The Guam Meritorious Claims Act of 1946 contained several serious flaws that were brought to Congress's attention in 1947 by the Hopkins Commission and by Secretary of the Interior Harold Ickes. Both the Hopkins Commission and Secretary Ickes recommended that the Guam Act be amended to correct serious problems. Both also noted that Guam was a unique case and that Guam deserved special consideration due to the loyalty of the people of Guam during the occupation.

The problems with this act include:

The act allowed only 1 year for claimants to file with the Claims Commission. Many Chamorros were not aware of the Claims Commission's work due to language barriers, displacement from their homes, and misunderstanding of the procedures. Instead of speeding up the process, the deadline served no useful purpose except to deny valid claims filed after the December 1, 1946, deadline.

It required that claims be settled based on prewar 1941 values. Therefore, property claims were undervalued and residents of Guam were not able to replace structures destroyed during the war.

The act did not allow compensation for forced march, forced labor, and internment during the enemy occupation. Another law, the War Claims Act of 1948, allowed for compensation for American citizens and American nationals for internment and forced labor; however, Guam was excluded from this act even though it was the only American territory occupied in the war.

It allowed death and injury claims only as a basis for property claims. This was another provision unique to the Guam law and an unexplained stipulation. The Guam bill, Senate bill S. 1139, was actually modeled on a claims bill passed for other Americans in 1943, the Foreign Claims Act. The legislative history for the Foreign Claims Act emphasized the need to address these claims. In a floor statement on April 12, 1943, in support of passage of this bill, Senator Barkley noted that, ''it is necessary to do this in order to avoid injustices in many cases, especially in cases of personal injury or death.''—Senate Report 145, 78th Congress, 1st Session, pp. 2–3. The original language for S. 1139, following the Foreign Claims Act model language, allowed the Claims Commission to adjudicate claims for personal injury and death. But the language was amended by the Senate Naval Affairs Committee to ensure that the U.S. Government, and specifically the Navy, would not be setting a precedent or legal obligation for the Navy—CONGRESSIONAL RECORD, 79th Congress, 1st Session, pp. 9493–9499. However, these types of concerns were not raised for the almost identical situation of the Philippines or other American citizens or nationals when the War Claims Act of 1948 was passed by Congress.

Finally, the Guam Meritorious Claims Act encouraged Chamorros to settle claims for lesser amounts due to the time delay in having claims over $5,000 sent to Washington for congressional approval. Again, this was a procedure unique to the Guam law. No such requirement existed for those covered under the 1948 War Claims Act. The net effect on Guam was that Chamorros with property damage over $5,000 would lower their claims just so that they could be compensated in some fashion and get on with their lives.

These flaws could have been rectified had Guam been included in the 1948 War Claims Act or the 1962 amendment to the act. Unfortunately for the Chamorros, Guam was not included.

The Treaty of Peace with Japan, signed on September 8, 1951, by the United States and 47 Allied Powers, effectively precluded the just settlement of war reparations for the people of Guam against their former occupiers. In the treaty, the United States waived all claims of reparations against Japan by United States citizens. The people of Guam were included in this treaty by virtue of the Organic Act of Guam which gave American citizenship to the people on August 1, 1950.

The bitter irony then is that the loyalty of the people of Guam to the United States has resulted in Guam being forsaken in war reparations.

So while the United States provided over $2 billion to Japan and $390 million to the Philippines after the war, Guam's total war claims have amounted to $8.1 million, and the Guam War Reparations Commission has on file 3,365 cases of filed claims that were never settled. This is a grave injustice whose time has come to an end. It is our duty to bring justice to these people and their descendants; that is why I now propose the Guam War Restitution Act.

Not only will this act provide monetary support to the survivors and their descendants, it will also assure them that the United States recognizes the true loyalty of the people of Guam.

This act will provide for the Guam trust fund from which awards the benefits will be paid to the claimants. This fund will be established by a 0.5 percent surcharge on military sales to Japan and any gifts or donations of funds, services, or property.

Luisa Santos, a survivor of the Tinta Massacre, once told me,

> I have fought hard and suffered, and no one has ever been able to help me or my children, but justice must be done. Even if you have to go to the President of the United States, let him know that the Japanese invaded Guam not because they hated the Chamorro people. The Japanese invaded Guam because we were a part of the United States, and we were proud of it.

Mrs. Santos passed away shortly after our conversation.

Mrs. Emsley, in testifying before a House subcommittee on May 27, 1993, ended her statement with the powerful plea of one who has survived and who daily bears witness to the suffering of the Chamorro people. Mrs. Emsley simply ended by saying, ''All we ask Mr. Chairman, is recognize us please, we are Americans.''

We cannot wait and hope that the last survivors will pass away before any action is taken. This event will never be forgotten by the people of Guam, and the Government's unwillingness to compensate victims such as Mrs. Santos and Mrs. Emsley will only serve to deepen the wounds they have already incurred, and deepen the bitterness of the Chamorro people.

I believe it is time to truly begin the healing process, and passage of the Guam War Restitution Act is the first step.

THE S CORPORATION REFORM ACT OF 1995

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. SHAW. Mr. Speaker, I rise today to introduce legislation to strengthen small and family-owned businesses. Recently we have grown more aware of the burdens that regulations and tax complexities place on small and family-owned businesses. It is time for us to enact legislation to help the businesses that are the driving force of the American economy. The S Corporation Reform Act of 1995 will provide such support. Today almost 1.9 million businesses pay taxes as S corporations and the vast majority of these are small businesses. The S Corporation Reform Act of 1995 is targeted to growing these small businesses by improving their access to capital, by preserving family-owned businesses, and by simplifying many of the outdated, unnecessary, and complex rules for S corporations.

Under current law, S corporations face obstacles and limitations not imposed on other forms of entities. The rules governing S corporations need to be modernized to bring them more on par with partnerships and C corporations. For instance, S corporations are unable to turn to nontraditional sources of financing such as venture capitalists and pension funds because they are unable to offer inducements that partnerships or C corporations can offer. This has greatly hindered their growth as traditional sources of debt financing, such as commercial bank loans, can at times be hard to get, especially for smaller businesses. This bill would expand S corporations access to capital by increasing the number of permitted shareholders from 35 to 75, by permitting tax-exempt entities to be shareholders, and by allowing nonresident aliens to own S corporation stock. More importantly, S corporations would be allowed to issue convertible preferred stock opening the door to the venture capital market.

Additionally, the bill helps preserve family-owned businesses by counting all family members as one shareholder for purposes of S corporation eligibility and better enabling families to establish trusts funded by S corporation shares. Under current law, multi-generational family businesses are threatened by the artificial 35 shareholder limit which counts each family member as one shareholder. S corporations also do not have access to the same estate planning techniques available to C corporation owners since there are restrictions on the types of trusts permitted to be shareholders of an S corporation.

Another important feature of this bill is the flexibility it would offer to S corporations and their shareholders in structuring their business operations. Under the bill, S corporations would be allowed to hold wholly-owned corporate subsidiaries that would for Federal tax purposes be effectively treated as a division or branch of the parent company. From a compliance perspective, only one tax return would be filed by the corporations, which would significantly simplify the compliance burden imposed by present law.

Further, the bill would eradicate a number of outmoded and arcane provisions some of which date back to enactment of the S corporation in 1958. For example, S corporations

would be given the opportunity under the bill to clean up invalid or untimely S corporation elections.

I encourage my colleagues to support this important and badly needed legislation that is vital to small and family-owned businesses' ability to grow and compete in the next century. I am submitting a section-by-section summary of the legislation and I ask unanimous consent that the text of the bill be printed in the RECORD.

TITLE I—ELIGIBLE SHAREHOLDERS OF A CORPORATION

Subtitle A—Number of Shareholders

Sec. 101. S corporations permitted to have 75 shareholders—The maximum number of eligible shareholders would be increased from 35 to 75. Increasing the number of eligible shareholders would help S corporations stay within multi-generational families, and the expanded number would offer opportunity for additional cyclical investors.

Sec. 102. Members of family treated as one shareholder—All family members within seven generations who own stock could elect to be treated as one shareholder. The election would be made available to only one family per corporation, must be made with the consent of all shareholders of the corporation and would remain in effect until terminated. This provision is intended to keep S corporations within families that might span several generations.

Subtitle B—Persons Allowed As Shareholders

Sec. 111. Certain exempt organizations—A new source of financing would be provided to S corporations by allowing certain exempt organizations including pensions, profit sharing plans, and employee stock ownership plans (ESOPs) to acquire S corporation stock. S corporation income that flows through to these organizations would be treated as unrelated business income (UBI) to the organization or entity. In addition, charities would be allowed as shareholders of an S corporation for purposes of allowing more flexibility in estate planning.

Sec. 112. Financial institutions—Under the bill, financial institutions that do not use the reserve method of accounting for bad debts would be eligible to elect S corporation status.

Sec. 113. Nonresident aliens—This provision would provide the opportunity for aliens to invest in domestic S corporations and S corporations to operate abroad with a foreign shareholder by allowing nonresident aliens (individuals only) to own S corporation stock. Any effectively-connected U.S. income allocable to the nonresident alien would be subject to the withholding rules that currently apply to foreign partners in a partnership.

Sec. 114. Electing small business trusts—Trust eligibility rules would be expanded by allowing stock in an S corporation to be held by certain trusts (''electing small business trusts'') provided that all beneficiaries of the trust are individuals, estates or exempt organizations. Each potential current beneficiary of the trust would be counted as a shareholder under the counting conventions of the maximum number of shareholder rules. In a situation where there are no potential current beneficiaries, the trust would be treated as a shareholder. For taxation purposes, the portion of the trust consisting of S corporation stock would be treated as a separate taxpayer and would pay tax at the highest individual tax rate.

Subtitle C—Other Provisions

Sec. 121. Expansion of post-death qualification for certain trusts—The bill would extend the holding period for all testamentary trusts to two years.

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS FOR S CORPORATIONS

Subtitle A—One Class of Stock

Sec. 201. Issuance of preferred stock permitted—An S corporation would be allowed to issue either convertible or plain vanilla preferred stock. Holders of preferred stock would not be treated as shareholders, thus, ineligible shareholders like corporations or partnerships could own preferred stock interests in S corporations. Payments to owners of the preferred stock would be deemed as interest rather than a dividend and would provide an interest deduction to the S corporation. This provision would afford S corporations and their shareholders more flexibility in estate planning and in capitalizing the S corporation by giving it access to venture capital.

Sec. 202. Financial institutions permitted to hold safe harbor debt—An S corporation is not considered to have more than one class of stock if outstanding debt obligations to shareholders meet the ''straight debt'' safe harbor. Currently, the safe harbor provides that straight debt cannot be convertible into stock. However, the legislation would permit a convertibility provision so long as that provision is the same as one that could have been obtained by a person not related to the S corporation or S corporation shareholders. Additionally, the straight debt safe harbor would be amended to allow creditors who are persons actively and regularly engaged in the business of lending money to hold such debentures.

Subtitle B—Elections and Terminations

Sec. 211. Rules relating to inadvertent terminations and invalid elections—The legislation would provide the IRS with the authority to extend its current automatic waiver procedure for inadvertent terminations due to defective elections. Additionally, the IRS would be allowed to treat a late Subchapter S election as timely if the Service determines that there was reasonable cause for the failure to make the election timely. The provision would apply to taxable years beginning after December 31, 1982.

Sec. 212. Agreement to terminate year—The bill provides that the election to close the books of the S corporation upon the termination of a shareholder's interest would be made by, and apply to, all affected shareholders rather than by all shareholders.

Sec. 213. Expansion of post-termination transition period—The post-termination period would be expanded to include the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer that follows the termination of the S corporation's election and that adjust a subchapter S item of income, loss or deduction of the S corporation during the S period. In addition, the bill would repeal the TEFRA audit provisions applicable to S corporations and would provide other rules to require consistency between the returns of the S corporation and its shareholder.

Sec. 214. Repeal of excessive passive investment income as a termination event—This provision would repeal the current rule that terminates S corporation status for certain corporations that have both subchapter C earnings and profits and that derive more than 25 percent of their gross receipts from passive sources for three consecutive years. The legislation would not repeal the rule that imposes a tax on those corporations possessing excess net passive investment income. It would liberalize this tax by raising the threshold triggering the tax to 50% of passive receipts from passive income sources rather the present law 25% threshold. The rate of the passive income tax would be increased if applicable.

Subtitle C—Other Provisions

Sec. 221. S corporations permitted to hold subsidiaries—The legislation would repeal the current rule that disallows an S corporation from being a member of an affiliated group of corporations, thus enabling an S corporation to own up to 100 percent of a C corporation's stock. It does preclude, however, an S corporation from being included in a group filing a consolidated tax return. In addition, S corporations would be permitted to own wholly-owned S corporation subsidiaries. Thus, a parent S corporation and its wholly-owned subsidiary would be treated as one corporation and would file one tax return. This provision offers tremendous structuring flexibility to existing S corporations by allowing them to put operations into wholly-owned subsidiaries and be treated as one S corporation.

Sec. 222. Treatment of distributions during loss years—Basis adjustments for distributions made by an S corporation during a taxable year would be taken into account before applying the loss limitation for the year. This would result in distributions during the year reducing adjusted stock basis for purposes of determining the tax status of the distributions made during that year before determining the allowable loss for the year. A similar concept would apply in computing adjustments to the accumulated adjustments account.

Sec. 223. Consent divided for AAA bypass elections—The bill codifies a Treasury regulation which allows an election to by-pass the AAA to apply to deemed dividends.

Sec. 224. Treatment of S corporations under subchapter C—The current rule treating an S corporation as an individual in its status as a shareholder of another corporation would be repealed, permitting IRC Section 332 liquidations and IRC Section 338 elections. These rules effectively expand an S corporation's ability to participate in tax-free structuring transactions.

Sec. 225. Elimination of pre-1983 earnings and profits—S corporation earnings and profits attributable to taxable years prior to 1983 would be eliminated. This change will simplify distributions for those S corporations in existence prior to 1983.

Sec. 226. Allowance of charitable contributions of inventory and scientific property—This provision would allow the same deduction for charitable contributions of inventory and scientific property used to care for the ill, needy or infants for subchapter S as for subchapter C corporations. In addition, S corporations are no longer disqualified from making ''qualified research contributions'' (charitable contributions of inventory property to educational institutions or scientific research organizations) for use in research or experimentation. The S corporation's shareholders would also be permitted to increase the basis of their stock by the excess of deductions for charitable over the basis of the property contributed by the S corporation.

Sec. 227. C corporation rules to apply for fringe benefit purposes—The current rule that limits the ability of ''more-than-two-percent'' S corporation shareholder-employees to exclude certain fringe benefits from wages would be repealed for benefits other than health insurance. Under the bill, fringe benefits such as group-term life insurance would become excludable from wages for these shareholders. However, health care benefits would remain taxable (please note that on April 11, 1995, President Clinton signed into law P.L. 104–7, which provides in years 1995 and thereafter a 30% deduction for health insurance costs of the self-employed which partially offsets taxable health insurance benefits).

TITLE III—TAXATION OF S CORPORATION SHAREHOLDERS

Sec. 301. Uniform treatment of owner-employees under prohibited transaction rules—Provides that subchapter-S shareholder-employees no longer will be deemed to be owner-employees under the rules prohibiting loans to owner-employees from qualified retirement plans.

Sec. 302. Treatment of losses to shareholders—Loss recognized by a shareholder in complete liquidation of an S corporation would be treated as ordinary loss to the extent the shareholder's adjusted basis in the S corporation stock is attributable to ordinary income that was recognized as a result of the liquidation.

TITLE V—EFFECTIVE DATE

Sec. 401. Effective date—Except as otherwise provided, the amendments made by this Act shall apply to taxable years beginning after December 31, 1995.

IMPROVING MEDICARE

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. RADANOVICH. Mr. Speaker, recently, Mr. Frank J. O'Neill, a constituent of mine from Dunlap, CA, wrote to me about his concerns regarding Medicare. I think he expressed his views very well, and I want to take this opportunity to share with my colleagues his words, which were also printed in the Fresno Bee.

Mr. O'Neill recognizes the need to slow the unsustainable high rate of growth in Medicare spending. However, he points out that many other programs are in desperate need of reform, such as food stamps and Social Security disability.

I want to assure Mr. O'Neill that there is a very big difference between the two parties. Republicans are committed to protecting and improving Medicare. We also are committed to reforming every other area of our Government, rooting out waste and fraud, and getting the Federal Government out of functions that are more appropriately handled at the State or local level or by the people themselves. And I think our commitment will be borne out in the months ahead.

The people want us to save Medicare, but at the same time they want us to bring fundamental reform to other programs. I urge my colleagues on both sides of the aisle to heed Mr. O'Neill's wise words of advice:

[From the Fresno Bee, June 10, 1995]

MEDICARE RECIPIENT SAYS ALL PROGRAMS NEED EXAMINATION

(By Frank J. O'Neill)

George Wallace had it exactly right. While campaigning for president as an independent he said, ''There's not a dime's worth of difference between Democrats and Republicans.''

I was thrilled at the Republican landslide last November. I really thought it would make a big difference. I'm 68 years old. You'd think I'd know better.

As I write there is an American Association of Retired Persons announcement on the radio. In a doomsday voice the speaker is asking if I know what Congress is planning to do to Medicare. He asks, do I know what the reductions in Medicare will cost me?

Why isn't the AARP looking at the big picture and lobbying for a plan that will be good for me, good for my children, good for the country? If they succeed in terrifying all the seniors it will only precipitate a partisan screaming match and solve nothing. Of course it will promote a ''who's to blame'' contest and generate innumerable bumper stickers for next year's election.

Is it possible that I don't understand the problem? My hero, Rush Limbaugh, coming from the right, challenges that I must understand that ''something must be done about Medicare—it will be broke in 2002.'' Well, a pox on both their houses. I am willing to accept numbers that we say we can't keep spending at the current rate. I am also more than willing to cinch up my belt and contribute my share. But I am not willing to do it alone.

NOT ALONE

Limbaugh says the government has become a giant sow with everyone looking for a nipple. Well, he may be right. And I'll agree that one of the nipples may be labeled ''Medicare,'' but what about all the others?

I'll share my nipple as soon as there is an overall plan to get everyone else to do the same thing. No way will I agree to be penalized as long as I can stand in line at a 7-Eleven in Henderson, Nev., watching a young 30-something buy a package of gooey cinnamon buns with food stamps and then walk across the store to play the slot machine with the change she received in cash. My Medicare is threatened when there is a big new sign in front of the Subway sandwich restaurants announcing, ''We now accept food stamps!'' Food stamps to eat out! And my Medicare is the economic culprit?

Even if a child's disability is the result of physical abuse inflicted by the parents, the child is still eligible for Social Security disability payments—payments made to the parents who caused the disability. A spokesman for Social Services says, ''Well, it is extremely difficult to remove a child from the home of its natural parents!'' Need money? Hurt the kid. While my Medicare is threatened.

Drug abusers are in many cases classified as disabled. As such they are eligible for Social Security disability payments. But my Medicare is threatened.

What is needed is an across-the-board analysis of these programs to make sure all facets are examined and treated fairly. The very first step is something that could be done quickly. Separate the Medicare program for seniors over 65 from all these other Social Security activities.

CLEAR DISTINCTION

The Republicans are reported to be surprised to find from a survey that most people don't realize that Medicare and Social Security are separate and different. Oh, yeah? If so how come the Part B payment I must make for Medicare is deducted from my Social Security check? And where does that money go? Into a ''trust fund''? Sure. Just like my 40 years of Social Security payments.

I accept as a fact that the Medicare program needs a close examination but I will not support any revisions that penalize me without correcting abuses that are financially impacting the system.

AARP is wrong. Limbaugh is wrong. George Wallace was right.

IN HONOR OF GERALD W. OLSON

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. ENGLISH of Pennsylvania. Mr. Speaker, it is with great pride that I rise to honor Gerald W. Olson, a distinguished policy officer from Lawrence Park, who is retiring tomorrow, July 14, 1995, after 28 years of outstanding service to his community. Mr. Olson began his career as a part time police officer at the age of 27. In addition to serving on the Lawrence Park police force, he also protected his community as a volunteer fireman. While working to make our streets safer, Gerald is also heavily involved in Little League and American Legion Baseball.

A hero can be defined in many different ways. A soldier who is courageous in the face of death on a battlefield, a person who gives selflessly for the benefit of the whole or someone who makes a positive difference in the lives of others. Perhaps the most heroic act is to live your life in a honorable way. Gerald Olson has served his community in many facets and has shown that you can have an impact on the world even if you do so quietly, without the fanfare. He has been a role model to the children of his community and an example to us all.

PERSONAL EXPLANATION

HON. DOUGLAS "PETE" PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. PETERSON of Florida. Mr. Speaker, due to an illness in the family, I was forced to miss rollcall votes 346 through 366, 389 through 391. Had I been present, I would have voted ''yes'' to rollcalls 349, 354, 355, 358, 360, 361, 365, and ''no'' on rollcalls 346, 347, 348, 350, 351, 352, 353, 356, 357, 359, 362, 363, 364, 366, 389, 390, 391.

TRIBUTE TO THE WASHINGTON-BONAPART FAMILY REUNION

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1995

Mr. FOGLIETTA. Mr. Speaker, the Washington-Bonapart family gathers this weekend to celebrate its 15th national family reunion, which has some of its roots in my district in Philadelphia, PA.

The Washington-Bonapart family reunion is composed of the descendants of Moses and Grace Washington, Sr. Grace was born as a slave in the West Indies, eventually immigrating to the United States as a free woman. She settled in Charleston, SC, where she met and later married her beloved husband, Moses. It is from this union that the Washington-Bonapart family was born, now more than 500 members strong.

Family members from six States, and 20 cities will gather in Washington this weekend for a celebration of family, community, and