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REPEAL OF APPORTIONMENT REQUIREMENT

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HEARING

BEFORE THE

OMMITTEE ON CIVIL SERVICE

OF THE

COMMITTEE ON

FFICE AND CIVIL SERVICE

SE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 5054

A BILL TO REPEAL SECTION 3306 OF TITLE 5, UNITED STATES CODE, TO ELIMINATE THE REQUIREMENT OF APPORTIONMENT OF APPOINTMENTS IN THE DEPARTMENTAL SERVICE IN THE DISTRICT OF COLUMBIA

MAY 26, 1977

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REPEAL OF APPORTIONMENT REQUIREMENT

THURSDAY, MAY 26, 1977

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON CIVIL SERVICE,
Washington, D.C.

The subcommittee met at 10 a.m., in room 311, Cannon House Office Building, Hon. William Clay (chairman of subcommittee) presiding.

Mr. CLAY. The hearing will come to order.

I am pleased to convene this hearing to consider the merits of a bill, H.R. 5054, introduced by my friend and colleague from Virginia, Congressman Herb Harris.

Congressman Harris has sponsored this bill, along with other Members, which seeks to eliminate the requirement that appointments to the competitive service in the executive branch within the Metropolitan Washington, D.C. area be apportioned on the basis of population among the States, territories, and the District of Columbia.

This legislation has the backing of the administration which will be represented here today by Mr. Arch Ramsay, Director, Bureau of Recruiting and Examining of the Civil Service Commission, as well as the General Accounting office which reviewed the apportionment requirement a few years ago and issued a report to the Congress. GAO is represented here by Mr. Clifford Gould, Deputy Director of Federal Personnel and Compensation Division of GAO.

The apportionment requirement was included in the Civil Service Act of 1883 to assure that all States and territories would have a proportionate share of the Federal appointments to headquarter jobs in Washington, D.C. The apportionment requirement was later extended to include the entire Washington metropolitan area. Its purposes was to insure geographical representation in headquarters of agencies and to insure that all qualified persons have the opportunity to be considered for appointment in the Washington area.

The GAO study concluded that the effect of apportionment has been minimal. The exceptions to the requirement are so numerous—it does not apply to veterans; clerk stenographers and clerk typists and specially qualified scientific and professional personnel due to the shortage of these types of personnel; all GS–13's and above; temporary and indefinite appointments to the competitive service; any noncompetitive action under which the employee will serve with career tenure and; career reinstatements under which the appointee will have career tenure. In addition, those who hold positions in headquarters offices which are located outside the Washington metropolitan area, or in the District of Columbia government, the GPO, and

the National Capital Housing Authority, or part-time and intermittent positions are also exempt from the apportionment requirement.

In fact, the Civil Service Commission states that the requirement plays a part in only 15 percent—49,000—of approximately 3 million Federal jobs. For the past 25 years, 41 States and territories have been in arrears—having less appointments than their allocated quotas—and 15 have been in excess of their quotas. Reportedly, one of the reasons is the reluctance of employees to move away from their residences. While the apportionment requirement has been reportedly ineffective, GAO claims that the nationwide competitive service facilitates examining candidates from across the country and that decentralized decisionmaking insures that different geographic views are represented at the national level. Critics of the current apportionment plan state that the sole criterion for this requirement is based on residence and doesn't take into account the relative qualifications of applicants.

Supporters for repeal of the apportionment requirement state that this requirement which may have once served a useful purpose is now archaic and has no place within today's merit system in addition to being too cumbersome to administer.

Mr. Taylor, did you have an opening statement?

Mr. TAYLOR. Mr. Chairman, I'd simply say that I'm in support of this bill. I think that this is an antequated program that probably might have served its purpose in its time. I think in the day in which we live it is in fact almost impossible to administer in an area where the Civil Service Commission is placed in the position of placing residence over qualifications. I think it's an administrative nightmare and I support this legislation.

Mr. CLAY. The first witness today is the sponsor of H.R. 5054, my good friend and a member of this subcommittee, Congressman Herb Harris.

STATEMENT OF HON. HERBERT HARRIS, U.S. REPRESENTATIVE FROM THE STATE OF VIRGINIA

Mr. HARRIS. Thank you very much, Mr. Chairman, No. 1, for scheduling consideration H.R 5054 so promptly, for holding the hearings today, and for your opening statement, and I'd like especially to thank my colleague from Missouri, my good friend, Gene Taylor, for his comments in support of this legislation

If I may, Mr. Chairman, I'd like unanimous consent to place my statement in the record and then just make a couple comments with respect to it and then answer any questions that my colleagues might have.

Mr. CLAY. Without objection, so ordered.

[Complete statement follows:]

PREPARED STATEMENT OF CONGRESSMAN HERBERT E. HARRIS II

I am pleased to appear today before my colleagues on the Subcommittee on Civil Service and commend the Chairman for scheduling hearings today on H.R. 1954, my bill to repeal the "apportionment requirement" which directs that hiring for Federal agencies in the Washington, D.C. area must include a con-

sideration of an individual's residence. It is time Congress abolished the apportionment requirement.

APPORTIONMENT OBSOLETE

The concept of apportionment—hiring on the basis of residence—has been traced back as far as our first President George Washington, who expressed his view that appointments to Federal jobs be distributed to people in different States of the Union. As one who reveres our first president and in fact represents the district in which his historic home Mt. Vernon is located, I have to say—with all due respect to the "General," as we Virginians call him—that that position "doesn't wash" today. Apportionment is an anachronism.

I agree with the notion that in Government we need the best minds available and the widest possible diversity of viewpoints. But in 1977, this is accomplished because modern-day communications—unknown to George Washington—facilitate the rapid-fired dissemination of ideas. Interstate and transcontinental transportation and a mobile population—also rare at the end of the 17th century—foster the constant free-flow of ideas. Additionally, the decentralization of agencies, the regionalizing of Government offices and the rotation of agency personnel open up opportunities for utilizing the talent and views of individuals from all parts of the country. The nationwide competitive examination encourages the hiring of qualified individuals from different parts of the country.

In 1883, when 40 percent of all competitive civil service jobs were concentrated in Washington, D.C., apportionment was considered a necessary, statutory insurance to attract citizens who because of poor transportation and distance might be remote from the central affairs of the Federal Government but whose talents should be utilized. The point here is that times have changed and the law should change to reflect the times. Simply put, apportionment no longer makes sense. It is out of step with the times.

APPORTIONMENT, A NONMERIT FACTOR

The Federal Government's personnel system is a merit system and it is my view that giving preferential treatment to persons because of their place of residence has no place in our merit system. What this law does in effect is set up "quotas" requiring agencies headquartered in the national capital area to hire a certain number of people from the various States. We have asked our agencies to administer conflicting laws. We have said, "Hire the best qualified people based on their merit, but give them special treatment because of their State of residence." The result is often most unfortunate. Agencies who try to uphold the apportionment law feel they must hire marginal candidates from States in rears of their quotas over more qualified people from States whose quotas are filled. In other words, the Justice Department could refuse to hire Oliver Wendell Homes as the best qualified applicant because he is from the wrong State or ERDA might pass over Albert Einstein were he alive! Do we really want to exclude these individuals? One of my constituents, a college graduate who conducted a 9-month search for a civil service job was told, "You are overqualified and we would like to hire you but it's too bad you're from Virginia."

Another adverse consequence of the apportionment law is that agencies sometimes use it as a cover. Over and over again I have heard from people in my area that they were told by hiring officials that they were from the "wrong State." It may be that the agency had another reason for not hiring the individual but didn't want to be level with the applicant, that in fact, there were other, perhaps perfectly legitimate reasons for not hiring the person; but the agency chose to "hide" behind the apportionment requirement. I belive it is more honest to explain the real basis for refusing to hire someone, whatever that reason may be.

RESULTS INTENDED NOT ACHIEVED

In the last Congress, the Civil Service Commission testified that apportionment only applies to about 15 percent of the total 340,000 jobs in the metropolitan area. The law has become virtually meaningless because it is shot through with exceptions, for example:

(1) Veterans who make up more than half of the Federal work force.

(2) Excepted service positions, such as those in the FBI, the CIA, or the Department of Medicine and Surgery of the Veterans' Administration, which account for about 70,000 jobs.

(3) Shortage category jobs such as a clerk-stenographers and certain scientific and professional positions.
(4) Positions at GS–13 and above.
(5) Positions in agency field offices in the Washington area.
(6) Temporary, part-time and intermittent jobs.
(7) Positions in the Government Printing Office and in certain other activities outside the executive branch.

That means then that it applies to about 50,000 jobs. But even for those jobs it has not resulted in the kind of distribution intended. Thirteen states and territories and the District of Columbia are over their quotas; the remaining 43 are in "arrears." And those states over their quotas are not just the states bordering Washington, as is commonly assumed. For example, South Dakota is over its allotted positions, as are Kansas, Nebraska, Maine and others. The Commission has said that this pattern has been true for the last 25 years which should be a clear indication that the apportionment requirement has not worked as intended. So what we have is a meaningless law on the books.

WOMEN HURT PARTICULARLY

The law exempts veterans from the apportionment requirement and 50 percent of all civil service employees are veterans. Because the veterans population is largely male, women have had to bear an unfair burden in the federal job market. We have essentially said that women have to meet the apportionment requirement but veterans do not. Such discrimination should be removed.

A CUMBERSOME, WASTEFUL LAW

Just as apportionment is unfair to aspiring federal employees, it is unfair to the citizenry at large because it is cumbersome, time-consuming and costly to administer. Personnel officials must go through a lot of paperwork and red tape to implement apportionment—which Civil Service Commission officials, who will also appear here this morning, can attest to better than I. I believe this antiquated law places an administrative burden on personnel officials whose time could be better spent.

The General Accounting Office in 1973 estimated that the cost of administering the apportionment law ranged from $450 to $13,000 per year. Here in Congress, amid the millions we must make decisions on daily, $13,000 may not sound like much money. But I am ready to cut government waste where ever it exists, whether it is $13 or $13 million. For too long, we have let the dust gather on some old laws and programs without really asking, "Are they working? Are they necessary? Do they make sense? Is the taxpayer getting his or her money's worth?" I believe the apportionment law is one of those obsolete laws, consuming the time and energy of federal agencies, a law whose time has come—for repeal. Elimination of it can save many headaches for those who have to implement it and many dollars for the federal budget.

Mr. HARRIS. Thank you very much, Mr. Chairman.

I really don't want to be guilty of overkill here. It's just a simple little old bill which does something that probably every reform bill this committee has considered in the last several years has contained in it, a provision like this. The Civil Service Commission, the GAO, and anybody who's looked at it I believe has urged the removal of this old law which in fact applies to very few civil service positions.

If I may elaborate, it applies to the Washington metropolitan area. When you subtract all the exceptions out, you really are just talking about 50,000 positions that the apportionment would apply to, and I'm sure any appointive officer or reviewing official has great difficulty in applying it without seeing real injustice occurring.

It's an old law, and if you go back to 1883 or if you go back to the days where we were forming a new capital and said all the government jobs are going to be here and you ought to have somebody from each of the States come and what have you, you can see a logic and even a need perhaps for such a law. In the meantime, of course, in the

intervening years, we have decentralized government. We have regional offices. We have a sophisticated means of transportation. We have nationwide exams. We have an effort to recruit the most qualified and I hope and believe we have become a little more mature about the merit system. We believe it is a merit system and the person most qualified should be appointed.

The Chair made clear how many exceptions there are to this but I think we have to realize when you apply those exceptions you get some distortions with regard to a relatively small percentage of civil service jobs which are terribly unjust. Frankly, the injustice especially hurts women because all the veteran preferences are removed from apportionment; it's only those jobs which veterans preference procedures do not apply to that are subject to this law. Of course, most of the veterans are male and this means that women suffer the most discrimination under this law.

I think frankly it just comes down to this simply direct point. We've got an antiquated law. There are different estimates as to the cost of administering it from anywhere from $13,000 a year up. It presents a problem in paperwork and administration. It's a wasteful provision because it does waste Government money in administering it, but most importantly, another factor is it takes the appearance of impartiality of merit away from the merit system and I think the chairman and Mr. Taylor and all of us are committed to restoring confidence in the merit system that is so terribly important in our Government today.

Thank you, Mr. Chairman, for allowing me to make this statement.

Mr. CLAY. Thank you, Mr. Harris.

The first question is one that a number of people are concerned about in the Congress and I think unjustifiably so, but I would like to have your response to it. Won't repeal of the apportionment law have an adverse effect upon most States that are already below their quotas? Won't a vote on this bill in effect be a vote in support of unemployment in those States which are below their quotas?

Mr. HARRIS. That is a misconception and totally wrong and I'd like to answer it two ways, one from the basic way of how it should be and one from a pragmatic way.

First of all, the merit system and the way the merit system is conducted—that is, with nationwide exams—prevents this from happening. More importantly, we have to recall that this applies only to the Washington metropolitan area. This would presume that a person wanted to come to the Washington metropolitan area to work and that somehow he would have a better chance in that regional exam if the apportionment was in effect. It doesn't work that way because if he qualifies under the civil service exam he has exactly the same opportunity for the position even if he does want to move to Washington.

What is the experience with it? Those States that have been "under the quota" and those States that have been "above the quota" have been that way for years with apportionment operating. There's not been any change and there won't be any change with apportionment out.

I think the proof of the pudding has got to be in the eating, and the fact of the matter is that apportionment has not changed the numbers coming from one State vis-a-vis the other, vis-a-vis with relationship to any sort of a quota system.

Mr. CLAY. Is that because of the lack of effective administration of the program?

Mr. HARRIS. I don't believe so. I think you have a lot of things coming into play here with regard to operating a merit system application qualification. If in fact there should be more recruiting done from certain States, then I think you look to the administration of the regional recruiting effort. Is the necessary initiative being used in one area as contrasted to another area? This would be what would correct any possible problem in that way. But I don't think apportionment could ever help them and the proof of the pudding, as I say, is that it hasn't helped them with respect to obtaining more Government jobs if in fact that's what they want.

Mr. CLAY. I'm looking at some figures here on the breakdown by State. Would you explain how a State can be over its quota—for instance Virginia is authorized for 957 positions but they actually have 4,054—if the law prohibits appointments unless a given State is in arrears of its quota?

Mr. HARRIS. I don't believe the law prohibits the appointment, Mr. Chairman. The fact of the matter is that, like on any job, you're recruiting a person with the qualifications and must under the merit system and, No. 2, you're relying upon that person applying for the job. Obviously, a person living in Virginia close to the Pentagon is more likely to apply for that Pentagon job, especially in these areas. You're only talking about 50,000 jobs in the whole Federal system and the fact that there isn't somebody else of equal qualification that may want to move there that wants the job and has to be put up there, they would get the preference under the apportionment; but the way the system has worked, it just never has operated that way. That's why you see the states that have a Federal facility, Federal jobs nearby, tending to have more jobs than the States that don't. It's almost that simple.

Mr. CLAY. Thank you very much.

Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

Well, I would certainly agree with our colleague from Virginia that the cause for this program at its inception was probably because of centralization of Government in Washington.

With the proliferation of Government out through the various regions, I think it's rendered unnecessary. It has had no meaningful effect as the figures we have before us would indicate, and while the effectiveness has not been brought into focus, I think that it's a good bill and I think it should be repealed and I don't think there's any way that this program can be administered while at the same time trying to maintain an effective merit system, and I think that our colleague's points have been well taken and I think they are well presented and I certainly support it.

Mr. CLAY. Thank you, Mr. Harris.

Mr. HARRIS. Thank you very much, Mr. Chairman.

Mr. CLAY. The next witness is Mr. Arch S. Ramsay, Director of the Bureau of Recruiting and Examining of the Civil Service Commission.

STATEMENT OF ARCH S. RAMSAY, DIRECTOR, BUREAU OF RECRUITING AND EXAMINING, CIVIL SERVICE COMMISSION, ACCOMPANIED BY MORTON HORVITZ, GORDON WRIGHT, AND RALEIGH NEVILLE

Mr. RAMSAY. Mr. Clay, I'm accompanied today by Mr. Morton Horvitz, from the Office of Staffing Policies, and a member of his staff Mr. Raleigh Neville, and also accompanied by the assistant manager of the Washington area office of the Bureau of Recruiting and Examining, Mr. Gordon Wright.

The Bureau of Recruiting and Examining handles the examinations for apportioned positions in the Washington area.

Mr. Chairman and members of the committee; I am pleased to be here today to testify in behalf of H.R. 5054, a bill to repeal the apportionment requirement. The Commission strongly supports its enactment. With your permission, I should like to have a copy of the Commission's report on the bill in the record.

Mr. CLAY. Without objection, so ordered.

Mr. RAMSAY. We can appreciate the desire of members of this committee to assure that there is representation from all over the United States in Federal jobs in Washington. I want to emphasize that the Commission shares that concern. However, we do not believe apportionment is the best way to accomplish this worthwhile objective.

Prior to 1883, Federal civil service positions—particularly those in Washington—were commonly filled under the old spoils system. There was no merit system, no Civil Service Commission, and no established procedure whereby all citizens would have the opportunity to be considered for Federal employment. If someone wanted a Government position, the best way to get it was to move to Washington, where almost half of the Federal jobs were concentrated, and cultivate influential friends, relatives, and politicians. The result was predictable. According to the findings of the 1873 Grant Commission, most jobs in the Capital were going to people who already lived here.

In reaction to the spoils system, Congress enacted the Civil Service Act of 1883. This landmark piece of legislation required that all competitive civil service positions be filled solely on the basis of merit. It also created the Civil Service Commission to carry out this mandate.

But Congress also sought to address the problem of local residents getting most of the Washington jobs by including a provision in the act which required positions in Washington to be apportioned among the States and territories on the basis of population. Given the situation at the time, this seemed a reasonable way to insure that residents of all States would at least have an opportunity to be considered for a job in the Nation's Capital. It meant that residents from States which had not met their job quotas were to be given preference over residents from States in excess of their quotas for positions which were subject to the apportionment requirement. This would be true regardless of the individual's qualifications.

However, the scope of apportionment was limited from the very beginning. The law applied only to jobs in the competitive civil service, which in 1883 accounted for only about 10 percent of the roughly 50,000 positions in Washington. Also, it applied only to headquarters positions which meant that a considerable number of so-called field jobs in Washington were excluded. Finally, under an early Attorney General ruling, the requirement did not apply to veterans.

Out of 350,000 positions in the Washington area today, about 100,000 do not come under apportionment because they are by law outside the competitive service. Jobs in the Federal Bureau of Investigation, the Central Intelligence Agency, the Energy Research and Development Administration, and the legislative and judicial branches are some examples of positions not covered. Of the competitive service positions, well over 100,000 are exempt from apportionment because they are filled by veterans, and thousands more are exempt because they are considered field jobs. In addition, under authority provided by Congress, the Commission has excepted additional positions in the interest of good administration. We have, for example, excepted temporary and part-time jobs, jobs for which there is an acute shortage of well-qualified applicants, and higher level positions at GS–13 and above.

The result is that apportionment applies to only a fraction of the positions in Washington. It is a factor principally in filling those lower and middle graded competitive service positions in agency headquarters which are not considered shortage category. Moreover, it applies only when the applicant is a nonveteran.

The Commission strongly favors the repeal of this requirement on several grounds. First and foremost, it is contrary to the principles of merit and open competition on which our system of employment is founded. In effect, we are telling an applicant who applies for an apportioned job that it doesn't matter how well qualified he or she is; what counts is where the person happens to come from.

This is unfair not only to people born and raised here, but to those who move to the Washington area and take up residence, then find that they are largely excluded from the largest local job market. In many cases, the actual effect of the requirement is just the opposite of what was intended.

For example, in a recent case brought to my attention, a woman with a master's degree in urban planning who was born and raised in New Mexico, a State which is in arrears of its quota, moved to Virginia and registered to vote, thereby establishing herself as a Virginia resident. Shortly thereafter, she applied for a position as a housing program specialist. The agency wanted to hire her, but could not because of apportionment.

Mr. HARRIS. Would the gentleman yield on that point? This hadn't occurred to me before but of course it's obvious as soon as you cite the example. Apportionment would be designed to help that lady from New Mexico who wanted to come here to get a job in preference to somebody that already lived here. Now without attacking the merit of that concept, in this case, the apportionment operated exactly the opposite. It prevented that lady from New Mexico from getting a job she would otherwise have gotten. Is that correct?

Mr. RAMSAY. Yes, sir. That's exactly the way it operated and in our very mobile society today the person's residence, legal residence, can change several times during a course of a career and how apportionment happens to affect people depends on where they happen to be at a particular point in their career.

Mr. CLAY. The committee will take a 15-minute recess. We have a vote on the floor.

[Recess.]

Mr. CLAY. The hearing will come to order.

Mr. Ramsay, you may continue.

Mr. RAMSAY. Thank you.

In another case mentioned in the Congressional Record of March 16, a young lady from Maryland who was a Phi Beta Kappa graduate of Wellesley and had a 96.5 rating on the Commission's entrance examination, had taken a temporary job which is not subject to apportionment and had proven herself to be an extremely capable and valuable employee. Yet, her agency was not able to give her a permanent appointment because Maryland is over its apportionment quota.

Our files are filled with similar case histories. On the one hand the Government holds itself out as an equal opportunity employer that hires on the basis of merit. However, on the other hand, we have to turn down many outstanding candidates because of a requirement that people be hired on the basis of residence. To say that these people are incredulous and disillusioned that their Government should have such a contradictory, archaic policy is certainly an understatement.

We believe that a requirement which would place a minimally qualified eligible with a rating of 70 ahead of an outstanding individual with a rating of 100, solely on the basis of residence, is not only completely out of harmony with basic fairness and equity to our citizens, but potentially costly to the Government in lowered quality and productivity.

Second, apportionment is unfair because it does not apply across-the-board to all applicants and to all jobs. As I mentioned, it doesn't apply to veterans, to positions in the excepted service, to field jobs located in Washington, or to headquarters jobs not located in Washington such as the Social Security Administration in Baltimore. Thus, it penalizes the candidate who is not eligible for an exception or who is applying for a job which does not qualify for an exception.

I want to make it clear, however, that I am not suggesting that this law be applied universally. To do so would be even more harmful to the merit system. Rather, the point I want to make is that apportionment applies to such a small percentage of the jobs in Washington that it simply cannot be justified as a way of assuring proportional representation. It serves instead as an arbitrary requirement which falls most heavily on certain groups.

And this brings me to the third reason why we are opposed to this requirement. The fact that veterans are exempt from apportionment means that it does not apply to about 50 percent of the employees in the Washington area.

Furthermore, since most veterans are men the actual burden of apportionment falls most heavily on women applicants. This is an obstacle to the fulfillment of the Government's equal employment opportunity responsibilities.

This certainly was not intended by the law. Indeed, discrimination on the basis of sex, age, and other nonmerit factors is expressly prohibited. But here we have a requirement which not only discriminates on the basis of sex indirectly, but specifically discriminates on the basis of residence. By any standard, residence is at least as much of a nonmerit factor as are race, religion, age, marital status, and national origin.

The fourth reason we believe apportionment should be repealed is that is an administrative burden to all concerned which cannot be justified. Several distinct and separate steps are involved in administering this requirement:

Applicants must complete special forms proving their residence and these must be attested to by persons who are in a position to affirm that a candidate is indeed a bona fide resident of the State claimed.

Agencies bear the heavy burden of keeping track of every employee and all personnel actions which might in some way affect the apportionment totals.

These personnel actions, numbering 200,000 and more per month must be reviewed and those pertaining to apportionment are extracted and finally sorted and tabulated.

The Federal Records Center in St. Louis keeps track of all separations and the States originally charged and sends us this data.

The Commission uses all of this to compile the quarterly apportionment report. Also we must arrange our lists of eligibles two or three different ways, depending on whether the jobs and the applicants are subject to apportionment.

Since the process of keeping track of apportionment is extremely complex, but the number of positions actually affected is quite limited, the requirement does not lend itself to computerization. This means that the whole thing has to be done manually.

If an unjust and complicated system such as this were necessary, or if it served some useful purpose, it could perhaps be justified. However, the evidence suggests that this is not the case.

After 94 years under apportionment most States are still in arrears of their quotas. Indeed, some States such as Alaska, Arizona, New Mexico, Nevada, Hawaii, and others have been in arrears ever since they were territories. For a variety of reasons, apportionment simply has not achieved proportional representation in Washington even for the jobs to which it applies. Our records show that there has been relatively little change in the apportionment statistics; the States have tended to maintain their same relative positions for many years.

Actually, we doubt that our apportionment figures in any way reflect the States representation in the Washington work force. Thousands of people come here to work from all over the country and never show up in apportionment figures, either because they're veterans or they go to work in excepted or field jobs, or because they transfer in from jobs in other parts of the country. For all we know, States continually in arrears might actually be far in excess if we totaled up all the employees in Washington from those States. Nevertheless, on the basis of these essentially meaningless figures, we are denying employment to exceptional candidates. It seems to me that there can be no single better reason for doing away with this requirement.

Finally, I think it is important to point out that apportionment is not needed to assure that all States are represented in the Government in Washington. As I mentioned, when this provision was enacted in 1883 there was no Civil Service Commission and no established procedure whereby residents of all States could be considered for Govern-

ment jobs. Distances from Washington, where almost half of all Federal jobs were located, were magnified by the poor transportation facilities. There were no cars, no buses, and of course no airplanes to whisk people back and forth across the continent in a matter of hours.

Also, in 1883, a requirement tied to State residence had much more meaning than it does in today's highly mobile society where the average American changes his residence every 2 or 3 years.

Government employment, too, has changed dramatically in the past 94 years. No longer does the Washington area account for a large percentage of Federal jobs. In fact, this entire area makes up only about 12 percent of all Federal employment. This percentage could even go lower because of the growth of regional activities and the emphasis on decentralization. There are now many Federal jobs in each State: California, for example, which is in arrears of its apportionment quota, nevertheless has some 300,000 Federal positions within its borders—almost as many as there are in all of the Washington metropolitan area. Furthermore, many of the positions are now at grade levels comparable to what would be found in Washington and for a variety of reasons field jobs are often more attractive than headquarters positions. We know because we experience continuing difficulty in getting people to transfer here from the regions.

In the period since 1883 we have established perhaps the world's most refined recruiting and examining network for the specific purpose of carrying out the requirements in the Civil Service Act that appointments be based on merit and that everyone, no matter how poor, or how lacking in influence, or how isolated from the centers of power, be given an opportunity to compete. We provide toll free telephone service from any place in the country to Federal job information centers located in each State where job seekers can get the latest information on opportunities throughout Government. Also, our 62 area offices scattered across the country provide a wide range of recruiting, examining, and certification services to both applicants and agencies.

To illustrate the scope of this operation, last year (fiscal year 1976) our job information centers and area offices alone answered almost 11 million employment inquiries from the general public by letter and telephone. They also handled more than 2 million "walk-ins" and processed about 2 million employment applications.

What this adds up to is that a quota requirement which seeks to assure proportional representation in Washington by giving preference based on a person's State of residence is as out of place and as unnecessary as the old Civil Service rule which gave preference to people who were immune to yellow fever for employment at quarantine stations.

In the final analysis apportionment is a relic of another era. It simply does not serve any useful or worthwhile purpose and it's only real impact is a negative one. The General Accounting Office, which conducted its own investigation of this requirement several years ago, came to the same conclusion.

We firmly believe that all our citizens should have an equal chance for a job in the Nation's Capital. But the best way to insure this is by hiring on the basis of merit and ability—not residence. In this critical period, with the problems we face now and the ones we will have to

cope with in the future, I do not see how we can afford to hire on any other basis.

I will be pleased to answer any questions you may have.

Mr. CLAY. Thank you. You close with the statement that the system is arbitrary and outdated and earlier you said it was outdated and you referred to the many changes in residences. Can you tell us what the definition of residence is in relationship to apportionment and how long does a person have to reside in a State in order to be considered a resident?

Mr. RAMSAY. We generally use the legal or voting residence of the applicant. At the time the person is being considered for employment the employing agency has to obtain the necessary information from the applicant to indicate in which State he or she established residence.

Mr. CLAY. When you say voting residence, you know you can register in some places after being there a number of days. In other words, a person who would look at this list and see where a State was in arrears could establish a temporary residence there and make application and be given some preferential treatment.

Mr. WRIGHT. We are confronted with that, Mr. Chairman, on a frequent basis. People will attempt to go to a State where they can register to vote in a very short period of time and in many States in the last few years the voting requirements have changed—where people had to live for a minimum of 1 year before, now they only have to live for 30 days, and I'm not sure that we have come up with a definitive answer to the question that you have asked about how do we determine residence. That issue is before our general counsel right now.

Mr. CLAY. Mr. Harris in his statement made the charge that this law discriminates against women. Could you elaborate on that for us? I think you made it in your statement, too.

Mr. RAMSAY. You know, Mr. Chairman, that people who are entitled to veterans preference are not subject to apportionment. Because many women applicants have not been in the military service and therefore are not entitled to veterans preference, they are subject to apportionment where their next door neighbor who is entitled to veterans preference would not be subject to it.

Mr. CLAY. Is it your position that you, in this instance, oppose veterans preference?

Mr. RAMSAY. No, sir, we do not.

Mr. CLAY. But you're opposed to women being discriminated against?

Mr. RAMSAY. We are opposed to women being discriminated against in the process. What we are saying, Mr. Clay, is at the present time approximately 50 percent of all Federal employees are entitled to veterans preference. If you considered male employees alone, that proportion goes up to 70 percent. We think this change in apportionment can be made without in anyway impairing the rights of veterans to employment.

Mr. CLAY. I know, of course, the discriminatory aspects of veterans preference has nothing to do with apportionment, but it's one issue that I'm very interested in pursuing. I think the whole concept of veterans preference has to be revised in some way to make it less discriminatory, but that has nothing to do with this bill per se.

Can you give us an approximated cost of administering this law?

Mr. RAMSAY. No, sir. It's very difficult to estimate. We know that we spend about $10,000 a year in the Commission going through the personnel action forms to sort out those where apportionment has been a factor. You have to add to that all of the staff time of Commission personnel who have to rearrange registers, certificates of eligibility to make sure that apportionment is taken into account. You also have to take into account the time of agency employees who also have to deal with apportionment in personnel actions.

The Federal Records Center has to maintain about 24,000 cubic feet of storage space to handle such records.

The best estimate on cost that we have was made at the time of the 1973 GAO report. They contacted I believe 15 agencies. The agencies reported a cost ranging anywhere from $450 to $13,000 a year. I would assume that in view of what's happened to costs during recent years those costs would have increased significantly since that time.

Mr. CLAY. That did not include the cost of personnel? Is that what you're saying? That's in addition? Personnel cost is in addition to the $13,000 or is it inclusive?

Mr. RAMSAY. No. I think the agencies included their personnel costs in that $13,000 figure. What I was saying earlier about Commission costs is that we spend $10,000 alone, without any of our other staff costs—$10,000 alone just to go through the approximately 200,000 or 250,000 personnel forms that are completed every month to sort out those where apportionment has been a factor.

Mr. CLAY. One last question. When we speak of some 50,000 or 52,000 positions out of the total work force which must be apportioned, how do we arrive at that figure? What jobs are we talking about being in that classification?

Mr. RAMSAY. Well, No. 1, Mr. Clay, many jobs are eliminated from apportionment by law. All of the positions in the so-called excepted service, for example and all positions occupied by people entitled to veterans preference. These are big numbers. I think there are over 100,000 jobs in the excepted service here. There are over 100,000 jobs that are occupied by people entitled to veterans preference.

Then when you look at the jobs in the headquarters in the Washington metropolitan area, you look at all of those jobs which have not been excepted by law or by Commission administrative action. I believe in your previous statement you noted some of the positions which have been expected by Commission action—so really, the way that you determine the number of apportioned positions is that you come down to the number remaining after the statutory and Commission exceptions have operated.

Mr. CLAY. Thank you.

Mr. Harris.

Mr. HARRIS. Thank you, Mr. Chairman.

Let me compliment you for your testimony, not because you support my bill, but because it has brought up a couple points as to the actual operation of the law that I had not understood so clearly previously. I know when you look at the list here, for example, California is 5,122 in arrears under the way we compute it. Hawaii is 198 in arrears and Alaska is 78 in arrears. I thought everybody in Alaska worked for the Government.

Mr. RAMSAY. Many do work for the Government, but they don't work in the apportioned service.

Mr. HARRIS. I wonder if we might put in the record, Mr. Chairman, the number of Federal employees in the States that are quoted as in arrears in those States and then I think maybe some people will understand what we're talking about. We're not talking about Federal jobs. Good night, if Alaska doesn't have Federal jobs, they made a mistake when they became a State.

Mr. CLAY. Could you supply that information for the record?

Mr. RAMSAY. Yes, we can.

Mr. CLAY. Thank you.

Mr. HARRIS. I think that would be very helpful. I don't know that I need to ask you any other questions except to thank you for your support of the bill and for your testimony and I think this additional information will be helpful.

Mr. CLAY. Thank you.

Mr. RAMSAY. Thank you, Mr. Clay and Mr. Harris.

Mr. CLAY. The next witness will be Mr. Clifford Gould of the General Accounting Office.

STATEMENT OF CLIFFORD I. GOULD, DEPUTY DIRECTOR, U.S. GENERAL ACCOUNTING OFFICE; ACCOMPANIED BY DONALD GOODYEAR AND JANE TRAHAN OF THE FEDERAL PERSONNEL AND COMPENSATION DIVISION

Mr. GOULD. I would like to introduce my two colleagues. On my right is Mr. Don Goodyear, Assistant Director, Federal Personnel and Compensation Division, and Jane Trahan, Audit Manager, Federal Personnel and Compensation Division. They are responsible for work in the area of equal opportunity for Federal employees and have been involved in the apportionment work.

Since my full statement will be included in the record, I will summarize my statement. You did an excellent job of summarizing our prior report and Mr. Ramsay has already explained much of the rationale behind our conclusion that apportionment should be repealed.

The apportionment requirement was incorporated into the Civil Service Act of 1883 to insure all sections of the country a proportionate share of Federal appointments in Washington. In 1883, 40 percent of all competitive jobs were concentrated in the District of Columbia; apportionment was considered necessary to insure that this block of jobs would be accessible to all citizens who might be isolated from the capital due to distance and poor transportation. Obviously, distance and poor transportation have been alleviated over the past 90-some-odd years.

The Commission has talked about the positions that are expected from the apportionment requirements. I won't repeat those again.

What we found in our 1973 review was that 50,000 or more jobs where the apportionment requirement is applied, the relative balance among the States, territories, and the District of Columbia in the number of positions occupied has remained the same for many years. Comparable representation has not resulted from apportionment even for those jobs that are subject to this requirement.

As of December 15, 1976, 43 States and territories were in arrears and 13, including the District of Columbia, were in excess of their

apportionment quotas. However, we believe that the competitive examinations and the rotation policies of many Government agencies have, to a large extent, resulted in the geographical representation of Federal employees in the Washington area, which apportionment was supposed to achieve.

I might as an aside, note that Missouri is a State that is in arrears but we have pretty good representation, between this committee and at the witness table.

The nationwide competitive examination system facilitates considering qualified applicants from all parts of the country. Anyone today, regardless of their place of residence or place of examination, can readily compete in examinations leading to Federal employment in the Washington metropolitan area.

Additionally, many Federal appointees are hired in regional offices and later transferred to the headquarters office in Washington.

Today, only about one out of seven jobs in the competitive service is located in Washington. The vast segment of the Federal work force employed within the States themselves should be considered in evaluating the number of opportunities offered by the Federal service.

In our 1973 report we concluded that the apportionment requirement was ineffective and had outlived its usefulness.

In July 1976, we began a detailed review of the effects of veterans preference and apportionment on the Federal job opportunities of women and minorities. Our work indicates that the apportionment requirement severely restricts and, in some cases prevents, highly qualified eligibles from States in excess of their apportionment quotas from being certified to agencies for apportioned positions. Apportionment has a particularly harsh impact on the employment potential of women applicants.

I have a couple of examples that I'd like to cite to demonstrate that. On the PACE exam, which is the professional and administrative career examination, there were 116 nonveteran women from States in excess of their apportioned quotas who had perfect scores of 100 in the PACE examination. However, the first of these women ranked 16,606 when apportionment is used as a ranking factor. Excluding only apportionment, the first woman would have held position 432 on the register.

On the accounting clerk register three women from States in excess of their apportioned quotas were in register positions 479, 480, and 481, with apportionment and veterans preference used as ranking factors. Excluding only apportionment, they ranked 17, 18, and 19.

So you can see the impact that apportionment has on well-qualified females.

Besides acting as a barrier to EEO and merit and not achieving its purpose of distributing jobs on the basis of population, apportionment has caused other problems. In supporting proposed legislation to repeal apportionment, CSC has stressed that apportionment: (1) Is unnecessary since the Federal population in Washington reflects a good geographic cross section, accounted for by the greater mobility of the work force, nationwide competitive examining, and rotation policies of agencies; and (2) is cumbersome to administer since the process of keeping track of apportionment and applying it in the examining system is at variance with a modern appointment system.

With that, Mr. Chairman, we would be happy to respond to any questions you might have.

Mr. CLAY. Thank you. I was quite interested in your concluding remarks. You state apportionment conflicts with equal employment opportunity, that it has an adverse effect on the Federal merit system and the achievement of equal employment opportunity objectives, especially for women. Previously you alluded to the fact that in the Washington area it also has an adverse effect on the opportunities of other minorities to achieve jobs in an apportionment area.

Can you elaborate on that for us?

Mr. GOULD. It would have an impact on other minorities in the event they were nonveterans. A veteran minority would be placed on an apportionment register higher in States that are in arrears, so the statement really should be corrected to say that few local nonveteran minority eligibles can obtain a position because the Washington area is always in excess of this apportionment. It would not have that impact if the minority were a veteran.

Mr. HARRIS. Mr. Chairman, if I may elaborate on the point a little bit. Let's take an 18-year-old black student just out of high school in this area who's applying for a job. Would he suffer discrimination because of the apportionment requirement?

Mr. GOULD. I don't think he could possibly get an apportionment job in the Washington area under the circumstances.

Mr. HARRIS. Thank you, Mr. Chairman.

Mr. GOODYEAR. That would apply to a nonminority, too, who is a nonveteran.

Mr. GOULD. It would apply to any 18-year-old in the Washington area, but as you know there is a high proportion of minorities in this area so it would have an adverse effect on those.

Mr. CLAY. Let me see if I understand what you're saying. It would apply to any 18-year-old, white or black, and 99 percent of the females. Is that correct?

Mr. GOULD. That's correct.

Mr. CLAY. Does the Civil Service Commission give the examinations in the Washington metropolitan area to people who are female or young blacks or whites?

Mr. GOULD. Anybody can take these examinations; yes.

Mr. CLAY. Without being advised that you're wasting your time and wasting money in the Federal Government, they permit people to take these exams?

Mr. GOULD. I would have to defer the answer to that question to the representatives from the Civil Service Commission. I do not know whether they are advised or not.

Mr. CLAY. For the record, I'd like to ask Mr. Ramsay if that's true.

Mr. RAMSAY. Mr. Clay, we do put out information about apportionment, but as is true with a lot of information it's sometimes difficult to reach a lot of applicants. I know that based on some of the personal examples I have been involved in that it has come as rather a shock to people to find out that they are blocked by apportionment.

Mr. CLAY. Of course, you know who has applied to take the exam in advance; is that correct?

Mr. RAMSAY. Yes; we know.

Mr. CLAY. Don't people make written application to take the exam?

Mr. RAMSAY. Yes; we know who has applied.

Mr. CLAY. And you have to notify them in writing as to the place and time of the exam?

Mr. RAMSAY. Yes, sir.

Mr. CLAY. At the time you notify them, do you put a little insert in that notification saying that you have the right to take the exam but you won't get the job?

Mr. RAMSAY. No; we do not.

Mr. CLAY. If we don't change this law, I would suggest that you review that policy and perhaps you might want to tell American citizens that they are wasting their time and the taxpayers' money taking these exams.

Mr. RAMSAY. We'll be glad to take a look at it, Mr. Clay. I would point out, however, there are many field jobs in the Washington area which are not subject to apportionment and local people can be considered for those field jobs.

Mr. CLAY. Thank you.

Mr. Harris.

Mr. HARRIS. Mr. Chairman, I have no additional questions. The testimony is consistent with the testimony that Mr. Ramsay has given before. I think it does place in context here the problem, the unanticipated, the unpurposeful result that occurs with this law, and I think again buttresses the case of why we should repeal it.

Mr. CLAY. Thank you, Mr. Harris, and we certainly want to thank you for your testimony, Mr. Gould.

[The prepared statement furnished by Mr. Gould follows:]

PREPARED STATEMENT OF CLIFFORD I. GOULD, DEPUTY DIRECTOR, U.S. GENERAL ACCOUNTING OFFICE

Mr. Chairman and members of the subcommittee, I appreciate your invitation to discuss the merits of H.R. 504, which would eliminate the requirement to apportion appointments in the departmental service in the Washington metropolitan area.

During 1973, legislation to repeal the apportionment requirement was introduced. In our November 20, 1973 report we recommended that the Congress enact the legislation. In 1975, we testified in favor of enactment of bills which also proposed elimination of the apportionment requirement.

The Civil Service Act of 1883 provided that appointments to the competitive civil service in the District of Columbia be apportioned on the basis of population as ascertained at the last census among the States, territories, and possessions of the United States, and the District of Columbia. The apportionment requirement was incorporated into the act to insure all sections of the country a proportionate share of Federal appointments in Washington. In 1883, 40 percent of all competitive jobs were concentrated in the District of Columbia; apportionment was considered necessary to insure that this block of jobs would be accessible to all citizens who might be isolated from the Capitol due to distance and poor transportation.

By law, all veterans and other eligible for veterans' preference are exempted from apportionment. For apportioned positions, the names of all applicants who have qualified in examinations for Federal service are entered on registers in the following order:

(*a*) Veterans from all States and nonpreference eligibles from States in arrears of their apportionment quotas are listed first in the order of their ratings.

(*b*) Nonpreference eligibles from States in excess of their apportionment quotas are listed last in order of their ratings, and are certified to agencies only after other eligibles have been certified. Thus, it is possible for a veteran or a marginally qualified applicant from a State in arrears of its quota to rank far ahead of an extremely well-qualified applicant from a State in excess. Apportion-

ment applies to appointments to competitive positions in the headquarters offices of agencies in the Washington metropolitan area. In addition, CSC has exempted many positions and personnel actions from apportionment. Among, the exemptions are:

(1) Positions in headquarters offices located outside the Washington metropolitan area.
(2) Field service positions located in the Washington area;
(3) Professional and scientific positions;
(4) Positions in grades GS–13 and above;
(5) Positions filled through temporary appointments; and
(6) Certain other positions and personnel actions.

We found that for the 50,000 or more jobs where the apportionment requirement is applied, the relative balance among the States, territories, and the District of Columbia in the number of positions occupied has remained the same for many years. Comparable representation has not resulted from apportionment.

The apportionment requirement has not accomplished its original purpose of distributing jobs proportionately on the basis of population. As of December 15, 1976, 43 States and territories were in arrears (having less appointments than their allocated quotas), and 13 including the District of Columbia, were in excess of their appointment quotas. However, as we noted in our 1973 report, competitive examinations and the rotation policies of many Government agencies have, to a large extent, resulted in the geographical representation of Federal employees in the Washington area, which apportionment was supposed to achieve.

The nationwide competitive examination system facilitates considering qualified applicants from all parts of the country. Anyone today, regardless of their place of residence or place of examination, can readily compete in examinations leading to Federal employment in the Washington metropolitan area.

Additionally, many Federal appointees are hired in a regional office and later transferred to the headquarters office in Washington. Today, only about one out of seven jobs in the competitive service is located in Washington. The vast segment of the Federal work force employed within the States themselves should be considered in evaluating the number of opportunities offered by the Federal Service.

Our 1973 report concluded that the apportionment requirement was ineffective and had outlived its usefulness.

In July 1976, we began a detailed review of the effects of veterans' preference and apportionment on the Federal job opportunities of women and minorities. Our work indicates that the apportionment requirement severely restricts and, in some cases prevents, highly qualified eligibles from States in excess of their apportionment quotas from being certified to agencies for apportioned positions. Apportionment has a particularly harsh impact on the employment of women applicants.

Apportionment also has a particularly harsh impact on the employment opportunities of the large minority population residing in the Washington, D.C. area. Few local minority eligibles can obtain apportioned positions because the Washington area is always listed in excess of its quota.

During the 1973 review of the apportionment requirement, 15 major agencies and departments advised GAO that the apportionment requirement should be eliminated.

The combination of apportionment and the exemption of veterans from the requirement means that well-qualified nonveterans from States in excess of their apportionment quota have little chance of appointment to departmental positions in the Washington metropolitan area. CSC officials stated that, since PACE's inception no nonveteran eligible from a State in excess of its quota has ever been certified to fill an apportioned PACE position regardless of accomplishment in the PACE examination. Since PACE is used to select individuals for entry-level positions in more than 100 occupations which are administrative, technical, or professional in nature, apportionment represents a significant employment barrier to many candidates from States in excess of apportionment quotas.

Agencies are reducing their use of apportioned registers for departmental service positions because eligibles from distant States in arrears often decline or are unavailable for entry-level positions in the Washington area. The declination rate runs as high as 80 percent among PACE eligibles from distant States in arrears of their apportionment quota. Consequently, an agency needing to fill a position quickly hesitates to use a certificate from an apportioned PACE

register. Agencies are increasingly reluctant to use apportioned registers if they intend to interview applicants before making a selection. Applicants from distant States in arrears often cannot or will not pay expenses to go to Washington for an interview.

Besides acting as a barrier to EEO and merit and not achieving its purpose of distributing jobs on the basis of population, apportionment has caused other problems. In supporting proposed legislation to repeal apportionment, CSC has stressed that apportionment (1) is unnecessary since the Federal population in Washington reflects a good geographic cross section, accounted for by the greater mobility of the work force, nationwide competitive examining, and rotation policies of agencies and (2) is cumbersome to administer since the process of keeping track of apportionment and applying it in the examining system is at variance with a modern appointment system.

CONCLUSION

Apportionment conflicts with equal employment opportunity. The most objectionable aspect of apportionment is its adverse effect on the Federal merit system and the achievement of equal employment opportunity objectives, especially for women. Apportionment was enacted to meet the needs of a markedly different period in civil service history, and is based on quotas that do not take into consideration the relative qualifications of applicants in CSC examinations. It has outlived its usefulness in that comparable representation has not been achieved for apportioned positions. The nationwide competitive examinations and rotation policies of agencies, to a large extent, have probably served the original purpose of the apportionment requirement.

Because of its negative impact on merit and equal employment opportunity and its obsolescence and ineffectiveness, we believe repeal of apportionment is justified. We strongly recommend enactment of H.R. 5054.

Mr. CLAY. The subcommittee has statements which have been submitted for the record from Congressman Joseph Fisher, Congressman Newton Steers, Jr., and Congresswoman Gladys Spellman. Those statements, along with any others the subcommittee receives, subsequent to the hearing, will be included at this point.

STATEMENT OF HON. JOSEPH L. FISHER, A REPRESENTATIVE FROM THE STATE OF VIRGINIA

Mr. Chairman, in 1883, when Congress passed the first civil service law, it included a provision requiring the apportionment of those appointments in the Federal Government which were located in the District of Columbia among residents of all the States. This provision is still in effect, although it is not working well. Many exemptions have been granted, for instance to positions in the excepted service like the FBI and CIA, positions in shortage catagories like clerk-stenographers, positions above GS–13, and to job applicants who are veterans. The result is that apportionment applies to only about 15 percent of the Federal jobs in the Washington metropolitan area.

Despite the relatively small number of jobs covered, the Civil Service Commission regularly reports many States in arrears, or under their apportionment, and others in excess of their quotas. This imbalance has existed for at least the last 25 years. The result is either that agencies fill positions in a way that ignores the apportionment requirement or they hire workers who are less well qualified than others in order to satisfy their quota. Neither situation is very satisfactory.

The Civil Service Commission, the General Accounting Office, and others have recommended repeal of the apportionment provision, as being unfair, unworkable, and outdated.

I am pleased to be a cosponsor of H.R. 5054, a bill to repeal apportionment, and hope that the Civil Service Subcommittee will act favorably on it.

STATEMENT OF HON. NEWTON I. STEERS, JR., A REPRESENTATIVE FROM THE STATE OF MARYLAND

Mr. Chairman and members of the subcommittee, as a member of Congress who represents an area adjoining the Nation's Capital. I have as my constituents a

vast number of Federal employees and an even larger number of potential Federal employees. I say "potential" because many of them—although highly educated, knowledgeable in the operations of the Government, and desirous of working for the Government and contributing to its operations—are barred from gaining employment by an outdated, counterproductive, unfair law, the apportionment rule. This rule establishes quotas for each State regarding the number of people from each State that can be employed by the Federal Government in Washington.

The apportionment rule was established by the Civil Service Reform Act of 1883 as a method of insuring that the eastern seaboard States—particularly Maryland, Virginia, and the District of Columbia—did not have a disproportionate share of Federal jobs and thus, a disproportionate share of power over the operations of the Federal Government. Back in 1883, this may well have been a valid concern. But in 1977, with society very mobile, the Government extremely complex, and the power of the Government decentralized to area and regional offices, the rule no longer makes any sense. The overriding goal of the Government's hiring system is to insure that the "best and the brightest" are hired for Federal jobs. Because of the apportionment system, the best and the brightest are hired—provided they do not come from Maryland, Virginia, the District of Columbia, Pennsylvania, West Virginia, Vermont, Maine, North Carolina, North Dakota, South Dakota, Nebraska, Kansas, or Iowa—because 13 States are in excess of their Federal hiring "quotas". The apportionment rule results in a counterproductive situation in which the Civil Service Commission may not allow an agency to hire people based solely on their ability but on their ability in addition to where they come from. The result is not only unfair to individuals from oversubscribed States, but also to the Government, for agencies are not allowed to hire experienced people.

One example which graphically points out the harm to the Government involves one of my constituents who was a Phi Beta Kappa graduate of Wellesley and had a 96.5 rating on her civil service exam. She had obtained a temporary appointment with an agency in Washington and, when her temporary appointment expired, the agency began to convert her to a permanent position. Because of the fact that she was from Maryland, and that Maryland was "over-quota," she could not be offered a job as a permanent employee in spite of the fact that she was excellent at her job, knew how to perform the job, and had the complete support of several levels of supervisors. In the end, she lost her job and the agency had to hire a new person and train that person to perform tasks which my constituent had performed admirably. Obviously, both my constituent and her agency were not served well by the operation of the apportionment rule.

One final point which should be raised is that the entire apportionment system is unfair on a broader scale because it only applies to Federal jobs located in the Washington metropolitan area; it does not apply to area offices or to regional offices. Congress, in 1883, did not foresee the tremendous growth of the Federal bureaucracy and therefore only made apportionment apply to jobs in the Washington, D.C., area. Today, a vast Federal workforce is located in every State of the Nation, yet those jobs do not "count" against the apportionment quotas of the States in which those jobs are located.

It is apparent to me that this relic of a rule should be abolished and the members of this committee, particularly Chairman Clay, are to be congratulated for conducting in-depth hearings on H.R. 5054. I would also like to say that I am pleased to be a cosponsor of this legislation, which was sponsored by my fellow Washingtonian, Congressman Harris, for I believe that passage of this bill will return Government hiring practices to a true "merit system."

STATEMENT OF HON. GLADYS SPELLMAN, A REPRESENTATIVE FROM THE STATE OF MARYLAND

Mr. Chairman and members of the subcommittee, as a representative of a district in the Metropolitan Washington area, I naturally am concerned about the apportionment rule. Hardly a day goes by that my caseworkers do not bring me a tale of a constituent qualified for a civil service position who cannot be considered because that position falls under the apportionment rule.

Of even greater concern, however, is the effect which apportionment has on the civil service as a whole. The Civil Service Commission repeatedly has argued that

apportionment is "ineffective, outmoded, and cumbersome to administer." It adversely affects the merit system and achievement of equal employment goals. In fact, while the reasons for the institution no longer exist, the rule itself hangs on. It is high time that we take another look at the apportionment rule, and that we get rid of it altogether.

We have, in this country, a competitive civil service based upon the merit system and upon a nationwide examination which insures that applicants from all over the country are considered for positions. Anyone who wants to be eligible for a job in the Metropolitan Washington area's Federal services need only take the competitive examination. Access to these jobs is equal throughout the entire Nation. The equality is diminished, however, by the apportionment rule.

We need to continue our efforts to maintain an efficient and effective civil service. This is difficult to do when rules such as apportionment result in the certification and listing of a marginally-qualified applicant from one State over that of a well-qualified applicant in a second State, simply because the latter resides in a State that is "over quota." This, most certainly, does not insure that we will secure the best person for the job.

The practice of rotating personnel has helped insure that the Federal service in Washington reflects the viewpoints of all parts of the country. Our modern-day communications system facilitates the transmittal of ideas from every part of the country to the Washington Federal structure. The mobility of our country's people causes ideas to flow between the various sections of the country. The States and regions need not fear that their points of view will be overlooked.

In the late 1880's, when mobility was difficult, when communications were not the best, apportionment was necessary to insure equal representation of all areas of the country in the Federal service. Times, however, have changed, and apportionment is neither necessary, nor wise, nor conducive to the best Federal service possible. It should be abolished.

Thank you.

STATEMENT OF THE INTERNATIONAL PERSONNEL MANAGEMENT ASSOCIATION

The International Personnel Management Association (IPMA) urges Congress to repeal apportionment requirements for appointments to Federal jobs in the Washington, D.C., area.

As background, the apportionment requirement was enacted in 1883 as a provision of the Pendleton Act, and was intended to provide all sections of the country a proportionate share of Federal appointments in Washington. A secondary intent was to insure that the perspective of all sections of the country would be represented and considered in the development and implementation of executive branch policies and programs. It is clear now that these legislative intents are no longer valid since the majority of Federal jobs are not located in Washington; and most Federal programs are administered on a decentralized basis which affords broad-based policy input and feedback.

IMPA supports the enactment of H.R. 5054 for the following reasons:

1. Residence is a nonmerit factor which should not affect competitive appointments.

2. Apportionment requirements are not necessary. The majority of Federal jobs are located outside of Washington, D.C., in the 50 States. Federal agencies try to fill their headquarters vacancies with the best available talent. They are eager to consider job-seekers who are willing to move to the Nation's Capital. Civil Service Commission registers for middle- and high-level positions are nation wide. Many agencies supplement this source of applicants by recruiting outside the Washington, D.C., area. There is no evidence that agencies discriminate against residents from certain States.

3. Apportionment requirements in combination with the rule of three can lead to the selection of less qualified applicants. The Civil Service Commission ranks applicants for jobs on certificates of eligibles. While applicants' scores or numerical ratings are not adjusted based on State of residence, their rank order on certificates is adjusted. The result is that an applicant from a State "in arrears" in apportionment is often ranked above an applicant from a State "in excess," even when the latter has a higher score on numerical rating. If the higher rated applicant is fourth or lower on the ranked certificate, the rule of three prohibits the agency from hiring the better qualified candidate.

4. Apportionment delays the filling of positions. Federal managers commonly complain that it takes too long to fill a job. The Civil Service Commission could issue certificates faster, if it did not have to adjust the rank order of eligible applicants to comply with apportionment requirements.

5. Apportionment requirements are costly to administer. In addition to the cost of adjusting certificates of eligibles, the CSC and agencies prepare periodic reports of employment by State of residence at the time of appointment. To prepare these reports, agencies must distinguish which positions are covered by apportionment requirements and must determine the State of residence on each new hire. The data is used to update statistics which show the relative proportion of Federal workers by State compared to the latest State population figures. The whole effort is costly, meaningless and unnecessary.

A prime example of how the apportionment requirement is contrary to Federal equal employment opportunity and the merit system recently occurred in a major department. To wit, an American Indian with impressive graduate credentials applied and was selected for a professional civil service position which was directly related to her background as well as program services for American Indians. Although she had only recently come to the Washington, D.C., area, she indicated a Virginia residence on her application for employment. Because of the apportionment requirement, the Civil Service Commission would not certify this person for appointment. The impact of this law was to deny equal employment opportunity for the best-qualified person. Thus, the agency has lost a talented and highly motivated person who might have contributed to vital program services for American Indians.

Repeal of apportionment requirements is an essential step in purifying and simplifying the merit system. IPMA strongly supports H.R. 5054 and looks forward to its early enactment.

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

May 12, 1977

Honorable Robert N. C. Nix
Chairman
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in further reply to the request from the Senate Committee on Post Office and Civil Service for a report on H.R. 5054, a bill "To repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia."

The Civil Service Commission urges favorable consideration of this legislation.

The apportionment requirement was included in the Civil Service Act in 1883 as an expression of public policy that all sections of the country should have a proportionate share of Federal appointments to headquarters jobs in Washington, D.C. It was later extended by Executive order to headquarters jobs in the entire Washington metropolitan area.

Apportionment is an anachronism which has not worked as intended. It is contrary to merit principles, stands as a barrier to equal employment opportunity, and serves as an unnecessary administrative burden. The conditions that led to its adoption have changed dramatically over the years. In 1883, 40 percent of all competitive civil service jobs were concentrated in the District of Columbia; apportionment was considered necessary to ensure that this block of jobs be accessible to all citizens who might be isolated from the Capital due to distance and poor transportation. Today fewer than one out of seven jobs in the competitive service are in Washington, D.C. At the same time field jobs have changed drastically as a result of decentralization so that major policy determinations are made across the country, not just in headquarters offices in Washington.

We believe that the Federal population in Washington reflects a good geographical cross section of the country, but not as a result of apportionment. Now, more than ever, headquarters jobs are filled by those already working in field offices. This is accounted for by the greater mobility in our work force, a greater need for field experience at the headquarters levels, and the growth in the number of responsible field jobs providing the desired experience.

It should be noted that of those employees who have moved to Washington from field offices, many are from States in arrears of their apportionment quotas. However, their numbers do not appear in the apportionment statistics because career employees moving from the field to headquarters are not counted against the quotas. Therefore, apportionment figures do not accurately reflect the true picture of the number of people from other States working in Washington. In this connection, the process of keeping track of apportionment and of applying it in the examining process have become an administrative burden at variance with a modern appointment system.

The failure of apportionment to achieve its purpose and the fact that it is an administrative burden are not our principal objections to the requirement. We feel strongly that in concept and in operation, apportionment is contrary to the basic principles of the merit system. Under apportionment, candidates who are marginally qualified, but who are from States in arrears, may receive consideration for headquarters positions before exceptionally well-qualified candidates from States in excess of their quotas. Not only is this contrary to merit principles but it is harmful to the efficiency of the service.

By law, the apportionment requirement does not apply to veterans. Because our veteran population is mostly male, this statutory exemption has caused women to bear an unfair burden of the apportionment requirement (which of course was never originally intended in 1883).

In short, our experience in administering the apportionment requirement has shown that it is an outmoded, ineffective, and cumbersome device which is inconsistent with a merit system, acts as a barrier to equal employment opportunity, and therefore has no place in a modern Federal merit system.

The Office of Management and Budget advises that enactment of H.R. 5054 would be consistent with the Administration's objectives.

By direction of the Commission:

Sincerely yours,

Chairman

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 17 1977

Honorable Robert N. C. Nix
Chairman, Post Office and
Civil Service Committee
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to the Committee's request for the views of this Office on H.R. 5054, "To repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia."

The purpose of this bill is to repeal the requirement in existing law that appointments to Government positions in Washington, D.C. be apportioned among the States according to population.

In its report on this bill, the Civil Service Commission urges repeal of the apportionment requirement as an outmoded, ineffective, and cumbersome device that is inconsistent with the merit system. The Commission notes that the requirement has become an anachronism, since Government jobs are no longer concentrated in the Washington area.

We agree with the Civil Service Commission in recommending favorable consideration of H.R. 5054. Enactment of H.R. 5054 would be consistent with the Administration's objectives.

Sincerely,

James M. Frey

James M. Frey
Assistant Director for
Legislative Reference

Table 21 - Federal Civilian Employment by State and Selected Agency, December 31, 1975

Area and State	All Agencies	Percent[3/]	Department of Defense	U.S. Postal Service	Veterans Administration	All Other Agencies
Total, All Areas[1/]	2,869,923	100.0	1,026,656	707,572	223,868	911,827
Outside United States	131,756	4.6	81,722	3,007	2,256	44,771
United States	2,738,167	95.4	944,934	704,565	221,612	867,056
Washington, D.C. SMSA[2/]	335,380	11.7	84,730	19,919	6,570	224,161
50 States	2,402,787	83.7	860,204	684,646	215,042	642,895
Alabama	58,507	2.0	25,725	7,804	4,680	20,298
Alaska	15,067	0.5	4,800	1,056	51	9,160
Arizona	33,564	1.2	10,064	5,906	2,512	15,082
Arkansas	18,693	0.7	4,947	5,028	3,465	5,253
California	297,844	10.4	140,609	71,787	21,397	64,051
Colorado	48,702	1.7	16,753	8,876	2,677	20,396
Connecticut	20,961	0.7	4,795	10,577	2,455	3,134
Delaware	5,215	0.2	2,077	1,731	664	743
Florida	78,441	2.7	30,260	22,536	8,231	17,414
Georgia	74,981	2.6	34,885	14,004	4,588	21,504
Hawaii	25,299	0.9	20,201	1,991	188	2,919
Idaho	9,816	0.3	1,157	2,113	470	6,076
Illinois	106,595	3.7	22,117	46,999	11,970	25,509
Indiana	40,759	1.4	14,604	14,581	3,779	7,795
Iowa	19,179	0.7	1,575	9,344	3,264	4,996
Kansas	23,153	0.8	6,422	7,417	3,229	6,085
Kentucky	35,946	1.3	15,410	8,092	3,316	9,128
Louisiana	30,551	1.1	8,651	8,552	3,655	9,693
Maine	12,061	0.4	5,259	3,747	1,202	1,853
Maryland[2/]	64,702	2.3	22,607	9,765	2,954	29,376
Massachusetts	58,445	2.0	13,409	23,606	7,554	13,876
Michigan	54,603	1.9	12,672	24,420	5,542	11,969
Minnesota	30,323	1.1	3,159	13,877	4,838	8,449
Mississippi	24,091	0.8	9,959	4,801	2,657	6,674
Missouri	66,428	2.3	21,117	18,593	5,803	20,915

Montana	12,166	0.4	1,556	2,415	623	7,572
Nebraska	16,137	0.6	3,843	6,063	2,080	4,151
Nevada	8,934	0.3	2,788	1,736	589	3,821
New Hampshire	10,238	0.4	5,285	2,635	593	1,725
New Jersey	71,017	2.5	26,568	29,299	4,499	10,651
New Mexico	26,891	0.9	9,595	2,553	1,348	13,395
New York	172,270	6.0	23,442	84,554	19,979	44,295
North Carolina	42,337	1.5	14,683	12,724	4,730	10,200
North Dakota	9,115	0.3	2,379	2,470	534	3,732
Ohio	93,561	3.3	34,254	34,511	8,543	16,253
Oklahoma	47,715	1.7	25,383	8,122	2,438	11,772
Oregon	25,646	0.9	3,278	6,076	2,492	13,800
Pennsylvania	132,314	4.6	52,504	41,298	11,407	27,105
Rhode Island	10,064	0.4	4,717	3,138	1,038	1,171
South Carolina	30,729	1.1	18,376	5,904	2,347	4,102
South Dakota	10,800	0.4	1,487	2,542	1,742	5,029
Tennessee	55,418	1.9	7,943	12,056	5,897	29,522
Texas	149,638	5.2	64,565	34,089	13,463	37,521
Utah	35,260	1.2	22,706	3,112	1,472	7,970
Vermont	4,366	0.2	524	1,915	744	1,183
Virginia[2/]	78,041	2.7	50,740	10,776	5,094	11,431
Washington	57,779	2.0	24,824	10,248	3,940	18,767
West Virginia	15,588	0.5	1,610	5,131	2,599	6,248
Wisconsin	26,757	0.9	2,940	13,022	4,862	5,933
Wyoming	6,080	0.2	980	1,054	848	3,198

1/ Excludes members and employees of Congress, Judicial Branch (except for Administrative Office of the U.S. Courts), Central Intelligence Agency, National Security Agency, temporary Christmas postal assistants, and all uncompensated employees.

2/ Washington, D.C. Standard Metropolitan Statistical Area includes the District of Columbia; Alexandria, Fairfax, and Falls Church Cities, Arlington, Fairfax, Loudoun, and Prince William Counties, Virginia; and Charles, Montgomery, and Prince Georges Counties, Maryland. These areas are excluded from the totals for Maryland and Virginia.

3/ Percents have been rounded independently and have not been forced to add to totals.
All state percents are based on worldwide total.

UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON AREA OFFICE
WASHINGTON, D.C. 20415

CONDITION OF APPORTIONMENT AT THE CLOSE OF BUSINESS, MARCH 15, 1977
EFFECTIVE APRIL 1, 1977

IMPORTANT: The apportioned service embraces positions (with certain exceptions) in central offices of agencies physically located in the Metropolitan Area of Washington, D. C. The Metropolitan Area* covers District of Columbia; Alexandria and Falls Church cities, Virginia; Arlington and Fairfax counties, Virginia; and Montgomery and Prince Georges counties, Maryland. The apportionment law does not apply to veteran preference employees. The apportionment does not apply to positions filled through temporary appointments. Other positions exempt from the apportionment are listed in Chapter 338, Subchapter 3 of the Federal Personnel Manual. So long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his state of original residence.

For original appointments the Civil Service Commission ranks eligibles for apportioned positions on registers in accordnace with the condition of the apportionment. Veterans and eligibles from States in arrears are certified first. Non preference eligibles from States in excess are listed last according to ratings and are certified only after other eligibles have been certified.

STATE	NUMBER OF POSITIONS TO WHICH ENTITLED	NUMBER OF POSITIONS OCCUPIED
IN ARREARS		
1. American Samoa	7	0
2. Virgin Islands	16	0
3. Guam	22	1
4. Puerto Rico	696	41
5. Alaska	78	7
6. Hawaii	198	24
7. Arizona	455	60
8. California	5122	686
9. Nevada	125	23
10. Michigan	2278	483
11. Washington	875	214
12. Oregon	535	134
13. Panama Canal Zone	11	3
14. Texas	2874	802
15. New Mexico	261	85
16. Louisiana	935	306
17. Florida	1743	715
18. Idaho	183	85
19. Indiana	1333	653
20. Utah	272	138
21. New Jersey	1840	959
22. Illinois	2853	1516
23. Colorado	567	302
24. Ohio	2734	1477
25. Connecticut	778	421
26. Wisconsin	1134	649
27. Delaware	141	82
28. Georgia	1178	695
29. Montana	178	111
30. Kentucky	826	530
31. Alabama	884	587
32. Wyoming	85	64
33. Mississippi	569	432
34. Arkansas	494	392
35. South Carolina	665	532
36. Tennessee	1007	840
37. Missouri	1201	1014
38. New Hampshire	189	161
39. Rhode Island	244	208
40. New York	4682	3995
41. Minnesota	977	911
42. Oklahoma	657	615
43. Massachusetts	1460	1418
IN EXCESS		
44. Iowa	725	744
45. Kansas	577	617
46. North Dakota	159	175
47. North Carolina	1305	1493
48. Pennsylvania	3027	3640
49. Vermont	114	139
50. Maine	255	335
51. South Dakota	171	266
52. Nebraska	381	587
53. West Virginia	448	1095
54. Maryland**	691	2361
55. Virginia**	957	4054
56. Metropolitan Area of the District of Columbia	747	15057
	TOTAL	52,944

*The Metropolitan Area includes Loudoun and Prince Williams Counties, Virginia and Charles County, Maryland
**Except for areas within the Metropolitan Area of the District of Columbia

EWA 431
April 1977

95TH CONGRESS
1ST SESSION

H. R. 5054

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1977

Mr. HARRIS (for himself, Mr. FAUNTROY, Mr. FISHER, Mrs. SPELLMAN, and Mr. STEERS) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3306 of title 5, United States Code, relating to apportionment of appointments in the departmental service in the District of Columbia among the States, territories, possessions, and the District of Columbia on the basis of population as determined at the last census, is repealed.

SEC. 2. (a) The section analysis for subchapter I of chapter 33 of title 5, United States Code, is amended by striking out the following:

"3306. Competitive service; departmental service; apportionment."

(b) Section 3302 of title 5, United States Code, is amended by striking out "3306 (a) (1),".

(c) Sections 103 (a) (4) (iv), 103 (a) (5) (G), 203 (a) (4) (iv), 203 (a) (5) (G) of the District of Columbia Public Education Act are each amended by striking out "3306,".

Mr. CLAY. That concludes our hearing this morning.
[Whereupon, at 11:10 a.m., the hearing was adjourned.]

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