

## NOTES

# THE EMERSON ENGLISH LANGUAGE EMPOWERMENT ACT: THE HOUSE'S "STRAW MAN" BILL

### *A Plea to the Senate Not to Pass the Emerson English Language Empowerment Act of 1997*

#### I. INTRODUCTION

Throughout international and American business environments, English is the dominant and accepted language for market transactions. In Taiwan, Chinese elementary students learn English as part of a recommended curriculum. These children learn English because the Taiwanese Government knows their students will be better prepared for international trade if they can communicate in English. In Italy and other western European countries, American tourists often find restaurant menus subtitled in English to accommodate their lack of fluency in those languages. Why is it then, in a world that is inclined to adopt English as the common language of communication, that the United States House of Representatives passed the Emerson English Language Empowerment Act on August 1, 1996?<sup>1</sup>

Perhaps, as the House majority who sponsored the bill suggested, the demography of the United States is undergoing a "balkanization"<sup>2</sup> whereby immigrant groups have entered into this country and managed to survive without learning English and without assimilating into American culture. Consequently, one way the House majority proposes to unify the different cultural groups is by establishing one official language. The House majority seems to assume that declaration of an official language will provide Americans with a common cultural denominator and will develop national cohesiveness. Even accepting the House majority's assumption of "balkanization,"<sup>3</sup> the House majority also asserts that the bill is meant to encourage non-English speakers to

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1. The House of the 104th Congress originally passed this bill on August 1, 1996. The House of the 105th Congress reintroduced and passed the bill on January 7, 1997. The Emerson English Language Empowerment Act, H.R. 123, 105th Cong. (1997) is cited in full in Appendix C.

2. The House majority's report does not provide studies, surveys, or other evidence of "balkanization." Instead, the majority assumes "balkanization" by rhetorically asking if the country should "continue the trend toward balkanization of languages, encouraging people to interact only with those of similar backgrounds, and not assimilate into the larger American society." H.R. REP. NO. 104-723, at 6. The House majority uses the term "balkanization" to suggest that the growth of different cultural groups within the United States has led to social divisions on a national scale, and to suggest that because of these divisions, the United States is less socially and economically efficient than it would otherwise be. Consequently, the House majority has passed a bill which requires linguistic uniformity. Such linguistic uniformity will allegedly rectify the country's present state of cultural division.

3. See *supra* note 2.

learn English.<sup>4</sup> However, the Emerson bill does not set up any English language programs to fulfill its purpose "to help immigrants better assimilate and take full advantage of the economic and occupational opportunities in the United States."<sup>5</sup> Instead of providing English language programs<sup>6</sup> which might encourage non-English speakers to improve their English, the bill allows Americans who already speak English to bring a discrimination suit against government employees who, in their official capacity, speak languages other than English with non-English speaking immigrants. This civil action provision, appearing in section three (3) of the Emerson bill, states that:

No person shall be denied services, assistance, or facilities, directly or indirectly provided by the Federal Government solely because the person communicates in English.<sup>7</sup>

A person injured by a violation of this chapter may in a civil action . . . obtain appropriate relief.<sup>8</sup>

By failing to add much needed English language courses and programs in the bill and by presenting English speakers as a vulnerable protected class entitled to bring discriminations suits, the Emerson bill is not an immigrant-assistance bill. Rather the bill is a Nativist<sup>9</sup> attack against immigrants who are not yet fluent in English. In providing a broad cause of action against federal employees who, in their official capacity, use another language with non-English speakers, the Emerson bill leaves a lot of room for abusive litigation. By prohibiting multilingual government employees to speak other languages with non-English speakers, the bill discourages non-English speakers (immigrants) from acquiring assistance they would otherwise receive. Additionally, the bill harms non-English speakers because, on a symbolic level, the bill portrays multi-lingual federal government employees as victimizers and aggressors, and non-English

4. H.R. 123, 105th Cong. § 2(6) (1997).

5. *Id.*

6. The Emerson bill is devoid of even a token provision to provide English language programs. If the House majority was sincere in its stated purpose "to help immigrants better assimilate and take full advantage of the economic and occupational opportunities in the United States," then it should have referenced any one of several existing English language programs originally intended for immigrant students who have limited English language skills. H.R. 123, 104th Cong. § 2 (1996). Such programs include: Submersion, Immersion, English as a Second Language (ESL), Transitional Bilingual Education (TBE), Bilingual-Bicultural Education (BBE), and Native Language Only programs (NLO). Jeremy D. Marcus, *Educating Immigrant Children: To What End?* 10 GEO. IMMIGR. L. J. 485, 492-96 (1996). Marcus' note provides an in-depth examination of the methods and goals of each of the above mentioned English language programs.

7. H.R. 123, 105th Cong. § 3 (1997).

8. *Id.*

9. Nativism is the policy of protecting the interests of native inhabitants against those of immigrants. It is also the policy or practice of preserving or reviving an indigenous culture. THE RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 1280 (2d ed. 1987). For more discussion and analysis of "Nativism" the following sources are helpful: JUAN F. PEREA, IMMIGRANTS OUT!: THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE IN THE UNITED STATES (1997); TYLER ANBINDER, NATIVISM AND SLAVERY: THE NORTHERN KNOW NOthings AND THE POLITICS OF THE 1850'S (1992); GEORGE E. POZZETTA, NATIVISM, DISCRIMINATION, AND IMAGES OF IMMIGRANTS (1991); JOHN HIGHAM, STRANGERS IN THE LAND: PATTERNS OF AMERICAN NATIVISM, 1860-1925 (2d ed. 1988); THOMAS J. CURRAN, XENOPHOBIA AND IMMIGRATION, 1820-1930 (1975); ELTON R. PENROSE, CALIFORNIA NATIVISM: ORGANIZED OPPOSITION TO THE JAPANESE 1890-1913 (1973); DAVID H. BENNETT, THE PARTY OF FEAR: FROM NATIVISM MOVEMENTS TO THE NEW RIGHT IN AMERICAN HISTORY (1988); and DALE T. KNOBELL, PADDY AND THE REPUBLIC: ETHNICITY AND NATIONALITY IN ANTEBELLUM AMERICA (1986).

speakers as participants in a conspiracy to deny English speakers "services, assistance or facilities."<sup>10</sup>

In presenting a bill which alleges to aid, but in reality harms, non-English speakers, both because the bill allows abusive litigation and portrays non-English speakers as aggressors, the House has put forth a "straw man" bill. A "straw man" is a front or facade, much like a prop for a Hollywood movie. Although a civilization appears to coexist with the building fronts of Main Street in an Old Western movie, no one actually lives or works behind the building facades. On its face, the Emerson bill appears to help non-English speakers (immigrants) to assimilate into American society and to provide them with better access to economic and occupational opportunities. However, the bill does not provide any programs which promote or encourage immigrants to learn and speak English. Instead, under the guise of a helpful-to-immigrants act, the Emerson bill actually harms non-English speaking immigrants by prohibiting non-English communication with federal employees, by allowing English speakers to bring discrimination suits when such non-English communication occurs, and by portraying non-English speakers as co-conspirators against English speakers.

Despite the lack of English language programs in the bill it espouses a legitimate public policy of encouraging American residents to communicate in one language. To that extent, the bill contains a helpful purpose which should be pursued. The Emerson bill can be amended so that its purported aim of assisting immigrants to learn English may be achieved. This Note explains how an amended Emerson bill can feasibly achieve its goal of encouraging English speaking. Additionally, this Note provides in Appendix D an example of what the redrafted Emerson bill might look like. In theory, any "straw man" bill may potentially contain two levels of concerns because its stated purpose and stated means may not correspond. First, if the bill contains a helpful purpose that is not fulfilled by its stated means, legislators must redraft the bill's body so that its purpose can be reasonably achieved. In this Note, I focus on the Emerson bill's stated purpose of encouraging non-English speakers to learn English. While the body of the Emerson bill may actually address concerns unrelated to national language policy this Note focuses only on how the bill's stated purpose of encouraging immigrants to learn English may be achieved.

This Note is divided into several sections. Section II summarizes the House majority's and the House minority's most persuasive arguments for and against the Emerson bill. Section III, in conjunction with Appendices A and B, provides a compilation and discussion of innocuous and harmful official language laws passed by the States. Examination of existing State official language provisions may be particularly helpful examples for Senators in their review of the Emerson bill. Section IV presents the Ninth Circuit's analysis of *Yniguez v. Arizonans for Official English*<sup>11</sup> concerning Arizona's English language amendment. While the Supreme Court has since vacated the Ninth Circuit's decision because changed factual circumstances have rendered the case moot,<sup>12</sup> the opinion is still useful for Senators reviewing the Emerson bill as it provides helpful legal analysis in determining the constitutionality of the bill. Section V provides an amended Emerson bill, in which the House majority's stated purpose of

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10. H.R. 123, 105th Cong. § 3 (1997).

11. *Yniguez v. Arizonans for Official English*, 69 F.3d 920 (9th Cir. 1995), *vacating as moot sub nom. Arizonans for Official English v. Arizona*, 117 S.Ct. 1055 (1997).

12. *Arizonans for Official English*, 117 S.Ct. at 1075.

assisting immigrants to learn English may be reasonably achieved. A section-by-section analysis of the amended Emerson bill is provided, explaining why I eliminated, amended or replaced certain provisions of the original bill. Lastly, Section VI summarizes this Note and provides some conclusions.

## II. SUMMARY OF THE MAJORITY AND MINORITY ARGUMENTS OF THE EMERSON ENGLISH EMPOWERMENT ACT

### A. History of the Emerson English Empowerment Act

The Emerson English Empowerment Act originated as part of The Language of Government Act of 1995, which was introduced by Congressman Bill Emerson (R-MO) on January 4, 1995,<sup>13</sup> in the Committee on Economic and Educational Opportunities. Three other related bills were also introduced into the Committee, including the Language of Government Act, the Declaration of Official Language Act, and the National Language Act.<sup>14</sup> Together, these bills were discussed at two subcommittee hearings. On July 23, 1996, the Committee approved the Emerson English Empowerment Bill by a vote of 19 yeas to 17 nays. Subsequently, the House passed the bill on August 1, 1996, by a recorded vote of 259 yeas to 169 nays. The bill did not reach the Senate in the 104th Congressional session. Consequently, the Emerson bill was reintroduced into the House on January 9, 1997. With the exception of two clauses, the Emerson bill remains unchanged from its 1996 form.<sup>15</sup> Presently, the bill awaits Senate approval and presidential signature before becoming law. While the bill can be amended to serve its purpose of encouraging non-English speakers to learn and speak English, Senators are advised to review this bill in its present form with caution.<sup>16</sup>

### B. Summary of the Majority's Arguments In Favor of the English Empowerment Act

To decide whether the Emerson bill should be enacted, it is useful to examine the House majority's arguments in support of the bill. The majority, in a house report, presented several reasons why English should be enacted as the official language of the United States.<sup>17</sup> The majority's most persuasive arguments were: (1) that American taxpayers should not have to fund non-English languages, and (2) that the English language is a powerful tool for the success of Americans. However, neither of these arguments present sufficient reasons for passing the Emerson bill.

#### *1. The House Majority's First Argument In Support of the Emerson Bill: American Taxpayers Should Not Have to Fund Non-English Languages.*<sup>18</sup>

After presenting some statistics that certain federal documents are printed in other languages in addition to English, the majority stated that the key questions for American taxpayers are "Where does it stop?" and "How many different languages are

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13. H.R. REP. NO. 104-723, at 3 (1996).

14. *Id.* at 4.

15. H.R. 123, 105th Cong. (1997) (clauses regarding Native Alaskan and Native American Languages, and the Disabilities Education Act).

16. *See infra* Section V (analyzing the Emerson bill and a proposing an English language bill for the Senate's consideration).

17. H.R. REP. NO. 104-723, at 3-21 (1996).

18. *Id.* at 5-6.

taxpayers expected to fund?"<sup>19</sup> The majority's choice of evidence in support of its conclusion that taxpayers are unjustly funding other languages is at best a symbolic one.

Even if the House majority's evidence that federal documents printed in non-English languages were conclusively shown to be a financial drain on taxpayers, the majority, itself, acknowledged that the United States does not print an exorbitant number of documents in non-English languages. According to a General Accounting Office (GAO) investigation, only 265 of 400,000 documents were published in foreign languages, totalling less than 1% of documents.<sup>20</sup> Furthermore, the House majority presents no evidence to suggest that the 1% of federal documents printed in languages other than English were not done so because they serve specific linguistic needs. One can imagine an international federal form which non-English speakers might use. In such a scenario, the American economy would not be served if this form were required to be in English only, as the form would be time consuming to complete, or not filled out at all. Additionally, one might presume from the low percentage of federal forms that are indeed printed in non-English languages that the United States already has a general policy of drafting forms only in English. The fact that only 1% of federal documents are printed in non-English languages suggests that these documents serve particularized purposes, which the Emerson bill, if passed, would disrupt.

*2. The House Majority's Second Argument In Support of the Emerson Bill: The English Language is a Powerful Tool for Americans.*<sup>21</sup>

The House majority proposed several reasons why it would be in the best interest of a non-English speaker to learn English. First, the majority states that several studies show that people who learn English earn more for their families, interact better in society, and build brighter futures.<sup>22</sup> Additionally, the majority opines that non-English speakers should learn English because "it is our English language which unites us - a nation of diverse immigrants - as one nation."<sup>23</sup> They argue that the English language promotes assimilation, rather than isolation and separation, because presently in all 50 states it is English and no other language which is more consistently written, spoken, and read in a widespread manner.<sup>24</sup> Last, but not least, the majority states that those who wish to become naturalized United States citizens must learn to read English.<sup>25</sup> For all these reasons the House majority concludes that it is in the best interest of non-English speakers to learn and speak English.

All of the above evidence stated by the majority presents logical reasons why it is in a non-English speaker's best interest to learn English. However, in order to build a brighter future and to fully participate as a citizen of the United States where English is already consistently written, spoken, and read in a widespread manner, non-English

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19. *Id.* at 6. The GAO put together these statistics in 1995 in response to a request for foreign language documents from Senator Richard Shelby (R-AL), Congressman Bill Emerson (R-MO), and Congressman William Clinger (R-PA).

20. *Id.*

21. *Id.* at 6-8.

22. *Id.* at 6.

23. *Id.*

24. *Id.*

25. H.R. REP. NO. 104-723, at 9 (1996) (8 U.S.C. 1423 (Supp. 1978) requires naturalization candidates to learn to read English).

speakers need the assistance of English teachers and English language programs. If the Emerson bill is a sincere effort to promote English speaking, it should contain English language programs. Presently, the Emerson bill is devoid of any English language programs. Consequently, the present Emerson bill is not a powerful tool for non-English speaking Americans.

### **C. Summary of the Minority's Reasons Against the English Empowerment Act**

In addition to the House majority's arguments for the Emerson bill, Senators should also examine the House minority's arguments against the bill. The minority presents several reasons why the Emerson bill should not be enacted.<sup>26</sup> The minority's most persuasive arguments can be summarized into four groups: (1) the bill does not encourage non-English speakers to learn English because it does not provide any remedial programs, (2) since English is the unofficial official language of the United States it is unnecessary to declare English as the official language, (3) the bill is probably unconstitutional, and (4) the bill encourages abusive litigation.

#### *1. The House Minority's First Argument Against the Emerson Bill: The Act Does Not Provide Any Education Assistance Programs.<sup>27</sup>*

The House majority asserted that the Emerson bill will give each new generation of immigrants access to the American dream.<sup>28</sup> In response to the majority's opinion, the minority points out that the Emerson bill is incapable of fulfilling its purpose of encouraging non-English speakers to speak English because it lacks any education assistance programs. Additionally, the bill does not set aside funding or resources for teaching English. By failing to set up programs to meet the need (implicitly alleged by the Emerson bill) for English proficiency,<sup>29</sup> the Emerson bill's stated purpose to assist immigrant generations to succeed in the United States cannot be credible. Instead, the Emerson bill, by means of its civil action provision, restricts and prevents the federal government from communicating with and providing services to non-English speaking Americans, many of whom are children or elderly. Consequently, the Emerson bill would actually deny fair and equal access to such basic and fundamental services as voting assistance, education, social security, and police protection.<sup>30</sup>

#### *2. The House Majority's Second Argument Against the Emerson Bill: The Act is Not Necessary as an Incentive to Learn English.<sup>31</sup>*

English is already the most commonly spoken language in the United States. The 1990 Census shows that 97% of the people in the United States speak English well. According to the GAO, more than 99.9% of all federal documents and publications during the 1990-1995 period were in English.<sup>32</sup> Additionally, an extremely high demand exists for English language classes in the United States. In Washington, D.C.,

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26. *Id.* at 3-21.

27. *Id.* at 31.

28. *Id.* at 6.

29. *Id.* at 31.

30. *Id.*

31. *Id.*

32. *Id.* at 30.

5,000 immigrants were turned away from English classes in the 1994 school year.<sup>33</sup> In New York City, schools have had to resort to a lottery system to determine enrollment into English classes.<sup>34</sup> In Los Angeles, more than 40,000 applicants remain on waiting lists for English classes.<sup>35</sup> From these facts, one can assume that non-English speakers already recognize the importance of learning English in order to succeed in the United States.<sup>36</sup> Since English already has quasi-official language status and since many non-English speakers eagerly pursue programs to learn English, the Emerson bill is unnecessary.

3. *The House Minority's Third Argument Against the Emerson Bill: The Act is Constitutionally Suspect.*<sup>37</sup>

The House minority agrees with the majority stated goal of encouraging non-English Americans to speak fluent English.<sup>38</sup> However, the majority's stated means of accomplishing English speaking may be unconstitutional under the First Amendment. The Emerson bill may restrict federal government employee speech too much when it requires them to speak only in English at work. Similarly, the speech of non-English speaking Americans maybe restricted when they cannot converse with federal government employees in non-English languages.<sup>39</sup>

Recently, in *Yniguez v. Arizonans for Official English*,<sup>40</sup> the Ninth Circuit found Arizona's constitutional amendment XXVIII unconstitutional.<sup>41</sup> In many ways the Emerson bill is similar to the Arizona law as both provisions require government employees to speak only English at work. Moreover, both provisions provide a civil action against government employees who use another language at work. If the Arizona law is indeed constitutionally suspect, perhaps Congress should proceed cautiously before passing a law which contains similar language.<sup>42</sup>

4. *The House Minority's Fourth Argument Against the Emerson Bill: The Act Would Generate Abusive Litigation.*<sup>43</sup>

The Emerson bill allows English speakers to bring a discrimination suit against federal government employees who use another language at work.<sup>44</sup> However, as the

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33. *Id.*

34. *Id.* at 31.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* at 30.

39. See Section IV of this Note for an analysis of the First Amendment arguments proposed in *Yniguez*.

40. 69 F.3d 920 (9th Cir. 1995), *vacated as moot sub nom.* *Arizonans for Official English v. Arizona*, 117 S.Ct. 1075 (1997).

41. The House minority did not consider the later Supreme Court decision in *Arizonans for Official English*, 117 S.Ct. at 1075, as the Supreme Court had not yet reviewed the case in 1996, when the minority wrote its opinion. Justice Ginsberg, writing for the Court, held that factual changes in the case had rendered the decisions of the lower courts moot and consequently the Supreme Court vacated the appellate court decision. Ginsberg's opinion for the Court did not address the merits of the case, it only vacated the lower decision on civil procedure grounds. Consequently, Senators reviewing the Emerson bill will still find the Ninth Circuit's analysis of the Arizona amendment useful in understanding how the Emerson bill may be unconstitutional.

42. A copy of the Arizona law can be found in Appendix B of this Note, *compare* the Emerson bill found in Appendix C.

43. H.R. REP. NO. 104-723, at 33 (1996).

44. Section 3 of the Emerson bill states in relevant part that:

majority has stated in several ways, English is the unofficial official language of the United States.<sup>45</sup> And, as stated in the minority's second argument against the Emerson bill, the 1990 Census shows that 97% of the people in the United States speak English well. Succinctly stated, the English language has had and continues to have a pervasive role in the United States. If all of these conclusions about English are true, it is unlikely that an English speaker will face an abundance of discriminatory situations and consequently file suit against a government employee. As such, the civil action provision in the Emerson bill seems unnecessary.

However, provisions for civil action does not render laws harmless just because they are unlikely to be exercised. One function of any law is to make a public statement of what government believes is right and what it believes is wrong. When government makes it against the law to do something, society knows that something is illegal, wrong, and bad. There is an implicit negative stigma attached to any cause of action. By specifically allowing English speakers to sue federal government employees, the Emerson bill unnecessarily encourages abusive litigation in a country where English is already the most commonly spoken language. American courts are already clogged with cases. The Emerson bill would further clog federal courts with meddlesome litigation.<sup>46</sup>

### III. ANALYSIS OF STATE ENGLISH LANGUAGE LAWS

In deciding whether or not to pass the Emerson bill, Senators may find it helpful to know what official language laws states have already passed. By sheer quantity alone the number of English language laws are surprisingly high. At least twenty-five United States and territories have passed official language laws. Closer examination of their text reveals that these statutes differ greatly in substance and strictness. Some English language laws are fairly innocuous, one line statutes which simply declare that English is the official language of the state. Other English language laws are more elaborate and designed to encourage non-English speakers to speak English.<sup>47</sup> Another type of state English language law suggests a "Nativist element"<sup>48</sup> which could harm immigrants. Like the Emerson bill these harmful statutes encourage abusive litigation by allowing an English speaker to sue in certain situations when non-English languages are spoken. Additionally, this type of English language statute may be overly broad in declaring English as the language of the country instead of just that state, or generally setting a tone which is not meant to help a non-English speaker.<sup>49</sup>

The Emerson bill does not resemble the helpful or innocuous official language laws provided in Appendix A. Rather, the Emerson bill is more similar to the language laws provided in Appendix B. Senators deciding whether or not the Emerson bill is worth passing should first consider the English language laws that United States and

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No person shall be denied services, assistance, or facilities, directly or indirectly provided by the Federal Government solely because the person communicates in English . . . [furthermore, any] person injured by a violation of this chapter may in a civil action . . . obtain appropriate relief.

45. See *supra* section II.B(2).

46. H.R. REP. NO. 104-723, at 33 (1996).

47. The text of these two aforementioned types of official language statutes are provided in Appendix A: Compilation of Innocuous English Language Statutes.

48. See *supra* note 9.

49. The text of harmful English language statutes are provided in Appendix B: Compilation of Harmful English Language Statutes.



territories have already passed. Additionally, the state statutes may provide helpful insight and perspectives the House did not consider when they passed the Emerson bill. From this review of the state English language statutes, Senators should conclude that the Emerson bill should be defeated, or amended from its present harmful version to contain more helpful language.

#### A. Analysis of Innocuous or Helpful English Language Statutes

I have placed Arkansas, Colorado, Florida, Georgia, Guam, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Montana, New Hampshire, North Dakota, Puerto Rico, South Carolina, South Dakota, Tennessee, Virginia, and Wyoming into the first group for the following reasons:

##### 1. *Guam, Haw., P.R.*

The territories of Guam and Puerto Rico and the state of Hawaii maintain statutes which allow at least two official languages within their respective territories. Since these territories and Hawaii contain a large percentage of non-English speakers, they present a legitimate need for an official language law. To the extent that there are problems with uniform communications, Guam allows the Chamorro language to be spoken. Similarly, Hawaii allows Hawaiian to be used, but does not require that it be used. And Puerto Rico permits statutes of Spanish origin to be printed in Spanish. Given the higher populations of different language speaking groups in Guam, Hawaii, and Puerto Rico, these states have found language laws which provide for more than one official language work well in their respective multicultural citizenship. Perhaps, functionally monolingual states, which wish to effectively address problems associated with growing multilingual populations, could learn from the bilingual official language laws of Guam, Hawaii, and Puerto Rico, states which have had more experience dealing with multilingual populations. Additionally, if official language laws are more effective if tailored to a specific municipality or state, perhaps language laws should be drafted and implemented on a local level. Indeed, federalism concerns may require that the states have exclusive power to draft language laws.

##### 2. *Ark., Colo., Ill., Ind., Ky., La., Miss., N.H., N.D., S.D.*

Arkansas, Colorado, Illinois, Indiana, Kentucky, Louisiana, Mississippi, New Hampshire, North Dakota, and South Dakota have ratified innocuous English language statutes. These statutes are innocuous because they are simple one or two sentence laws which declare English to be the official language of that state. Additionally, some of these statutes, such as South Carolina's, were passed as part of a state emblems code. When an official language is passed in conjunction with other official observances, the statute appears to be more symbolic than substantive.

##### 3. *Ga., Wyo.*

Georgia's official language statute shows genuine concern for the non-English speaker by providing that the statute "shall not be construed in any way to deny a person's rights under the Constitution of Georgia or the Constitution of the United States . . . as a result of that person's inability to communicate in the official lan-

guage."<sup>50</sup> Unlike the Emerson bill, Georgia recognizes that it is not the English speaker, but the non-English speaker that could be harmed by the language statute. Instead of presenting the minority of non-English speaking Americans as aggressors involved in a conspiracy to discriminate against English speakers as the Emerson bill does, Georgia's statute recognizes that the non-English speaking minority is more likely than English speaking majority to suffer potential discrimination. Consequently, Georgia's statute addresses a more realistic problem than the Emerson bill does. Additionally, Georgia's language shows concern for non-English speakers, while the Emerson bill's language only shows concern for English speakers, a group which traditionally has not suffered from language discrimination.

Like Georgia's statute, Wyoming's language law also shows concern for the non-English speaking minority. Wyoming's law exhibits sympathy for non-English speakers in their transition in becoming fluent in English. The Wyoming statute allows state agencies to use non-English languages:

to provide information, . . . to provide instruction designed to aid students with limited English proficiency so they can make a timely transition to use the English language in the public schools.<sup>51</sup>

Unlike the Emerson bill, the Wyoming law articulates the need for English language educational programs and is a helpful language law.

#### 4. *Mich., Va.*

Michigan's statute allows French to be declared the official language of fraternal associations. This Michigan statute does not affect public transactions. The statute only allows that French may be declared the official language of a private fraternity. Since the scope of the Michigan statute is small and obscure the statute is innocuous.

Like Michigan's obscure language statute, Virginia's language law does not seem to either help or harm non-English speakers. Virginia's statute states that:

no state agency or local government shall be required to provide and no state agency or local government shall be prohibited from providing any documents, information, literature, or other written materials in any language other than English.<sup>52</sup>

Since Virginia neither requires nor prohibits the use of non-English languages, the statute is neither helpful nor harmful; it is innocuous.

#### 5. *Mont., S.C.*

Montana allows a government officer or employee, while acting within the scope of employment, to use a non-English language. Similarly, the text of the South Carolina statute allows the state to require knowledge of a foreign language as a condition for employment where appropriate. These particular statutes allow for other languages, and serve practical functions. Thus, these statutes do not suggest Nativism<sup>53</sup> as the Emerson bill does.

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50. GA. CODE ANN. § 50-3-100(b) (1996).

51. WYO. STAT. ANN. § 8-6-101(a)(i) & (vi) (Michie 1996).

52. VA. CODE ANN. § 7.1-42 (Michie 1996).

53. See *supra* note 9.

## B. Analysis of Harmful English Language Statutes

I have placed Alabama, Arizona, California, Nebraska, and North Carolina into Appendix B for the following reasons:

### 1. *Ala., Cal.*

Instead of establishing programs to teach English to non-English speakers, Alabama and California create a cause of action for English speakers to bring against non-English speakers. As stated above in the House minority's fourth argument<sup>54</sup> against the Emerson bill, there is an implicit negative stigma attached to any cause of action. By specifically allowing English speakers an unnecessary action, Alabama and California encourage abusive litigation in states where English is already commonly spoken. Like the Alabama and California statutes, the Emerson bill provides a similar cause of action. By providing a civil action provision all three statutes produce chilling effects which discourage English speaking.

### 2. *Ariz.*

The Ninth Circuit found Arizona's Article XXVIII unconstitutional in *Yniguez v. Arizonans for Official Language*<sup>55</sup> as it violates the First and Fourteenth Amendment. While the Supreme Court has since vacated the Ninth Circuit's opinion in *Arizonans for Official English v. Arizona*,<sup>56</sup> the Supreme Court only decided that changed circumstances rendered the case moot, for it no longer presented an actual case or controversy.<sup>57</sup> Justice Ginsberg's opinion for the Court did not comment on the constitutionality of the Arizona law. The Ninth Circuit's analysis and holding in *Yniguez* still suggest that the Arizona law is harmful to immigrants.<sup>58</sup>

### 3. *Neb.*

Nebraska's language law is overly broad. It provides that "all official proceedings, records, and publications [shall be in English and students] shall be taught in [English] in public, private, denominational and parochial schools." Nebraska's statute could easily be interpreted to mean that private schools may not use or teach non-English languages. Such a strict requirement may violate First Amendment rights of parents and students who speak or wish to learn non-English languages.

### 4. *N.C.*

North Carolina's statute is overly broad as it declares English to be the common language of the entire United States. North Carolina is not empowered to make national law and Congress has not yet passed an official language law for the United States.

## C. The Emerson English Empowerment Act Is A Harmful Statute

The Emerson bill is more similar to a harmful official language statute than a

54. See *supra* section II.C(4).

55. 69 F.3d 920 (9th Cir. 1995), *vacating as moot sub nom.* *Arizonans for Official English v. Arizona*, 117 S.Ct. 1055 (1997).

56. *Arizonans for Official English*, 117 S.Ct. at 1067-75.

57. *Id.*

58. See *infra* Section IV for detailed analysis of *Yniguez*.

helpful law as it is devoid of any educational programs, such as the establishment of much needed English language programs. Instead, the bill allows English speakers to bring civil suits against federal government employees in situations where the government employee speaks non-English languages with non-English speakers. Not only does the Emerson bill not assist non-English speakers to learn English by providing English language courses, it also stigmatizes non-English speakers as troublemakers who conspire with government employees to the English speaking majority's detriment. The Emerson bill is a harmful official language statute.

#### IV. THE NINTH CIRCUIT'S GUIDELINES FOR ENGLISH LANGUAGE LAWS: *YNIGUEZ V. ARIZONANS FOR OFFICIAL ENGLISH*<sup>59</sup>

In deciding whether to pass the Emerson bill, Senators will find analysis of the most recent federal court decision regarding a state official language law helpful. Of particular interest is the *Yniguez v. Arizonans for Official English*<sup>60</sup> decision by the Ninth Circuit. Although the Supreme Court vacated the *Yniguez* decision on March 3, 1997 as moot because factual changes in the case eliminated its status as a real case or controversy, the Ninth Circuit's analysis of the substantive issues involved still provides useful legal analysis which proponents of any official language statute, including the Emerson bill, might face. Justice Ginsberg, author of the Supreme Court decision, did not address the merits of the case, she only vacated the lower decision on procedural grounds. Senators reviewing the Emerson bill will find the Ninth Circuit's analysis of the Arizona amendment useful in understanding how the Emerson bill may be unconstitutional.

##### A. The Facts of *Yniguez*

In October of 1987, Arizonans for Official English (AOE)<sup>61</sup> initiated a petition drive to amend Arizona's constitution to prohibit the government's use of languages other than English. The drive culminated in the 1988 passage by ballot initiative of Article XXVIII of the Arizona Constitution, entitled "English as the Official Language." The measure, passed by a margin of one percentage point, drew the affirmative votes of 50.5% of Arizonans casting ballots in the election. Article XXVIII states "This State and all political subdivisions [which include all government officials and employees during the performance of government business] shall act in English and in no other language."<sup>62</sup>

Maria-Kelley F. Yniguez was employed by the Arizona Department of Administration, where she handled medical malpractice claims asserted against the state. Yniguez was bilingual, fluent and literate in both Spanish and English. Prior to the article's passage, Yniguez communicated in Spanish with monolingual Spanish-speaking claimants, and in a combination of English and Spanish with bilingual claimants. State employees who failed to obey the Arizona Constitution were subject to employment sanctions. For this reason, immediately upon passage of Article XXVIII,

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59. 69 F.3d 920 (9th Cir. 1995) *vacating as moot sub nom. Arizonans for Official English*, 117 U.S. 1055 (1997).

60. *Id.*

61. Arizonans for Official English is a private action group whose purpose is to make English the official language of Arizona.

62. See ARIZ. CONST. art. XXVIII, § 3(1)(a).

Yniguez ceased speaking Spanish on the job. She feared that because of Article XXVIII her use of Spanish made her vulnerable to discipline.

Yniguez filed an action against the State of Arizona, Governor Rose Mofford, Arizona Attorney General Robert Corbin, and the Director of the Arizona Department of Administration Catherine Eden in federal district court. Yniguez sought an injunction against state enforcement of Article XXVIII and she sought a declaration that Article XXVIII violated the First and Fourteenth Amendments of the Constitution, as well as federal civil rights law.

### **B. The Tests the Ninth Circuit Applied to Yniguez**

The Ninth Circuit held that Arizona's Constitutional Amendment Article XXVIII was unconstitutional under the First and Fourteenth Amendments. In holding Article XXVIII unconstitutional, the Ninth Circuit applied several categories of tests. The following represent three of the tests the Ninth Circuit applied.

#### *1. The Overbreadth Test*

Under the "overbreadth" doctrine, an individual whose speech is prohibited under a given provision is permitted to challenge the provision's facial validity because of the threat that the speech of third parties not before the court will be chilled.<sup>63</sup> When a provision is overbroad, it may be invalidated if doing so protects the First Amendment rights of speakers who may fear challenging the provision on their own.<sup>64</sup> However, in order to support a facial overbreadth challenge, there must be a "realistic danger" that the provision will significantly compromise the speech rights involved.<sup>65</sup> To support a finding of "overbreadth" there must be a substantial number of instances in which the provision will violate the First Amendment.<sup>66</sup>

#### *a. Application to Yniguez*

Yniguez contended that Article XXVIII prevented her from speaking Spanish<sup>67</sup> with Spanish-speaking claimants that came to her Department of Administration office. Yniguez also contended that Article XXVIII's expansive reach would have a chilling effect on the speech of innumerable employees, officials, and officers in all departments and all levels of Arizona's state and local governments. Yniguez further contended that the interests of many thousands of non-English-speaking Arizonans in receiving vital information would be drastically limited. For these reasons Yniguez challenged Article XXVIII as overbroad on its face and invalid in its entirety.

Article XXVIII's ban on the use of languages other than English by persons in government service is all-inclusive. The provision applies to the legislative, executive and judicial branches of both state and local government, and to all government officials and employees during the performance of government business.<sup>68</sup> This broad language means that Article XXVIII, on its face, applies to speech in a variety of

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63. *Board of Airport Comm'rs v. Jews for Jesus, Inc.*, 482 U.S. 569, 574 (1987).

64. *Brockett v. Spokane Arcades*, 472 U.S. 491, 503 (1985).

65. *Board of Airport Comm'rs*, 482 U.S. at 574 (quoting *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 801 (1984)).

66. *New York State Club Ass'n v. City of New York*, 487 U.S. 1, 13 (1988).

67. See ARIZ. CONST. art. XXVIII, § 1(3)(a)(i),(ii) & (iv).

68. *Id.*

governmental settings, from ministerial statements by civil servants at the office to teachers speaking in the classroom, from town-hall discussions between constituents and their representatives, to the translation of judicial proceedings in the courtroom. Under the article, the Arizona state universities would be barred from issuing diplomas in Latin, and judges performing weddings would be prohibited from saying "Mazel Tov" as part of the official marriage ceremony. Article XXVIII could limit the speech of governmental actors serving in a wide range of work-related contexts that differ significantly from that in which Yniguez performed her daily tasks. For all of these reasons and based on the number of people whose speech would be affected, the Ninth Circuit held that Article XXVIII was overbroad, and that the entire provision should be invalidated to protect First Amendment interests.

## 2. Heightened Scrutiny for Content-Based Regulations

One ominous standard in First Amendment law is that government may not regulate the content of speech. Courts scrutinize content-based regulations of conduct more strictly than regulations which do not affect the expressive content of conduct.<sup>69</sup>

### a. Application to Yniguez

In its analysis of *Yniguez* the Ninth Circuit held that Article XXVIII directly affected the content of Yniguez's speech as language is "a sophisticated and complex system of understood meanings."<sup>70</sup> In its analysis of whether or not Article XXVIII affected the content of Yniguez's speech, the Ninth Circuit suggests that all languages have unique words and phrasings which cannot be fully translated into another language. By prohibiting Yniguez from speaking Spanish, Arizona would be controlling the content of all words, phrasings of sentences, and tonations which Yniguez could only express in Spanish. Consequently, by prohibiting Yniguez's use of Spanish, Arizona violated Yniguez's First Amendment right to choose the content of her words.

## 3. The Standard for Public Employee Speech

Since Article XXVIII's ban was restricted to speech by persons performing services for the government, the Ninth Circuit looked at additional principles of First Amendment doctrine, and considered limitations which may be constitutionally placed on the speech of government servants. The Supreme Court has held in a series of cases that the government traditionally has a freer hand in regulating the speech of its employees than it does in regulating the speech of private citizens. In *Waters v. Churchill*,<sup>71</sup> the Court explained that a government employer might appropriately bar its employees from using rude or vulgar language in the workplace.<sup>72</sup> In other words, the government may regulate the speech of public employees more stringently when it has its "employer hat" on than when it has its "sovereign hat" on. The *Waters* line of cases also established that public employee speech deserves far greater protection when the

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69. *Texas v. Johnson*, 491 U.S. 397 (1989) (Court applied the higher scrutiny standard when invalidating a content based regulation of flag burning). *United States v. O'Brien*, 391 U.S. 367 (1968) (Court applied the lower scrutiny standard in upholding nonexpressive content regulations of tracking draft cards).

70. *Yniguez*, 69 F.3d at 934.

71. *Waters v. Churchill*, 511 U.S. 661, 671-73 (1994) (plurality opinion).

72. *Id.* at 671-73.

employee is speaking not simply on employment matters of personal or internal interest but instead as a citizen upon matters of public concern."<sup>73</sup> In such cases, the content of the speech requires that the government's concern with efficiency and effectiveness (employer-type concerns) be balanced against the public employee's First Amendment interest in speaking.<sup>74</sup> In one case,<sup>75</sup> the Ninth Circuit applied a balancing test to job performance speech. Within the balancing test, governmental efficiency and effectiveness (government's goals as employer) are weighed against the importance of the speech to the public.<sup>76</sup>

*a. Application to Yniguez.*

The employee speech banned by Article XXVIII is of public import, as it pertains to the provision of governmental services and information. Since Arizona state employees were not allowed to speak about matters of public import, in a non-English language to their non-English speaking recipients, Article XXVIII is unconstitutionally broad even on the more lenient scrutiny standard applied to public employee speech.

*4. Application of Yniguez to the Emerson Bill*

The Emerson bill is similar to Arizona's Article XXVIII, as both provisions require government employees to speak English at work. Both provisions allow English speakers to bring civil suits in situations where government employees use non-English languages at work. Also, despite the provisions' implicit statement that English proficiency is lacking, neither provision provides any English language programs. Based on these similarities, the Ninth Circuit's analysis in *Yniguez* is applicable to potential cases arising under the Emerson bill.

*a. Application of the Overbreadth Test to the Emerson Bill*

Like Arizona's Article XXVIII's ban on the use of non-English languages, the Emerson bill's ban is all-inclusive. The provision applies to all representatives of the federal government. The Emerson bill's broad coverage of speech affects not only federal government employees, but also many non-English speaking individuals and families who seek the assistance of federal administrative offices. Since the Emerson bill's ban creates a realistic danger which could significantly compromise the speech rights of many federal employees and many non-English speaking individuals who seek federal assistance, the Emerson bill is probably overbroad and could violate the First Amendment.

*b. Application of the Heightened Scrutiny Test to the Emerson Bill*

Like Arizona's Article XXVIII requirement that state employees speak only English at work, the Emerson bill's requirement that federal employees speak only English prevents multilingual federal employees from speaking words and phrases which cannot be fully translated into English. Consequently, the Emerson bill, like Article XXVIII, is controlling the content of federal employees' speech. Since the Emerson bill affects content of speech, it potentially faces heightened First Amendment

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73. *Connick v. Myers*, 461 U.S. 138, 147 (1983).

74. *Waters*, 511 U.S. at 671-73.

75. *Nicholson v. Board of Educ. of Torrance Unified School Dist.*, 682 F.2d 858 (9th Cir. 1982).

76. *Id.* at 865.

scrutiny.

Additionally, the Emerson bill's stated purpose is "to help immigrants better assimilate and take full advantage of economic and occupational opportunities in the United States."<sup>77</sup> By its stated purpose of assimilation, the House majority seems to suggest that the English language embodies a unique way of thinking which cannot be translated into foreign languages. By passing a bill which requires assimilation, the House majority suggests that there can be only one way of thinking in the United States, and that one way of thinking is English. In restricting immigrants from thinking and speaking in foreign languages, the Emerson bill inhibits freedom of thought and restricts content of speech in violation of First Amendment doctrine.

*c. Application of the Public Employee Standard to the Emerson Bill*

Like Article XXVIII in *Yniguez*, any case arising under the Emerson bill would concern the speech rights of a public employee, and consequently the Federal Government may argue that it has traditionally had a freer hand in regulating the speech of its employees. However, a federal employee's non-English speech regarding matters of public concern, not matters of the employee's personal business, deserves greater protection than the employee's non-English speech regarding matters of personal interest. Since federal employees would not be allowed to speak about matters of public import, in non-English languages to non-English speaking recipients, like Article XXVIII, the Emerson bill could potentially be unconstitutionally broad even on a more lenient scrutiny standard traditionally applied to the speech of public employees.

## V. ANALYSIS OF THE EMERSON BILL & A PROPOSED ENGLISH LANGUAGE BILL FOR THE SENATE'S CONSIDERATION

Despite the lack of substance in the Emerson bill, the bill espouses a desirable public policy of encouraging residents of this country to learn and communicate in a common language. To this extent, the bill's desired end may be achieved through editing and amending the Emerson bill. One possibility of a federal English language statute, where the goal of greater English speaking may be actualized, appears in Appendix D of this Note.

### A. A Key for Reading Appendix D, the Proposed Amended Act & Some Explanation for the New and Amended Sections

Appendix D provides an amended proposal of the Emerson bill. The proposal can be read using the following key:

(EMERSON BILL)	indicates that the original provision was not changed;
(NEW)	indicates that the original provision was eliminated and replaced with new language;
(AMENDED)	indicates that the original provision was edited, amended or partially changed;
(SOURCE-STATE)	indicates that the new or amended language was inspired from a specific state statute.

Reasons for the New Provisions in Appendix D:

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77. H.R. 123, 105th Cong. § 2(6) (1997).



(a) Language assuming that English has been "the common thread . . . throughout the history of the United States"<sup>78</sup> has been eliminated. Examination of America's origins suggest that English was specifically not made the official language because of the variety of other existing languages.<sup>79</sup> The Founding Fathers specifically chose the Latin phrase "*e pluribus unum*" to suggest that the states make up one nation from a diversity of cultures. Thus, the phrase "throughout the history" has been eliminated as it is not supported by history.

(b) Language assuming that this Act will result in "monetary savings" has been eliminated. Abrupt changes in public policy rarely save money and usually cost money.

(c) The civil action provisions of the Emerson bill have been eliminated as allowing non-English speakers to bring civil actions against Federal employees in situations where Federal employees use non-English languages does not accomplish the bill's purpose to help immigrants better assimilate and take full advantage of the economic and occupational opportunities in the United States. The exercise of such a civil action provision would only have a chilling effect on immigrants who do not speak English.

(d) Language requiring that all naturalization ceremonies be conducted in English has been removed. Such a provision would not allow congratulations and adulation to be spoken at any naturalization ceremony, a concept which does not welcome immigrants to the United States, and which does not further the Emerson bill's purpose of assisting immigrants to acclimate into American culture.

## VI. CONCLUSION

The House majority which passed the Emerson bill claims that the purpose of the bill is to empower new generations of immigrants to speak English and to make them better able to succeed in the United States. Logically, a bill intended to assist immigrants and other non-English speaking residents, would provide educational programs to teach English as a second language. However, the Emerson bill is devoid of English language programs. Additionally, a bill intended to assist immigrants would not specifically allow English speakers to sue government employees who use non-English languages with immigrants. The Emerson bill poorly fulfills its professed purpose of empowering immigrants. As such, Senators are well advised to defeat the Emerson bill.

Lucy Chiu\*

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78. H.R. 123, 105th Cong. (1997).

79. Juan F. Perea, *Demography and Distrust: An Essay on American Languages, Cultural Pluralism, and Official English*, 77 MINN. L. REV. 269, 274-76 (1992) (to establish English as the official English would be contrary to the American spirit of liberty and pluralism).

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**Appendix A****COMPILATION OF INNOCUOUS ENGLISH LANGUAGE STATUTES OF  
THE UNITED STATES (in alphabetical order)****1. ARKANSAS<sup>1</sup>**

§ 1-4-117 Official language.

(a) The English language shall be the official language of the State of Arkansas.

(b) This section shall not prohibit the public schools from performing their duty to provide equal educational opportunities to all children.

**2. COLORADO<sup>2</sup>**

§ 30a. Official language.

The English language is the official language of the State of Colorado.

This section is self executing; however, the General Assembly may enact laws to implement this section.

**3. FLORIDA<sup>3</sup>**

§ 9. English is the official language of Florida.

(a) English is the official language of Florida

(b) The legislature shall have the power to enforce this section by appropriate legislation.

**4. GEORGIA<sup>4</sup>**

§ 50-3-100. English language designated as official language; constitutional rights not denied; authorization for documents and forms in other languages; exceptions.

(a) The English language is designated as the official language of the State of Georgia. The official language shall be the language used for each public record, as defined in Code Section 50-18-70, and each public meeting, as defined in Code Section 50-14-1, and for official Acts of the State of Georgia, including those governmental documents, records, meetings, actions, or policies which are enforceable with the full weight and authority of the State of Georgia.

(b) This Code section shall not be construed in any way to deny a person's rights under the Constitution of Georgia or the Constitution of the United States or any laws, statutes, or regulations of the United States or the State of Georgia as a result of that person's inability to communicate in the official language.

(c) State agencies, counties, municipal corporations, and political subdivisions of this state are authorized to use or to print official documents and forms in languages other than the official language, at the discretion of their governing authorities. Documents filed or recorded with a state agency or with the clerk of a county, municipal corporation, or political subdivision must be in the official language or, if the original document is in a language other than the official language, an English translation of the document must be simultaneously filed.

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1. ARK. CODE ANN. § 1-4-117 (Michie 1995).

2. COLO. CONST. art. II, § 30.

3. FLA. CONST. art. II.

4. GA. CODE ANN. § 50-3-100 (1996).

- (d) The provisions of subsection (a) of this Code section shall not apply:
- (1) When in conflict with federal law;
  - (2) When the public safety, health, or justice require the use of other languages;
  - (3) To instruction designed to teach the speaking, reading, or writing of foreign languages;
  - (4) To instruction designed to aid students with limited English proficiency in their transition and integration into the education system of the state; and
  - (5) To the promotion of international commerce, tourism, sporting events, or cultural events.

## 5. GUAM<sup>5</sup>

### § 706. Official Languages.

English and Chamorro are the official languages of Guam, provided, however, that the Chamorro language shall not be required for official recording of public acts and transactions.

### § 7115. Proceedings to be in the English language.

Every written proceeding in a court of justice of Guam shall be in the English language and judicial proceedings shall be conducted, preserved and published in no other; provided, however, that with the consent of all parties, counsel and the court, proceedings may be conducted in the Chamorro language.

### § 1527. Record of Entry of Admission of Will to Probate; Translation of Wills.

(a) When the Superior Court of Guam admits a will to probate the will shall be recorded in the permanent records of the Superior Court of Guam by the Clerk of the Superior Court of Guam, with the notation: "Admitted to probate (giving date);" provided, that the provisions of Section 1529 of this Title shall apply to lost or destroyed wills in lieu of the foregoing provisions of this subsection.

(b) If the will is in English, the Superior Court of Guam may in its discretion certify to a correct translation thereof shall be recorded as provided in subsection (a) of this Section.

(c) If the will is in a foreign language, the Superior Court of Guam shall certify to a correct translation thereof into either English or Chamorro, or both, in the discretion of the Superior Court of Guam, and such certified translation or translation shall be recorded in lieu of the original.

## 6. HAWAII<sup>6</sup>

The Constitution of the State of Hawaii; Article XV. State Boundaries; Capital; Flag; Language and Motto Official Languages; Section 4:

English and Hawaiian shall be the official languages of Hawaii, except that Hawaiian shall be required for public acts and transactions only as provided by law.

### Hawaii Code Annotated § 1-13. Official languages.

English and Hawaiian are the official languages of Hawaii. Whenever there is found to exist any radical and irreconcilable difference between the English and Hawaiian Version of any of the laws of the State, the English version shall be held binding. Hawaiian shall not be required for public acts and transactions.

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5. 1 GUAM CODE ANN. § 706 (1996); 7 GUAM CODE ANN. § 7115 (1996); 15 GUAM CODE ANN. § 1527 (1996).

6. HAW. CONST. art. XV, § 4; HAW. REV. STAT. ANN. §§ 1-13, 461-65 (Michie 1996).

Hawaii Revised Statutes Annotated; Division 2. Business; Title 25. Profession and Occupations; Chap. 461 Pharmacists and Pharmacy; § 461-5 Qualifications for license.

(a) Any applicant for a license as a pharmacist shall submit an application on a form prescribed by the board and shall provide evidence to the board that the applicant: . . . (5) . . . (b) . . . establish proficiency in English if the school is located outside the United States in a country where the official language is not English, and equivalency of education of the applicant with qualified graduates of a school or college recognized by the board as a prerequisite to taking the licensure examination required by section 461-6.

#### 7. ILLINOIS<sup>7</sup>

§ 20. Official language.

The official language of the State of Illinois is English.

#### 8. INDIANA<sup>8</sup>

1-2-10-1 Official language of state.

§ 1. The English language is adopted as the official language of the state of Indiana.

#### 9. KENTUCKY<sup>9</sup>

§ 2.013. State language.

English is designated as the official state language of Kentucky.

#### 10. LOUISIANA<sup>10</sup>

§ 1:52. Publication of advertisements, notices, etc., in English language.

It is sufficient in all the parishes of the state to publish advertisements, judicial or otherwise, notices, and publications required by law, in the English language only.

#### 11. MICHIGAN<sup>11</sup>

Title 21 Corporations; Part Four. Fraternal Associations; Chapter 204. National St. Jean Baptiste Societies; MSA § 21.1142:

§ 21-1142. French as official language; translated copies as evidence.

§ 2. The French language may be adopted as the official language of such societies, and all records and proceedings may be kept, and all meetings held, in that language, and translations of any of the documents belonging to such societies, duly authenticated as correct translations of such documents, or of the original documents translated from the French into the English language, shall be received whenever necessary in all courts of law within this state.

#### 12. MISSISSIPPI<sup>12</sup>

§ 3-3-31. State language.

The English language is the official language of the State of Mississippi.

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7. 5 ILL. COMP. STAT. 460/20 (West 1996).

8. IND. CODE ANN. § 1-2-10-1 (West 1996).

9. KY. REV. STAT. ANN. § 2.013 (Michie 1995).

10. LA. REV. STAT. ANN. § 1:52 (West 1987).

11. MICH. STAT. ANN. § 21-1142 (Law. Co-op. 1996).

12. MISS. CODE ANN. § 3-3-31 (1996).

13. MONTANA<sup>13</sup>

1-1-510. English as official and primary language of state and local governments.

(1) English is the official and primary language of:

- (a) the state and local governments;
- (b) government officers and employees acting in the course and scope of their employment; and
- (c) government documents and records.

(2) A state statute, local government ordinance, or state or local government policy may not require a specific foreign language to be used by government officers and employees acting in the course and scope of their employment or for government documents and records or require a specific foreign languages to be taught in a school as a student's primary language.

(3) This section is not intended to violate the federal or state constitutional right to freedom of speech of government officers and employees acting in the course and scope of their employment. This section does not prohibit a government officer or employee acting in the course and scope of employment from using a language other than English, including use in a government document or record, if the employee chooses, or prohibit the teaching of other languages in a school for general educational purposes or as secondary languages.

(4) This section is not intended to limit the use of any other language by a tribal government. A school district and a tribe, by mutual agreement, may provide for the instruction of student that recognizes the cultural identity of Native American children and promotes the use of a common language for communication.

14. NEW HAMPSHIRE<sup>14</sup>

§ 3-C: 1. Official State Language.

I. The official language of the state of New Hampshire shall be English. English is designated as the language of all official public documents and records, and of all public proceedings and nonpublic sessions.

II. For the purposes of this chapter, "official public documents and records" are all documents officially compiled, published, or recorded by the state.

III. For the purposes of this chapter, "public proceedings and nonpublic sessions" means those proceedings and sessions as defined in RSA 91-A, and includes the information recorded at such proceedings and sessions.

15. NORTH DAKOTA<sup>15</sup>

§ 54-02-13. English as official language.

The English language is the official language of the state of North Dakota.

16. PUERTO RICO<sup>16</sup>

§ 51. Official languages.

In all the departments of the Commonwealth Government and in all the courts of this island, and in all public offices the English language and the Spanish language shall be used indiscriminately; and, when necessary, translations and oral interpretations shall be made from one language to the other so that all parties interested

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13. MONT. CODE ANN. § 1-1-510 (1995).

14. N.H. REV. STAT. ANN. § 3-C:1 (1995).

15. N.D. CENT. CODE § 54-02-13 (1995).

16. P.R. LAWS ANN. tit. 1, § 51 (1992); P.R. LAWS ANN. tit. 2, § 254 (1994).

may understand any proceedings or communications made therein.

§ 254. Discrepancies between Spanish and English texts.

§ 13. Discrepancy between Spanish and English texts.

In case of discrepancy between the English and Spanish texts of a statute passed by the Legislative Assembly of Puerto Rico, the text in which the same originated in either house, shall prevail in the construction of said statute, except in the following cases:

- (a) If the statute is a translation or adaption of a statute of the United States or of any State or Territory thereof, the English text shall be given preference over the Spanish.
- (b) If the statute is of Spanish origin, the Spanish text shall be preferred to the English.
- (c) If the matter of preference cannot be decided under the foregoing rules, the Spanish text shall prevail.

## 17. SOUTH CAROLINA<sup>17</sup>

§ 1-1-696. Official State language.

The English language is the official language of the State of South Carolina.

§ 1-1-697. Use of language other than English prohibited.

Neither this State nor any political subdivision thereof shall require, by law, ordinance, regulation, order, decree, program, or policy, the use of any language other than English; provided, however, that nothing in §§ 1-1-696 through 1-1-698 shall prohibit a state agency or a political subdivision of the State from requiring an applicant to have certain degrees of knowledge of a foreign language as a condition of employment where appropriate.

§ 1-1-698. Exceptions to prohibition against use of language other than English.

Sections 1-1-696 through 1-1-698 do not prohibit any law, ordinance, regulation, order, decree, program, or policy requiring educational instruction in a language other than English for the purpose of making students who use a language other than English proficient in English or making students proficient in a language in addition to English.

## 18. SOUTH DAKOTA<sup>18</sup>

1-27-20. English as common language — Use in public records and public meetings.

The common language of the state is English. The common language is designated as the language of any official public document or record and any official public meeting.

1-27-22. Application of English as common language requirement.

The provisions of §§ 1-27-20 to 1-27-26, inclusive, do not apply:

- (1) To instruction in foreign language courses;
- (2) To instruction designed to aid students with limited English proficiency in a timely transition and integration into the general education system;
- (3) To the conduct of international commerce, tourism, and sporting events;

17. S.C. CODE ANN. §§ 1-1-696 to 1-1-698 (Law Co-op. 1996).

18. S.D. CODIFIED LAWS §§ 1-27-20, 1-27-22, 1-27-25 to 1-27-26 (Michie 1996).

- (4) When deemed to interfere with needs of the justice system;
- (5) When the public safety, health, or emergency services require the use of other languages. However, any such authorization for the use of a language other than the common language in printing informational materials or publications for general distribution must be approved in an open public meeting pursuant to chapter 1-25 by the governing board or authority of the relevant state or municipal entity and the decision shall be recorded in publicly available minutes;
- (6) When expert testimony, witnesses, or speakers require a language other than the common language. However, for purposes of deliberation, decision making, or record keeping, the official version of such testimony or commentary shall be the officially translated English language version.

1-27-25. Common language requirements not applicable to private activities.

§§ 1-27-20 to 1-27-26, inclusive, may not be construed in any way to infringe upon the rights of citizens under the state constitution or the Constitution of the United States in the use of language in any private activity. No agency or officer of the state nor any political subdivision of the state may place any restrictions or requirements regarding language usage in any business operating in the private sector other than official documents, forms, submissions, or other communications directed to government agencies and officers, which communications shall be in the common language as recognized in §§ 1-27-20 to 1-27-26, inclusive.

1-27-26. Enforcement of common language requirements.

Any citizen of the state has standing to bring an action against the state to enforce §§ 1-27-20 to 1-27-26, inclusive. The circuit court has jurisdiction to hear and decide any such action brought pursuant to §§ 1-27-20 to 1-27-26, inclusive.

## 19. TENNESSEE<sup>19</sup>

4-1-404. English — Official and legal language.

English is hereby established as the official and legal language of Tennessee. All communications and publications, including ballots, produced by governmental entities in Tennessee shall be in English, and instruction in the public schools and colleges of Tennessee shall be conducted in English unless the nature of the course would require otherwise.

## 20. VIRGINIA<sup>20</sup>

§ 7.1-42. English designated the official language of the Commonwealth.

English shall be designated as the official language of the Commonwealth of Virginia. Except as provided by law, no state agency or local government shall be required to provide and no state agency or local government shall be prohibited from providing any documents, information, literature, or other written materials in any language other than English.

§ 22.1-212.1. Obligations of school boards.

Pursuant to § 7.1-42, school boards shall have no obligation to teach the standard curriculum, except courses in foreign languages, in a language other than English. School boards shall endeavor to provide instruction in the English language which shall be designed to promote the education of students for whom English is a

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19. TENN. CODE ANN. § 4-1-404 (1996).

20. VA. CODE ANN. §§ 7.1-42, 22.1-212.1 (Michie 1996).

second language.

## 21. WYOMING<sup>21</sup>

§ 8-6-101. English as official language of Wyoming.

(a) English shall be designated as the official language of Wyoming. Except as otherwise provided by law, no state agency or political subdivision of the state shall be required to provide any documents, information, literature or other written materials in any language other than English.

(b) A state agency or political subdivision or its officers or employees may act in a language other than the English language for any of the following purposes:

- (i) To provide information orally to individuals in the course of delivering services to the general public;
- (ii) To comply with federal law;
- (iii) To protect the public health or safety;
- (iv) To protect the rights of parties and witnesses in a civil or criminal action in a court or in an administrative proceedings;
- (v) To provide instruction in foreign and Native American language courses;
- (vi) To provide instruction designed to aid students with limited English proficiency so they can make a timely transition to use of the English language in the public schools;
- (vii) To promote international commerce, trade or tourism;
- (viii) To use terms of art or phrases from languages other than the English language in documents.

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21. WYO. STAT. ANN. § 8-6-101 (Michie 1996).



**Appendix B****COMPILATION OF HARMFUL STATE ENGLISH LANGUAGE STATUTES  
(in alphabetical order)****1. ALABAMA<sup>1</sup>**

Amend. No. 509. Official Language.

English is the official language of the state of Alabama. The legislature shall enforce this amendment by appropriate legislation. The legislature and officials of the state of Alabama shall take all steps necessary to insure that the role of English as the common language of the state of Alabama is preserved and enhanced. The legislature shall make no law which diminishes or ignores the role of English as the common language of the state of Alabama.

Any person who is a resident of or doing business in the state of Alabama shall have standing to sue the state of Alabama to enforce this amendment, and the courts of record of the state of Alabama shall have jurisdiction to hear cases brought to enforce this provision. The legislature may provide reasonable and appropriate limitations on the time and manner of suits brought under this amendment.

**2. ARIZONA<sup>2</sup>**

§ 1. English as the official language; applicability.

Section 1.

(1) The English language is the official language of the State of Arizona.

(2) As the official language of this State, the English language is the language of the ballot, the public schools and all government functions and actions.

(3)(a) This Article applies to:

- (i) the legislative, executive and judicial branches of government,
- (ii) all political subdivisions, departments, agencies, organizations, and instrumentalities of this State, including local governments and municipalities,
- (iii) all statutes, ordinances, rules, orders, programs and policies,
- (iv) all government officials and employees during the performance of government business.

(b) As used in this Article, the phrase: "This State and all political subdivisions of this State" shall include every entity, person, action or item described in this Section, as appropriate to the circumstances.

§ 2. Requiring this state to preserve, protect, and enhance English.

Section 2. This State and all political subdivisions of this State shall take all reasonable steps to preserve, protect and enhance the role of the English language as the official language of the State of Arizona.

§ 3. Prohibiting this state from using or requiring the use of languages other than English; exceptions.

Section 3.

(1) Except as provided in Subsection (2):

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1. ALA. CONST. amend. DIX.

2. ARIZ. CONST. art. XXVIII, §§ 1 through 3.

(a) This State and all political subdivisions of this State shall act in English and in no other language.

(b) No entity to which this Article applies shall make or enforce a law, order, decree or policy which requires the use of a language other than English.

(c) No governmental document shall be valid, effective or enforceable unless it is in the English language.

(2) This State and all political subdivisions of this State may act in a language other than English under any of the following circumstances:

(a) to assist students who are not proficient in the English language, to the extent necessary to comply with federal law, by giving educational instruction in a language other than English to provide as rapid as possible a transition to English.

(b) to comply with other federal laws.

(c) to teach a student a foreign language as part of a required or voluntary educational curriculum.

(d) to protect public health or safety.

(e) to protect the rights of criminal defendants or victims of crime.

#### § 4. Enforcement; standing

Section 4. A person who resides in or does business in this State shall have standing to bring suit to enforce this Article in a court of record of the State. The Legislature may enact reasonable limitations on the time and manner of bringing suit under this subsection.

### 3. CALIFORNIA<sup>3</sup>

#### § 6. Official state language.

##### Section 6

##### (a) Purpose.

English is the common language of the people of the United States of America and the State of California. This section is intended to preserve, protect, and strengthen the English language, and not to supersede any of the rights guaranteed to the people by this Constitution.

##### (b) English as the Official Language of California.

English is the official language of the State of California.

##### (c) Enforcement.

The Legislature shall enforce this section by appropriate legislation. The Legislature and officials of the State of California shall take all steps necessary to insure that the role of English as the common language of the State of California is preserved and enhanced. The Legislature shall make no law which diminishes or ignores the role of English as the common language of the State of California.

##### (d) Personal Right of Action and Jurisdiction of Courts.

Any person who is a resident of or doing business in the State of California shall have standing to sue the State of California to enforce this section, and the Courts of record of the State of California shall have jurisdiction to hear cases brought to enforce this section. The Legislature may provide reasonable and appropriate limitations on the time and manner of suits brought under this section.

**4. NEBRASKA<sup>4</sup>**

§ 27. English language to be official.

The English language is hereby declared to be the official language of this state and all official proceedings, records, and publications shall be in such language, and the common school branches shall be taught in said language in public, private, denominational and parochial schools.

**5. NORTH CAROLINA<sup>5</sup>**

§ 145-12. State language.

(a) Purpose. — English is the common language of the people of the United States of America and the State of North Carolina. This section is intended to preserve, protect, and strengthen the English language, and not to supersede any of the rights guaranteed to the people by the Constitution of the United States or the Constitution of North Carolina.

(b) English as the Official Language of North Carolina. — English is the official language of the State of North Carolina.

(c) Expired.

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4. NEB. REV. STAT. ANN. § 27 (Michie 1996).

5. N.C. GEN. STAT. § 145-12 (1995).

**Appendix C****"THE EMERSON ENGLISH LANGUAGE EMPOWERMENT ACT OF 1997"****105TH CONGRESS; 1ST SESSION IN THE HOUSE OF REPRESENTATIVES  
AS INTRODUCED IN THE HOUSE**

H. R. 123

1997 H.R. 123; 105 H.R. 123

**SYNOPSIS:** A bill to amend Title 4, United States Code, to declare English as the official language of the Government of the United States.

**DATE OF INTRODUCTION:** January 7, 1997

**DATE OF VERSION:** January 13, 1997 — Version: 1

**TEXT:** Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Bill Emerson English Language Empowerment Act of 1997."

**SECTION 2. FINDINGS.**

The Congress finds and declares the following:

- (1) The United States is comprised of individuals and groups from diverse ethnic, cultural, and linguistic backgrounds.
- (2) The United States has benefited and continues to benefit from this rich diversity.
- (3) Throughout the history of the United States, the common thread binding individuals of differing backgrounds has been a common language.
- (4) In order to preserve unity in diversity, and to prevent division along linguistic lines, the Federal Government should maintain a language common to all people.
- (5) English has historically been the common language and the language of opportunity in the United States.
- (6) The purpose of this title is to help immigrants better assimilate and take full advantage of economic and occupational opportunities in the United States.
- (7) By learning the English language, immigrants will be empowered with the language skills and literacy necessary to become responsible citizens and productive workers in the United States.
- (8) The use of a single common language in conducting official businesses of the Federal Government will promote efficiency and fairness to all people.
- (9) English should be recognized in law as the language of official business of the Federal Government.
- (10) Any monetary savings derived from the enactment of this title should be used for the teaching of the English language to non-English-speaking immigrants.

### SECTION 3. ENGLISH AS THE OFFICIAL LANGUAGE OF FEDERAL GOVERNMENT.

(A) IN GENERAL.-Title 4, United States Code, is amended by adding at the end of the following new chapter:

#### CHAPTER 6-LANGUAGE OF THE FEDERAL GOVERNMENT

##### SEC.

161. Declaration of official language of Federal Government.

162. Preserving and enhancing the role of the official language.

163. Official Federal Government activities in English.

164. Standing.

165. Reform of naturalization requirements.

166. Application.

167. Rule of construction.

168. Affirmation of constitutional protections.

169. Definitions.

#### 161. DECLARATION OF OFFICIAL LANGUAGE OF FEDERAL GOVERNMENT.

The official language of the Federal Government is English.

#### 162. PRESERVING AND ENHANCING THE ROLE OF THE OFFICIAL LANGUAGE.

Representatives of the Federal Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the Federal Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language.

#### 163. OFFICIAL FEDERAL GOVERNMENT ACTIVITIES IN ENGLISH

(a) CONDUCT OF BUSINESS.-Representatives of the Federal Government shall conduct its official business in English.

(b) DENIAL OF SERVICES.-No person shall be denied services, assistance, or facilities, directly or indirectly provided by the Federal Government solely because the person communicates in English.

(c) ENTITLEMENT.-Every person in the United States is entitled -

(1) to communicate with representatives of the Federal Government in English;

(2) to receive information from or contribute information to the Federal Government in English; and

(3) to be informed of or be subject to official orders in English.

#### 164. STANDING

A person injured by a violation of this chapter may in a civil action (including an action under chapter 151 of title 28) obtain appropriate relief.

#### 165. REFORM OF NATURALIZATION REQUIREMENTS

(a) FLUENCY.-It has been the longstanding national belief that full citizenship in the United States requires fluency in English. English is the language of opportunity for all immigrants to take their rightful place in society in the United States.

(b) CEREMONIES.-All authorized officials shall conduct all naturalization ceremonies entirely in English.

#### 166. APPLICATION

Except as otherwise provided in this chapter, the provisions of this chapter shall supersede any existing Federal law that contravenes such provisions (such as by requiring the use of a language other than English for official business of the Federal Government).

#### 167. RULE OF CONSTRUCTION

Nothing in this chapter shall be construed -

- (1) to prohibit a Member of Congress or an employee or official of the Federal Government, while performing official business, from communicating orally with another person in a language other than English;
- (2) to limit the preservation or use of Native Alaskan or Native American languages as defined in the Native American or Native American languages (as defined in the Native American Languages Act);
- (3) to discriminate against or restrict the rights of any individual in the country; and
- (4) to discourage or prevent the use of languages other than English in any non-official capacity.

#### 168. AFFIRMATION OF CONSTITUTIONAL PROTECTIONS

Nothing in this chapter shall be construed to be inconsistent with the Constitution of the United States.

#### 169. DEFINITIONS

For purposes of this chapter:

- (1) **FEDERAL GOVERNMENT.**-The term "Federal Government" means all branches of the national government and all employees and officials of the national government while performing official business.
- (2) **OFFICIAL BUSINESS.**-The term "official business" means governmental actions, documents, or policies which are enforceable with the full weight and authority of the Federal Government, and includes publications, income tax forms, and informational materials, but does not include -
  - (A) teaching of languages;
  - (B) requirements under the Individuals with Disabilities Education Act;
  - (C) actions, documents, or policies necessary for -
    - (i) national security issues; or
    - (ii) international relations, trade, or commerce;
  - (D) actions or documents that protect the public health and safety;
  - (E) actions, documents, or policies that are not enforceable in the United States;
  - (F) actions, documents, or policies that are not enforceable in the United States;
  - (G) actions that protect the rights of victims of crimes or criminal defendants;
  - (H) actions in which the United States has initiated a civil lawsuit; or
  - (I) using terms of art or phrases from languages other than English.
- (3) **UNITED STATES.**-The term "United States" means the several States and the District of Columbia.

(B) **CONFORMING AMENDMENT.**-The table of chapters for Title 4, United States Code, is amended by adding at the end the following new item: 6. Language of the Federal Government. 161.

#### SECTION. 4 PREEMPTION.

This title (and the amendments made by this title) shall not preempt any law of any State.

#### SECTION. 5. EFFECTIVE DATE.

The amendments made by section 3 shall take effect on the date that is 180 days after the date of enactment of this Act.

**Appendix D****“AMENDED PROPOSED OF THE EMERSON ENGLISH LANGUAGE  
EMPOWERMENT ACT OF 1997”**

**SYNOPSIS:** A bill to amend Title 4, United States Code, to declare English as the official language of the Government of the United States.

**DATE OF INTRODUCTION:** \_\_\_\_\_, 1997

**DATE OF VERSION:** \_\_\_\_\_, 1997 — Version: 1

**TEXT:** Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Bill Emerson English Language Empowerment Act of 1997.”

**SECTION 2. FINDINGS.**

The Congress finds and declares the following:

- (1) The United States is comprised of individuals and groups from diverse ethnic, cultural, and linguistic backgrounds. (EMERSON BILL)
- (2) The United States has benefited and continues to benefit from this rich diversity. (EMERSON BILL)
- (3) Declaration of an official language and English Language programs will assist our country’s goal of strengthening community ties in the United States edicts of life, liberty, and happiness. (NEW)
- (4) English is presently the predominately spoken and written language in the United States today. Consequently, English will be the official language of the United States. (AMENDED)
- (5) The purpose of this title is to help immigrants better assimilate and take full advantage of economic and occupational opportunities in the United States. (EMERSON BILL)
- (6) By learning the English language, immigrants will be empowered with the language skills and literacy necessary to become responsible citizens and productive workers in the United States. (EMERSON BILL)
- (7) The Federal Government will encourage the use of the English language by providing English educational programs and English as a Second Language courses. (NEW)
- (8) This Code section shall not be construed in any way to deny a person’s rights under the Constitution of the United States as a result of that person’s inability to communicate in the official language. (NEW; SOURCE-GEORGIA)

**SECTION 3. ENGLISH AS THE OFFICIAL LANGUAGE OF FEDERAL GOVERNMENT.**

(A) IN GENERAL.—Title 4, United States Code, is amended by adding at the end of the following new chapter:

**CHAPTER 6-LANGUAGE OF THE FEDERAL GOVERNMENT  
SEC.**

161. Declaration of official language of Federal Government.

162. Preserving and enhancing the role of the official language.

163. Official Federal Government activities in English.

164. Reform of naturalization requirements.

165. Rule of construction.

166. Affirmation of constitutional protections.

161. DECLARATION OF OFFICIAL LANGUAGE OF FEDERAL GOVERNMENT.

The official language of the Federal Government is English. (EMERSON BILL)

162. PRESERVING AND ENHANCING THE ROLE OF THE OFFICIAL LANGUAGE.

Representatives of the Federal Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the Federal Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language. (EMERSON BILL)

163. OFFICIAL FEDERAL GOVERNMENT ACTIVITIES IN ENGLISH

Representatives of the Federal Government shall conduct its official business in English. (AMENDED)

164. REFORM OF NATURALIZATION REQUIREMENTS

In order to receive the full benefits of citizenship in the United States, citizens and residents must make good faith efforts to become fluent in English. English is the language of opportunity for all immigrants to take their rightful place in American society. (AMENDED)

165. RULE OF CONSTRUCTION

Nothing in this chapter shall be construed -

(1) to prohibit a Federal agency from requiring an applicant to have certain degrees of knowledge of a foreign language as a condition of employment where appropriate (NEW; SOURCE-SOUTH CAROLINA);

(2) to prohibit any law, ordinance, regulation, order, decree, program, or policy requiring educational instruction in a language other than English for the purpose of making students who use a language other than English proficient in English or making students proficient in a language in addition to English (NEW; SOURCE-SOUTH CAROLINA);

[alternative to (2): to provide instruction designed to aid students with limited English proficiency so they can make a timely transition to use the English language in the public schools and to provide instruction designed to aid students with limited English proficiency so they can make timely transition to use of the English language in public schools (NEW; SOURCE-WYOMING)];

(3) to limit the preservation or use of Native Alaskan or Native American languages (as defined in the Native American or Native American languages (as defined in the Native American Languages Act) (EMERSON BILL);

(4) to discourage or prevent the use of languages other than English in any nonofficial capacity (EMERSON BILL);

(5) to provide information orally to individuals in the course of delivering services to the general public (NEW; SOURCE-WYOMING);

(6) to protect the public health and safety (NEW; SOURCE-WYOMING AND OTHERS);

(7) to protect the rights of parties and witnesses in a civil or criminal action in a court or in an administrative proceedings (NEW; SOURCE-WYOMING AND OTHERS).



**166. AFFIRMATION OF CONSTITUTIONAL PROTECTIONS**

Nothing in this chapter shall be construed to be inconsistent with the Constitution of the United States. (EMERSON BILL)

**SECTION. 4 PREEMPTION.**

This title (and the amendments made by this title) shall not preempt any law of any State. (EMERSON BILL)

**SECTION. 5. EFFECTIVE DATE.**

The amendments made by section 3 shall take effect on the date that is 180 days after the date of enactment of this Act. (EMERSON BILL)

