

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2131
OFFERED BY MR. HIGGINS OF LOUISIANA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

**4 SEC. 2. DHS POLICY ON DISCIPLINE AND ADVERSE AC-
5 TIONS.**

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

8 (1) in subsection (b)—

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

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

13 (C) by adding at the end the following new
14 paragraph:

15 “(11) implement a Department-wide policy re-
16 lated to discipline and adverse actions described in
17 subsection (e).”;

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

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

5 “(e) POLICY ON DISCIPLINE AND ADVERSE AC-
6 TIONS.—

7 “(1) IN GENERAL.—Not later than 90 days
8 after the date of the enactment of this subsection,
9 the Chief Human Capital Officer, in accordance with
10 any established Department-wide policy that deals
11 with discipline and adverse actions, shall provide—

12 “(A) guidance to the senior human re-
13 sources official overseeing discipline and adverse
14 actions for headquarters personnel and non-
15 component entities, as identified by the Chief
16 Human Capital Officer, and relevant component
17 heads regarding informing the public about how
18 to report employee misconduct;

19 “(B) guidance on how Department employ-
20 ees should report employee misconduct; and

21 “(C) guidance on the type, quantity, and
22 frequency of data regarding discipline and ad-
23 verse actions to be submitted to the Chief
24 Human Capital Officer by the senior human re-
25 sources official overseeing discipline and adverse

1 actions for headquarters personnel and non-
2 component entities, as identified by the Chief
3 Human Capital Officer and component heads
4 for the purposes of paragraph (3)(C).

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

6 “(A) PRE-EXISTING TABLES.—If a table of
7 offenses and penalties exists for a component of
8 the Department as of the date of the enactment
9 of this subsection, the Chief Human Capital Of-
10 ficer shall review and, if appropriate, approve
11 such table and any changes to such table made
12 after such date of enactment. In cases in which
13 such tables do not comply with Department pol-
14 icy, the Chief Human Capital Officer shall in-
15 struct component heads on corrective measures
16 to be taken in order to achieve such compliance.

17 “(B) NEW COMPONENT TABLES.—If a
18 table of offenses and penalties does not exist for
19 a component of the Department as of the date
20 of enactment of this subsection, a component
21 head may, in coordination with the Chief
22 Human Capital Officer, develop a table of of-
23 fenses and penalties to be used by such compo-
24 nent. The Chief Human Capital Officer shall
25 review and, if appropriate, approve such table

1 and any changes to such table made after such
2 date of enactment. In cases in which such ta-
3 bles or changes do not comply with Department
4 policy, the Chief Human Capital Officer shall
5 instruct the component head on corrective
6 measures to be taken in order to achieve such
7 compliance.

8 “(3) COMPONENT RESPONSIBILITIES.—Compo-
9 nent heads shall comply with Department-wide pol-
10 icy (including guidance relating to such) regarding
11 discipline and adverse actions for the Department’s
12 workforce, including—

13 “(A) 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)(A);

18 “(B) 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)(B);
22 and

23 “(C) providing to the Chief Human Capital
24 Officer any data regarding discipline and ad-

1 verse actions in accordance with paragraph
2 (1)(C).

3 “(4) OVERSIGHT.—

4 “(A) IN GENERAL.—Not later than 90
5 days after the date of the enactment of this
6 subsection, the Chief Human Capital Officer
7 shall implement a process to oversee component
8 compliance with any established Department-
9 wide policy regarding discipline and adverse ac-
10 tions referred to in paragraph (1), including—

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

13 “(ii) at a minimum, each fiscal year,
14 a review of component adjudication of mis-
15 conduct data to—

16 “(I) ensure consistent adherence
17 to such policy and any Department-
18 wide table of offenses and penalties or
19 any component-specific table of of-
20 fenses and penalties approved by the
21 Chief Human Capital Officer pursu-
22 ant to paragraph (2); and

23 “(II) determine whether em-
24 ployee training regarding such mis-

1 conduct policy or adjustment in such
2 misconduct policy is necessary.

3 “(B) WORKING GROUPS.—

4 “(i) IN GENERAL.—The Chief Human
5 Capital Officer may establish working
6 groups, as necessary, to address employee
7 misconduct within the Department. If the
8 Chief Human Capital Officer establishes
9 such a working group, the Chief Human
10 Capital Officer shall specify a timeframe
11 for the completion of such group’s work.

12 “(ii) FUNCTION.—A working group
13 established pursuant to clause (i) shall
14 identify the causes in persistent mis-
15 conduct referred to in such subparagraph,
16 review component processes for addressing
17 misconduct, and develop alternate strate-
18 gies to address such misconduct.

19 “(iii) PARTICIPATION.—If a working
20 group is established pursuant to clause (i),
21 the relevant component head shall partici-
22 pate in such working group and imple-
23 ment, as appropriate, any recommenda-
24 tions issued by such working group.

1 “(iv) FOLLOW-UP REVIEWS.—The
2 Chief Human Capital Officer shall conduct
3 annual, or on a more frequent basis as de-
4 termined by the Chief Human Capital Offi-
5 cer, follow-up reviews of components with
6 respect to which misconduct has been iden-
7 tified under this paragraph. In consulta-
8 tion with the Chief Human Capital Officer,
9 the Secretary may request the Inspector
10 General of the Department to investigate
11 any concerns identified through the over-
12 sight process under this subsection that
13 components have not addressed.

14 “(5) INSPECTOR GENERAL FUNCTIONS.—The
15 Inspector General of the Department shall, as the
16 Inspector General determines necessary to carry out
17 obligations of the Inspector General under the In-
18 spector General Act of 1978, issue management
19 alerts regarding misconduct to the Secretary.”.

20 (b) REVIEW.—Not later than 30 days after the devel-
21 opment of the oversight process required under subsection
22 (e) of section 704 of the Homeland Security Act of 2002
23 (6 U.S.C. 344) (as added by subsection (a) of this sec-
24 tion), the Chief Human Capital Officer of the Department
25 of Homeland Security shall provide to the Committee on

1 Homeland Security of the House of Representatives and
2 the Committee on Homeland Security and Governmental
3 Affairs of the Senate information on such oversight proc-
4 ess, including component compliance with any policy re-
5 garding discipline and adverse actions, data collection ef-
6 forts, and information on the development of any working
7 groups under such subsection (e).

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

