

JOINT CHIEFS OF STAFF REORGANIZATION ACT OF 1985

NOVEMBER 14, 1985.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. NICHOLS, from the Committee on Armed Services,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3622]

[Including cost estimate of the Congressional Budget Office]

The Committee on Armed Services, to whom was referred the bill (H.R. 3622) to amend title 10, United States Code, to strengthen the position of Chairman of the Joint Chiefs of Staff, to provide for more efficient and effective operation of the Armed Forces, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 3, strike out lines 1 through 3 and insert in lieu thereof the following:

(2) Subsection (c) of such section is amended—

(A) by striking out the matter preceding clause (1) and inserting in lieu thereof the following:

Page 3, line 8, strike out the period and insert in lieu thereof a semicolon.

Page 3, after line 8, insert the following:

(B) by striking out “and” at the end of paragraph (7);

(C) by redesignating paragraph (8) as paragraph (9);
and

(D) by inserting after paragraph (7) the following new paragraph (8):

“(8) formulate program recommendations and budget proposals to the Secretary during each budget cycle based on—

“(A) guidance provided by the Secretary;

“(B) program and budget proposals submitted by the commanders of the unified and specified combatant commands; and

“(C) recommendations (as appropriate) submitted by the military departments and other components of the Department of Defense; and”.

EXPLANATION OF THE COMMITTEE AMENDMENT

An amendment added by the committee would require the chairman, subject to the overall authority and direction of the President and the Secretary of Defense, to submit program recommendations and budget proposals to the Secretary based on (1) the Secretary's guidance, (2) program and budget proposals submitted by the unified and specified commanders and, (3) recommendations, as appropriate, from other Defense Department Components.

H.R. 3622

The committee reported H.R. 3622, to supersede H.R. 2265, the original Joint Chiefs of Staff legislation referred to the committee.

PURPOSE

The fundamental purpose of this bill is to refine the role of the chairman of the Joint Chiefs of Staff. The bill would enable the chairman of the Joint Chiefs of Staff, subject to the authority and direction of the President and the Secretary of Defense, to transcend the service-orientation of the respective service chiefs to provide clear-cut, objective military advice to the national command authorities. The bill would achieve its purpose by assigning to the chairman—in his individual capacity—certain responsibilities currently assigned to the Joint Chiefs collectively. In addition to acting as spokesman for the collective entity, the bill would require that the chairman exercise his personal professional judgment as the principal military advisor to the President, the National Security Council, and the Secretary of Defense and as the head of the Joint Chiefs of Staff. The bill would require the chairman to consult with the other members of the Joint Chiefs of Staff and with the commanders of the unified and specified commands as appropriate.

The bill does not seek to alter the basic structure of which the Joint Chiefs of Staff are a part. The milieu in which the Joint Chiefs of Staff and its chairman operate would remain subject to the overall authority and direction of the President and the Secretary of Defense. The bill dwells on aspects of the joint military organization and the relationships within that organization among the chairman, the other members of the Joint Chiefs of Staff, the Joint Staff, and the unified and specified commanders.

SUMMARY OF THE PROPOSED LEGISLATION

The proposed legislation would amend chapters 3, 5, 32, 35 and 509 of title 10, United States Code, and section 101 of the National Security Act of 1947, providing several changes in the organization and functioning of the Joint Chiefs of Staff.

The legislation would establish the chairman of the Joint Chiefs of Staff as the principal military advisor to the President, National Security Council, and Secretary of Defense, a responsibility now residing in the Joint Chiefs of Staff as a body. The chairman's term would be increased from two years to four years, and he would assume the statutory responsibilities now assigned to the Joint Chiefs of Staff collectively. The bill would authorize, however, the Joint Chiefs of Staff as a body to advise the President and Secretary on matters with respect to which such advice is requested; moreover, each member of the Joint Chiefs would be empowered to submit advice to the President and Secretary of Defense if he were to disagree with the military advice rendered by the chairman or the other members of the Joint Chiefs of Staff.

The legislation would create a deputy chairman of the Joint Chiefs of Staff who would act as chairman in the absence or disability of the chairman. The deputy chairman would be the director of the Joint Staff and would possess rank higher than all other military officers except the chairman. The legislation would authorize the chairman or deputy chairman of the Joint Chiefs of Staff to attend all meetings of the National Security Council and to participate fully in its deliberations.

With respect to the line of military authority, the bill would authorize the president or Secretary of Defense to direct that the national military chain of command runs to the commanders of the unified and specified combatant commands through the chairman of the Joint Chiefs. Furthermore, the bill would authorize the chairman to supervise the commanders of the combatant commands, subject to the authority, direction, and control of the Secretary of Defense.

The bill would make the Joint Staff solely responsible to the chairman of the Joint Chiefs of Staff, remove the existing 400-man limitation on the size of the Joint Staff, and authorize the Secretary of Defense to extend the tour of duty of Joint Staff officers beyond the statutory limit of four years. In addition, the chairman would be required to evaluate all nominees for three- and four-star positions on the basis of their performance in joint military assignments.

The bill would also require a report by the Secretary of Defense addressing a number of possible changes to the joint military structure.

The bill, as reported by the committee, would require the chairman, subject to the overall authority and direction of the President and the Secretary of Defense, to submit program recommendations and budget proposals to the Secretary based on (1) the Secretary's guidance, (2) program and budget proposals submitted by the unified and specified commanders, and (3) recommendations, as appropriate, from other Defense Department components.

BACKGROUND AND DISCUSSION

On February 3, 1982, Gen. David C. Jones, the chairman of the Joint Chiefs of Staff, in a hearing before the committee, announced his concern about basic shortcomings in the organization of the Joint Chiefs of Staff (JCS). He further stated that he intended to submit proposals to correct those shortcomings and would work to achieve their acceptance in the remaining months of his tenure and thereafter. Subsequently, Gen. Edward C. Meyer, the Army Chief of Staff, joined General Jones in criticizing the present structure and suggested that the chairman had not gone far enough in his recommendations for change.

As a result of the proposals of General Jones and General Meyer, the Investigations Subcommittee began hearings on JCS reorganization on April 21, 1982. The subcommittee received testimony from more than 40 witnesses, including the chairman and all current members of the Joint Chiefs of Staff, former Secretaries of Defense, former Deputy Secretaries of Defense, former chairmen and members of the Joint Chiefs of Staff, former Directors of the Joint Staff, commanders of unified commands, and other civilian and military witnesses.

The subcommittee found near unanimous agreement that organizational problems hamper the performance of the present organization. But it received a wide range of views on what, if anything, should be done to correct the existing deficiencies. The recommendations varied from leaving the current organization unchanged to replacing it with a single Chief of Staff who would head a joint military staff and act as the military advisor to the President, the National Security Council, and the Secretary of Defense.

The hearings resulted in a bill intended to overcome the most pressing JCS organizational problems. The bill was reported by the committee and passed the House of Representatives on August 16, 1982. The Senate held a hearing on the bill; however, no further action was taken by the Senate during the 97th Congress.

In 1983 the Administration developed a position and submitted a legislative proposal that was introduced as H.R. 3145. The Investigations Subcommittee again held hearings and reported a bill, H.R. 3718, that accepted all of the Administration recommendations and incorporated the essential elements of the original bill passed by the House of Representatives. Once again, the JCS bill passed the House. In 1984, when it became clear that the Senate would not act on free-standing JCS legislation during the 98th Congress, the fiscal year 1985 Defense authorization bill was amended to include the substance of H.R. 3718. Several provisions of H.R. 3718 were accepted in the House-Senate conference and were enacted. The 1984 changes constituted the first significant, though relatively modest, modifications to the structure of the Joint Chiefs of Staff in more than two decades.

The provisions enacted in 1984 made the JCS chairman the spokesman on operational requirements of the unified and specified commanders, increased the tour of duty of Joint Staff officers from three to four years, reduced to two years the minimum time between assignments of an officer to the Joint Staff and removed the three year limit on the tour of duty of the Joint Staff director.

Moreover, the JCS chairman was made responsible for selecting Joint Staff officers and determining when issues under consideration by the Joint Chiefs of Staff were to be decided. The Secretary of Defense was made responsible for ensuring that officer personnel policies of the military services concerning promotion, retention, and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff.

In 1985, four bills on JCS reorganization were introduced. H.R. 2265 contained the provisions of the JCS bill considered by the 98th Congress but which were not enacted. H.R. 2165 and H.R. 2710 provided for establishing the JCS chairman as the principal military advisor but differed in other particulars. H.R. 2314 would have abolished the Joint Chiefs of Staff and Joint Staff in favor of a centralized staff headed by a chief of staff to the President and Secretary of Defense.

After the third series of hearings in as many Congresses, the Committee reports H.R. 3622, a bill that would establish the JCS chairman as the principal military advisor and require most of the changes, albeit some in modified form, contained in the provisions of the JCS bills considered by the 97th and 98th Congresses.

NATIONAL MILITARY COMMAND STRUCTURE ORGANIZATIONAL PROBLEMS

The unsettling message revealed by testimony spanning three Congresses is that organizational flaws mar the performance of the present Joint Chiefs of Staff. It leads to the concern that our highest military body might fail to function adequately in case of war. This concern is not without historical precedent. During World War II, World War I, and as far back as the Spanish-American War, the United States was faced with the necessity of making fundamental changes to the military organization in the midst of a crisis. Unfortunately, no time may be available for such a realignment in a future conflict.

Equally important, is a continually threatening peacetime environment, timely, clearcut, realistic, feasible, and prudent professional military advice is often not available to civilian leaders. Consequently, the influence of the military in civilian deliberations has diminished over time and, because decisions must nevertheless be made, has often been overshadowed by civilian analysts.

Title 10, United States Code, states that the Joint Chiefs of Staff "are the principal military advisers to the President, the National Security Council, and the Secretary of Defense." However, particularly with regard to issues that involves service interests, the advice rendered by the JCS as a corporate body at present is often inadequate. The joint military system is slow to develop formal military positions. As a result, JCS advice often is not available when needed. When formal advice is finally rendered, its form and substance has been so diluted by the joint staffing process, which in effect gives each service a veto on every word, that it is of little use to civilian leaders.

The credibility of these criticisms of JCS advice has been confirmed by many of the very officials the JCS is charged by law

which advising. For example, former Secretary of Defense Harold Brown testified that:

When it comes to the formal product, the papers that come up through the Joint Staff that are approved by the action officers, the planners, the various desks, and the chiefs themselves, and to which they put their signatures, are almost without exception either not very useful or the reverse of being helpful. That is, worse than nothing.

Former Secretary of Defense James R. Schlesinger agrees with Brown. He has stated that JCS advice is "generally irrelevant, normally unread, and almost always disregarded."

The advice rendered by the JCS is also faulted for a lack of realism and the absence of strategic content. The structure of the Joint Chiefs is such that the group often can not deal realistically with issues that affect service interests. Those issues include matters of fundamental importance to national security: the allocation of resources to various defense missions; the Unified Command Plan which assigns the geographical and functional responsibilities of field commanders; roles and missions to the services; and joint doctrine and training. Concerning strategic thought, witnesses suggested that the multitude of disparate responsibilities shouldered by the chiefs leaves little time or inclination for reflective strategic analysis.

Former Secretary of Defense Melvin R. Laird, testifying as a spokesman for the Georgetown University Center for Strategic and International Studies Defense Organization Project, summed up many of these shortcomings in the following excerpts from his testimony:

Professional military advice that rises above individual service interests to provide a broader cross-service perspective is an essential ingredient for the effective direction and management of the defense establishment. . . . Today that advice comes primarily from the services, . . . What is lacking is an independent, cross-service perspective. As now organized, the JCS are too frequently unable to provide effective, cross-service advice on issues that affect important service interests or prerogatives. These issues include the most important on the JCS agenda: the formulation of national military strategy, the distribution of service roles and missions, and particularly the allocation of scarce defense resources among competing needs. . . .

The absence of a strong independent joint military voice also undercuts the strategic planning process that links ends (national objectives established by political authorities) and means (the military forces, weapons, and capabilities developed by the service departments). The chairman is the only member of the JCS who is unconstrained by current service responsibilities. But he lacks both the staff and the statutory mandate to make consistently meaningful strategic planning recommendations on the broad range of subjects required. The service chiefs, on the other hand, control large staffs, but the inherent conflict be-

tween their joint and service responsibilities has precluded their effective participation in resource planning. . . . As a result, the JCS are unable to help civilian leaders set cross-service priorities and make the necessary tradeoffs to construct the defense program and budget.

These shortcomings in JCS performance stem from structural flaws and are not attributable to the distinguished officers who have been assigned to that body. Witnesses uniformly distinguished between the performance of individual service chiefs, whose personal advice was given high marks, and the performance of the JCS as a group of advisers acting collegially. The hearings clearly indicated that JCS problems are organizational in nature and by no means reflect on the competence of the members.

Among the most significant of the organizational problems are the following:

The contradiction between the responsibilities of an individual as a member of the Joint Chiefs of Staff and as chief of his service. As a JCS member, a chief is called upon to transcend service interests and to participate in developing advice from a joint, unified military perspective—a “national” viewpoint. Yet, as a chief of service, the same individual is looked upon as the principal advocate of his service. General Jones emphasized that “if a chief departed a great deal, and consistently, from what came up through the system—from his service—he would be in danger, as has happened in the past, of losing the support of his service.”

Contributing to the problem is the time demanded by the dual responsibilities of the chiefs. Gen. Omar Bradley once indicated that he did not have time to do both jobs well. General Jones emphasized this same point during the hearings.

The limitations of the Joint Staff.—The quality of Joint Staff work is adversely affected by the overwhelming influence exerted by service interests on the joint military organization. The Joint Staff is managed “on behalf of the Joint Chiefs of Staff.” The service chiefs, who comprise four of the five JCS members, have fashioned crippling procedural constraints that give inordinate influence to service staffs, thereby preventing the Joint Staff from authoring its own work.

The diffusion of military responsibility and authority.—At present the military chain of command extends by law from the President to the Secretary of Defense to the unified and specified field commanders. By Department of Defense directive, however, the Joint Chiefs have been inserted into the chain of command so that in practice the chain runs from the Secretary of Defense through the JCS to the unified and specified commanders. As the conduit during crises for orders and other communications of the highest national importance from the President as commander-in-chief to fighting forces in the field, the present system is flawed because it runs through a committee, the Joint Chiefs of Staff, rather than a single military individual. The 1978 “Report to the Secretary of Defense on the National Military Command Structure,” prepared by Richard Steadman, noted that “the JCS . . . committee structure is not effective for the exercise of military command or management authority.”

The national military command structure also exhibits significant peacetime shortcomings stemming from the limited ability of the unified and specified commanders to influence the composition, capabilities, and readiness of the forces assigned to them. Even though the unified and specified commanders would be responsible for employing American forces in wartime, the services from their headquarters in Washington, D.C., currently wield the preponderant influence over the structure and readiness of forces in the field. The unified and specified commanders have no military supervisor in Washington.

In its 1984 *Mandate for Leadership II*, the Heritage Foundation provided a concise statement of what were termed "critical deficiencies" of the JCS organization.

The JCS, as a body, is seen by many civilian leaders as either unable or unwilling to provide useful advice on tough issues. Joint Staff work comes across as superficial, predictable, and of little help to resolving issue.

Several problems are particularly acute. First, the planning and the formulation of national military strategy that should occur in the joint arena is wholly inadequate. The individual military Services have clear views, but some coherent joint military view has been conspicuously absent. Second, the allocation of Service roles and missions is a function that the current organization essentially has abdicated. Last as discussed above, the JCS plays no meaningful role in the resource allocation and budgeting process.

The roots of these problems are organizational; they lie in the inherent weakness of the joint structure and the overwhelming influence of the separate Services. Some of the weakness of the JCS are self-imposed. The Joint Chiefs of Staff have agreed to act only in unanimity, but unanimity is hard to achieve. Service parochialism is as ubiquitous as it is legendary, and the Services, which the Chiefs individually represent, cooperate only grudgingly. Often the wording of advice or recommendations that all the Services finally will endorse is so innocuous that it has little value—the fabled "common denominator" advice.

COMMITTEE APPROACH IN H.R. 3622

Though the hearings revealed a number of other significant problems within the joint structure, the committee chose to focus in H.R. 3622 on those problems that contribute to the most serious JCS shortcomings: inadequate military advice and diffused authority and responsibility. The legislative measures required to provide for timely, relevant, unambiguous military advice from a national perspective, to streamline the national military command structure, to remove or relax inhibiting restrictions, and to provide for a more independent joint organization are relatively clear-cut. Moreover, the legislative measures, though far-reaching, are moderate in the sense that they retain the principal elements of the present structure.

In adopting this approach, the committee is mindful of the considerable authority of the Secretary of Defense to initiate internal changes, including reorganization, without legislative action. The committee encourages the Secretary of Defense to supplement the legislative measures contained in this bill with aggressive administrative actions to strengthen the joint structure.

In choosing the incremental approach, exemplified by H.R. 3622, instead of proposals to replace the existing joint organization, the committee was also influenced by the reservations expressed by some witnesses who, despite generally acknowledging that problems exist, oppose organizational change. The bill is designed to address many of the major areas of concern voiced by advocates of reorganization while accommodating, through specific legislative provisions, the reservations of opponents. H.R. 3622 does this, however, without in any way diminishing its overall objective of improving the quality of military advice available to civilian leaders and thereby restoring the military voice to its appropriate stature in the highest councils of government.

DISCUSSION OF MAJOR PROVISIONS IN THE BILL

Expanding and strengthening the sources that render military advice

Although the committee agrees that the dual responsibilities of service chiefs may undermine the advisory capability of the Joint Chiefs of Staff as a corporate group with respect to certain issues, it does not believe that the JCS is fatally flawed. To the contrary, while recognizing the existence of structural defects in the Joint Chiefs of Staff and resolving to correct them, the committee recognizes and affirms the validity of the principle established by the framers of the National Security Act that the President and Secretary of Defense should have available a body composed of the chiefs of the military services to render military advice on national security issues when needed.

A range of important issues do not involve service conflicts and little criticism of JCS performance in those areas was heard during the hearings. The issues on which the Joint Chiefs of Staff allegedly stumbles relate to cross-service decisions, such as those concerning resource allocation, roles and missions, unified and specified command structure and functioning, joint doctrine and joint training. The committee recognizes that a fundamental problem exists when an institution chartered as the "principal military advisor" to civilian authorities is unable to render meaningful advice on some of the most fundamental military issues. But it is nevertheless true that such issues would cause intense internal conflicts within the Department of Defense whether it were organized into services, as at present, or in some other way. In addition, conflicts of this nature have their counterparts in most other large organizations, both public and private. Consequently, eliminating the Joint Chiefs of Staff would not eliminate the conflicting issues that must be resolved. Such action would, instead, terminate a body that, if it were functioning as it should, could contribute to resolving conflicts; that is, a body that could grapple with all major military issues and participate, along with the JCS chairman, the Joint

Staff, and the combatant commanders, in developing cogent, non-parochial advice on tough issues for civilian decision makers.

Dissolving the Joint Chiefs of Staff would also severely diminish the influence on joint military matters of service chiefs who represent the collective knowledge and experience of the organizations most qualified, along with the unified and specified commands, to analyze and evaluate land, sea, and air warfare issues. The effect would be to sever the existing organizational linkage that ties service "input" (organizing, training, and equipping armed forces) to joint combatant command "output" (i.e., warfighting capability). Former Air Force Chief of Staff Lew Allen, whose testimony generally supported the reforms contained in H.R. 3622, emphasized the importance of preserving the JCS linkage between the input and output sides of the national defense structure:

I believe it is important that the Service Chiefs continue to perform the dual roles of head of a Service and a member of the JCS because they provide the essential linkage between joint strategic planning and the resultant force programming, equipping, and training performed by the Services. These two roles are not in conflict—on the contrary, these two responsibilities must be integrated to insure the Services can affectively and responsively satisfy joint requirements. It is incongruous to state that a Chief has the time to concentrate on Service—related programming and budgeting issues—but not on the joint strategic planning issues which define and shape those same Service programs. Effective joint planning cannot be done in a vacuum by a purely advisory group, free of the responsibility to implement or support those plans. Military advice is trusted most from those who are responsible and prepared to provide the capabilities to implement that advice.

The problem with the Joint Chiefs of Staff as currently structured (particularly when it attempts to address issues that involve the interests of the services, such as resource allocation) is the classic problem faced by committees composed of coequal individuals who represent strong, conflicting interests. Such a group arrives at positions either by dividing along the lines of the competing interests or by negotiating a mutually acceptable consensus in which each member supports the claims of the others. The result is that the JCS frequently acts as a negotiating forum in which each service seeks to maximize its position through bargaining.

What is wrong with such a system? Legislators understand how a committee system based on bargaining works. The question is whether that is the way military advice should be formulated. The Committee on Armed Services believes that there are two things wrong with the bargaining approach as it applies to the senior military structure of the Nation.

First, JCS bargaining produces military advice to the President and Secretary of Defense fundamentally different from what was intended by the legislators who created the JCS—and, more important, of less value, because it is bartered. The committee questions, for example, whether the Iran hostage rescue attempt would have been planned and executed as it was, with all four services in-

volved, if the Joint Chiefs of Staff were not structured as a committee of five coequal members. The framers of the National Security Act sought in the JCS an organization composed of the highest military leaders that would deliberate and render advice from a national perspective detached from, but cognizant of, service interests. Instead, because the law created a committee of equals, with no mechanism for enforcing a joint military perspective, the JCS product is bartered to the "lowest common denominator" that will produce consensus.

General David Jones, the former JCS chairman, illustrated this point in his testimony:

I can recall one time that we had sent a memo to the Secretary of Defense, fully agreed to, signed off on by all five Chiefs. He brought it down to discuss it with the Chiefs. After an hour and a half of lively discussion, he said, "I don't see anybody here that endorses the views of this paper." That was true in that each chief had compromised to a point on the document so they would all agree.

The second reason the nation can ill afford a barter system in achieving military advice is that bargaining can not produce compromises acceptable to the services in a number of contentious areas. As a result, as noted earlier in this report, the JCS does not adequately address a broad range of fundamental issues that shape the core of the U.S. defense posture. These issues include advice on programs and budgets that determine the very composition and structure of U.S. armed forces, roles and missions of the services, joint military doctrine, the composition, geographical assignments, and missions of our combat commands around the world, and joint military training. Because these issues often demand decisions, and because the committee of principal military advisers can not deal effectively with them, they are dealt with elsewhere, either by the services or by civilians in the Office of the Secretary of Defense.

The committee concludes that the JCS as structured can not meet the congressional purpose stated in the National Security Act of 1947: to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval and air forces.

The committee proposes in H.R. 3622 to expand and strengthen the sources that render military advice, thereby altering the dynamics of the formulation of joint military advice and the responsibility for performing other joint functions. The Joint Chiefs of Staff would continue to be a key institution in the joint structure. But H.R. 3622 would strengthen the roles of the JCS chairman and the combatant commanders in developing and providing military advice and would increase the status of military advice in the National Security Council. To effect these results, the bill would provide for reorienting the Joint Staff toward an increased emphasis on joint military concerns and would create a deputy chairman who would become the director of the Joint Staff.

JCS chairman's advisory role

The chairman of the Joint Chiefs of Staff is uniquely qualified to assume additional responsibilities as an adviser championing the unified military viewpoint. He is the only member of the Joint Chiefs of Staff who has no service responsibilities. Though chairmen continue to wear the uniforms of their services, experience has shown that they have traditionally assumed a joint or unified perspective in evaluating military issues, unbiased by former service ties.

H.R. 3622 would establish the chairman as the principal military advisor to the President, the National Security Council and the Secretary of Defense. It would, moreover, give him control of the Joint Staff to assist him in developing his formal positions. The chairman's advisory responsibility would be all inclusive. The committee intends, however, that the chairman give special attention to those issues that the corporate JCS has been unable to address effectively—for example, resource allocation, roles and missions, the Unified Command Plan, joint doctrine, and joint training.

The chairman would continue to preside over the Joint Chiefs of Staff and would benefit from the Chiefs' deliberations. The "essential linkage" between the input and output sides of the armed forces, emphasized by General Allen, would be maintained. The enhanced authority of the chairman would, however, correct the flaw in the established coequal committee structure. He would formulate his advice and perform the other duties now assigned to the Joint Chiefs of Staff from a national perspective detached from, but cognizant of, service interests.

The committee does not intend that strengthening the chairman's advisory role have the effect of excluding the Joint Chiefs from rendering advice to civilian authorities. To the contrary, the committee has included provisions safeguarding against this result. But the committee intends to focus the full JCS on the most significant joint issues. At present, the JCS system addresses approximately three thousands issues a year. Only a small fraction of those issues—perhaps as few as one or two hundred—involve major national security issues. Yet any service chief who wants his way on any issue can slow down the entire system, or bring it to a halt.

The committee intends that the chairman assume sole responsibility for handling the second-order joint military issues and that both the chairman and the full JCS address major joint issues. In strengthening the chairman, the committee intends to create a counterpoise to, but not a substitute for, the corporate JCS body. The committee believes that the advice of the entire JCS, from whatever perspective it is derived, should be available to the President and the Secretary of Defense on major issues. Consequently, the committee has included provisions in H.R. 3622 that ensure that the President and Secretary of Defense will receive the advice of the full JCS when they request it. The committee believes that the Secretary should establish guidelines for the submission of advice by the full JCS.

The bill also includes another provision to safeguard the channel of communication between the JCS and civilian authorities. It affords each service chief the right to submit his advice directly to

the Secretary of Defense and then to the President if he disagrees with the military advice of the chairman of the JCS.

Relieving the service chiefs of the responsibility for corporate advice on the myriad second order joint issues should have other beneficial effects for the Department of Defense. The services have significant problems that require attention. The shortcomings in service procurement practices that have come to light in recent years are a good example. The testimony revealed that the service chiefs are overloaded. Discharging the responsibilities of a service chief is a full-time job. Adequately fulfilling the present responsibilities of a member of the JCS is a second, equally demanding, full-time job. In addition to these responsibilities, because no position of deputy JCS chairman exists, each service chief assumes the role of acting chairman on a rotating basis for three months each year whenever the chairman is not available. Enactment of H.R. 3622, by focusing the JCS on major joint issues and establishing the position of deputy chairman, should free the service chiefs to devote more time to the problems of their services.

Unified and specified commanders advisory role

In strengthening the chairman, the committee also intends to expand the sources of military advice, thereby correcting another shortcoming in the current structure. Notwithstanding the advantages afforded by an advisory body consisting of service chiefs, the present structure suffers from the absence of a corresponding mechanism for eliciting the advice of the unified and specified combatant commanders. These commanders head U.S. forces in Europe, the Pacific, Latin America, and throughout the world, as well as strategic, airlift and other specified forces. The Nation places on the ten unified and specified commanders the awesome responsibility of employing U.S. forces in wartime and maintaining the peacetime preparedness of the combat forces for war. Yet they play a relatively small role as military advisors, and they lack sufficient influence at the seat of government. Testimony strongly suggested that the joint military structure should be strengthened by increasing the stature of the unified and specified commanders. The committee believes that the way to ensure the quality and relevance of military advice is to seek it from those who would be responsible for carrying it out. Consequently, the committee has included provisions in H.R. 3622 that would forge stronger links between the unified and specified commanders and the JCS chairman.

In the 1984 changes to the joint military structure, the JCS chairman was made the spokesman for the unified and specified commanders. H.R. 3622 would make the chairman responsible for consulting with the unified and specified commanders, as well as the Joint Chiefs of Staff, in performing his legally assigned joint responsibilities. The bill would require consultation "as appropriate" in order to allow the chairman needed flexibility. Consultation might be foreshortened, or precluded, by time constraints imposed by civilian authorities or external events. The committee does not intend to impose on the chairman the requirement to consult with each chief and combatant commander on every joint matter. It intends that he consult with those whose services or commands

would be most significantly affected by decisions on the issue under consideration. The judgment on consultation, however, would reside with the chairman.

To increase the influence of combatant commanders with respect to the allocation of resources in the Department of Defense, H.R. 3622 would require that they submit program and budget proposals to the chairman. The bill further provides that the chairman would then submit program recommendations and budget proposals to the Secretary of Defense based upon guidance issued by the Secretary, the combatant commanders' submissions, and other recommendations, as appropriate, from the military department and other components of the Department of Defense. The committee intends that the chairman, in performing this duty, integrate the recommendations of the unified and specified commanders, establish priorities, and provide civilian authorities with a coherent, fiscally-constrained set of combatant command proposals.

The committee believes that the chairman's submission of joint military program recommendations and budget proposals will be beneficial to civilian authorities as they deliberate resource allocation decisions. It remains, however, for civilian authorities to define the terms of reference for the exercise of this additional responsibility of the chairman. The provision in H.R. 3622 is placed after the explicit statement that it is "subject to the overall authority and direction of the President and Secretary of Defense." That is, the scope, depth, format, and other details of the chairman's submission under this provision are entirely within the cognizance of civilian authorities.

H.R. 3622 also streamlines supervision of the unified and specified commanders. At present, the span of control of the Secretary of Defense numbers approximately forty officials. An inordinate number of Department of Defense functionaries report *directly* to the Secretary of Defense. The list includes the three service Secretaries, a Deputy Secretary, two Under-Secretaries, several Assistant Secretaries, the heads of many of the Defense agencies, and various other officials *including* the ten unified and specified commanders. To provide for more coherent oversight of the combatant commands, H.R. 3622 would authorize the chairman of the Joint Chiefs of Staff to supervise the unified and specified commanders subject to the Secretary of Defense's authority, direction and control.

The committee has purposely framed the provision to allow the Secretary of Defense complete latitude in defining the chairman's supervisory role. The committee believes that the chairman's supervisory authority over the unified and specified commanders should assume whatever character the Secretary of Defense deems appropriate. The committee intends that the chairman act only as the Secretary's agent; that is for and in the place of the Secretary, and only by his authority. The committee contemplates, however, that the Secretary would employ the chairman in such supervisory capacities as coordinating matters that involve two or more unified commanders, directing the unified and specified commander's submissions of military requirements, overseeing the state of readiness of each unified and specified command, and verifying the execution of orders issued by the President and the Secretary of Defense.

National security deliberations

Possibly as a result of the deterioration in the quality of joint military advice, the influence of the military in deliberations at the highest levels, concerning issues of the utmost concern to the survival of the Nation has diminished. Testimony noted the limited role played by the Joint Chiefs of Staff in a number of major national security decisions involving the structure and employment of the military forces of the nation.

The committee believes that political leaders should avail themselves of the advice of the chairman and, when they deem it necessary, the Joint Chiefs of Staff and the combatant commanders, on all issues in which the military component is significant. Moreover the committee believes that advice rendered by these most senior military officers should receive careful consideration when decisions are made.

Consequently, the committee has included a provision in the bill that would require the JCS chairman or his deputy to attend meetings of the National Security Council and to participate in its deliberations. This measure is intended to ensure that joint military advice receives a hearing before national security issues that involve military considerations are decided.

Improving Staff Support

Personnel

Testimony revealed a number of disincentives that at times have had the effect of discouraging officers from seeking Joint Staff assignments. Promotions of Joint Staff members have lagged. The services disagreed on the caliber of officers who should be assigned. Joint Staff influence is perceived as limited. As a result, officers who seek challenge may avoid Joint Staff service.

The committee considers the Joint Staff the preeminent U.S. military staff. The Joint Staff personnel provisions enacted in 1984 were designed to ensure that the committee's conviction concerning the importance of the Joint Staff becomes manifest in the structure of the Department of Defense.

The Committee is concerned with how the Joint Staff personnel provisions enacted in 1984 have been implemented. One of the provisions requires the assignment of the most outstanding officers to the Joint Staff. The committee is aware of some evidence that implies that this provision is not being implemented as intended.

Another provision enacted in 1984 was intended to improve the career prospect of officers who serve on the Joint Staff. It made the Secretary of Defense responsible for ensuring that military department officer personnel policies concerning promotion, retention and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff. Because the demands and complexity of Joint Staff work require talented and dedicated officers, the committee is convinced that performance at the Joint Staff level should be considered a mark of distinction deserving special attention by promotion boards. Though no individual should be guaranteed advancement as a result of Joint Staff service, statistical analyses of serving and former Joint Staff officers should be

developed and monitored to ensure that Joint Staff performance is given appropriate consideration.

H.R. 3622 contains an additional personnel provision intended to focus the attention of the most outstanding military officers on joint assignments. It would require the JCS chairman to submit an evaluation to the President of the performance and joint military assignments of any officer recommended for promotion to the grade above Major General or Rear Admiral.

Continuity and experience

The Joint Staff changes enacted in 1984 relaxed the legislative restrictions on Joint Staff assignments. The limitation on Joint Staff assignments was increased to four and the interval between Joint Staff assignments was reduced from three years to two years. In addition, the Secretary of Defense was given authority to waive the two year limitation. To provide the Secretary even more flexibility, H.R. 3622 would allow him to waive the four year limitation.

These less restrictive provisions should afford the flexibility needed to overcome the deficiencies in Joint Staff continuity. At the same time, retaining legislative constraints on the tenure of Joint Staff assignments continues safeguards against the possibility, however remote that the Joint Staff could evolve into a powerful, self-sustaining, elite military organization superimposed between civilian authorities and the services and combatant commands.

The bill does not address the problems of Joint Staff inexperience caused by faulty Department of Defense personnel management procedures and inattention to joint education. Based on their thoughtful comments, the committee is convinced of the seriousness of those problems and the necessity for corrective measures. But legislative relief is not required. Consequently, the committee intends to monitor Defense Department actions to resolve the problems relating to Joint Staff experience identified in the hearings.

Management, procedures, charter, and size

At present the Joint Staff is smothered by complex, voluminous operating procedures to ensure that the services control the form and content of Joint Staff work. Although the chairman manages the Joint Staff, by law, he does so on behalf of the Joint Chiefs. The JCS, over time, has developed an ironclad system that protects service interests and, as a corollary, tends to convert the Joint Staff into an executive secretariat dependent on service staffs.

The following description of the joint staffing process graphically illustrates the debilitating effects of the present system. It is excerpted from an answer for the record received from the former chairman of the Joint Chiefs of Staff.

General JONES. A typical joint staffing action can be illustrated by outlining how a request from the Secretary of Defense for JCS views on an important defense issue would be handled.

The Joint Staff action officer is under institutional pressure to find a position with which each of the Services can agree. . . . Likewise, the Service action officers are under

institutional pressure to insure that Service roles and missions are not abridged, that major Service weapons systems are emphasized, and that a proposed strategy does not imply more than a fair share of emphasis for another Service.

The Joint Staff action officer must prepare the initial draft of the response—called the Flimsy. In doing so, he or she is bound to consider the views of the Service action officers and the appropriate CINCs. . . . Each Service representative might write a portion of the paper, a portion of the paper might be provided by a CINC or his staff, or the Joint Staff A/O (action officer) might assume the entire task. Generally, because the Service staffs are larger and have Service-unique data and analysis not available to the Joint Staff, the Joint Staff action officer is very dependent on Service Staff inputs.

Once the Flimsy is prepared, the Joint and Service action officers meet to discuss its content. . . . For a substantive paper of some length, each Service action officer may have as many as 100 recommended changes. They quickly learn the art of compromise—each agreeing to support the balance of the changes proposed by the other in return for equal support. The Joint Staff action officer then publishes a Buff paper—reflecting the consensus of the meeting. . . .

Each of the action officers who worked on the Flimsy takes the Buff paper to his Service or Joint Staff planner (O-6). . . . There may be as many as 20 issues left to be resolved. The Planners generally are able to resolve all but two or three of them. The Joint Staff Planner then . . . publishes a final draft on Green paper. . . .

The Service A/O and Planner present the Green to their Service Operations Deputy (on some occasions an additional review layer—the Deputy Operations Deputy—is added). . . .

The Operations Deputies represent the first level of review at which a truly joint perspective is brought to bear on the issue. However, the Operations Deputies are dual-hatted, as are the Chiefs, and they are under great institutional pressure to represent Service as well as national interests. . . .

. . . Significant compromise may occur at this level of review. Yet to be resolved issues and divergent views, if any, are highlighted, and the Green is placed on the agenda for the Chiefs to consider.

The Chiefs then consider the Green, make adjustments as necessary, and send the paper to the SECDEF. . . .

In sum, the current Joint Staff process encourages compromise, relies too heavily on Service participation, and depends on staff officers who are well versed in Service interests but are ill prepared to address issues from a joint perspective.

The committee intends that Joint Staff procedures be revised to ensure its independence and to focus the efforts of the staff on achieving joint military objectives. H.R. 3622 would remove the requirement that the JCS chairman manage the Joint Staff "on behalf of the Joint Chiefs of Staff" and would provide instead that the Joint Staff perform such duties as the chairman prescribes. That is, H.R. 3622 would give complete, undiluted control of the Joint Staff to the JCS chairman. The bill would also direct the Secretary of Defense to ensure that the Joint Staff is independently organized and operated. Finally, the bill would provide a charter for the Joint Staff that prescribes the objective of its duties: to support the chairman and the Joint Chiefs of Staff in meeting the purposes set forth by Congress in the National Security Act of 1947, to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces.

One reason for shifting control of the Joint Staff to the chairman, of course, is to assist him with his increased responsibilities. Equally compelling, in the view of the committee, is the necessity to place in one individual the tools necessary to revitalize the Joint Staff. The provisions relating to the Joint Staff would provide unmistakable authority for the chairman to revise the current joint staffing procedures and a corresponding responsibility to do so in shaping the Joint Staff to fulfill its charter. In addition, the provisions would vest ultimate responsibility in the Secretary of Defense who would be charged with ensuring Joint Staff independence and that the charter be followed.

Mindful of the additional tasks to be performed by the Joint Staff, the committee, in accordance with an Administration request, also recommends repeal of the 400-man statutory limit on the size of the Joint Staff. According to Department of Defense officials, however, significant increases in Joint Staff size are not anticipated. The committee believes that streamlining the joint staffing process should free officers in the present organization to perform some of the additional duties. If, as a result of added responsibilities, staff increases are deemed necessary after Joint Staff procedures are updated, the committee expects the increases to be offset by corresponding decreases in service and other Department of Defense staffs.

The committee intends that the Joint Staff continue to receive information from the services and the combatant commands with respect to reports and recommendations prepared for the Joint Chiefs of Staff. As previously emphasized, the committee intends to establish conditions in which the Joint Staff is the independent author of its own work. The committee does not intend, however, to diminish the vital channels of communication between the Joint Staff, services, and combatant commands that are necessary to provide the basic information necessary for competent staff work.

Streamlining the Military Chain of Command

A number of witnesses during the hearings expressed concern that a committee, the Joint Chiefs of Staff, has been included in the military chain of command by Department of Defense directive. These witnesses recommended placing a single military individual

in the chain. The Administration agreed in 1983. Secretary of Defense Caspar Weinberger requested enactment of a provision specifying that the national military chain of command run from the President to the Secretary of Defense and through the JCS chairman to the unified and specified commanders. The 1983 committee bill, H.R. 3718, included this provision.

Earlier this year, however, the committee received a communication from Secretary Weinberger recommending that the national military chain of command not be specified in the law. Secretary Weinberger now believes that such a provision would "breach the principle of civilian control."

As an alternative, Secretary Weinberger suggested that the chain of command be streamlined by administrative action. He advised the committee that, if he were given the authority by statute, he would change Department of Defense directives to provide that the military chain of command below the President and Secretary of Defense be routed through the chairman of the Joint Chiefs of Staff.

H.R. 3622 incorporates the requisite provisions requested by the Administration concerning the military chain of command. It specifies that the "President or Secretary of Defense may direct that the national military chain of command runs to the commanders of the unified and specified combatant commands through the Chairman." Furthermore, the bill would require that the Secretary submit his plan to Congress within six months after enactment for modifying administrative directives to streamline the chain of command by specifying that it runs from the President to the Secretary of Defense through the JCS chairman to the unified and specified commanders.

Reporting Requirement

H.R. 3622 contains a requirement that the Secretary of Defense submit a report to Congress on a number of matters that hold promise for further improvements in the joint military structure. The report is required to address the following subjects: a joint staff speciality for officers; streamlining the national military chain of command; provision of a program and budget for each of the unified and specified commands; procedures under which the JCS chairman may recommend to the Secretary a fiscally-constrained force posture and a five-year defense program; procedures for periodic submission by the JCS chairman of recommendations for modifying the unified command structure as required.

DEPARTMENTAL VIEWS

The General Counsel of the Department of Defense, in response to a request for the department's views on H.R. 3622, provided the following comments:

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, DC, October 18, 1985.

Hon. LES ASPIN,
*Chairman, Committee on Armed Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: During recent months, a number of legislative proposals involving changes to the structure of the Joint Chiefs of Staff have been developed. Most recently, a bill sponsored by Representatives Nichols, Skelton, and yourself was reported out by the Subcommittee on Surveys and Investigations of the House Armed Services Committee and is pending action by the full Committee. If enacted, the bill would have a major impact upon the Organization of the Joint Chiefs of Staff and the JCS role as principal military advisers to the President, the Secretary of Defense, and the National Security Council. In a related action, the staff of the Senate Armed Services Committee has recently completed work on a comprehensive report that is expected to result in legislative proposals involving far reaching modification to defense organization, including revisions in the Organization of the Joint Chiefs of Staff.

Since assuming office in 1981, Secretary Weinberger has taken a number of significant actions to streamline DoD systems and to improve the effectiveness and efficiency of management arrangements. Most importantly, he has endeavored to place the best people available in key civilian and military positions. Where it has made sense to do so, he has complemented these individuals with corresponding changes in procedures and organizations.

In addition, the Secretary has made a concerted effort to improve the procedures for obtaining joint military advice in the defense decision process. He is quite satisfied with the quality of the military advice currently being provided by the Joint Chiefs of Staff. He has taken steps to expand the frequency and scope of communications with the Joint Chiefs of Staff in order to take greater advantage of this advice and counsel. Under this arrangement, both the President and the Secretary have access to the unconstrained views and concerns of the Service Chiefs who have the responsibility for organizing, training, and equipping the forces assigned to the combatant commands. This ensures that the National Command Authorities hear the advice of, and can choose among, alternatives developed by the most competent military authorities.

The JCS have also made a number of improvements, ranging from better staffing procedures to enhanced joint operations planning. In addition, the Chairman of the Joint Chiefs of Staff, each member of the JCS, and the Commanders-in-Chief of the Unified and Specified Commands play increasingly important roles in the deliberations of the Defense Resources Board.

On July 15, 1985, the President established the Blue Ribbon Commission on Defense Management to study the complete range of defense management policies and procedures, including organizational and operational arrangements among the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Military Departments. The Commission is chaired by former Deputy Secretary of Defense, David Packard. The Blue Ribbon Commission's report, which is due

in June 1986, is intended to develop for the President, the Secretary of Defense, and the Congress, the outline of a consensus for further improvements in defense management and organization.

Notwithstanding the progress which has been made to date, Secretary Weinberger has expressed the willingness to consider change wherever it will strengthen national security. In addressing defense management issues, we believe that the best solutions will emerge through close and continuing cooperation between the Congress, the Administration, and the Blue Ribbon Commission in the coming year. For this reason, it is crucial that the nation obtain the full benefit of all current and impending proposals prior to making a commitment to a specific course of action. The Secretary believes that once he has the opportunity to evaluate the Blue Ribbon Commission's report in conjunction with the Senate Armed Services Committee Report and the various legislative proposals, we shall be in a better position to determine the direction in which to move. Accordingly, we urge that action on any legislation be postponed until this evaluation can be completed.

In the event that we are called upon to take a position on the pending legislation without having had the opportunity to consider it in relation to the upcoming reports, the Department's position on the issues at hand will be consistent with those expressed to Members of Congress by Secretary Weinberger over the past few years. We are hopeful, however, that adequate time will be available to give these matters of national import appropriate consideration in a carefully reasoned manner.

In the final analysis, it is essential that the Congress preserve, not just for this Secretary, but for all future Secretaries of Defense, the flexibility necessary to adapt specific defense organization and management arrangements to meet the demands of changing national security requirements. We are optimistic that this will be accomplished through mutual cooperation with the Congress.

Sincerely,

CHAPMAN B. COX.

COMMITTEE ACTION

The Committee on Armed Services on October 29, 1985, a quorum being present, agreed to report H.R. 3622 by a vote of 38 to 2.

FISCAL DATA

DEPARTMENT OF DEFENSE ESTIMATE

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the committee requested the Department of Defense to estimate the impact that passage of the legislation would have on the Department's budget for the next five years. The Department's response is set forth below:

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, DC, October 25, 1985.

Hon. LES ASPIN,
*Chairman, Committee on Armed Services,
 House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This is a follow-on to my letter of October 18, 1985, which provided the DoD position on H.R. 3622, "Joint Chiefs of Staff Reorganization Act of 1985." At this time, so far as we can determine, H.R. 3622 will have no budgetary impact on the Department of Defense.

Sincerely,

CHAPMAN B. COX.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the estimate prepared by the Congressional Budget Office and submitted pursuant to section 403 of the Congressional Budget Act of 1974 is included below:

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 30, 1985.

Hon. LES ASPIN,
*Chairman, Committee on Armed Services,
 U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3622, a bill to amend title 10, United States Code, to strengthen the position of Chairman of the Joint Chiefs of Staff, to provide for more efficient and effective operation of the Armed Forces, and for other purposes, as ordered reported by the House Committee on Armed Services on October 29, 1985.

This bill makes the Chairman of the Joint Chiefs of Staff the principal military adviser to the President, the National Security Council, and the Secretary of Defense. The bill amends the national military chain of command to include the Chairman of the Joint Chiefs of Staff and requires that the Joint Chiefs of Staff provide unified direction of combat forces. The Chairman would also be required to participate in National Security Council deliberations. The bill removes the statutory limitation on the size of the Joint Staff and relaxes the existing restrictions on the tenure of Joint Staff officers. In addition the bill creates the position of Deputy Chairman.

By removing the statutory limit on staff size, this bill could lead to a larger Joint Staff with a consequent increase in costs. Such costs could be offset, in total or in part, by reductions in other activities of the Defense Department, which operates under personnel ceilings established in annual authorization bills. CBO does not know if the Defense Department would seek additional appropriations, but expects no significant additional costs to federal, state, or local governments if this bill is enacted.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director*.

COMMITTEE COST ESTIMATE

The committee concurs in the Congressional Budget Office cost estimate.

INFLATION-IMPACT STATEMENT

In compliance with clause 2(1)(4) rule XI of the Rules of the House of Representatives, the Committee on Armed Services examined the possible inflationary impact of the bill. The committee believes that enactment of this legislation would have no inflationary impact on the national economy.

OVERSIGHT FINDINGS

With reference to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to the subject matter.

With reference to clause 2(b)(1) of rule X of the Rules of the House of Representatives, this legislation results from hearings on the provisions of the bill which represent a significant part of the committee's oversight responsibility with regard to organization of the Department of Defense.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10, UNITED STATES CODE

* * * * *

Subtitle A—General Military Law

* * * * *

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

* * * * *

CHAPTER 3—GENERAL POWERS

* * * * *

§ 124. Combatant commands: establishment; composition; functions; administration and support

(a) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

(1) establish unified combatant commands or specified combatant commands to perform military missions; and

(2) prescribe the force structure of those commands.

(b) The military departments shall assign forces to combatant commands established under this section to perform the missions of those commands. A force so assigned is under the full operational command of the commander of the command to which it is assigned. It may be transferred from the command to which it is assigned only by authority of the Secretary and under procedures prescribed by the Secretary with the approval of the President. A force not so assigned remains, for all purposes, in the military department concerned.

(c)(1) Combatant commands established under this section are responsible to the President and to the Secretary for such military missions as may be assigned to them by the Secretary with the approval of the President.

(2) Subject to the authority, direction, and control of the Secretary, the Chairman [acts as the spokesman for the commanders of the combatant commands] *supervises the commanders of the combatant commands and acts as their spokesman* on operational requirements.

(d) Subject to the authority, direction, and control of the Secretary, each military department is responsible for the administration of forces assigned by that department to combatant commands established under this section. The Secretary shall assign the responsibility for the support of forces assigned to those commands to one or more of the military departments.

* * * * *

CHAPTER 5—JOINT CHIEFS OF STAFF

Sec.

141. Composition; functions

142. Chairman

142a. Deputy Chairman.

143. Joint Staff

§ 141. Composition; functions

[(a) There are in the Department of Defense the Joint Chiefs of Staff consisting of—

[(1) a Chairman;

[(2) the Chief of Staff of the Army;

[(3) the Chief of Naval Operations;

[(4) the Chief of Staff of the Air Force; and

[(5) the Commandant of the Marine Corps.]

(a) *There are in the Department of Defense the Joint Chiefs of Staff, headed by the Chairman of the Joint Chiefs of Staff. In addition to the Chairman, the Joint Chiefs of Staff consist of the following:*

- (1) *The Chief of Staff of the Army.*
- (2) *The Chief of Naval Operations.*
- (3) *The Chief of Staff of the Air Force.*
- (4) *The Commandant of the Marine Corps.*

【(b) The Joint Chiefs of Staff are the principal military advisers to the President, the National Security Council, and the Secretary of Defense.】

(b) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, and the Secretary of Defense. The Joint Chiefs of Staff, as a body, shall provide advice to the President and the Secretary of Defense on matters with respect to which such advice is requested.

【(c) Subject to the authority and direction of the President and the Secretary of Defense, the Joint Chiefs of Staff shall—】

(c) Subject to the overall authority and direction of the President and the Secretary of Defense, the Chairman (in consultation, as appropriate, with the other members of the Joint Chiefs of Staff and with the commanders of the unified and specified commands) shall—

- (1) prepare strategic plans and provide for the strategic direction of the armed forces;
- (2) prepare joint logistic plans and assign logistic responsibilities to the armed forces in accordance with those plans;
- (3) establish unified commands in strategic areas;
- (4) review the major material and personnel requirements of the armed forces in accordance with strategic and logistic plans;
- (5) formulate policies for the joint training of the armed forces;
- (6) formulate policies for coordinating the military education of members of the armed forces;
- (7) provide for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; **【and】**
- (8) *formulate program recommendations and budget proposals to the Secretary during each budget cycle based on—*
 - (A) *guidance provided by the Secretary;*
 - (B) *program and budget proposals submitted by the commanders of the unified and specified combatant commands; and*
 - (C) *recommendations (as appropriate) submitted by the military departments and other components of the Department of Defense; and*

【8】(9) perform such other duties as the President or the Secretary of Defense may prescribe.

(d) (1) After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he may consider appropriate.

(2) *A member of the Joint Chiefs of Staff other than the Chairman may submit to the Secretary of Defense any opinion in disagreement with military advice of the Chairman or of the Joint Chiefs of Staff. After first informing the Secretary of Defense, such a member of the Joint Chiefs of Staff may submit to the President*

any opinion in disagreement with military advice of the Chairman or of the Joint Chiefs of Staff.

§ 142. Chairman

(a)(1) The Chairman of the Joint Chiefs of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. He serves at the pleasure of the President [for a term of two years,] and may be reappointed in the same manner for one additional term. However, in time of war declared by Congress there is no limit on the number of reappointments.

(2) *Except as provided in paragraph (3), the Chairman serves for a term of four years.*

(3) *In the event of the death, retirement, resignation, or reassignment of the officer serving as Chairman before the end of the term for which the officer was appointed, an officer appointed to fill the vacancy shall serve as Chairman only for the remainder of the original term.*

(b) In addition to his other duties as a member of the Joint Chiefs of Staff, the Chairman shall, subject to the authority and direction of the President and the Secretary of Defense—

(1) preside over the Joint Chiefs of Staff;

(2) provide agenda for the meetings of the Joint Chiefs of Staff (including any subject for the agenda recommended by the Joint Chiefs of Staff), assist them in carrying on their business as promptly as practicable, and determine when issues under consideration shall be decided; and

(3) inform the Secretary of Defense, and, when the President or the Secretary of Defense considers it appropriate, the President, [of those issues upon which the Joint Chiefs of Staff have not agreed] *of the military advice of the Joint Chiefs of Staff as a body on those matters with respect to which such advice is requested by the President or the Secretary of Defense (including advice on those matters on which the members of the Joint Chiefs of Staff have not agreed).*

(c)(1) While holding office, the Chairman outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(2) *The President or Secretary of Defense may direct that the national military chain of command runs to the commanders of the unified and specified combatant commands through the Chairman.*

§ 142a. Deputy Chairman

(a)(1) *There is a Deputy Chairman of the Joint Chiefs of Staff. The Deputy Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces.*

(2) *The Chairman and Deputy Chairman may not be members of the same armed force. However, the Secretary of Defense may waive the limitation in the preceding sentence for a limited period of time.*

(3) *The Deputy Chairman serves at the pleasure of the President for a term of four years and may be reappointed in the same manner for one additional term. However, in time of war declared by Congress there is no limit on the number of reappointments.*

(b)(1) *The Deputy Chairman exercises such duties as may be delegated by the Chairman with the approval of the Secretary of Defense.*

(2) *When there is a vacancy in the office of Chairman or in the absence or disability of the Chairman, the Deputy Chairman, unless otherwise directed by the President or Secretary of Defense, acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.*

(c) *The Deputy Chairman is the director of the Joint Staff.*

(d) *The Deputy Chairman may attend all meetings of the Joint Chiefs of Staff but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman.*

(e) *The Deputy Chairman, while so serving, holds the rank of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces except the Chairman. The Deputy Chairman may not exercise military command over the Joint Chiefs of Staff or over any of the armed forces.*

§ 143. Joint Staff

(a)(1) There is under the *Chairman of the Joint Chiefs of Staff* a Joint Staff consisting of [not more than 400] officers selected by the Chairman of the Joint Chiefs of Staff. The Joint Staff shall be selected in approximately equal numbers from—

(A) the Army;

(B) the Navy and the Marine Corps; and

(C) the Air Force.

(2) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by the armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

(3) The tenure of the members of the Joint Staff is subject to the approval of the Chairman of the Joint Chiefs of Staff.

[(b) The Chairman of the Joint Chiefs of Staff in consultation with the Joint Chiefs of Staff, and with the approval of the Secretary of Defense, shall select the Director of the Joint Staff.

[(c) The Joint Staff shall perform such duties as the Joint Chiefs of Staff or the Chairman prescribes. The Chairman of the Joint Chiefs of Staff manages the Joint Staff and its Director, on behalf of the Joint Chiefs of Staff.]

(b) The Joint Staff shall perform such duties as the Chairman prescribes.

[(d)] *(c) The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines to support the [Joint Chiefs of Staff in discharging their] Chairman in discharging his assigned responsibilities.*

[(e)] *(d) An officer who is assigned or detailed to duty on the Joint Staff may not serve for a tour of duty of more than four years. Such a tour of duty, however, may be extended with the approval of the Secretary of Defense. An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to duty*

on the Joint Staff within two years after relief from that duty except with the approval of the Secretary. This subsection does not apply in time of war declared by Congress or in time of national emergency declared by the President.

(e) The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff, and the members of the Joint Staff, support the Chairman of the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 401) to provide—

- (1) for the unified strategic direction of the combatant forces;*
- (2) for their operation under unified command; and*
- (3) for their integration into an efficient team of land, naval, and air forces.*

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PART II—PERSONNEL

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CHAPTER 32—OFFICER STRENGTH AND DISTRIBUTION IN GRADE

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§ 525. Distribution of commissioned officers on active duty in general officer and flag officer grades

- (a) * * *
- (b)(1) * * *

* * * * *

(3) An officer while serving as Chairman or Deputy Chairman of the Joint Chiefs of Staff or as Chief of Staff to the President, if serving in the grade of general or admiral, is in addition to the number authorized his armed force for that grade under paragraph (1) or (2).

* * * * *

CHAPTER 35—TEMPORARY APPOINTMENTS IN OFFICER GRADES

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§ 601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals

- (a) * * *

* * * * *

(d) In the case of an officer who is selected for recommendation to the President for an initial appointment to the grade of lieutenant general or vice admiral, or to the grade of general or admiral, the Chairman of the Joint Chiefs of Staff shall submit to the President the evaluation of the Chairman of the performance of that officer as a member of the Joint Staff and in other assignments involving

joint military experience. Such recommendation shall be submitted to the President at the same time as the submission of the recommendation for the appointment.

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Subtitle C—Navy and Marine Corps

* * * * *

PART I—ORGANIZATION

* * * * *

CHAPTER 509—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

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§ 5081. Chief of Naval Operations: appointment; term of office; powers; duties

(a) * * *

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(d) The Chief of Naval Operations is the principal naval adviser [to the President and] to the Secretary of the Navy on the conduct of war, and the principal naval adviser and naval executive to the Secretary on the conduct of the activities of the Department of the Navy.

* * * * *

SECTION 101 OF THE NATIONAL SECURITY ACT OF 1947

[50 U.S.C. 402]

NATIONAL SECURITY COUNCIL

SEC. 101. (a) There is hereby established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

- (1) the President;
- (2) the Vice President;
- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) the Director for Mutual Security;

(6) the Chairman of the National Security Resources Board; and

(7) The Secretaries and Under Secretaries of other executive departments and the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

(b) In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) * * *

(d) The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

(e) The Chairman or Deputy Chairman of the Joint Chiefs of Staff shall attend all meetings of the Council and shall participate fully in its deliberations.

DISSENTING VIEWS OF HON. SAMUEL S. STRATTON

My opposition to this legislation stems from a perception that its principal authors believe that competition in ideas and controversy has to be injurious to successful military operations. They yearn for a supreme commander who can put the unruly commanders of their respective services in their place and end their alleged squabbling.

Unfortunately, this is not the way the American military machine works, as was borne out in the second World War, the last one where we ended up victorious.

Two excellent volumes have recently appeared highlighting the many controversies of the Pacific campaign, "Eagle Against the Sun," by Ronald Spector, and "The Pacific War," by John Costello.

Controversy was almost constant at the top level, not only as a result of differences between the Army and the Navy, but also between our European allies and ourselves within the combined staffs set-up.

For example, Admiral Ernest J. King, the Navy commander, strongly opposed General MacArthur in the South Pacific area and fought efforts to allow U.S. Navy carriers to operate in support of amphibious landings in MacArthur's area. Admiral Nimitz opposed MacArthur's plan to invade the Philippines, preferring to take Taiwan instead, since it was closer to the Japanese mainland. President Roosevelt had to fly to Hawaii to settle that dispute, in MacArthur's favor.

In fact the abundance of able commanders with differing and strongly held views represented one of the greatest strengths of American forces and was directly responsible for our ultimate success.

We make a serious mistake if we think Congress by legislation can stifle the interplay of ideas in our military establishment. In fact, if that is really our plan, we will be going down the road to disaster.

My second concern is that if we are indeed trying to move in the direction of a single chief of staff, it amazes me what insignificant proposals this bill mandates in order to bring about this supposedly dramatic change. They are two.

Number One. It provides the chairman a deputy. Big deal! How giving him an AA adds anything that will revolutionize our military capability I am unable to discern.

Secondly, the bill makes the chairman the boss of the JCS staff, which currently amounts to some 300 or 400 souls. Nothing very revolutionary there either. In fact, all this sounds too much like what we here in the House have been doing—proliferating staff over the last ten years, with little visible improvement in legislative performance and severely overtaxing our limited facilities on Capitol Hill.

I realize this legislation has been developed with very worthy motives.

But I am convinced it goes off in the wrong direction. No one becomes more wise or innovative by putting additional stars on his shoulders. Nor does being designated as Principal Military Advisor to the President improve the quality of his advice.

After all, no single man is intelligent enough to do this job all by himself.

DISSENTING VIEWS OF HON. RONALD V. DELLUMS

I do not oppose this measure because of a belief that the reorganization of the Joint Chiefs of Staff (JCS), bureaucracy is unnecessary. There have been studies, hearings and testimony to the fact that a reorganization is imperative and I am in agreement with that general view.

However, I disagree that the best way to approach this problem is to greatly elevate the general stature of the Chairman of the Joint Chiefs of Staff. This would be accomplished by several provisions included in the bill, some of them less objectionable than others. In the aggregate, these provisions will establish a position of tremendous military authority, and is then combined with a new, important political authority for the Chairman, which would then create the extremely dangerous possibility of a more militarized political establishment and a more politicized military establishment.

I am in particular and complete disagreement that the Chairman should have increased stature when it comes at the expense of the Secretary of Defense, who would suffer a relative loss of authority, and in some cases would be on the same level as the Chairman. It is my firm belief that this would seriously undermine the crucial doctrine of civilian control of the military, which we all know to be an essential element of our democracy.

I would like to explain in some detail my objection to that portion of the bill which would statutorily mandate the presence of the Chairman of the Joint Chiefs of Staff at all meetings of the National Security Council (NSC), and then briefly present some question raised by other provisions in the bill.

ATTENDANCE OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AT ALL NATIONAL SECURITY COUNCIL MEETINGS TO BE REQUIRE BY LAW

Under current law, the attendance of the Chairman of the Joint Chiefs at National Security Council meetings is allowed. He is there at the specific invitation of the President or the Secretary of Defense and is able to provide information and opinions as the President and Secretary of Defense require. There is nothing in current law that prevents the National Security Council from receiving these views as the Council sees fit.

Therefore, it is imperative to ask, why would it be necessary to change the law, and furthermore, what are the military and political implications of such a change? Is it realistic to assume that the President can be told, by statute, whose advice to listen to, or whose advice he should follow? Also, would the Chairman not be required to attend the meeting, by law, even if the President did not want him to attend?

Most important, though, is the fact elevating the Chairman to a permanent seat in the NSC would make the JCS Chairman and the Secretary of Defense, his civilian boss, equals under those circumstances. This would be especially dangerous to civilian authority when combined with separate provisions in the bill which designates the Chairman as the "principal military advisor" to the President.

The JCS Chairman would be required by law to "participate fully in [NSC] deliberation." While in the deliberations, the Secretary of Defense and the Chairman of the JCS may or may not agree on specific issues, broad political or military goals, or any number of other items of a military or non-military nature that may come before the Council. The fact that the JCS Chairman would not be a voting member makes little difference in the case of the NSC when, by all accounts, the deliberations are what are important and votes are seldom taken. In any event, the civilian authority over the military is at least vague, if not seriously undermined.

This would be particularly true if a trend developed in which the JCS Chairman regularly prevailed over his superior in the decisions before the Council. As Navy Secretary John F. Lehman has argued, "What Secretary of Defense, no matter how highly regarded, no matter how well qualified, can stand against a uniformed military with one point of view?" Eventually, if a Secretary of Defense lost enough of these skirmishes, a situation of "no confidence" may arise, where he would feel compelled to step down from his post because of his lessened stature in direct correlation to the increased stature of a subordinate.

Zbigniew Brzezinski, former Assistance to the President for National Security Affairs, testified before the Senate Committee on Armed Services on the subject of the designation of the JCS Chairman as a statutory member of the NSC. In his testimony, Dr. Brzeninski said:

The issue, therefore, should be judged not in terms of the JCS contribution to the NSC deliberations as such, but rather in terms of the relationship between the Chairman of the JCS and the Secretary of Defense.

While I strongly favor the reforms proposed by Gen. David Jones for the enhancement of the role and status of the Chairman of the JCS, I would be concerned over changes which dilute the authority of the Secretary of Defense as the President's principal officer on defense matters.

There is an important political dimension to this change in statute. The members of the NSC are making decisions which affect our national security, but not all matters which affect our national security have direct military applications. Many, I would submit, are more political in nature. In either case, to require by law that the JCS Chairman participate fully in all deliberations, means that he becomes a direct participant in these political and military decisions. Moreover, he becomes regarded as such by not only the members of the NSC, but also by the military establishment, the Cabinet, the Congress, and by international observers of the Ameri-

can policy process. As a professional military person, he becomes a key political player as well. This has serious and damaging implications for our tradition of civilian control over the military.

This change in law would have serious international consequences as well. As the United States allocates more and more of its scarce resources to our military and as we project the symbols of that increased military might to virtually all corners of the world, we would be sending the world community another signal: that we are politicizing the uniformed military and are giving it a direct voice, in addition to, and perhaps contrary to the voice of the Secretary of Defense, in the top level of deliberations of the White House. I would disagree with the notion that would be a desired objective. Not only is this a politicization of the military but, as the military becomes a more dominant force in the deliberations, one could argue that it becomes a militarization of politics as well.

The point has been made that a politicized Chairman of the JCS will also cause the President to consider this factor when appointing the Chairman, and that it is reasonable to assume that the President will want a Chairman who will be able to represent his particular political point of view in the NSC. This could be at the expense of, or contrary to, the military advice he might otherwise be giving.

Since current law allows the members of the NSC to have the full benefit of the JCS Chairman's advice, the only reason to elevate him to a position of virtual equality with the Secretary of Defense is to enhance his political stature. His would clearly be at the expense of the Secretary of Defense, and most importantly at the expense of the doctrine of civilian control of the military.

It is mainly for these reasons that I dissent from the favorable reporting of this bill. I have some other objections which I will briefly outline as follows:

PAROCHIALISM

Much of the rationale for this bill rests in the idea that the current structure of the Office of the Joint Chiefs of Staff virtually ensures that each service will be looking out for its own welfare over that of the other services. There is much history to suggest that this is in fact the case.

But, I find fault with the argument that this bill is meant to reduce the incidence of redundant weapons systems which is supposed, by that logic, to have come from this interservice rivalry. While I do not disagree that this is certainly a contributing factor, I submit that the ultimate responsibility for the massive duplications in weapons systems rests with the authorizing and appropriating committees of Congress. These committees hold the hearings, ostensibly weigh the advantages and disadvantages of each system, and as is our responsibility as elected officials, make the tough decisions on how to spend the taxpayers money. Without our approval of those requests, the systems would never be funded, JCS rivalry notwithstanding.

CHAIN OF COMMAND

In a number of sections of this bill, the newly elevated and independent Chairman of the Joint Chiefs of Staff is put into the loop of the national military chain of command, which runs to the commanders of the unified and specified combatant commands. There are serious and compelling arguments regarding the managerial aspect of resource allocation for doing this. However, for many of the reasons stated above regarding the importance of civilian control of the military, I am wary of having the JCS Chairman directly in this loop. This would be particularly disturbing if the Chairman becomes the political person that I believe he would if the section which elevates him to a permanent seat on the NSC remains in the bill.

TERM OF CHAIRMAN AND REMOVAL OF CAP ON THE JCS STAFF

The bill would have the term of the Chairman increased to four years. Again, as a single provision this may make great managerial sense, but taken in the aggregate with the other increased powers, I am not in favor of this provision.

The bill also removes the cap on the current level of 400 officers on the staff of the OJCS. Without this cap the staff is likely to grow exponentially. This does not make fiscal, managerial or military sense to me. I agree with those in the Pentagon who state that the JCS staff works very efficiently at the current level of 400 officers.

SUMMARY

PURPOSE

The purpose of H.R. 3622 is to refine the role of the chairman of the Joint Chiefs of Staff by assigning him certain responsibilities currently assigned the Joint Chiefs of Staff collectively.

FISCAL DATA

The Congressional Budget Office expects no significant additional costs if the bill is enacted.

DEPARTMENTAL POSITION

The Department of Defense recommends postponing any legislation relating to Department of Defense reorganization until the Secretary of Defense has had an opportunity to evaluate the report of the Blue Ribbon Commission on Defense Management that is to be submitted in June 1986 as well as other relevant documents. Until the evaluation is complete the Department has stated that its "position on the issues at hand will be consistent with those expressed by Secretary Weinberger over the past few years." The committee considers this to mean that the Department of Defense opposes, or finds unnecessary, the provisions of H.R. 3622.

COMMITTEE POSITION

The Committee on Armed Services on October 29, 1985, a quorum being present, agreed to report H.R. 3622 by a vote of 38 to 2.

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