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(Original Signature of Member)

115TH CONGRESS  
1ST SESSION

**H. R.**

To amend the Homeland Security Act of 2002 to direct the Chief Human Capital Officer of the Department of Homeland Security to improve employee integrity in the Department’s workforce, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. HIGGINS of Louisiana introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Homeland Security Act of 2002 to direct the Chief Human Capital Officer of the Department of Homeland Security to improve employee integrity in the Department’s workforce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fixing Internal Re-  
5 sponse to Misconduct Act” or the “DHS FIRM Act”.

1 **SEC. 2. DHS MISCONDUCT POLICY.**

2 (a) IN GENERAL.—Section 704 of the Homeland Se-  
3 curity Act of 2002 (6 U.S.C. 344) is amended—

4 (1) in subsection (b)—

5 (A) in paragraph (9), by striking “and” at  
6 the end;

7 (B) in paragraph (10), by striking the pe-  
8 riod at the end and inserting “; and”; and

9 (C) by adding at the end the following new  
10 paragraph:

11 “(10) develop a Department-wide employee mis-  
12 conduct policy described in subsection (e).”;

13 (2) by redesignating subsection (e) as sub-  
14 section (f); and

15 (3) by inserting after subsection (d) the fol-  
16 lowing new subsection:

17 “(e) MISCONDUCT POLICY.—

18 “(1) IN GENERAL.—Not later than 90 days  
19 after the date of the enactment of this subsection,  
20 the Chief Human Capital Officer shall develop a De-  
21 partment-wide employee misconduct policy that in-  
22 cludes—

23 “(A) standards of conduct for all Depart-  
24 ment employees, including members of the sen-  
25 ior executive service;

1           “(B) responsibilities of component heads in  
2           issuing component-specific guidance and com-  
3           plying with Department policy, including—

4                   “(i) guidance to relevant component  
5                   heads on interfacing with the public on re-  
6                   porting employee misconduct; and

7                   “(ii) guidance on the type, quantity,  
8                   and frequency of misconduct data to be  
9                   submitted to the Chief Human Capital Of-  
10                  ficer for the purposes of paragraph (3);  
11                  and

12                  “(C) guidance on how Department employ-  
13                  ees should report employee misconduct.

14                  “(2) TABLE OF OFFENSES AND PENALTIES.—

15                   “(A) IN GENERAL.—In conjunction with  
16                   the misconduct policy developed in accordance  
17                   with paragraph (1), the Chief Human Capital  
18                   Officer, in coordination with component heads,  
19                   shall identify methods for advancing Depart-  
20                   ment employee integrity, including the develop-  
21                   ment of a Department-wide, baseline ‘table of  
22                   offenses and penalties’ to be used for both non-  
23                   disciplinary and disciplinary actions regarding  
24                   misconduct, including guidelines on use of such  
25                   table.

1           “(B) APPLICABILITY TO PRE-EXISTING TA-  
2 BLES.— If a table of offenses and penalties al-  
3 ready exists for a component of the Department  
4 as of the date of the enactment of this sub-  
5 section, the Chief Human Capital Officer shall  
6 review and, if appropriate, approve such table  
7 and any changes to such table made after such  
8 date of enactment. In cases in which such ta-  
9 bles do not comply with Department policy, the  
10 Chief Human Capital Officer shall instruct  
11 component heads on corrective measures to be  
12 taken in order to achieve such compliance.

13           “(C) NEW COMPONENT TABLES.—If a  
14 table of offenses and penalties does not already  
15 exist for a component of the Department as of  
16 the date of enactment of this subsection, a com-  
17 ponent head may, in coordination with the  
18 Chief Human Capital Officer, develop a table of  
19 offenses and penalties to be used by such com-  
20 ponent. The Chief Human Capital Officer shall  
21 review and, if appropriate, approve such table  
22 and any changes to such table made after such  
23 date of enactment. In cases in which such ta-  
24 bles or changes do not comply with Department  
25 policy, the Chief Human Capital Officer shall

1           instruct the component head on corrective  
2           measures to be taken in order to achieve such  
3           compliance.

4           “(3) COMPONENT RESPONSIBILITIES.—Compo-  
5           nent heads shall comply with Department-wide pol-  
6           icy (including guidance relating to such) regarding  
7           improving integrity in the Department’s workforce,  
8           including—

9                   “(A) identifying an official in each compo-  
10                  nent responsible for overseeing the misconduct  
11                  policy developed in accordance with paragraph  
12                  (1);

13                   “(B) providing any current table of of-  
14                  fenses and penalties or future changes to a  
15                  component’s table to the Chief Human Capital  
16                  Officer for review in accordance with paragraph  
17                  (2)(B);

18                   “(C) providing any new table of offenses  
19                  and penalties or future changes to a compo-  
20                  nent’s table to the Chief Human Capital Officer  
21                  for review in accordance with paragraph (2)(C);  
22                  and

23                   “(D) providing to the Chief Human Cap-  
24                  ital Officer any misconduct data in accordance  
25                  with paragraph (1)(B)(ii).

1 “(4) OVERSIGHT.—

2 “(A) IN GENERAL.—Not later than 30  
3 days after the development of the misconduct  
4 policy under paragraph (1), the Chief Human  
5 Capital Officer shall implement a process to  
6 oversee component compliance with such mis-  
7 conduct policy, including—

8 “(i) the degree to which components  
9 are complying with such policy; and

10 “(ii) at a minimum, twice each fiscal  
11 year, a review of component adjudication  
12 of misconduct data to—

13 “(I) ensure consistent adherence  
14 to such misconduct policy and the  
15 table of offenses and penalties de-  
16 scribed in paragraph (2); and

17 “(II) determine whether em-  
18 ployee training regarding such mis-  
19 conduct policy or adjustment in such  
20 misconduct policy is necessary.

21 “(B) WORKING GROUPS.—

22 “(i) IN GENERAL.—The Chief Human  
23 Capital Officer may establish working  
24 groups, as necessary, to improve employee  
25 integrity within the Department. If the

1 Chief Human Capital Officer establishes  
2 such a working group, the Chief Human  
3 Capital Officer shall specify a timeframe  
4 for the completion of such group's work.

5 “(ii) FUNCTION.—A working group  
6 established pursuant to clause (i) shall  
7 identify the causes in persistent mis-  
8 conduct referred to in such subparagraph,  
9 review component processes for addressing  
10 misconduct, and develop alternate strate-  
11 gies to address such misconduct.

12 “(iii) PARTICIPATION.—If a working  
13 group is established pursuant to clause (i),  
14 the relevant component head or designee  
15 identified pursuant to paragraph (3)(A)  
16 shall participate in such working group  
17 and implement any recommendations  
18 issued by such working group.

19 “(iv) FOLLOW-UP REVIEWS.—The  
20 Chief Human Capital Officer shall conduct  
21 bi-annual, or on a more frequent basis as  
22 determined by the Chief Human Capital  
23 Officer, follow-up reviews of components  
24 with respect to which misconduct has been  
25 identified under this paragraph. In con-

1                   sultation with the Chief Human Capital  
2                   Officer, the Secretary may request the In-  
3                   spector General of the Department to in-  
4                   vestigate any concerns identified through  
5                   the oversight process under this subsection  
6                   that components have not addressed.

7                   “(5) INSPECTOR GENERAL FUNCTIONS.—The  
8                   Inspector General of the Department may, as the  
9                   Inspector General determines appropriate, issue  
10                  management alerts regarding misconduct to the Sec-  
11                  retary.

12                  “(6) MISCONDUCT DEFINED.—In this sub-  
13                  section, the term ‘misconduct’ means the failure of  
14                  a Department employee to comply with a perform-  
15                  ance plan, rule, regulation, or law within the scope  
16                  of such employee’s duties, responsibilities, or func-  
17                  tions.”.

18                  (b) REVIEW.—Not later than 30 days after the devel-  
19                  opment of the misconduct policy and the development of  
20                  the table of offenses and penalties and oversight process  
21                  required under subsection (e) of section 704 of the Home-  
22                  land Security Act of 2002 (6 U.S.C. 344) (as added by  
23                  subsection (a) of this section), the Chief Human Capital  
24                  Officer of the Department of Homeland Security shall pro-  
25                  vide to the Committee on Homeland Security of the House



1 of Representatives and the Committee on Homeland Secu-  
2 rity and Governmental Affairs of the Senate information  
3 on such misconduct policy, table of offenses and penalties,  
4 and oversight process.

5 (c) PROHIBITION ON NEW FUNDING.—No funds are  
6 authorized to carry out this section and the amendments  
7 made by this section. This section and such amendments  
8 shall be carried out using amounts otherwise made avail-  
9 able.