

Calendar No. 579

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 117-222

DHS JOINT TASK FORCE REAUTHORIZATION
ACT OF 2022

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4656

TO REAUTHORIZE AND AMEND THE HOMELAND SECURITY
ACT OF 2002 TO CREATE STRONGER ACCOUNTABILITY
MECHANISMS FOR JOINT TASK FORCES



DECEMBER 5, 2022.—Ordered to be printed

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DHS JOINT TASK FORCE REAUTHORIZATION ACT OF 2022

DECEMBER 5, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 4656]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4656) to reauthorize and amend the Homeland Security Act of 2002 to create stronger accountability mechanisms for Joint Task Forces, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 4656, the *DHS Joint Task Forces Reauthorization Act of 2022*, amends the Homeland Security Act of 2002 to create stronger accountability mechanisms for the Department of Homeland Security’s (DHS) Joint Task Forces (JTFs) while providing a two-year reauthorization for the JTFs. The bill extends the authority for DHS to create JTFs that have missions focused on protecting the homeland from threats of terrorism, narcotics smuggling, and illegal migration at the southern border, and also requires DHS to develop a strategy and accountability measures for each JTF.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The JTFs were originally created by the Secretary of DHS under the DHS Southern Border and Approaches Campaign (SBAC) in November 2014. The JTFs were designed as a Unity of Effort initiative in response to the influx of illegal migration, predominantly of citizens of Guatemala, Honduras, and El Salvador, during the summer of 2014.¹ The SBAC plan was formed to unify efforts across DHS components to address threats of terrorism, narcotics smuggling, and illegal migration at the U.S. southern border. Three JTFs were established, including JTF–Investigations (JTF–I), JTF–East (JTF–E), and JTF–West (JTF–W). The JTFs were charged with synchronizing capabilities and establishing joint-operational priorities to achieve efficient enforcement and interdiction, disrupt and dismantle transnational criminal organizations, and ensure the flow of lawful trade, travel, and commerce across the southern border.²

Congress authorized the JTFs for a five year period in the Fiscal Year 2017 National Defense Authorization Act (FY17 NDAA).³ According to the DHS Office of Inspector General (OIG), JTF–West and JTF–I were both officially dissolved on October 1, 2020, leaving JTF–E to be the only remaining JTF.⁴

While directed by the Secretary of DHS, leadership of each JTF resides with individual components. JTF–I was led by Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), sat in Washington, DC, and functioned as a case coordination center, prioritizing and integrating support for criminal investigations and intelligence sharing. JTF–W was led by U.S. Customs and Border Protection (CBP), sat in San Antonio, Texas, and focused on threats along the southwest land border. JTF–E is led by U.S. Coast Guard (USCG), sits in Portsmouth, Virginia, and focuses on planning and coordinating missions along the southern maritime border. The JTFs are required by the FY17 NDAA to be cost neutral, and are therefore funded by the component agencies, utilizing their own personnel and capabilities.⁵ The FY17 NDAA also required that the Secretary report to Congress on the effectiveness of the JTFs, including the total funding, personnel, and other resources that each component contributed.⁶ Further, the FY17 NDAA required the JTFs to establish outcome-based performance metrics to measure their effectiveness in addition to establishing and maintaining a joint duty training program to enhance coordination, promote workforce professional development, and improve joint operations.⁷

¹Memorandum from Secretary Jeh Johnson to CBP Commissioner R. Gil Kerlikowske, Coast Guard Admiral Paul Zukunft, ICE Acting Director Thomas Winkowski, USCIS Director Leon Rodriguez, FEMA Administrator W. Craig Fugate, and DHS Policy Acting Assistant Secretary Alan Bersin, *Southern Border and Approaches Campaign* (www.dhs.gov/sites/default/files/publications/14_1120_memo_southern_border_campaign_plan.pdf) (Nov. 20, 2014).

²U.S. Department of Homeland Security official website, *Southern Border and Approaches Campaign* (www.dhs.gov/southern-border-and-approaches-campaign) (accessed May 20, 2022).

³National Defense Authorization Act 2017, Pub. L. No. 11–328, Sec. 1901, 130 Stat. 2000, 2665–70 (2016).

⁴Department of Homeland Security, Office of Inspector General, *DHS' Fragmented Approach to Immigration Enforcement and Poor Planning Resulted in Extended Migrant Detention during the 2019 Surge*, OIG–21–29 (March 21, 2021).

⁵*Id.* at 3.

⁶*Id.*

⁷*Id.*

Several government reviews and documents have found that two of the JTFs were never fully utilized as envisioned. For example, in September 2020, the DHS OIG found that DHS was not able to determine the total cost, effectiveness and value of the JTFs.⁸ The OIG also found that DHS failed to provide annual cost and impact reports to Congress as required by the FY17 NDAA.⁹ Additionally, the OIG audit revealed that DHS failed to maintain oversight authority over the JTFs; implement and update policies and procedures; identify optimal JTF staffing levels and resources; establish a process to capture associated costs; establish outcome-based performance metrics to evaluate effectiveness; and establish and maintain a joint duty training program as required by law.¹⁰ According to the fiscal year 2022 CBP Budget Justification, CBP found that JTF-W did not add value to their mission, and further identified that the overall return on investment was uncertain and “they could accomplish as much or more with the same personnel and resources in the absence of JTF.”¹¹ CBP reported that DHS had “successfully implemented coordination functions, both in the field and at headquarters, that essentially nullified any potential value the JTF’s may provide.”¹² There have, however, been some successes as a result of JTF-E efforts, most notably, intelligence support provided by JTF-E, which assisted HSI’s 2019 Operation Velas Negras. These efforts resulted in the largest drug seizure in U.S. history, with the seizure of approximately 17 tons of cocaine valued at \$1 billion.¹³

On February 28, 2022, DHS requested that Congress make permanent the authority for the Secretary to establish and operate JTFs.¹⁴ Absent congressional action, the authority would have expired on September 30, 2022. However, the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, Public Law No. 117–180, was signed into law on September 30, 2022, providing an extension of the authorization until December 16, 2022.¹⁵ On May 4, 2022, Secretary Mayorkas testified to the Senate Homeland Security and Governmental Affairs Committee (HSGAC) that the reauthorization of the JTFs is necessary to “further the Department’s maturation by empowering Department officials to focus the Department’s resources to achieve DHS goals.”¹⁶ The Secretary reiterated this request in his letter to Senator Peters, Chairman of

⁸Department of Homeland Security, Office of Inspector General, *DHS Cannot Determine the Total Cost, Effectiveness, and Value of Its Joint Task Forces*, OIG–20–80 (Sept. 30, 2020).

⁹*Id.*

¹⁰*Id.*

¹¹Department of Homeland Security, Customs and Border Protection Budget Overview, Fiscal Year 2022 Congressional Justification (May 28, 2021).

¹²*Id.*

¹³Immigration and Customs Enforcement, Press Release: ICE HSI Philadelphia participates in joint press conference announcing the seizure of over 17 tons of cocaine (<https://www.ice.gov/news/releases/ice-hsi-philadelphia-participates-joint-press-conference-announcing-seizure-over-17>) (June 21, 2019).

¹⁴Letter from Department of Homeland Security, Assistant Director of Legislative Affairs Alice Lugo to Senate Majority Leader Charles Schumer (Feb. 28, 2022).

¹⁵Continuing Appropriations and Ukraine Supplemental Appropriations Act of 2023, 117th Cong, Pub. L. No. 117–180. (2022).

¹⁶Senate Committee on Homeland Security and Governmental Affairs, Testimony of Department of Homeland Security Secretary Alejandro Mayorkas, *Resources and Authorities Needed to Protect and Secure the Homeland*, 117th Cong. (May 4, 2022) (S. Hrg. 117).

HSGAC, on May 25, 2022, in which he expressed the importance of JTFs and his commitment to JTF-E.¹⁷

This bill ensures that DHS retains the authority to establish and maintain JTFs in a true unity of effort to complete DHS's important mission and requires the Secretary to establish a strategy for each JTF that utilizes leading practices in performance management and lessons learned by other law enforcement task forces and operations. Each strategy must contain the mission of the JTF and strategic goals and objectives that will assist the JTF in accomplishing its mission. This legislation also requires the use of outcome-based metrics to evaluate effectiveness and measure progress towards the JTF's goals. The performance measures must include targets for current and future fiscal years and the strategy must include a description of the methodology used to establish those measures and any associated limitations.

The bill also requires the Secretary to provide Congress a report on this strategy one year from the date of reauthorization and annually thereafter. This bill removes the requirement for the DHS OIG to review the DHS JTFs and report to Congress, and instead requires the U.S. Government Accountability Office to review the JTFs and report to Congress one year from the date of reauthorization. This review must include an assessment of the effectiveness of the structure of each JTF, the effectiveness of oversight over each JTF, the policies and procedures of each JTF, and staffing levels and resources.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D-MI) introduced S. 4656, *DHS Joint Task Force Reauthorization Act of 2022*, on July 28, 2022. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4656 at a business meeting on August 3, 2022. During the business meeting, a first-degree amendment, as modified, was offered by Senator Portman and adopted by voice vote *en bloc*. This amendment includes a Sense of the Senate that the Department of Homeland Security should consider using the authority under subsection (b) of section 708 of the Homeland Security Act of 2002 (6 U.S.C. 348(b)) to create a Joint Task Force described in such subsection to improve coordination and response to the number of encounters and amount of seizures of illicit narcotics along the southwest border. The bill, as amended, was ordered reported favorably by voice vote *en bloc*. Senators present for the vote on the bill were: Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section cites the short title as the “DHS Joint Task Forces Reauthorization Act of 2022”.

¹⁷ Letter from Department of Homeland Security Secretary Alejandro Mayorkas to Homeland Security and Governmental Affairs, Chairman Gary C. Peters (May 25, 2022).

Section 2. Sense of the Senate

This section provides a “Sense of the Senate” that the Department of Homeland Security should consider using the authority under subsection (b) of section 708 of the Homeland Security Act of 2002 (6 U.S.C. 348(b)) to create a Joint Task Force (JTF) described in such subsection to improve coordination and response to the number of encounters and amount of seizures of illicit narcotics along the southwest border.

Section 3. Amending Section 708 of the Homeland Security Act of 2002

Subsection (1) amends Section 708(b) of the Homeland Security Act of 2002 to require each Joint Task Force to have a staff, composed of officials from relevant components and offices of the Department, to assist the Director of that JTF in carrying out the mission and responsibilities of that JTF. It also requires the Secretary to include in the report submitted under paragraph (6)(F), the number of personnel, both permanently assigned and temporarily assigned, to each JTF by each component and office.

Subsection (2) requires the establishment of a strategy for each DHS JTF established by the Secretary that utilizes leading practices in performance management and lessons learned by other law enforcement task forces and operations. The strategy must contain the mission of the JTF and strategic goals and objectives that will assist the JTF in accomplishing its mission. This section requires the use of outcome-based metrics to evaluate effectiveness and measure progress towards the JTF goals. The performance measures must include targets for current and future fiscal years and the strategy must include a description of the methodology used to establish those measures and any associated limitations. It also requires the Secretary to provide Congress a report on this strategy one year from the date of reauthorization and annually thereafter.

Subsection (3) requires the Secretary to include a justification for and provide the primary focus and mission of any establishment of a DHS JTF to Congress 90 days prior to such establishment. It also requires that a strategy including goals and performance metrics to be provided within the same time period.

Subsection (4) removes the requirement for the DHS Inspector General to review the JTFs and report to Congress. Instead, this bill requires the U.S. Government Accountability Office to review the JTFs and report to Congress one year from the date of reauthorization. This review must include an assessment of the effectiveness of the structure of each JTF, the effectiveness of oversight over each JTF, the policies and procedures of each JTF and staffing levels and resources.

Subsection (5) amends the September 30, 2022 sunset for the JTFs, reauthorizing through September 30, 2024.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s state-

ment that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 29, 2022.

Hon. GARY C. PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 4656, the DHS Joint Task Forces Reauthorization Act of 2022.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeremy Crimm.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 4656, DHS Joint Task Forces Reauthorization Act of 2022			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on August 3, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	17	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 4656 would extend through 2024 the authority for the Department of Homeland Security (DHS) to create and operate “Joint Task Forces” (JTFs). JTFs integrate resources, intelligence, planning and operations across DHS’s component units, including the Coast Guard, Customs and Border Protection, and Immigration and Customs Enforcement. DHS uses JTFs to combat transnational criminal organizations, enforce immigration laws, and coordinate its border security efforts. Under current law, DHS’s authority to establish and operate JTFs expires at the end of fiscal year 2022.

The bill also would require the Government Accountability Office (GAO) to report on the effectiveness of the structure of each Joint Task Force and recommend ways to strengthen this structure.

DHS currently operates one Joint Task Force staffed by 40 personnel. Based on information from DHS about its current staffing and spending for this JTF and about the costs for GAO to produce similar reports, CBO estimates that implementing S. 4656 would cost \$17 million to continue operating the JTF over the 2022–2027 period, mostly for personnel costs. Such spending would be subject to the availability of appropriated funds.

S. 4656 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Jeremy Crimm. The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in *roman*):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE VII—MANAGEMENT

* * * * *

SEC. 708. JOINT TASK FORCES.

(a) * * *

(b) JOINT TASK FORCES—

(1) * * *

[(8) JOINT TASK FORCE STAFF.—Each Joint Task Force shall have a staff, composed of officials from relevant components and offices of the Department, to assist the Director of such Joint Task Force in carrying out the mission and responsibilities of such Joint Task Force.]

(8) JOINT TASK FORCE STAFF.—

(A) IN GENERAL.—Each Joint Task Force shall have a staff, composed of officials from relevant components and offices of the Department, to assist the Director of that Joint Task Force in carrying out the mission and responsibilities of that Joint Task Force.

(B) REPORT.—The Secretary shall include in the report submitted under paragraph (6)(F)—

(i) the number of personnel permanently assigned to each Joint Task Force by each component and office; and

(ii) the number of personnel assigned on a temporary basis to each Joint Task Force by each component and office.

(9) ESTABLISHMENT OF STRATEGY AND OF PERFORMANCE METRICS.—The Secretary shall—

[(A) establish outcome-based and other appropriate performance metrics to evaluate the effectiveness of each Joint Task Force;]

(A) using leading practices in performance management and lessons learned by other law enforcement task forces and joint operations, establish a strategy for each Joint Task Force that contains—

(i) the mission of each Joint Task Force and strategic goals and objectives to assist the Joint Task Force in accomplishing that mission; and

(ii) outcome-based and other appropriate performance metrics to evaluate the effectiveness of each Joint Task Force and measure progress towards the goals and objectives described in clause (i), which include—

(I) targets for current and future fiscal years; and

(II) a description of the methodology used to establish those metrics and any limitations with respect to data or information used to assess performance;

(B) not later than 120 days after the date of the [enactment of this section] *enactment of the DHS Joint Task Forces Reauthorization Act of 2022* and 120 days after the establishment of a new Joint Task Force, as appropriate, submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate *strategy and the metrics established under subparagraph (A)[.]; and*

[(C) not later than January 31 of each year beginning in 2017, submit to each committee specified in subparagraph (B) a report that contains the evaluation described in subparagraph (A).]

(C) beginning not later than 1 year after the date of enactment of the DHS Joint Task Forces Reauthorization Act of 2022, submit annually to each committee specified in subparagraph (B) a report that—

“(i) contains the evaluation described in subparagraphs (A) and (B); and

“(ii) outlines the progress in implementing outcome-based and other performance metrics referred to in subparagraph (A)(i).”;

(10) * * *

(11) NOTIFICATION OF JOINT TASK FORCE FORMATION.—

(A) IN GENERAL.—Not later than 90 days before establishing a Joint Task Force under this subsection, the Secretary shall submit to the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, the majority leader of the House of Representatives, the minority leader of the House of Representatives, and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee

on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a notification regarding such establishment[.], which shall include—

“(i) the justification, focus, and mission of the Joint Task Force; and

“(ii) a strategy for the conduct of the Joint Task Force, including goals and performance metrics for the Joint Task Force.

(12) REVIEW.—

(A) IN GENERAL.—Not later than [January 31, 2018, and January 31, 2021, the Inspector General of the Department] 1 year after the enactment of the DHS Joint Task Forces Reauthorization Act of 2022, the Comptroller General of the United States shall submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a review of the Joint Task Forces established under this subsection.

(B) CONTENTS.—The reviews required under subparagraph (A) shall include—

[(i) an assessment of the effectiveness of the structure of each Joint Task Force; and

[(ii) recommendations for enhancements to such structure to strengthen the effectiveness of each Joint Task Force.]

(i) an assessment of the structure of each Joint Task Force;

(ii) an assessment of the effectiveness of oversight over each Joint Task Force;

(iii) an assessment of the strategy of each Joint Task Force; and

(iv) an assessment of staffing levels and resources of each Joint Task Force.

(13) SUNSET.—This section expires on September 30, [2022] 2024.

* * * * *