

THE PROENGLISH Advocate

Poor English skills costs economy \$65 billion a year

Speaking at a ProEnglish press conference in Washington D.C., Congressman Steve King of Iowa unveiled a new study by the Arlington, Virginia-based Lexington Institute, which estimates the U.S. economy loses \$65 billion a year in wages due to immigrants' lack of English fluency. The study is based on Census data and existing research, and entitled "The Value of English Proficiency to the United States Economy."

ProEnglish Executive Director K.C. McAlpin said, "We were stunned by the size of the economic loss. It's no secret that immigrants' inability to speak English well limits their opportunities in the U.S. But as far as we know this is the first time that anyone has come up with an estimate of how much the country loses as a result."

"President Obama says investing in the skilled workforce America needs for the 21st century is a critical national priority. The Lexington study shows that one sure way to do that would be to expand access to English as a second language classes for

adults and scrap the failed experiment known as bilingual education in our public schools," McAlpin added.

"The Obama Administration also should stop removing key incentives for immigrants to learn English by mandating multilingual government services through bureaucratic rule-making like Executive Order 13166 (E.O.13166)," he continued.

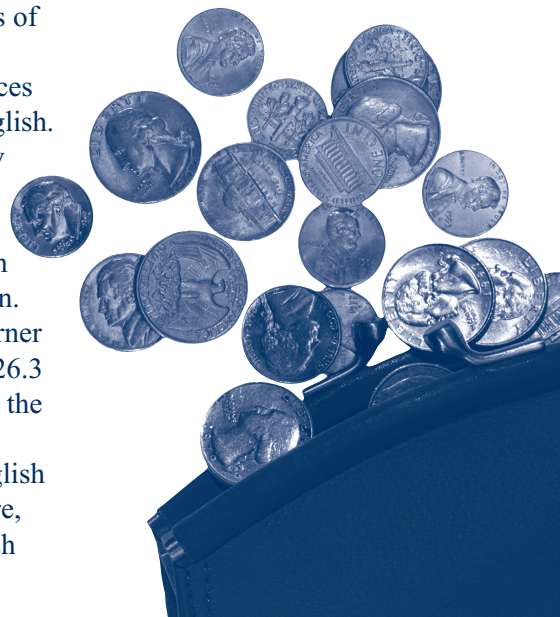
Issued by President Clinton in 2000 and left in place by President Bush, E.O. 13166 says government agencies and all other recipients of federal funds have to provide interpreter and translation services for people who don't speak English.

The Lexington Institute study cited research showing that:

- Three of every four students learning English in U.S. schools are native born.
- The number of English learner families living in poverty, 26.3 percent, is more than twice the national average.
- Immigrants who speak English "well" earn 33 percent more, and those that speak English

"very well" earn 67 more on average, than immigrants who speak English poorly.

Appearing with Congressman King at the press conference the study's author, Lexington Institute Vice President Don Soifer, emphasized that his estimate of \$65 billion in total wages lost was in the very low range of probabilities and that the actual loss is likely to be much higher. A copy of the report is available online at ProEnglish's website, www.proenglish.org.



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Oklahoma poised to become 31st official English state

Official English forces won a major victory this spring when the Oklahoma state legislature voted overwhelmingly to put an official English constitutional amendment on the ballot in 2010. If voters approve, Oklahoma would become the 31st state to adopt English as the official language of state government – adding to pressure for Congress to pass official English legislation at the federal level.

The Oklahoma amendment was introduced by State Rep. Randy Terrill and State Senator Anthony Sykes who had to overcome opposition from fellow Republicans to get it through the legislature. Last year a similar measure failed by a single vote in the state senate.

This year's amendment states "...all official actions of the State of Oklahoma shall be conducted in the English language, except as required by federal law." It also bars lawsuits demanding government services in other languages, but protects "the use, study, development, or encouragement of any Native American language..."

ProEnglish, with the help of its Oklahoma members and grass roots activists, played a key role in the passage of the referendum bill. In a letter dated May 26, 2009 Rep. Terrill wrote, "I can't tell you how important it was to have ProEnglish and its legal team available whenever I needed help throughout our legislative session." ProEnglish

members sent thousands of postcards to their legislators urging them to vote for the bill. Activists deluged the State Capitol with telephone calls and email messages. And ProEnglish ran radio ads in Oklahoma City, Tulsa and other cities promoting the bill.

In the end the referendum bill passed the State Senate by a vote of 44-2 and the State House 89-8. After its passage State Rep. Terrill said, "This legislation will reinforce our nation's unity and help end the drift toward linguistic Balkanization." He pledged to work with ProEnglish to develop and pass critical enabling legislation in the next session of the Oklahoma Legislature to take effect if voters pass the amendment.

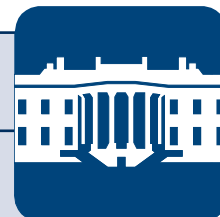
Administration

FAA slammed for certifying non-English speaking airplane mechanics

Seventeen congressmen led by Rep. Brian Bilbray (R-CA) sent a letter to Transportation Secretary Ray LaHood urging him to certify the English fluency of all Federal Aviation Administration (FAA) licensed airplane mechanics repairing aircraft in the U.S.

The letter came on the heels of a Dallas TV station investigation that found there were hundreds of non-English speaking aircraft mechanics working at repair shops in Texas, despite the fact that FAA licensing regulations require English-fluency. According to the news report non-English speaking

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Administration Continued



mechanics earn significantly less than those who are fluent in the language.

The congressmen said that if the reports are true it is a serious safety issue. The FAA's own certification requirements say that aircraft mechanics must be "able to read, write, and understand" the English language and have to pass written, oral, and practical tests to demonstrate their mechanic's skills.

The news report pointed out how critical it was for mechanics to read and understand the often very complicated manuals needed to repair aircraft. Faulty cable wiring in a repair shop is believed to have contributed to a 2003 US Airways commuter plane crash in North Carolina that took the lives of 21 people.

The letter urged Sec. LaHood to order the FAA to recertify the English proficiency of all U.S.-based aircraft mechanics.

Justice Department threatens Oklahoma on official English

Newly installed multilingual government advocates in the Obama Administration wasted no time barring their teeth at official English. In a rarely seen instance of preemptive intervention in state legislative affairs, the Obama Administration's Department of Justice (DOJ) sent a letter to Oklahoma's Attorney General this spring threatening to sue the state if it adopted a proposed official English measure.

The letter came on the heels of a lopsided vote by Oklahoma House of Representatives to put a constitutional amendment making English the official language on the ballot in 2010. Acting Assistant U.S. Attorney General Loretta King wrote to warn that the state could face repercussions if it adopted the measure saying that "[o]fficial actions of the state government be taken only in the English language."

The letter cited DOJ "policy guidance" under Executive Order 13166 (E.O. 13166), suggesting that the order had the force of law. It ignored the fact that E.O. 13166 is an erroneous DOJ interpretation of law that conflicts with thirty years of settled case law and has never been tested in court. On the other hand the U.S. Supreme Court has upheld the sovereign right of states to designate a language for official use.

Unmoved by the threat, both houses of the Oklahoma Legislature passed the referendum legislation which states that "all official actions of the

state shall be conducted in the English language."

ProEnglish Chairman Bob Park commented, "Acting Assistant US Attorney General King's letter is a blatant example of heavy handed federal interference in the sovereign right of a state to govern itself. It is ironic that the Justice Department is eager to claim the force of law for E.O. 13166, at the same time it works desperately to avoid having to defend the order on its legal merits against court challenges by ProEnglish."

Obama Administration fills key post with multilingual advocate

The Obama Administration has nominated Thomas Perez, Maryland's Secretary of Labor, Licensing, and Regulation to be the U.S. Assistant Attorney General in charge of the Department of Justice Civil Rights Division.

Perez's nomination cleared the Senate Judiciary Committee by a vote of 17-2 despite criticism from several Republican senators for his service as president and board member for a far-left Hispanic advocacy organization called CASA de Maryland. Perez's nomination will now go to the full Senate for confirmation.

Sen. Tom Coburn (R-OK) criticized Perez's advocacy of free translation and interpreter services for non-English speaking patients. He said that if Perez had his way, it would drive up health care costs and end up hurting the very people it was intended to help. Sen. John Kyl (R-AZ) described Perez's advocacy of bilingual assistance for patients who don't speak English as "very troubling."

If confirmed, Perez will oversee DOJ implementation of Executive Order 13166 (E.O. 13166), the order signed by President Clinton mandating that federal fund recipients including doctors and hospitals receiving Medicare and Medicaid reimbursement provide free translation services to non-English speaking patients. ProEnglish, joined by a number of physicians, has fought unsuccessfully to have the constitutionality of E.O. 13166 reviewed by federal courts.

Several senators, including Senators Leahy (D-VT), Kyl and Coburn, said they want to discuss the language issue with Perez before his Senate confirmation vote is scheduled.

Congress

Congresswoman pushes for translation cost transparency

U.S. Representative Virginia Foxx (R-NC) thinks that it's time to find out how much it costs federal taxpayers to provide services in foreign languages. She introduced the *Multilingual Services Accounting Act* (H.R. 1414) that would require all federal agencies to report the amount they spend to provide translations and interpreters in their yearly accountability reports.

Increasingly the states are requiring their agencies to account for their spending on multilingual services. Wisconsin did so in 2008.

H.R. 1414 is a straightforward good government bill. It calls for greater transparency in the government's accounting practices and more accountability in spending taxpayer money. President Barack Obama pledged to push for more transparency in government when he ran for president and has called for more transparency since taking office.

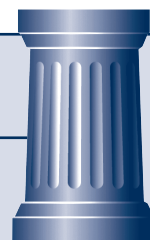
"The American people have the right to know how much of their money is being spent to provide translations and interpreters for people who cannot speak English," says Jayne Cannava, ProEnglish's Director of Government Relations. "There are many cases in which government bureaucrats simply decide to spend taxpayer money for the convenience of people who do not speak English," she continued. "We should know what it costs," Cannava said, "especially during these times of falling tax revenues and skyrocketing government deficits."

Congressmen blast EEOC for attacking English-on-the-job rules

Last fall the United States Civil Rights Commission (USCCR) held a hearing on "Specifying English as the Common Language of the Workplace." ProEnglish Executive Director K.C. McAlpin was one of seven witnesses called to testify. After the hearing, a number of congressmen filed comments supporting ProEnglish's testimony that the EEOC was exceeding its authority and violating the civil rights of employers and employees alike by targeting and filing complaints against employers with English language workplace rules.

Senators Inhofe (R-OK), Coburn (R-OK), and Alexander (R-TN), submitted comments critical of the EEOC as did Rep. Tom Price (R-GA) whose letter was co-signed by 18 other congressmen. Price is a leader in the effort to protect employers with English workplace policies. His *Common Sense English Act*, H.R. 1588 clarifies that language and national origin are distinct characteristics and says the EEOC has no basis for filing discrimination lawsuits against employers with English-on-the-job rules.

"Congress roundly rejected the EEOC's decision to file suit against the Salvation Army" over its English-on-the-job policy," said Rep. Price. "When the EEOC filed suit, it dismissed common sense and thirty years of court cases ruling that language is not the same as national origin. Rather than more mandates, let's grant greater freedoms and preserve employers' civil rights," he added.



In the Courts

9th Circuit Denies ProEnglish E.O. 13166 Appeal

Two years after hearing oral arguments in an appeal by ProEnglish, the 9th Circuit Court of Appeals held that neither ProEnglish nor its physician co-plaintiffs have standing to challenge an injurious Executive Order.

The ruling in *Colwell v. HHS* effectively ended ProEnglish's second attempt to challenge the

legality of the multilingual mandate known as Executive Order 13166 (E.O. 13166). This Order imposes upon physicians and other health care providers receiving Medicare or Medicaid reimbursement an affirmative duty to pay for translations and interpreters for their non-English speaking patients. Doctors who fail to comply face loss of funding, civil lawsuits, fines, or even jail time.



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In the Courts continued



In its ruling, the Ninth Circuit panel threw out the lower court decision that found the plaintiffs lacked legal standing to challenge the Department of Health and Human Services' implementation of E.O. 13166, but held the case lacked "prudential ripeness," and, therefore, could not proceed to a trial on the merits.

ProEnglish Executive Director K.C. McAlpin said, "For the second time in nine years, the Justice Department, with the aid of compliant judges, has used subjective, procedural arguments to fend off a ProEnglish lawsuit and avoid a trial on the legality of Executive Order 13166. It's outrageous that the courts find doctors and hospitals threatened with civil lawsuits, fines, and loss of funds are in not being injured and have no basis for seeking relief in court. Yet a handful of college professors, annoyed by a requirement that their schools let military recruiters on campus as a condition of federal funding, were found to have sustained harm and had their case rapidly adjudicated all the way to the U.S. Supreme Court."

"Executive Order 13166 is an illegitimate incarnation of civil rights law and flies in the face of thirty years of court decisions. If the Justice Department ever files a lawsuit to enforce it, we'll be ready to intervene. And we're confident it will be thrown out," McAlpin added.

Texas lawsuit asserts anti-English discrimination

The former marketing director of an assisted living center in South Texas filed a complaint in federal court claiming she was discriminated against because she does not speak Spanish and because of her race as well as her gender.

In the lawsuit Margaret Trafford said she was routinely excluded from important conversations by her peers who insisted on conducting them in Spanish. She says she was discriminated against because she was the only non-Hispanic woman employed as a director by a Harlingen-based assisted living center. The suit also alleges she suffered job retaliation when she complained about her treatment as well as about abuses such as

directors being rude and insisting on speaking Spanish to non-English speaking residents who could not understand them.

The lawsuit alleges the center engaged in illegal national origin discrimination under the 1964 Civil Rights Law due to her exclusion on the basis of language – a language equals national equation that has been consistently rejected by the courts. The Texas case is unusual because national origin discrimination has been invoked far more commonly as the basis for attacking employer English-on-the-job policies in recent years.

Florida woman sues to demand bilingual ballots

A Puerto Rican woman has filed suit against the county elections supervisor in Volusia County, Florida demanding the right to a ballot printed in her native language, Spanish.

Crimilda Perez-Santiago's lawsuit argues that even though the county does not meet the threshold for providing Spanish language ballots under the bilingual ballot provisions of the Voting Rights Act (VRA), she should be entitled to a ballot in Spanish.

The VRA requires counties to provide bilingual ballots if either 5 percent of voters or 10,000 voters whichever is less, speak one of several protected language groups. Volusia County is not one of the 296 counties in the U.S. now covered by the VRA's bilingual ballot provisions. But lawyers from the New York-based group Latino Justice Puerto Rican Legal Defense and Education Fund, argued that a provision of the VRA guarantees all Puerto Rican voters the right to a ballot in Spanish.

A decision in favor of Perez-Santiago would have dramatic and far reaching consequences and would likely require Spanish language ballots in every county that had at least one voting age Puerto Rican resident.

President George W. Bush and the Republican Leadership in Congress renewed the VRA's bilingual ballot provisions in 2007 despite intense opposition from ProEnglish and the majority of Republicans in Congress.

**Uncle Sam
could use it**

"If I learn English, more money for Uncle Sam."

—Colombian immigrant Gustavo Medina talking about how learning English and getting a better job means he'll pay more in taxes. *The Washington Times*, March 24, 2009

Around the Nation



California legislator seeks to make language choice a “civil right”

California State Senator Leland Yee (D-San Francisco) wants to give someone's choice of language the status of a protected civil right. He introduced a bill, S.B. 242 that amends the state's civil rights law by adding “language” to the list of protected classes alongside characteristics such as race, gender, ancestry, and national origin.

Yee's bill singles out “private speech” as it applies to business establishments and would overrule an employer's right to have English-on-the-job rules in most cases. The California Senate passed Yee's measure 21-15. But it still needs to pass the State Assembly and be signed by the governor to become law.

ProEnglish sent a letter to all members of the State Assembly Judiciary Committee opposing the bill. The letter read in part, “As written S.B. 242 violates the free speech rights of employers and private citizens guaranteed by Article I of the California Constitution and runs afoul of Article III, Section 6 of the California Constitution – the provision making English the official language of California. California voters adopted Section 6 by an overwhelming majority of seventy three percent (73%) in a 1986 statewide referendum...S.B. 242 [also]...threatens to unleash a flood of private lawsuits against professional associations, community organizations, private and parochial schools and many other employers who could be charged with ‘discrimination’ because of an alleged failure to accommodate speakers of any number of languages.”

ProEnglish Executive Director K.C. McAlpin said, “Instead of protecting rights, S.B. 242 tramples on civil rights. If this oppressive and unconstitutional measure becomes law, ProEnglish will look for an opportunity to challenge it in court.”

Foreign language driver's license tests under fire

For years state agencies in charge of administering driver's license tests have been making the tests available in an ever increasing number of foreign languages. They have done so

in response to pressure from ethnic group lobbies despite the clear hazard to public safety posed by having non-English speaking drivers on the roads. Many of the states involved are states with official English laws on their books.

Increasingly, however, state legislators are hearing horror stories from public safety officials about accidents and near accidents in which a licensed driver's inability to understand traffic and warning signs was a contributing factor. As a result, there is growing pressure to end the practice and require driver's license applicants to pass tests written in English.

Oklahoma became the first state to eliminate foreign language driver's tests this spring when State Rep. Randy Terrill (R-Moore) succeeded in getting a bill through the legislature that was signed into law. In Georgia, State Sen. Jack Murphy (R-Cumming) saw his bill to eliminate foreign language driver's license tests pass by overwhelming margins in both houses of the legislature, only to stall at the last minute over procedural wrangling. But the bill remains alive, and Murphy vows to pass it when the legislature reconvenes in 2010.

Other states, coping with budget as well as safety issues, have acted to eliminate the foreign language tests without the necessity of legislative action. In Kentucky however, the state police chief's decision to end such tests was overruled by the governor (see story p. 7).

But some states are still going in the opposite direction. North Carolina recently raised the number of languages in which it gives driver's license tests from two to ten, adding several languages that don't even use the Roman alphabet such as Arabic, Chinese, Korean, and Russian.

California raises cost of medical insurance to cover translation needs

In January the State of California began implementing a new law that requires health insurance companies in the state to pay for interpreters and translations for non-English speaking patients at no charge.

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Around the Nation Continued



With 43 percent of its population speaking a language other than English at home according to the Census, and paid translators earning as much as \$180 an hour, the cost of the new law will be huge. That cost will be reflected in the higher premiums private insurers charge to provide health insurance.

ProEnglish board member and California physician Cliff Colwell said, "Throughout our nation's history doctors have been committed to communicating clearly with their patients— that's why family members, friends or members of one's own language/ethnic group have traditionally been utilized to communicate with patients speaking little or no English. And U.S. medical institutions have widely adopted common sense approaches like hiring bilingual staff to help them cope with the problem."

"This new law is going to make health care insurance even less affordable in California and increase the cost of errors and omissions insurance to medical providers," Colwell added. "In my opinion it will do nothing to improve the quality of health care and hardly seems fair. Why should Americans pay for interpreters for people who knew they were coming to an English-speaking country when they came here?"

Kentucky Gov. overrules decision to end multilingual driver's license tests

Citing concerns about the danger to public safety posed by having non-English speaking drivers on the roads, as well as cost and difficulties examiners face in grading, Kentucky State Police Chief Tim Lucas announced he was discontinuing the State's practice of giving driver's license tests in 22 foreign languages. Kentucky has been making driver's license tests available in multiple languages despite the fact that English is Kentucky's official language and no legal requirement exists for the state to use any other language.

But multicultural and ethnic special interest lobbies protested saying the state had an "obligation" to provide multilingual services. In response Democratic Governor Steve Beshear announced he was overruling Chief Lucas and that the state would keep providing multilingual

driver's license tests despite the fact the state faces a \$1 billion budget deficit.

In recent years many people have been surprised to learn that their state departments of motor vehicles have been quietly pressured into giving driver's license tests in numerous foreign languages including languages that don't even use the Roman alphabet. Accidents and near accidents attributable to drivers' inability to read and understand traffic and warning signs have sparked a growing movement to abolish foreign language driver's tests.

Kentucky State Police Chief Lucas also noted problems that applicants had understanding poor translations and different dialects, as well as the increased likelihood of grading errors and cheating.

ProEnglish Chairman Bob Park commented, "Gov. Beshear's decision to overrule Chief Lucas and maintain Kentucky's multilingual driver's license testing is a clear dereliction of his duty to protect public safety. It also eliminates a powerful incentive for immigrants to learn English and assimilate. It's hard to imagine a more irresponsible act."

Public support for official English remains stratospheric

A new poll found that 84 percent of Americans agree that English should be the official language of the United States against only 9 percent who disagree. Support was overwhelming across party lines with 74 percent of Democrats, 96 percent of Republicans and 85 percent of Independents endorsing official English.

In other findings 81 percent of the public agreed that an American company should have the right to require its employees to speak English on the job, and 82 percent reject the idea that such policies are a form of racism or bigotry. Eighty (80) percent of the public believe that people who move to the United States should adopt American values and assimilate.

The national telephone survey of 1,000 adults was conducted in May by Rasmussen Reports and has a +/- 3 percent margin of error.

Ways to help win the battle for official English online

1. Join ProEnglish's online action alert network: Make your voice heard on official English, bilingual ballots, bilingual education and similar issues. Sign up to receive email alerts when things are happening in Congress. You will get up-to-the-minute information on upcoming votes, talking points, and contact information you can use to email or call your congressmen. To sign up, visit <http://capwiz.com/proenglish/mlm/signup/>.

2. Contact your elected representatives: Express your support for laws to make English the official language, stop government sponsored multilingualism, or expand incentives for immigrants to learn English. To send emails to your elected representatives at no cost, visit our Legislative Action Center online at <http://capwiz.com/proenglish>.

3. Help ProEnglish grow: Tell your friends about our fight to preserve English as the unifying language of our nation. Send them a link to our website at www.proenglish.org. Mention ProEnglish in every email you send by adding information about ProEnglish to your email signature. To find out how to add ProEnglish to your email signature, visit us online at www.proenglish.org/howyoucanhelp/emailsignature.html.

4. Write letters to the editor: Write letters in support of making English our official language. Or respond to news stories about English-on-the-job, English in schools, or the use of English by government agencies. For tips on writing effective letters to the editor, visit our tips page online at www.proenglish.org/howyoucanhelp/letterstotheeditor.html.

The Invisible Wall

"I have no Arab and Turkmen friends. I have only Kurdish friends."

—Kurdish student Darawan Salahadin, talking about ethnic divisions in the Iraqi city of Kirkuk where language creates a sharp divide between Arabs, Turkmen and Kurds. *The Washington Post*, Dec. 20, 2008.

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