

108TH CONGRESS  
1ST SESSION

# S. 685

To assist low income taxpayers in preparing and filing their tax returns and to protect taxpayers from unscrupulous refund anticipation loan providers, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 21, 2003

Mr. BINGAMAN (for himself and Mr. AKAKA) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To assist low income taxpayers in preparing and filing their tax returns and to protect taxpayers from unscrupulous refund anticipation loan providers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Low Income Taxpayer  
5       Protection Act of 2003”.

1 **SEC. 2. REGULATION OF INCOME TAX RETURN PREPARERS**  
2 **AND REFUND ANTICIPATION LOAN PRO-**  
3 **VIDERS.**

4 (a) DEFINITIONS.—In this Act:

5 (1) INCOME TAX RETURN PREPARER.—

6 (A) IN GENERAL.—The term “income tax  
7 return preparer” means any individual who is  
8 an income tax return preparer (within the  
9 meaning of section 7701(a)(36) of the Internal  
10 Revenue Code of 1986) who prepares not less  
11 than 5 returns of tax imposed by subtitle A of  
12 such Code or claims for refunds of tax imposed  
13 by such subtitle A per taxable year.

14 (B) EXCEPTION.—Such term shall not in-  
15 clude a federally authorized tax practitioner  
16 within the meaning of section 7526(a)(3) of  
17 such Code.

18 (2) REFUND ANTICIPATION LOAN PROVIDER.—

19 The term “refund anticipation loan provider” means  
20 a person who makes a loan of money or of any other  
21 thing of value to a taxpayer because of the tax-  
22 payer’s anticipated receipt of a Federal tax refund.

23 (3) SECRETARY.—The term “Secretary” means  
24 the Secretary of the Treasury.

25 (b) REGULATIONS.—

26 (1) REGISTRATION REQUIRED.—

1 (A) IN GENERAL.—Not later than 120  
2 days after the date of the enactment of this  
3 Act, the Secretary shall promulgate regulations  
4 that—

5 (i) require the registration of income  
6 tax return preparers and of refund antici-  
7 pation loan providers with the Secretary or  
8 the designee of the Secretary, and

9 (ii) prohibit the payment of a refund  
10 of tax to a refund anticipation loan pro-  
11 vider or an income tax return preparer  
12 that is the result of a tax return which is  
13 prepared by the refund anticipation loan  
14 provider or the income tax return preparer  
15 which does not include the refund anticipa-  
16 tion loan provider's or the income tax re-  
17 turn preparer's registration number.

18 (B) NO DISCIPLINARY ACTION.—The regu-  
19 lations shall require that an applicant for reg-  
20 istration must not have demonstrated any con-  
21 duct that would warrant disciplinary action  
22 under part 10 of title 31, Code of Federal Reg-  
23 ulations.

1 (C) BURDEN OF REGISTRATION.—In pro-  
2 mulgating the regulations, the Secretary shall  
3 minimize the burden and cost on the registrant.

4 (2) RULES OF CONDUCT.—All registrants shall  
5 be subject to rules of conduct that are consistent  
6 with the rules that govern federally authorized tax  
7 practitioners.

8 (3) REASONABLE FEES AND INTEREST  
9 RATES.—The Secretary, after consultation with any  
10 expert as the Secretary deems appropriate, shall in-  
11 clude in the regulations guidance on reasonable fees  
12 and interest rates charged to taxpayers in connec-  
13 tion with loans to taxpayers made by refund antici-  
14 pation loan providers.

15 (4) RENEWAL OF REGISTRATION.—The regula-  
16 tions shall determine the time frame required for re-  
17 newal of registration and the manner in which a reg-  
18 istered income tax return preparer or a registered  
19 refund anticipation loan provider must renew such  
20 registration.

21 (5) FEES.—

22 (A) IN GENERAL.—The Secretary may re-  
23 quire the payment of reasonable fees for reg-  
24 istration and for renewal of registration under  
25 the regulations.

1           (B) PURPOSE OF FEES.—Any fees re-  
2           quired under this paragraph shall inure to the  
3           Secretary for the purpose of reimbursement of  
4           the costs of administering the requirements of  
5           the regulations.

6           (c) PROHIBITION.—Section 6695 of the Internal Rev-  
7           enue Code of 1986 (relating to other assessable penalties  
8           with respect to the preparation of income tax returns for  
9           other persons) is amended by adding at the end the fol-  
10          lowing new subsection:

11          “(h) ACTIONS ON A TAXPAYER’S BEHALF BY A NON-  
12          REGISTERED PERSON.—Any person not registered pursu-  
13          ant to the regulations promulgated by the Secretary under  
14          the Low Income Taxpayer Protection Act of 2003 who—

15                 “(1) prepares a tax return for another taxpayer  
16                 for compensation, or

17                 “(2) provides a loan to a taxpayer that is linked  
18                 to or in anticipation of a tax refund for the tax-  
19                 payer,

20          shall be subject to a \$500 penalty for each incident of  
21          noncompliance.”.

22          (d) COORDINATION WITH SECTION 6060(a).—The  
23          Secretary shall determine whether the registration re-  
24          quired under the regulations issued pursuant to this sec-

1 tion should be in lieu of the return requirements of section  
2 6060.

3 (e) PAPERWORK REDUCTION.—The Secretary shall  
4 minimize the amount of paperwork required of a income  
5 tax return preparer or a refund anticipation loan provider  
6 to meet the requirements of these regulations.

7 **SEC. 3. IMPROVED SERVICES FOR TAXPAYERS.**

8 (a) ELECTRONIC FILING EFFORTS.—

9 (1) IN GENERAL.—The Secretary shall focus  
10 electronic filing efforts on benefiting the taxpayer  
11 by—

12 (A) reducing the time between receipt of  
13 an electronically filed return and remitting a re-  
14 fund, if any,

15 (B) reducing the cost of filing a return  
16 electronically,

17 (C) improving services provided by the In-  
18 ternal Revenue Service to low and moderate in-  
19 come taxpayers,

20 (D) providing tax-related computer soft-  
21 ware at no or nominal cost to low and moderate  
22 income taxpayers, and

23 (E) providing electronic filing for all tax-  
24 payers without the use of an intermediary.

1           (2) REPORT.—Not later than 120 days after  
2           the date of the enactment of this Act, the Secretary  
3           shall prepare and submit to Congress a report on  
4           the efforts made pursuant to paragraph (1).

5           (b) VOLUNTEER INCOME TAX ASSISTANCE PRO-  
6           GRAM.—

7           (1) STUDY.—The Secretary shall undertake a  
8           study on the expansion of the volunteer income tax  
9           assistance program to service more low income tax-  
10          payers.

11          (2) REPORT.—Not later than 120 days after  
12          the date of the enactment of this Act, the Secretary  
13          shall prepare and submit to Congress a report on  
14          the study conducted pursuant to paragraph (1).

15          (c) TELE-FILING.—The Secretary shall ensure that  
16          tele-filing is available for all taxpayers for the filing of tax  
17          returns with respect to taxable years beginning in 2003.

18          (d) TERMINATION OF THE DEBT INDICATOR PRO-  
19          GRAM.—The Secretary shall terminate the Debt Indicator  
20          program announced in Internal Revenue Service Notice  
21          99–58.

22          (e) DIRECT DEPOSIT ACCOUNTS.—The Secretary  
23          shall allocate resources to programs to assist low income  
24          taxpayers in establishing accounts at financial institutions

1 that receive direct deposits from the United States Treas-  
 2 ury.

3 (f) PILOT PROGRAM FOR MOBILE TAX RETURN FIL-  
 4 ING OFFICES.—

5 (1) IN GENERAL.—The Secretary shall establish  
 6 a pilot program for the creation of four mobile tax  
 7 return filing offices with electronic filing capabilities.

8 (2) LOCATION OF SERVICE.—

9 (A) IN GENERAL.—The mobile tax return  
 10 filing offices shall be located in communities  
 11 that the Secretary determines have a high inci-  
 12 dence of taxpayers claiming the earned income  
 13 tax credit.

14 (B) INDIAN RESERVATION.—At least one  
 15 mobile tax return filing office shall be on or  
 16 near an Indian reservation (as defined in sec-  
 17 tion 168(j)(6) of the Internal Revenue Code of  
 18 1986).

19 **SEC. 4. ASSISTANCE PROGRAM TO IMPROVE ACCESS TO**  
 20 **FEDERALLY INSURED FINANCIAL INSTITU-**  
 21 **TIONS FOR TAXPAYERS.**

22 (a) FINDINGS AND PURPOSE.—

23 (1) FINDINGS.—Congress finds the following:

1 (A) Approximately 40,000,000 Americans  
2 are unbanked and not utilizing mainstream, in-  
3 sured financial institutions.

4 (B) In 1999, nearly half of the  
5 \$30,000,000,000 in earned income tax credits  
6 (EITC) claimed nationwide was refunded  
7 through refund anticipation loans, and an esti-  
8 mated \$1,750,000,000 intended to assist low-  
9 income families through the EITC was received  
10 by commercial tax preparers and affiliated na-  
11 tional banks to pay for tax assistance, electronic  
12 filing of returns, and high-cost refund loans.

13 (C) Refund anticipation loans carry inter-  
14 est rates in a range between 97.4 percent to  
15 more than 2000 percent.

16 (D) An estimated 45 percent of earned in-  
17 come tax credit recipients pay for check cashing  
18 services, which reduces EITC benefits by  
19 \$130,000,000.

20 (E) Individuals with bank accounts can re-  
21 ceive their tax refunds faster than waiting for  
22 a paper check and without the need to utilize  
23 refund anticipation loans or check cashiers.

24 (F) Individuals with federally insured de-  
25 pository accounts have an increased opportunity

1 to access financial services at mainstream fi-  
2 nancial institutions, which typically have re-  
3 duced costs for consumers.

4 (2) PURPOSE.—It is the purpose of this section  
5 to establish a grant program to provide unbanked  
6 low- and moderate-income taxpayers with tax prepa-  
7 ration services and increase their access to financial  
8 services by the establishment of an account at a fed-  
9 erally insured depository institution or credit union  
10 and the provision of financial education.

11 (b) ESTABLISHMENT OF PROGRAM.—The Secretary  
12 is authorized to award demonstration project grants (in-  
13 cluding multi-year grants) to eligible entities to provide  
14 tax preparation services and assistance along with estab-  
15 lishing an account in a federally insured depository insti-  
16 tution for individuals that currently do not have such an  
17 account.

18 (c) ELIGIBLE ENTITIES.—

19 (1) IN GENERAL.—An entity is eligible to re-  
20 ceive a grant under this section if such an entity  
21 is—

22 (A) an organization described in section  
23 501(c)(3) of the Internal Revenue Code of 1986  
24 and exempt from tax under section 501(a) of  
25 such Code,

1 (B) a federally insured depository institu-  
2 tion,

3 (C) an agency of a State or local govern-  
4 ment,

5 (D) a community development financial in-  
6 stitution,

7 (E) an Indian tribal organization,

8 (F) an Alaska Native Corporation,

9 (G) a Native Hawaiian organization,

10 (H) a labor organization, or

11 (I) a partnership comprised of 1 or more  
12 of the entities described in the preceding sub-  
13 paragraphs.

14 (2) DEFINITIONS.—For purposes of this sec-  
15 tion—

16 (A) FEDERALLY INSURED DEPOSITORY IN-  
17 STITUTION.—The term “federally insured de-  
18 pository institution” means any insured deposi-  
19 tory institution (as defined in section 3 of the  
20 Federal Deposit Insurance Act (12 U.S.C.  
21 1813)) and any insured credit union (as defined  
22 in section 101 of the Federal Credit Union Act  
23 (12 U.S.C. 1752)).

24 (B) COMMUNITY DEVELOPMENT FINAN-  
25 CIAL INSTITUTION.—The term “community de-

1           velopment financial institution” means any or-  
2           ganization that has been certified as such pur-  
3           suant to section 1805.201 of title 12, Code of  
4           Federal Regulations.

5           (C) ALASKA NATIVE CORPORATION.—The  
6           term “Alaska Native Corporation” has the  
7           same meaning as the term “Native Corpora-  
8           tion” under section 3(m) of the Alaska Native  
9           Claims Settlement Act (43 U.S.C. 1602(m)).

10          (D) NATIVE HAWAIIAN ORGANIZATION.—  
11          The term “Native Hawaiian organization”  
12          means any organization that—

13               (i) serves and represents the interests  
14               of Native Hawaiians, and

15               (ii) has as a primary and stated pur-  
16               pose the provision of services to Native  
17               Hawaiians.

18          (E) LABOR ORGANIZATION.—The term  
19          “labor organization” means an organization in  
20          which employees participate and which exists  
21          for the purpose, in whole or in part, of dealing  
22          with employers concerning grievances, labor dis-  
23          putes, wages, rates of pay, hours of employ-  
24          ment, or conditions of work.

1 (d) APPLICATION.—An eligible entity desiring a  
2 grant under this section shall submit an application to the  
3 Secretary in such form and containing such information  
4 as the Secretary may require.

5 (e) LIMITATION ON ADMINISTRATIVE COSTS.—A re-  
6 cipient of a grant under this section may not use more  
7 than 6 percent of the total amount of such grant in any  
8 fiscal year for the administrative costs of carrying out the  
9 programs funded by such grant in such fiscal year.

10 (f) EVALUATION AND REPORT.—For each fiscal year  
11 in which a grant is awarded under this section, the Sec-  
12 retary shall submit a report to Congress containing a de-  
13 scription of the activities funded, amounts distributed, and  
14 measurable results, as appropriate and available.

15 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
16 authorized to be appropriated to the Secretary, for the  
17 grant program described in this section, \$10,000,000, or  
18 such additional amounts as deemed necessary, to remain  
19 available until expended.

20 (h) REGULATIONS.—The Secretary is authorized to  
21 promulgate regulations to implement and administer the  
22 grant program under this section.

1 **SEC. 5. MATCHING GRANTS TO LOW-INCOME TAXPAYER**  
 2 **CLINICS FOR RETURN PREPARATION.**

3 (a) IN GENERAL.—Chapter 77 of the Internal Rev-  
 4 enue Code of 1986 (relating to miscellaneous provisions)  
 5 is amended by inserting after section 7526 the following  
 6 new section:

7 **“SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-IN-**  
 8 **COME TAXPAYERS.**

9 “(a) IN GENERAL.—The Secretary may, subject to  
 10 the availability of appropriated funds, make grants to pro-  
 11 vide matching funds for the development, expansion, or  
 12 continuation of qualified return preparation clinics.

13 “(b) DEFINITIONS.—For purposes of this section—

14 “(1) QUALIFIED RETURN PREPARATION CLIN-  
 15 IC.—

16 “(A) IN GENERAL.—The term ‘qualified  
 17 return preparation clinic’ means a clinic  
 18 which—

19 “(i) does not charge more than a  
 20 nominal fee for its services (except for re-  
 21 imbursement of actual costs incurred), and

22 “(ii) operates programs which assist  
 23 low-income taxpayers in preparing and fil-  
 24 ing their Federal income tax returns, in-  
 25 cluding schedules reporting sole proprietor-  
 26 ship or farm income.

1           “(B) ASSISTANCE TO LOW-INCOME TAX-  
2           PAYERS.—A clinic is treated as assisting low-in-  
3           come taxpayers under subparagraph (A)(ii) if  
4           at least 90 percent of the taxpayers assisted by  
5           the clinic have incomes which do not exceed 250  
6           percent of the poverty level, as determined in  
7           accordance with criteria established by the Di-  
8           rector of the Office of Management and Budg-  
9           et.

10          “(2) CLINIC.—The term ‘clinic’ includes—

11                 “(A) a clinical program at an eligible edu-  
12                 cational institution (as defined in section  
13                 529(e)(5)) which satisfies the requirements of  
14                 paragraph (1) through student assistance of  
15                 taxpayers in return preparation and filing, and

16                 “(B) an organization described in section  
17                 501(c) and exempt from tax under section  
18                 501(a) which satisfies the requirements of para-  
19                 graph (1).

20          “(c) SPECIAL RULES AND LIMITATIONS.—

21                 “(1) AGGREGATE LIMITATION.—Unless other-  
22                 wise provided by specific appropriation, the Sec-  
23                 retary shall not allocate more than \$10,000,000 per  
24                 year (exclusive of costs of administering the pro-  
25                 gram) to grants under this section.

1           “(2) OTHER APPLICABLE RULES.—Rules simi-  
2           lar to the rules under paragraphs (2) through (5) of  
3           section 7526(c) shall apply with respect to the  
4           awarding of grants to qualified return preparation  
5           clinics.”.

6           (b) CLERICAL AMENDMENT.—The table of sections  
7           for chapter 77 of the Internal Revenue Code of 1986 is  
8           amended by inserting after the item relating to section  
9           7526 the following new item:

                  “Sec. 7526A. Return preparation clinics for low-income tax-  
                                  payers.”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11          this section shall apply to grants made after the date of  
12          the enactment of this Act.

○