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Federal Communications Commission
Office of the Secretary

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APR 22 1992

DOMESTIC FACILITIES DIVISION
SATELLITE RADIO BRANCH

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
National Exchange)
Satellite, Inc.)
)
)
For Extension of Time to)
Construct and Launch Space)
Stations in the Domestic)
Fixed-Satellite Service)

File Nos. 4/5-DSS-EXT-90

To: The Commission

APPLICATION FOR REVIEW

Pursuant to 47 C.F.R. § 1.115, National Exchange Satellite, Inc. ("NEXSAT") hereby requests Commission review of the Memorandum Opinion and Order ("MO&O") of the Common Carrier Bureau in National Exchange Satellite, Inc., DA 92-294, released March 20, 1992, in which the Bureau denied NEXSAT's request for an extension of the milestones for the construction and launch of NEXSAT's domestic fixed-satellite system.

The policy that the Bureau applied in the MO&O was devised at a time of domestic satellite scarcity, when the principal threat was the "warehousing" of orbital locations. The Bureau now insists upon rigid application of that policy despite changed circumstances, including the facts that there has not been a new applicant for C-band or Ku-band domestic satellite facilities since 1987; that there presently is significantly reduced demand for domestic satellite capacity and that, therefore, the industry has undergone what the Bureau concedes is a period

of "consolidation" through mergers and acquisitions, MO&O at ¶ 10; and that no existing satellite operator has opposed NEXSAT's request.

In light of these changed circumstances, the MO&O does not give sufficient weight to the unique factors presented by the NEXSAT request for extension -- factors that serve the goals of the Commission's "open skies" policy and demonstrate that the public interest would be served by granting the relief sought by NEXSAT.

I. BACKGROUND

NEXSAT was the sole new entrant to come forward in the 1987 domestic satellite processing round. Except for NEXSAT, all of the applicants in that round proposed spacecraft of traditional configuration and capability.¹ NEXSAT, however, proposed a high-power, spot beam configuration that promised enormous increases in frequency reuse and other efficiencies.

Because of the "cutting edge" nature of its proposal, NEXSAT was required to make a supplemental demonstration of its ability to coordinate its "SpotNet" satellites with adjacent spacecraft at 2° orbital spacing prior to being assigned orbital positions in the primary eastern and western arcs. See National Exchange Satellite, Inc., 3 FCC Rcd 6992 (1988). Failure to make this additional showing would have consigned the SpotNet satellites to the then-newly established high-power arc for video carriers, an environment inherently incompatible with the SpotNet design. The uncertainty caused by the imposition of this additional requirement made it impossible for NEXSAT to go beyond the most rudimentary planning stages until the matter was resolved.²

¹ The other applicants included both the remaining giants of the industry -- AT&T, Hughes, GTE and GE -- as well as smaller companies subsequently absorbed by the giants -- SBS, Contel/ASC, Western Union. See Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service, 3 FCC Rcd 6972 (1988).

² It has been suggested that NEXSAT could have gone forward with constructing its satellites while the matter of its precise orbital assignments was being resolved, the theory being that the spacecraft bus and much of the internal hardware is not specific to a particular orbital location. See Letter from James R. Keegan, Chief, Domestic Facilities Division to Henry Goldberg, dated June 7, 1990. This is only half correct. If the high-power arc, to which NEXSAT initially was consigned, had provided a viable environment for the provision of NEXSAT's proposed services, it might have been able to go forward. However, as NEXSAT made clear at the outset, its high-speed, narrow-beam data carriers could not co-exist with the high-power video carriers for which that arc was established. See, e.g., Reply of National Exchange, Inc. (filed February 23, 1988) at

Finally, in January of 1990, the SpotNet satellites were assigned to viable orbital locations and NEXSAT was able to proceed with the contracting process. See Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service, 5 FCC Rcd 179 (1990). Initially, NEXSAT could not locate a satellite manufacturer able to provide reasonable assurances that it could meet NEXSAT's design and performance specifications. See Letter from Henry Goldberg to Donna R. Searcy, Secretary, dated October 31, 1990.

NEXSAT eventually found that TRW, a company not traditionally involved in the commercial satellite market, although possessing great expertise in military satellite construction, was willing to work with NEXSAT to explore design alternatives. NEXSAT, therefore, funded a study by TRW to ascertain the relative merits of "lightsats" versus the traditionally-sized domestic satellites. See Letter from Henry Goldberg to Donna R. Searcy, Secretary, dated March 1, 1991. The study was concluded in the fall of 1991, at which time NEXSAT began the final process of selecting a spacecraft design.

Shortly thereafter, NEXSAT was approached by EDSAT, an organization seeking to establish a national instructional satellite network. See Letter from Henry Goldberg to Donna R. Searcy, Secretary, dated January 6, 1992. EDSAT wished to explore whether NEXSAT could support EDSAT's goal of using a satellite system for the nationwide distribution of instructional programming and support materials. Id. In furtherance of that goal, NEXSAT agreed to postpone its final design decisions until EDSAT, and its affiliate, the National Education Telecommunications Organization ("NETO"), had an opportunity to evaluate NEXSAT's capabilities, in comparison with those of other satellite system suppliers. Contemporaneously, legislation – S. 2377 – was introduced in the Congress to provide a means of funding such an instructional network. See Attachment A, Senator Burns' statement upon introducing S. 2377.

While the legislation was pending before the Congress and EDSAT/NETO were considering proposals from NEXSAT and others, the MO&O was released, denying NEXSAT's extension requests. Given the unique circumstances

10-11. Put simply, had NEXSAT been forced to remain in the high-power arc, it most likely would have abandoned the project altogether, because neither its spacecraft design nor basic business plan would have been viable operating from that arc.

presented, the Bureau's precipitous action is unsupported by any relevant precedent.

II. THE BUREAU'S RATIONALE

In brief, the Bureau's reasoning for denying NEXSAT's extension request rests almost exclusively on a fear of warehousing of orbital slots, coupled with the notion that the delays experienced by NEXSAT essentially were of its own making. See MO&O at ¶¶ 8, 11, 16, 18.

While, as an abstract proposition, the Commission should indeed be cautious of warehousing, that wariness must be tempered by the marketplace realities facing both NEXSAT and customers for satellite capacity. The realities are that, unlike the conditions that existed when the Bureau's construction guidelines were established, today's domestic satellite marketplace is characterized by a glut of capacity and a concomitant reduction in the number of viable competitors. In such circumstances, the public interest is best served by preserving opportunities for customers to deal with new entrants, with all the benefits that flow from such entrants offering new technologies and operational innovations to customers.

Moreover, the Bureau's fears are unfounded. It is highly questionable that a new entrant has any incentive to engage in warehousing; costs must be incurred to pursue such a plan with no offsetting revenues or other competitive advantage. Moreover, no other carrier or would-be applicant raised any objection to NEXSAT's request.³ The absence of any rational economic incentive for NEXSAT to engage in warehousing -- coupled with the silence of those existing licensees that might directly benefit from NEXSAT's departure from the scene and the fact that no applicants presently are waiting in line seeking orbital assignments -- undermines the Bureau's reliance on the anti-warehousing policy.

In addition, the Bureau's suggestion that the design difficulties experienced by NEXSAT were all matters exclusively within its own control begs the issue. Certainly, NEXSAT designed its satellite system around its intended

³ The sole objection came from a member of the C-band TVRO industry, in pursuit of a regulatory agenda entirely unrelated to the issues in this case. See General Instrument Corporation's Opposition to Request for Extension of Time (filed December 12, 1990).

business plan. Equally certain is the fact that the Commission awarded NEXSAT a construction permit based on that state-of-the-art design and, moreover, required NEXSAT to make supplemental interference showings not required of any other applicant in order for the SpotNet satellites to be assigned to viable orbital slots. NEXSAT should not be penalized for making every reasonable effort to locate a vendor ready, willing and able to meet NEXSAT's specifications.⁴

Finally, the Bureau's criticism of NEXSAT's willingness to attempt to accommodate EDSAT/NETO's developing needs is, in reality, nothing but a restatement of the anti-warehousing policy. See MO&O at ¶ 18. The Bureau's unwillingness to permit a reasonable period for NEXSAT to serve the EDSAT/NETO needs -- particularly given the strong congressional interest in EDSAT/NETO's mission -- is entirely unwarranted.

It is no answer to say, as the Bureau does, that NEXSAT can re-apply for these orbital locations to serve EDSAT/NETO's needs. See MO&O at ¶ 18. The Bureau knows as well as NEXSAT that such a process would be time-consuming and, therefore, would delay implementation of EDSAT/NETO's option to have a satellite system dedicated to the nation's substantial instructional and educational requirements. The better course, and one that disadvantages no one, would be for the Commission to grant the modest extension of construction time, as requested by NEXSAT, to determine if use of NEXSAT's propose satellite system would serve EDSAT/NETO needs.

CONCLUSION

The MO&O's analysis falls well short of the standard established in WAIT Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1969). The Bureau has not given a

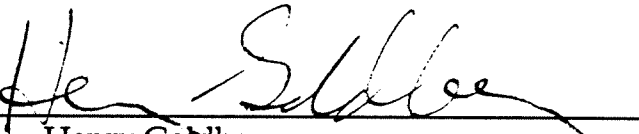
⁴ The Bureau's cites P&R Temmer v. FCC, 743 F.2d 918 (D.C. Cir. 1984), for the proposition that the proponent of "innovative technology bears [the] risk that it will be unable to meet authorization conditions if the technology fails to perform as hoped." MO&O at n. 19. This is inapposite. The delay that NEXSAT experienced arose from its inability to locate a vendor -- not from a failure of the SpotNet technology. Moreover, the central fact in Temmer was that there were over twenty-five SMR applicants on a waiting list for the channels in questions. See 743 F.2d at 929. The Commission previously had warned that technical difficulties of the sort experienced in Temmer "would not be a basis for a waiver or extension." Id. at 930. Indeed, the applicants in Temmer proceeded in a manner directly contrary to various Commission suggestions. Id. In short, the facts in Temmer are unrelated to those present in the instant case.

"hard look" to the unique circumstances presented by this case. Instead, it has reflexively invoked the anti-warehousing policy against one who has no incentive to warehouse and where no would-be applicant or existing licensee has raised an objection. In short, the Bureau would sacrifice the substantial public interest benefits to be derived from the NEXSAT's request, solely in order to preserve the precedential integrity of a policy the application of which in this case advances no identifiable public interest goal.

Based on the above, NEXSAT requests that the Bureau's decision be vacated and its request for an extension of its construction and launch milestones be granted.

Respectfully submitted,

NATIONAL EXCHANGE SATELLITE, INC.

By 
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March 20, 1992

mitted themselves to principles of democracy and human rights.

(9) Any other matters relating to the policy referred to in subsection (a) that the President considers appropriate.

By Mr. BURNS (for himself, Mr. FORD, Mr. LOTT, Mr. SIMON, and Mr. MCCAIN):

S. 2377. A bill to facilitate the development of an integrated, nationwide telecommunications system dedicated to instruction by guaranteeing the acquisition of a communications satellite system used solely for communications among State and local instructional institutions and agencies and instructional resource providers; to the Committee on Labor and Human Resources.

INTEGRATED AND NATIONWIDE
TELECOMMUNICATIONS

Mr. BURNS. Mr. President, America faces many problems and challenges in education. From Montana to Maine, from local school districts to large universities, educators are being asked to do more with less. There is overcrowding in urban areas, and a lack of access to educational opportunities in many rural areas. And everywhere we turn, budgets are being squeezed. We do not have to look far to see examples of the problems in education. In my home State, our university system faces funding decreases and tuition increases. The problems do not end with higher education either. Like many other States, the Montana Supreme Court has ruled that all public school students must be given equal educational opportunities. This is extremely difficult to accomplish in rural areas where a school may only have 20-25 students. And it is equally challenging for inner cities.

Every student deserves equal access to a quality education, but not every small rural school, or poor inner city school, can afford the resources and specialized instructors that are available in wealthier communities. Saco, MT, is a perfect example. The Saco High School has less than 40 students. They just cannot afford to hire a Spanish teacher to teach one class a day. This could unfairly limit students' educational opportunities. Unfortunately, this is not an isolated example. I could go on, giving you examples from every State in the Union. But there is no point in doing that when the real question is what are we going to do about it?

We are being challenged as a nation, and we must react—as a nation, with unity of purpose. We must marshal our resources and find ways to overcome the problems in education. Our children's future is at stake. We must act now to position America to move into the 21st century with a well-educated, competitive work force. There are many exciting proposals being forwarded and each of them has merit. Over this Nation's history, we have used good old American creativity to conquer many challenges and forge new horizons. Often times, technology

plays a key role in making us world leaders. In the areas of space and defense, our technological know-how has made us second to none.

I believe we should act now to apply that same technological know-how to education. If we do, our success will be no less than it has been in space and defense. Whether it be through copper wire, satellites, or fiber optics, distance learning can provide access to the vast educational resources of our Nation, regardless of wealth or geographic location. Let us go back for a minute to Saco, MT. Educators in Saco have turned to telecommunications and distance learning to diversify and enrich their students' education. Students in Saco can take not only Spanish, but Russian, chemistry, and physics via satellite. The Mid-Rivers Telephone Co-Op in eastern Montana also has a project linking schools in Terry, Baker, Plevna, and Ekalaka, MT, with fiber-optics. The fiber link allows students in these communities to have a two-way audio and visual connection with their Spanish and German teachers over a hundred miles away. Unfortunately, barriers still exist which are holding back the full development of distance learning.

I have introduced a bill, S. 1200, which will facilitate the deployment of a broadband fiber-optic network that will be available to every educational institution, health care organization, business, and home in the United States by the year 2015. In order to do this, some regulatory barriers have to be removed, and S. 1200 removes those barriers. A national broadband fiber-optic network holds great promise for the field of education. With a fiber-optic network, any school in the country could have guest teachers from anywhere in the world via a two-way interactive audio and visual network. The possibilities of what a fiber optic network could offer our educational system are limited only by the mind.

But even with the passage of S. 1200, this network may not be a reality for quite some time, and we cannot wait to expand the opportunities available through distance learning. We must start right here, right now, by taking advantage of the satellite technology that exists today. That is why I am introducing today, along with Senators FORD, SIMON, LOTT, and MCCAIN, a bill which will help remove some of the barriers that are stunting the growth of distance learning. Our bill offers Federal loan guarantees to a non-Federal, nonprofit, public corporation which they can use to obtain financing for the purchase or lease of a dedicated education satellite system. A dedicated educational satellite will allow us to address two barriers faced by those involved in distance learning via satellite. First, it will insure instructional programmers that they will be able to obtain affordable satellite transmission time without risk of preemption by commercial users. Second, it will allow educators using the pro-

gramming to have one dish focused on one satellite off which they can receive at least 24 channels of instructional programming—24 different programs—every hour of the school day.

There is no doubt in my mind that distance learning is a growth area and that there is a role for the Federal Government in facilitating that growth. The Office of Technology Assessment's 1989 report, "Linking for Learning: A New Course for Education," documents the recent growth of distance learning, calling the growth in the K-12 sector dramatic. OTA anticipates this growth to continue. The National Governors' Association in 1988 found that while fewer than 10 States were promoting distance learning in 1987; 1 year later two-thirds of the States reported involvement. The NGA passed a resolution in 1988, and revised it in 1991, expressing their support for a dedicated education and public purpose satellite-based telecommunications network. Following their 1989 education summit in Charlottesville, VA, where former Governor Wallace Wilkinson of Kentucky and other Governors raised with President Bush the proposal for this dedicated system, the EDSAT Institute was formed to analyze the proposal. In 1991, they issued a report entitled "Analysis of a Proposal for an Education Satellite," and they found, as did the OTA report, that individual States and consortiums of States are investing heavily in distance learning technologies and that the education sector is a significant market.

The legislation we are introducing today addresses the issue of an infrastructure for distance learning. The OTA report also addresses this issue and concludes that national leadership could focus, infrastructure, investments toward the future, ensuring that today's distance learning efforts carry our educational system into the 21st century. A commitment to a national telecommunications infrastructure for distance learning requires a change in the existing Federal role. That is what we are proposing today, and what I have proposed in S. 1200, a change in the Federal role and a change in the Federal telecommunications policy. Our approach is based on the precepts of Abraham Lincoln who said, and I paraphrase, that the legitimate role of the Government is to do for the people that which they cannot do for themselves. The application of this great precept to this initiative begs two questions. First, how do we know the people cannot provide for themselves an integrated, satellite-based telecommunications system? And once we determine that they can't, we must then ask what the Federal Government's role is in doing it for them?

The first question, why can't the education sector provide such a system themselves, is best answered by looking at the realities surrounding their

use of satellite technology. While there is a significant market out there, it can best be described as disorganized and fragmented. For the most part, schools, school districts, State education agencies, colleges, and universities all operate independently. In recent years, as the OTA report documents, many States have undertaken efforts to plan and coordinate for distance learning. Many States have also formed distance learning consortiums. But until all the users are aggregated on a national level, they will not have enough market power to attract commercial interest for a telecommunications infrastructure to facilitate distance learning growth.

Aggregation is not the only hurdle that the education sector faces. They are also limited by short-term planning. As we all know, education budgets are formulated primarily at the State and local levels, and they are done on an annual or biannual basis. Since funding levels are uncertain from year to year, educators and administrators find it difficult to enter into long-term agreements. In the satellite market, these small, short-term users are considered occasional buyers. As occasional buyers, educational users must pay high commercial rates for service that is often undependable because they are subject to preemption. In today's satellite market, occasional buyers would not form a basis on which satellite vendors could offer dedicated service. A satellite vendor operates much like a shopping mall developer. Before they build and launch a satellite, they go out and procure contracts from users who can guarantee their use of a majority of the transponders for the life of the satellite, 10 to 12 years. In doing this, they often look for an anchor tenant, a large user like HBO for example, and then fill up the rest of their capacity with smaller users. Clearly, the education sector is not in a position to satisfy these commercial practices and acquire for themselves a satellite dedicated to educational use.

So, how can the Federal Government help the education sector build a telecommunications infrastructure? Or more specifically, how can the Federal Government help the education sector acquire a satellite dedicated to education? Well, we could just go out and appropriate the money to buy a satellite, but which I think would be very expensive and unnecessary. Instead we have the opportunity to enter into a public/private partnership which I think is the appropriate route to take. The legislation we are introducing says that the Federal Government's role is to take the risk from the private sector in order to encourage the development of a dedicated satellite system. A non-profit, public corporation representing educational users of all levels will investigate all practical means to acquire the most cost-effective, high quality communications satellite system and report to the Secre-

tary of Education their findings and recommendations. At that time, the Secretary will be authorized guarantee loans of up to \$270 million of which not more than \$20 million can be for the costs of operating and managing satellite services for up to 3 years.

The organization, the National Education Telecommunications Organization [NETO], was formed after the EDSAT Institute held seven regional meetings last summer. Through these meetings they recognized the need to aggregate the education market for distance learning and concluded that an education programming users organization was needed. NETO has a distinguished board of educators, public policy officials, State education agencies, and telecommunications experts who are committed to the goal of developing an integrated telecommunications system dedicated to education. The first step, that of acquiring a dedicated satellite, is what we are facilitating through Federal loan guarantees.

Some have asked why NETO is needed. They have suggested that the Public Broadcasting System [PBS] is already in place and could meet the infrastructure needs of the distance learning community. This is not an attempt to replace PBS; I am a supporter of their mission and have spoken on a number of occasions in support of their efforts to expand educational programming. What we must keep in mind, however, is that PBS and NETO have very different missions. PBS is in the business of broadcasting. PBS provides programming and has acquired satellite time in order to deliver its own programming. In contrast, NETO's focus is on the distribution of distance learning, much of it live and interactive. NETO itself will not generate programming. NETO's sole concern is the creation of an infrastructure which will distribute instructional programming created by others at an equitable price to all users.

Although NETO will aggregate the market so that it will be of sufficient size, the education sector still faces the problem of being a short-term user. Educators cannot enter into the 5- or 10-year commitments that satellite vendors look for in long-term users. This legislation solves that problem by offering Federal loan guarantees to NETO so that they can, in turn, offer the satellite vendors the long-term commitment they need. Our proposal basically guarantees the vendor an anchor tenant. Without that guarantee, it is likely that even an aggregated education market would be able to secure a long-term lease or purchase arrangement with a satellite vendor.

If this legislation passes, the Federal Government will be setting a national policy in support of a telecommunications infrastructure for distance learning. A policy that will cost the government relatively little compared to the benefits our Nation will receive through improved education and edu-

cational access. The risk to the Federal Government is minimal. The only risk the Government is assuming is the risk that the distance learning market will dissipate. I think the findings of the National Governors' Association, the OTA, and the EDSAT Institute prove that highly unlikely. But I also believe that with distance learning, as with transportation and other infrastructure-dependent markets, once an infrastructure is in place the market will expand beyond our current expectations.

A dedicated satellite system will bring instructional programming which is now scattered across 12 to 15 satellites into one place in the sky. This collocation will allow educators to receive a variety of instructional programs without having to constantly reorient their satellite dish. By making the investment in a dedicated system on the front end, we are reducing distance learning costs for educators on the State and local levels. The programmers will benefit because they will be able to market their programming to a wider audience and will be guaranteed reliable satellite time at an affordable rate. A rate that will be equal no matter how much time they buy. Programmers include public schools, colleges, universities, State agencies, private sector corporations and consortiums, such as the Star Schools consortiums, and independents. The users will benefit because their investment in equipment to receive instructional programming may be reduced because of the technological advantages of focusing on one point in the sky. Users include primary and secondary students, college and university students, professionals interested in continuing education, community members, and government bodies. The benefits far outweigh the costs in my mind.

A dedicated educational satellite will allow our kids to benefit from equal access to quality education. This is really just a first step. Both NETO and I believe that a telecommunications infrastructure for use by the educational sector should not be technology specific. I plan to continue pushing for passage of S. 1200 to make a national broadband fiber-optic network a reality. NETO's vision is for an integrated, nationwide telecommunications system, a transparent highway that encompasses land and space, over which educational and instructional resources can be delivered. They envision bringing together the land-based systems that are already in place, not replacing them. This is an inclusive effort, not an exclusive one. I hope that my colleagues will join me in making this a reality.

Technology has transformed every sector of our lives. It can transform education as well. It will not replace teachers, it will empower them with better teaching tools. It will inspire our young people to actively engage in

their education. It will expose them to the world around them and broaden their horizons. Our Nation's children deserve no less.

Mr. SIMON. Mr. President, satellite technology can expand educational opportunity for students in areas with teacher shortages in important subjects—such as foreign languages, math, and science. We should capitalize on technology's potential for supplementing curriculum, without allowing it to in any way replace students' one-on-one interaction with teachers.

I am pleased that Western Illinois University has been a leader in using satellite technology for teacher development programs and student instruction, particularly in rural and low-income areas. Clearly, it is in our best interest to expand this type of programming, so that schools across the country can provide their students with a similar opportunity.

I am pleased to join Senator BURNS in sponsoring this bill.

By Mr. CRANSTON (for himself and Mr. SPECTER):

S. 2378. A bill to amend title 38, United States Code, to extend certain authorities relating to the administration of veterans laws, and for other purposes; to the Committee on Veterans' Affairs.

ADMINISTRATION OF VETERANS LAWS

● Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I have today introduced S. 2378, legislation which would extend certain expired Department of Veterans Affairs authorities. I am joined in introducing this measure by the committee's ranking minority member, Senator SPECTER.

Mr. President, last fall, at the close of the first session of this Congress, the Senate was precluded from acting on H.R. 2280 as passed by the House on November 25, 1991, with amendments to an earlier version of that legislation that the Senate had passed on November 20. Among other things, that compromise included provisions which extended some then-expired or soon-to-be expiring VA authorities.

In an effort to obtain expeditious action extending these authorities, we have included in this legislation only extensions of various expired provisions. In the near future, I will seek Senate action on this measure and then will work with Chairman MONTGOMERY and other members of the House committee to secure its prompt enactment.

DESCRIPTION OF PROVISIONS

Mr. President, this measure would extend VA authorities in three areas—the authorities to maintain an office in the Philippines, to conduct certain vocational rehabilitation and training programs, and to establish research corporations—which I will describe in more detail in a moment, ratify any actions taken pursuant to these now-expired authorities between their ex-

piration dates and the date of enactment of this legislation, and, finally, extend an expired requirement for VA to submit to the Congress a report on its use of certain health care authorities.

REGIONAL OFFICE IN THE PHILIPPINES

Mr. President, section 315(b) of title 38, United States Code, authorizes VA to maintain a regional office in the Republic of the Philippines. Pursuant to this authority, VA operates an office in Manila. This authority expired on September 30, 1991.

Section 1 of the bill would extend this authority until March 31, 1994, and would expressly ratify any actions taken by VA to maintain the regional office in Manila between October 1, 1991, and the date of the enactment of this legislation.

CERTAIN VOCATIONAL REHABILITATION AND TRAINING PROGRAMS

Mr. President, section 2 of the bill would extend certain temporary vocational rehabilitation and training programs and authorities which expired on January 31, 1992. These specific programs and authorities are as follows. First, section 1163 of title 38 provides for a temporary program of trial work periods and voluntary vocational rehabilitation evaluations for veterans receiving VA compensation at the total-disability rate based on a determination of individual employability. Second, section 1524 provides for programs of vocational training for certain non-service-disabled wartime veterans who are awarded VA needs-based disability pensions. Third, section 1525 provides for a program of time-limited protection of VA health care eligibility for a veteran whose entitlement to pension is terminated by reason of income from work or training. Each of these provisions would be extended until December 31, 1992, so as to enable the committee to receive and review VA evaluations on the effectiveness of each program or authority. Provisions in the bill would ratify any actions taken by VA under these authorities between their expiration and the date of enactment.

RESEARCH CORPORATIONS

Mr. President, subchapter IV of chapter 73 of title 38 authorizes VA to establish at its medical centers non-profit corporations to provide a flexible funding mechanism for the conduct of medical research at VA medical centers. This subchapter also requires VA to dissolve any such corporation that fails to obtain, within 3 years after establishment, recognition from the Internal Revenue Service as a tax-exempt entity under section 501(c)(3) of the IRS code. Finally, this subchapter requires any research corporation to be established no later than September 30, 1991.

Section 3 of the bill would extend from 3 to 4 years the time period after establishment that a research corporation has to obtain IRS recognition as a tax-exempt entity and also extends

VA's authority to establish research corporations until December 31, 1992.

ANNUAL REPORT ON FURNISHING HEALTH CARE.—Section 19011(e)(1) of Public Law 97-272, as amended, required VA to submit to the House and Senate Veterans' Affairs Committees, not later than February 1, following the end of the fiscal year covered by the report, annual reports on the furnishing of hospital care in fiscal years 1990 through 1991. Section 4 of the bill would amend that requirement so as to extend the reporting requirement through fiscal year 1992.

CONCLUSION

Mr. President, as I mentioned at the outset, my intention is to seek Senate action on this measure in the near future and then to work with our colleagues on the House committee to ensure its prompt enactment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES

(a) EXTENSION.—Section 315(b) of title 38, United States Code, is amended by striking out "September 30, 1991" and inserting in lieu thereof "March 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 30, 1991.

(c) RATIFICATION OF MAINTENANCE OF OFFICE DURING LAPSED PERIOD.—Any act of the Secretary of Veterans Affairs maintaining a Department of Veterans Affairs Regional Office in the Republic of the Philippines under section 315(b) of title 38, United States Code, during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act is hereby ratified with respect to that period.

SEC. 2. AUTHORITIES RELATING TO CERTAIN TEMPORARY PROGRAMS.

(a) PROGRAM FOR TRIAL WORK PERIODS AND VOCATIONAL REHABILITATION.—Section 1163(a)(2)(B) of title 38, United States Code, is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(b) PROGRAM OF VOCATIONAL TRAINING FOR NEW PENSION RECIPIENTS.—Section 1524(a)(4) of such title is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(c) PROTECTION OF HEALTH-CARE ELIGIBILITY.—Section 1525(b)(2) of such title is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(d) EFFECTIVE DATE.—The amendment made by subsections (a) through (c) shall take effect as of January 31, 1992.

(e) RATIFICATION OF ACTIONS DURING LAPSED PERIOD.—The following actions of the Secretary of Veterans Affairs during the period beginning on February 1, 1992, and ending on the date of the enactment of this Act are hereby ratified with respect to that period:

(1) A failure to reduce the disability rating of a veteran who began to engage in

CERTIFICATE OF SERVICE

I, Susan M. Tanner, do hereby certify that a copy of the foregoing "Application for Review" was served by first class mail this 20th day of April, 1992, on the following:

Lewis J. Paper, Esquire
Keck Mahin & Cate
1201 New York Avenue, N.W.
Penthouse
Washington, D.C. 20005



Susan M. Tanner