



Subject Alabama SB201-eng & HR412

The members of **NITPA**, and the un-enrolled tax preparers that will be most effected by this Bill have had no chance for comment or input into these bills. The industry that is subject to be regulated by SB201-eng and House Bill 412 has not had a chance to contact their Senators or Representatives to comment. This bill is less than twenty days old.

This Bill effects thousands of paid preparers, constituents, who are at work currently, and the timing of this debate is not productive, as these constituents are actively engaged in “Tax Season.”

NITPA is not opposed to standardized, national, training and testing; however, this State of Alabama Bill(s), duplicates efforts of National bill(s) in committee in the United States Congress and Senate.

According to the most recent National Government Study, by the US Government Accountability Office (GAO), released September 15, 2008, GAO-08-781 paragraph three (3) states “Regulation of preparers can also have the effect of increasing the price of Tax Preparation services by reducing the supply of paid preparers.”

The time line of enacting any version of these bills before tax season 2011 or 2012 is unreasonable and unrealistic. Training and testing requirements, if Oregon State Law is the example, shows that 48% failed testing the first time, which would have a drastic effect of having enough “Alabama Certified” preparers in place, causing hard ship to taxpayers and availability of needed refunds. Furthermore, it will drive up the costs of tax preparation fees.

NITPA currently represents over 160 Alabama commercial tax preparer’s stores and roughly 550 tax preparers. This list is growing by the day and there is a great up swelling of comment and a grassroots movement at hand.

- There is currently a Bill(s) before the US House of Representatives and Senate that mirror many aspects of this state bill in regard to standardized training and testing.

“IRS official’s noted that the continued growth in the number of different paid preparer registration or licensing regimes in different states could become a problem if the requirements differ from state to state.” GAO-08-781 Page 13 paragraph 8

- There are only three states in the USA that have a preparer Law currently (OR, CA, MD). The only one close to this intensive or encompassing is the State of Oregon. **These Alabama bills seek to incorporate a system of registration, testing and surety bonds, which is unprecedented at the state level.**

“US Territory of Guam has the only program that requires all paid preparers to pass an examination, register and maintain a surety bond.” GOA-08-781 Footnote (29)

- It is NITPA’s belief that the needs of the families in Oregon are different than those in the state of Alabama. We believe that SB201-eng or HB241, as currently written, will actually wind up hurting the working poor more than helping it; additionally the demographics of the two states could not be any different. There appears to be no documented evidence that the Oregon Law has had an impact other than lowering refundable amounts on Federal Tax Returns on high AGI returns. With the higher number of working poor in Alabama, it will have no effect other than making tax companies bear the costs, such as those associated with taking courses on tax law and return preparation, and paying additional fees of registration and testing.

“States beside Oregon with a statistically significant likelihood of having paid preparer returns that were more accurate than the national average, controlling for other factors, were Colorado, Iowa, New Mexico, Ohio, Pennsylvania, West Virginia and Wisconsin.”
GAO-08-781 page 30 footnote (34)

- SB201-eng and HB412 would regulate Federal Tax matters and is giving an oversight board, broad authority to a special interest group.
- NITPA respects the work of Mr. Stephen Black of IMPACT ALABAMA, especially that in which involves children’s vision. However, the efforts that he has made for VITA sites, which are Federally funded, conflict in many ways with this industry of Commercial Tax Preparers.
- If the State of Alabama, taxes or charged fees to commercial preparers, so that a State Agency could, in-turn, additionally fund non-profit, federally funded VITA sites, this conflicts in so many ways with reasonable aspects of “Free Trade.” It brings into question whether the studies, statistics and “undercover investigations” of students involved in Impact Alabama are an accurate reflection of the preparedness of the thousands of Alabama’s un-enrolled Tax Preparers.
- The great out cry in this state’s press on this subject is single handedly being presented by Mr. Stephen Black, who stands to gain politically, financially and to grow his personal crusade of Free Tax Preparation at VITA sites.
- Mr. Black recently did an “under cover” investigation of 13 commercial tax preparers, while using fraudulent copies of Federal form W-2, student investigators, and concluded

that all tax preparers in the state of Alabama are unprepared. That no company got the answer correctly is indicative to **NITPA** that the investigation was set up to obtain this result.

- Two of the companies involved have reported that the paperwork filled out by the “investigators” and the resulting “applied allegations of fraud” of audio transcripts are two different things entirely. The scenario proposed in the investigation is suspect, and furthermore the results of his own CPA appear to have not addressed the Stimulus Rebate Recovery, which would mean all involved failed his “test.” What are not presented in this “study” are the written responses by the “investigators” to internal documents maintained by the preparers. These documents, signed by the “investigators” of Impact Alabama, tell a different story and **NITPA** suspects civil suits to follow.

“The fact that errors were made on a return done by a paid preparer does not necessarily mean that the errors were the preparers fault; the preparer must depend on the information provided by the taxpayer.” GAO-08-781 Page 8 Paragraph 2

- **NITPA** does not find Impact Alabama’s student study to be a credible source in considering these bills in the State of Alabama. These studies have accomplished nothing but erode the public’s perception of all Tax Return Preparers in the State of Alabama, including all CPA’s and EA’s. The “investigation” easily could have chosen another scenario that would have not promoted this result.

“...paid preparer returns claiming the Earned Income Credit had odds of accuracy 76% lower than that of non-EIC returns.” GAO-08-781 Page 32 Footnote 53

- The proposed time line of enacting any version of this legislation prior to tax season 2011 or 2012 is unreasonable and unrealistic. Training and testing requirements, if Oregon State Law is the example, shows that 48% of test takers failed the testing the first time, which would have a drastic effect of having enough “Alabama Certified” preparers in place, causing hard ship to taxpayers and availability of needed refunds. The State of Oregon started forming their laws on these matters in the mid 1970’s. That Alabama can enact it within three months is not realistic in **NITPA**’s opinion.

It is **NITPA**’s opinion that these bills presented and written are more of an effort to regulate Refund Anticipation Loans and Sub-prime lending, rather than an effort to better train tax preparers in this state. Both versions spend more time discussing the regulation of this refund loan industry, than substantively indicating how a “Tax Preparers Board” will function. All decisions as to how it will truly function is left to be determined by the board within three (3) months.

There are no active members in the Commercial Tax Industry proposed to be on the Board of Preparers, but there is a designated spot for a special interest group who would like to see the industry go away. There would need to be at least half of this board to be made of un-enrolled preparers, who prepare more than 80% of paid preparation returns in this state. There is a great

need for this board to have a member that is both a CPA and a multi-location operator of Commercial Tax locations that prepares Refund Anticipation Loans. This Board of Preparers needs to recognize why there is such a demand and need for Bank Products in this industry. Hundreds of thousands of consumers use these products to provide for their families; those that cannot wait on the IRS payment.

The Alabama bills include many problematic issues. For instance, that the Tax Preparer would keep copies of all returns for five (5) years. If these returns are the work product of a federally licensed, Electronic Return Originator (ERO), who employed a preparer, the employee cannot “keep” the return copies. The returns are the work product of the ERO and the ERO must maintain for five years and not allow the preparer to leave the building with a copy of anyone’s identity, social security numbers and other federally protected data.

On page 10, line 5, section (d), SB201, states in regards to the power of the Board of Preparers. “In seeking an injunction under this subsection, the board is not required to post bond, allege or prove that an adequate remedy at law does not exist, or allege or prove that substantial or irreparable damage would result from the continued violation.” No board in any profession has that much power, and if wielded by a crusader that is a published opponent of sub-prime lending and Refund Anticipation Loans, business owner’s civil liberties will be violated, and consumers of this state hurt.

If this industry is to be tested, than testing should be held monthly, without a waiting period between tests. Test results should be made immediately to the test taker. This function should be online and performed through a third party. Live teachers and classes should be available to all that need it.

There is some language that all tax preparers should complete the first part of the enrolled agent’s test. This is the highest standard in the country. If there is a standard, it should be the same as that of the VITA volunteers. Available are copies of the “part one” – “individuals” exam curriculum for enrolled agents. It is unsubstantiated that this level of education needs to be maintained for returns to be prepared for common individuals.

These bills ask for proprietary information to be made public about ERO’s tax practices. This is not fair in a free market economy.

It is **NITPA**’s opinion that if the legislative body of the State of Alabama wishes to regulate Refund Anticipation loans that it would be better served working through The Department of Banking, and follow the leads of the states of North Carolina and Mississippi. If there is a loan problem, simply shut off the money through the lending bank. Consumer laws are already in place to protect the citizens of Alabama.

In closing, **NITPA** respectfully requests that each line of this proposed legislation is reviewed with a commercial tax preparer that is not H&R Block. H&R Block supports this legislation because it will give them and the short term Finance companies in this state a competitive

advantage, which will raise prep fee pricing, worsen service and cause economic hardships for our citizens that can least afford it.

Additional points of specific issue in the Senate Version SB201-eng on the following pages.

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NITPA

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Page 5, number 5.

Why should an attorney with no tax training be exempt from this Legislation and governing body requirements?

Page 6, numbers 1 through 5

This board should consist of members within the industry, as well as other educated individuals. There is not a slot for any representative of the Internal Revenue Service. The board is too small to accomplish its workload.

Page 2 number (5) Facilitator

This section needs to contain specific language as to the software providers, their distributors and wholesalers and support companies.

Page 3 (8) In good standing

Is this intended to say in good standing with the Internal Revenue Service and Alabama Department of Revenue?

Page 5 number 2.

Why are attorneys exempt with no tax knowledge or training?

Page 9 number 5

List should also be made of ERO's and their preparers, or commercial preparers will always be singled out due to advertising, permanent offices and are currently known to the public at large. There are no known lists of private preparers.

Page 10 D

Must be able to substantiate claims and not override current IRS enforcement activities.

Page 10 G

Time frame needed or one complaint could wreck a tax practice.

Page 12 Line 15 AND 21 SECTIONS one and two.

Private industry must not be forced to fund competing tax firms, whether free out reach or not. Vita is funded by the federal government.

Page 14 number three

If a person can pass the tax test, the high school issue should not be there

Page 14 Section 13 B

The board should offer examinations year round.

Page 14 Section 13 D

Earlier language said that the board would determine the rules. This gives unfair trade advantage to any tax company currently operating in Oregon and Alabama.

Page 15 G

Test takers should know results sooner so that they can review areas of needed concentration

Page 15 H

Should include the words “at the next scheduled time”

Page 15 j

Remove

Section 16 , page 17 section A.

Many are employed as seasonal workers and when having year round work, should be able to take seasons off without financial penalty, as long as can pass and fulfil continuing education.

Page 18 section 4

Vague

Page 23 C

VITA uses the designation as Certified. Would not then the tested individual preparers be so also?

Page 27 Section 5

This would say that a check cashing company or bank could not be tax preparers in the state of Alabama. Needs to be taken out. Tax preparation services are offered by many industries in Alabama.

Page 28 Section 20 number one.

Burdensome for commercial preparers operating multiple locations.

Page 29 Section 22

This time line must be several years out.

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