaker at conferences on legislative advocacy training. Phebe Bostwick also served with great distinction on the San Mateo County Commission on Aging and its Advisory Committee, and was a member of Soroptimist International of San Francisco.

Mr. Speaker, Phebe Bostwick was a shining light among us, inspiring all who knew her. She was a high achiever and made remarkable contributions to our community and our country. She lives on through her stepchildren, grandchildren, and great grandchildren, through her devoted husband Alan, and through all of us who were blessed to be part of her life, work with her and call her friend.

Mr. Speaker, I ask my colleagues to join me in paying tribute to a noble woman who lived a life of purpose and to extend our deepest sympathy to Alan Bostwick and the entire Bostwick family.

Phebe Bostwick's legacy is that she made each one of us better, and because of her, our community and our country have been immeasurably bettered as well.

#### CLARIFICATION OF THE TREATMENT OF INVESTMENT MANAGERS

**HON. HARRIS W. FAWELL**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 23, 1997

Mr. FAWELL. Mr. Speaker, I am pleased to today introduce legislation which amends title I of the Employee Retirement Income Security Act of 1974 [ERISA] to permit investment advisers registered with State securities regulators to continue to serve as investment managers to ERISA plans.

At the end of last Congress, landmark bipartisan legislation was enacted which adopted a new approach for regulating investment advisers: the Investment Advisers Supervision Coordination Act (title III of P.L. 104-290). Under the act, beginning July 8, 1997, States are assigned primary responsibility for regulating smaller investment advisers and the Securities and Exchange Commission [SEC] is assigned primary responsibility for regulating larger investment advisers. Under this framework, however, smaller investment advisers registered only with the States, and prohibited by the new law from registering with the SEC, would no longer meet the definition of "investment manager" under ERISA, since the current Federal law definition only recognizes advisers registered with the SEC.

As a temporary measure, a 2-year sunset provision was included in the securities reform law extending for 2 years the qualification of State registered investment advisers as investment managers under ERISA. This provision was intended to address the problem on an interim basis while the congressional committees with jurisdiction over ERISA reviewed the issue. We have reviewed this issue and have developed the legislation that I am introducing today to permanently correct this oversight.

Without the legislation I am introducing, State licensed investment advisers who, because of the securities reform law, no longer are permitted to register with the SEC would be unable to continue to be qualified to serve as investment managers to pension and welfare plans covered by ERISA. Without this legislation, the practices of thousands of small investment advisers and investment advisory firms would be seriously disrupted after October 10, 1998—as would the 401(k) and other pension plans of their clients.

It is necessary for an investment adviser seeking to advise and manage the assets of employee benefit plans subject to ERISA to meet ERISA's definition of "investment manager." It is also important, for business reasons, for small investment advisers to eliminate the uncertainty about their status as investment managers under ERISA. This uncertainty makes it difficult for such advisers to acquire new ERISA-plan clients and could well cause the loss of existing clients.

The bill will amend title I of ERISA to permit an investment adviser to serve as an investment manager to ERISA plans if it is registered with either the SEC or the State in which it maintains its principal office and place of business, if it could no longer register with the SEC as a result of the requirements of the 1996 securities reform law. In addition, at the request of the Department of Labor, the bill requires that whatever filing is made by the investment adviser with the State be filed with the Secretary of Labor as well.

Arthur Levitt, Chairman of the Securities and Exchange Commission, has written a letter expressing the need for this legislation and his support for this effort to correct this problem. I ask that a copy of Chairman Levitt's letter be inserted in the RECORD.

This legislation also has the support of the Department of Labor. In addition, this bill is supported by the International Association for Financial Planning, the Institute of Certified Financial Planners, the National Association of Personal Financial Advisors, the American Institute of Certified Public Accountants, and the North American Securities Administrators As-

sociation, Inc. Identical legislation is being introduced on the other side of the Hill by Senator JEFFORDS, the chairman of the Senate Labor Committee.

Congress must act quickly to correct this oversight, to protect small advisers from unintended ruin and to bring stability to the capital management marketplace.

U.S. SECURITIES AND  
EXCHANGE COMMISSION,  
Washington, DC, April 7, 1997.

Hon. WILLIAM F. GOODLING,  
Chairman, Committee on Education and the  
Work Force, U.S. House of Representatives,  
Rayburn House Office Building, Wash-  
ington, DC.

DEAR CHAIRMAN GOODLING: I am writing to urge that the House Committee on Education and the Work Force consider enacting legislation to amend the Employee Retirement Income Security Act of 1974 ("ERISA;") in a small but terribly important way. Unless the Congress acts quickly, thousands of small investment adviser firms, and their employees, risk having their businesses and their livelihoods inadvertently disrupted by changes to federal securities laws that were enacted during the last Congress.

At the very end of its last session, Congress passed the Investment Advisers Supervision Coordination Act. This was landmark bipartisan legislation that replaced an overlapping and duplicative state and federal regulatory scheme with a new approach that divided responsibility for investment adviser supervision; states were assigned primary responsibility for regulating smaller investment advisers, and the Securities and Exchange Commission was assigned primarily responsibility for regulating larger investment advisers. We supported this approach.

Until the Coordination Act takes effect in the next few months, most of the nation's 23,500 investment adviser firms—regardless of their size—will continue to be registered with the SEC, as they have for many decades. Once the Act becomes effective, however, we estimate that as many as 16,000 firms will be required to withdraw their federal registration. Indeed, this requirement is crucial if the Act's overall intent of reducing overlapping and duplicative regulation is to be realized. But the withdrawal of federal registration is also what causes the problem for these firms under ERISA.

As a practical business matter, it is a virtual necessity for a professional money manager (such as an investment adviser) seeking to serve employee benefit plans subject to ERISA to meet ERISA's definition of "investment manager." The term is defined in ERISA to include only investment advisers registered with the SEC, and certain banks and insurance companies. Once the Coordination Act becomes effective, large advisers registered with the SEC will of course continue to meet the definition. But small advisory firms will not be able to meet the definition of investment manager because they will be registered with the states rather than with the SEC. Thus they may well be precluded from providing advisory services to employee benefit plans subject to ERISA, even if they have been doing so successfully for many years.

The sponsors of the Coordination Act were aware that the interplay between the Act and ERISA could have substantial detrimental consequences for small advisors, and thus added an amendment to ERISA during the House-Senate Conference on the Act. The ERISA amendment provided that investment advisers registered with a state can serve as "investment managers" for two years, or through October 12, 1998. My staff has been told that this "sunset" provision was included in the ERISA amendment so that the

appropriate congressional committees with jurisdiction over ERISA could have a reasonable amount of time to review the amendment before deciding whether to make it permanent. Apart from that important procedural issue, I am not aware of any other considerations that would suggest the need for the ERISA amendment to expire in two years.

I believe that the Congress should move as quickly as possible to enact legislation that eliminates the sunset provision, and permanently enables properly registered state investment advisers to continue their service as investment managers under ERISA. There is no reason to wait until 1998 to do so. In fact, many small investment advisers believe that the ongoing uncertainty about their status as "investment managers" under ERISA is making it difficult for them to acquire new ERISA plan clients, and may even cause them to lose existing clients. Some advisers think the harm they could suffer, even before the expiration of the sunset provision next year, could be irreparable, and it is easy to see why.

It is only through the swift action of your Committee that these unintended and unnecessary consequences for thousands of successful small businesses can be avoided. If you or your staff would like additional information about this matter, please do not hesitate to contact me at 942-0100, or Barry P. Barbash, Director of the Division of Investment Management, or Robert E. Plaze, an Associate Director in the Division, at 942-0720.

Sincerely,

ARTHUR LEVITT.

#### TRIBUTE TO LINDA MITCHELL

#### HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 23, 1997*

Mr. FLAKE. Mr. Speaker, Linda Mitchell was honored as the Lutheran Schools Association Administrator of the Year for Metropolitan New York and New Jersey. Ms. Mitchell is a life-long resident of Queens, NY, and in response to the need for a successful learning environment she founded Holy Trinity Community School in 1976. As principal of the school, she has committed her efforts to provide children with a quality education funded on solid moral teaching. She has also worked hard to increase the school's relationship with the Holy Trinity Lutheran Church. This effort has motivated the school to adopt positive themes like "Do the Right Thing" and "Zero Tolerance." These themes steer children away from negativity and encourage them to eliminate physical aggression, while stressing the importance of learning values. She is particularly committed to creating an accepting environment for children who have been unsuccessful in other school settings.

In addition to her role as principal of HTCS, Ms. Mitchell serves on the Hillis Park Gardens Board, the Community Board 12, the 103d Precinct Community Council, and the board of the Greater Jamaica Community Coalition. She has received additional awards for service to her community, where she is recognized for her active involvement in local affairs. Linda Mitchell is a model citizen for all Americans. She is intent on serving her community in every way, and demonstrates how we, as individuals, can improve the status of our commu-

nities. I commend Ms. Mitchell for her service, acknowledge her for her excellences, and join with all of those honoring her as an outstanding individual.

#### STAMP OUT BREAST CANCER ACT

SPEECH OF

#### HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 22, 1997*

Mr. FAZIO of California. Mr. Speaker, I rise today in strong support of H.R. 1585, sponsored by myself and my colleague, SUSAN MOLINARI. I seem to have developed quite a history with the idea of an experiment whereby the American people would contribute to public health causes through the voluntary purchase of a U.S. postage stamp.

In May of 1996, Dr. Ernie Bodai—one of my constituents and the chief of surgery at the Kaiser Permanente Medical Center in Sacramento, CA—came to my office with an innovative proposal. Dr. Bodai's idea involved a bill to establish a special first-class postage stamp priced at 1 cent above normal first-class postage. The stamp would be purchased voluntarily, with the additional penny going toward breast cancer research. As a result of Dr. Bodai's unflagging personal effort, I was pleased to introduce the Breast Cancer Research Stamp Act in the 104th Congress. That piece of legislation gained the support of 86 Members of the House of Representatives.

This year, I reintroduced this bill in the 105th Congress, and H.R. 407 has the support of 125 of my colleagues. Thanks to some energetic and tireless efforts by several compassionate groups within the breast cancer advocacy community and a special thank you to my colleague, SUSAN MOLINARI, we are considering today H.R. 1585, the Stamp Out Breast Cancer Act of 1997. H.R. 1585 remains true to the idea of the American public participating in the search for a cure for breast cancer. H.R. 1585 also ensures that money raised by the breast cancer research stamp will not replace current Federal funding levels. It will add to it.

H.R. 1585 provides a workable and realistic framework for a cooperative effort between the Postal Service and the American public to take place. Questions have been raised—how much money could be raised by the sale of a stamp priced above the normal first-class postage rate? And how much would such an endeavor cost the Postal Service to administer? H.R. 1585 sets up a demonstration project to answer these questions. After 2 years, the General Accounting Office will provide an evaluation of the effectiveness of this project. And after 2 years, perhaps there will be additional money from the stamp going toward breast cancer research at the National Institutes of Health and the Department of Defense.

I want to thank Representative MCHUGH, chairman of the Postal Service Subcommittee, for working out the details of this bill so that we may finally put this project into place. And I want to thank again my colleague, SUSAN MOLINARI, for her effort and commitment to seeing that this bill and this cause moves forward in the House of Representatives. We have made tremendous progress in raising

money, awareness and spirits in the battle against a disease that has devastated the lives of millions of loved ones, but we still have a long way to go. I know that we will get there, through the support of legislators in Congress and the grass roots support in our communities.

By passing H.R. 1585, we will enable the people of the United States to demonstrate a spirit of volunteerism to advance our successes in finding a cure for breast cancer. I urge my colleagues to vote to suspend the rules and pass this important piece of legislation.

#### VETERANS IN POLITICS HONORING SENATOR JACOBSEN

#### HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, July 23, 1997*

Mr. GIBBONS. Mr. Speaker, Veterans in Politics, a nationally recognized veteran's organization, is honoring Senator JACOBSEN at a ceremony this evening in Las Vegas. I would like to have the following comments included in the CONGRESSIONAL RECORD today for their event.

As a fellow veteran with Senator LAWRENCE JACOBSEN, it is my honor and privilege to pay special tribute to a man who has committed his entire life to serving our great State and Nation. "JAKE," as he is known to most, is one of the true legends in Nevada politics. JAKE is someone who would rather be out there with his sleeves rolled up helping Nevadans than sitting in a restaurant with well-paid lobbyists. His commonsense approach to politics is refreshing and sorely needed in Carson City.

JAKE's life and his ensuing marriage to beloved Betty is one of true Americana literature. Born in Gardnerville in 1921, JAKE has lived there all his life. When the call to duty came to serve his country, JAKE enlisted in the U.S. Navy during World War II. Little known to many, he is a survivor of the attack on Pearl Harbor. When the 50th anniversary of Pearl Harbor was recognized in 1991, JAKE was one of the most sought after speakers in the State and graciously rose to the occasion. His sense of patriotism is practically unmatched by any other political figure in Nevada.

Through his membership in the American Legion, JAKE has been committed to preserving and enhancing patriotism and education with such programs as Boys State. Held every year in Carson City, JAKE has shared his vast experiences and knowledge of public service with the young men of Nevada.

Having served with JAKE in the Nevada Legislature, I know first hand of his unwavering dedication to the hard-working families that he represents so well. JAKE is also one of the Nevada Legislature's strongest supporters of veterans issues, including bringing a veterans home to Nevada.

It has been a true pleasure and honor to work with LAWRENCE "JAKE," JACOBSEN and join him in promoting many of the noteworthy causes he has championed. He has been both a mentor and friend providing much appreciated advice since my earliest days as a legislator. JAKE has inspired and encouraged all of us in one form or another to maximize our abilities. He has provided us a model to follow