

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3272

To provide for a demonstration project under which a basic housing allowance will be afforded to Federal law enforcement officers serving in high-cost areas, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2005

Mr. ROGERS of Michigan introduced the following bill; which was referred to the Committee on Government Reform

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## A BILL

To provide for a demonstration project under which a basic housing allowance will be afforded to Federal law enforcement officers serving in high-cost areas, 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 “Project to Protect  
5       America Act”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that—

1           (1) the current system of compensation for  
2 Federal law enforcement officers (hereinafter in this  
3 section referred to as “FLEOs”) must be reformed  
4 in order to deal with recruitment, retention, and mo-  
5 rale problems associated with assignments to high-  
6 cost areas;

7           (2) as the Office of Personnel Management has  
8 confirmed, limitations on premium pay are contrib-  
9 uting to the pay compression problem which, in  
10 turn, may be undermining the efficacy of incentives  
11 designed to encourage FLEOs to assume greater su-  
12 pervisory and managerial duties;

13           (3) the security of the Nation, as the 9–11  
14 Commission Report confirmed, depends on effective  
15 Federal law enforcement; this is particularly true of  
16 large metropolitan areas, which should be staffed  
17 with FLEOs who are fairly compensated for their  
18 services;

19           (4) the combination of rising living costs and  
20 lagging compensation threatens to worsen the sig-  
21 nificant recruitment and retention problems already  
22 facing Federal law enforcement agencies;

23           (5) the problems described in paragraph (4) are  
24 especially serious among law enforcement officers of  
25 the Federal Bureau of Investigation, who are re-

1       cruited and subject to assignment nationwide, and,  
2       upon assignment, are expected to adjust rapidly; but  
3       who, particularly in the case of those assigned to  
4       high-cost areas, often experience significant difficul-  
5       ties in finding adequate and affordable housing; and

6               (6) the Office of Personnel Management should  
7       experiment with innovative approaches to addressing  
8       compensation problems in the Federal workforce  
9       and, in the case of FLEOs, should look to the De-  
10      partment of Defense as a model for providing a rea-  
11      sonable housing allowance to assist those assigned to  
12      high-cost areas.

13 **SEC. 3. HOUSING ALLOWANCE DEMONSTRATION PROJECT.**

14       (a) **IN GENERAL.**—The Office of Personnel Manage-  
15      ment shall provide for a demonstration project under  
16      which eligible employees will be paid a basic housing allow-  
17      ance.

18       (b) **ELIGIBLE EMPLOYEES.**—For purposes of this  
19      Act, the term “eligible employee” means an employee who  
20      holds a position that—

21               (1) is in or under the Federal Bureau of Inves-  
22      tigation;

23               (2)(A) is classified under chapter 51 of title 5,  
24      United States Code, as a GS–1811 position; or

1           (B) if the GS–1811 classification is redesignig-  
2           nated or abolished or the qualification requirements  
3           for the GS–1811 classification are modified after the  
4           date of enactment of this Act, meets the qualifica-  
5           tion requirements for the GS–1811 classification ei-  
6           ther as then currently in effect or as in effect on  
7           such date of enactment; and

8           (3) is within a high-cost area.

9           Such term does not include an employee who is serving  
10          on a temporary basis or a part-time career employment  
11          basis (within the meaning of section 3401 of such title  
12          5) or who is a reemployed annuitant (within the meaning  
13          of section 8344 or 8468 of such title 5).

14          (c) IDENTIFICATION OF HIGH-COST AREAS.—

15               (1) CRITERIA.—

16                   (A) IN GENERAL.—An area shall, with re-  
17                   spect to any calendar year, be considered to be  
18                   a high-cost area for purposes of this Act if,  
19                   with respect to the calendar year last ending  
20                   before the start of such fiscal year—

21                           (i) the average monthly housing costs  
22                           for that area exceeded the average monthly  
23                           housing costs for the continental United  
24                           States by at least 10 percent (the dollar  
25                           amount of that difference hereinafter in

1           this Act referred to as the “housing cost  
2           differential”); or

3           (ii) such area was one of the 10 areas  
4           within the continental United States hav-  
5           ing the highest cost of living (identified in  
6           such manner as the Office of Personnel  
7           Management shall determine) and for  
8           which average monthly housing costs ex-  
9           ceeded the average monthly housing costs  
10          for the continental United States.

11          (B) SAME DIFFERENTIAL COMPUTATION  
12          RULE APPLIES.—The housing cost differential  
13          for any area identified under subparagraph  
14          (A)(ii) shall be determined in the same manner  
15          as described in subparagraph (A)(i), but dis-  
16          regarding the 10-percent requirement.

17          (2) ANNUAL DETERMINATIONS.—In order to  
18          carry out this subsection, the Office of Personnel  
19          Management shall (for each fiscal year during which  
20          the demonstration project remains in operation)  
21          identify which areas satisfy paragraph (1).

22          (3) COSTS OF ADEQUATE HOUSING.—Deter-  
23          minations of monthly housing costs under this sub-  
24          section shall be based on the costs of renting ade-  
25          quate housing typically borne by individuals residing

1 within the area involved who have income levels com-  
2 parable to those of eligible employees within the  
3 same area (taking into account, with respect to eligi-  
4 ble employees, only amounts payable to such employ-  
5 ees under title 5, United States Code).

6 (4) DEFINITION OF AN AREA.—For purposes of  
7 this section, the term “area” means a metropolitan  
8 statistical area within the continental United States.

9 (d) BASIC HOUSING ALLOWANCE.—

10 (1) IN GENERAL.—The Office of Personnel  
11 Management shall prescribe the basic housing allow-  
12 ance payable to eligible employees within each area  
13 that has been identified under subsection (c) as a  
14 high-cost area for purposes of the fiscal year in-  
15 volved.

16 (2) AMOUNT.—The amount of the basic hous-  
17 ing allowance for each high-cost area shall be equal  
18 to such amount as the Office of Personnel Manage-  
19 ment shall determine, except that—

20 (A) determinations under this paragraph  
21 shall be made in a manner based on section  
22 403(b) of title 37, United States Code (relating  
23 to basic allowance for housing for members of  
24 the uniformed services); and

1           (B) in no event may any such amount be  
2           less than the housing cost differential deter-  
3           mined under subsection (c) for the area and fis-  
4           cal year involved.

5           (3) MANNER OF PAYMENT.—A basic housing  
6           allowance shall be payable at the same time and in  
7           the same manner as basic pay.

8           (4) NONREDUCTION RULE.—Notwithstanding  
9           any other provision of this Act, the basic housing al-  
10          lowance payable to an individual who continuously  
11          remains an eligible employee within the same high-  
12          cost area may not be reduced by reason of any fluc-  
13          tuations in housing costs.

14          (5) RULE OF CONSTRUCTION.—Nothing in this  
15          Act shall be considered to permit or require any re-  
16          duction in basic pay by reason of an individual's eli-  
17          gibility for or receipt of a basic housing allowance.

18          (e) APPLICABILITY OF PROVISIONS GOVERNING  
19          DEMONSTRATION PROJECTS GENERALLY.—The dem-  
20          onstration project shall be conducted in accordance with  
21          section 4703 of title 5, United States Code, except that  
22          such project shall not be subject to the provisions of sub-  
23          section (d)(1) thereof and shall not be taken into account  
24          for purposes of applying the numerical limitation under  
25          subsection (d)(2) thereof.

1 (f) DURATION.—The demonstration project—

2 (1) shall be conducted over the 5-year period  
3 beginning on the first day of the first fiscal year be-  
4 ginning at least 30 days after the date of enactment  
5 of this Act; and

6 (2) may, subject to the availability of appropria-  
7 tions, be extended for one or more additional 12-  
8 month periods after the end of the 5-year period re-  
9 ferred to in paragraph (1).

10 (g) REPORTING REQUIREMENT.—Not later than 90  
11 days after the date on which the demonstration project  
12 terminates, the Office of Personnel Management shall sub-  
13 mit to Congress a report on such project, together with  
14 recommendations for any legislation that the Office con-  
15 siders appropriate. Such report shall specifically address  
16 the effect of the housing allowance on employee retention,  
17 recruitment, and morale, and shall be based on appro-  
18 priate data as well as comments received from manage-  
19 ment officials, employees, and other interested persons (in-  
20 cluding professional associations representing employees).

21 (h) OTHER DEFINITIONS.—For purposes of this sec-  
22 tion—

23 (1) the term “employee” has the meaning given  
24 such term by section 2105 of title 5, United States  
25 Code;

1           (2) the term “management official” has the  
2 meaning given such term by section 7103 of such  
3 title 5; and

4           (3) the term “continental United States” means  
5 the several States and the District of Columbia, but  
6 does not include Alaska or Hawaii.

7 **SEC. 4. EXCLUSION FROM LIMITATION ON PREMIUM PAY.**

8           Section 5547 of title 5, United States Code, is  
9 amended—

10           (1) in subsection (a), by striking “5545a,”;

11           (2) in subsection (c), by striking “or 5545a,”;

12           and

13           (3) in subsection (d), by striking the period and  
14 inserting “or a criminal investigator who is paid  
15 availability pay under section 5545a.”.

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