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LINDSTROM: Welcome to the Revenue Committee public hearing. My name is Brett Lindstrom. I'm from Omaha and represent the 18th Legislative District. I serve as Vice Chair of this committee. For the safety of our committee members, staff, pages, and the public, we ask that those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill in-- those being heard. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a sergeant of arms, who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability, due to the HVAC project, of an overflow hearing room for hearings which attract several testifiers and observers. For hearings with large attendance, we request only testifiers enter the hearing room. We ask that you please limit or eliminate handouts. The committee will take up the bills in order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off your cell phones. The order of testimony will be: introducer; proponents; opponents; neutral; and closing remarks. If you will be testifying, please complete the green form, and hand it to the page when you come up to testify. If you have written materials and would like to distribute to the committee, please hand them to the page to distribute. We will need 12 copies for committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please

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state and spell your name for the record. I think we have one amendment here, so we'll do the five minutes. It'll be green for four minutes, one yellow, and at red, we ask that you please wrap up your comments. If there are a lot of people wishing to testify—oh, we're not going to do that. If your remarks were reflected in previous testimony or if you'd like your position to be known but do not wish to testify, please sign the white form on the table outside the room by the entrance, and it will be introduced in the official record—or it'll be included. Please speak directly in the microphone so our transcribers are able to hear your—hear your testimony clearly. I would like to introduce the committee staff. To my immediate left is committee counsel Mary Jane Egr Edson. To my further left is read—research analyst Kay Bergquist. At the far end of the table is committee clerk Grant Latimer, and we will have the senators introduce themselves, starting with Senator Pahls.

PAHLS: Thank you, Vice Chair. Rich Pahls, District 31: southwest Omaha.

BOSTAR: Eliot Bostar, District 29: south-central Lincoln.

FRIESEN: Curt Friesen, District 34: Hamilton, Merrick, Nance, part of Hall County.

FLOOD: Mike Flood, Madison County and part of Stanton County: District 19.

BRIESE: Tom Briese, District 41.

ALBRECHT: Joni Allbrecht, District 17: Wayne, Thurston, and Dakota City-- Dakota in-- in northeast Nebraska; sorry about that.

LINDSTROM: Thank you. And our pages— I'm guessing that they are not Reid and Jason, so if you wouldn't mind— is there a note? Oh, here we go, pages— here we go. Noa and Jenna. Noa goes to Doane, and Jenna goes to UNL. So thank you today for joining us in Revenue. Please remember that senators may come and go during their hearing. They may have a bill— well, not today. Refrain from applause and introductions of support or opposition. I'd like to remind the committee members to speak directly into the microphones for our audience. The microphones in the room are not for amplification, but for recording purposes only. Last, we are an electronics—equipped committee. Information is

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provided electronically, as well as in paper form. Therefore, you may see committee members referencing information on their electronic devices. Please be assured that your presence here today and your testimony are important to us, and is critical to our state government. And with that, we will have Senator-- Chairwoman Linehan open on AM501 to LB181.

LINEHAN: Thank you, Senator Lindstrom. And good afternoon, members of the Revenue Committee. My name is Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n, and I am here to introduce AM501 to LB181. Many of you, like me, have received a lot of phone calls from the CPA community since January. They have expressed frustration with the filing method for the pass-through entities, such as S corps and partnerships, to claim the refundable income tax credit for school district property taxes paid. LB1107 was written like most credit-- credits since, like most credits, since pass-through entities do not pay tax at the entity level, they are required to distribute credits in the same manner as they distribute income to the shareholders, partners. But this is not working with the refundable credit. These entities frequently have a large number of parcels subject to property tax, and tracking the school taxes paid and then trying to distribute them, as required, is literally impossible in many cases. Some of their clients have decided to forgo the credit, as the cost of compliance outweighs the value of the credit. AM501 would remedy this situation. It would allow-- not require, but allow these entities to distribute the refundable credit in the current manner. Further, it would change the filing method for the next year so the credit is claimed at the entity level and then distributed according to the shareholder or partnership agreements. Finally, if one of these entities was unable to claim the credit this year, they will have one year to catch up and claim the credit next year. I'd like to thank everybody that was involved in this and worked on a solution. I think it's a fair method to address the current situation. Thank you. And I would be happy to answer any questions.

LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you.

LINEHAN: Thank you.

LINDSTROM: We'll have our first proponent. Good afternoon.

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TONY FULTON: Good afternoon. Vice Chairman Lindstrom, members of the committee, for the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I'm Tax Commissioner for Nebraska, and I come to offer support for this amendment. Don't have anything written, just from where we're sitting, the administration of this property tax credit, what you'll be hearing -- well, I think what you'll probably hear from the society or from CPAs, tax preparers, the difficulty that is involved in applying for this credit for those who are members of a pass-through entity, it's also difficult administratively. You know, the pass-through entity will file its return on such and such a date, and all of the members, they are the ones who by law, currently, are able to lay claim to that property tax credit. And so if one-- if you got ten members and the S corporation or the LLC files on March 1, those ten members have to wait until at least March 1, or in some cases, the LLC may not file until sometime later. We have to, as part of the law, match those who claim the credit to those who-- how shall I say it? I'll say it a different way. We have to make sure that those who are claiming the credit actually have a legitimate claim to the credit. And so we have to match to that, in this-- in this case, that pass-through entity. So you can well imagine, if you have a pass-through entity with a number of members, it becomes cost-prohibitive if all of those members are paying their preparers to go after a tax credit that may be not even as much, in-- in their cases, as what they would be paying their tax preparer. So this would be a fix for the CPAs certainly. I'm just telling you that it's also much easier to administer, from the aspect -- from the vantage of the Department of Revenue. So we hope you pass this amendment.

LINDSTROM: Thank you, Commissioner. Any questions from the committee? Senator Friesen.

FRIESEN: Thank you, Vice Chair Lindstrom. So let me-- so any pass-through LLC, if it owns property, when they-- when the LLC does not file taxes or it's all passed-through, is that part of the problem? So then,--

TONY FULTON: Right.

FRIESEN: --for each of the owners, whether there are 10 or 15, each are filing for this refund and it's hard to track all those down.

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TONY FULTON: Yeah, it has to be-- we'd have to make sure that, indeed, they're entitled to the refund. And the way we would do that is through the pass-through entity. The way the income tax laws are written, the pass-through entity doesn't pay to the state of Nebraska. That liability is passed through to the members. If you-- and this is one of these things that you pass something that's sweeping, and you guys pass this bill, there are things you're going to find over the course of the next few years.

FRIESEN: So that— that pass—through entity is paying the taxes and it's qualified to receive this, but the way we distribute it is causing a lot of trouble.

TONY FULTON: Yes, with the exception the pass-through entity isn't paying the taxes. That's passed through; that liability is passed through to the owners.

FRIESEN: The property taxes are paid by that LLC, not--

TONY FULTON: Ah, yes.

FRIESEN: OK. All right. Thank you.

LINDSTROM: Any other questions? Seeing none, thank you. Next proponent?

JONI SUNDQUIST: Good afternoon, Vice Chairman Lindstrom and members of the Revenue Committee. For the record, my name is Joni Sundquist, J-o-n-i S-u-n-d-q-u-i-s-t, and I am president and executive director of the Nebraska Society of Certified Public Accountants. We represent approximately 2,500 member CPAs throughout the state. I'm here today to express the society's strong support of AM501 to LB181. We are extremely grateful to Senator Linehan for its introduction, and believe this amendment will allow many more Nebraskans to take advantage of the Property Tax Incentive Act credit. We are-- we very much appreciate the long hours and extraordinary -- extraordinary effort that all of you have put forth to achieve property tax relief. However, the process to receive this particular credit is exceptionally cumbersome and may prevent many Nebraskans from receiving the property tax relief they deserve. Over the past couple of months, the society has received numerous emails and calls from CPAs in every corner of the state, expressing significant concern

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regarding the present structure and administration of the property tax credit, or PTC. In fact, this particular issue has probably drawn more ire from CPAs than I have seen in my time with the society thus far. Unlike existing property tax credits, which simply reduce the amount of property taxes you pay at the county level, this credit is calculated on the Nebraska income tax return, and the calculation can be quite involved and burdensome, particularly for pass-through entities. As a result of the PTC's current complexities, Nebraska businesses that report taxable income as pass-through entities are often choosing to forgo this computation and, thus, its owners are missing out on the intended benefit of the credit. LB181, as amended, greatly simplifies the PTC calculation, providing pass-through entities, especially those with multiple tiers of ownership, with effective and efficient options to take advantage of the credit at the entity level. We also believe the simplified approach presented in this bill will assist the Nebraska Department of Revenue, as you've heard, both in the implementation of the credit and with the department's auditing efforts. As such, the Nebraska Society of CPAs recommends the advancement of AM501 to LB181. Thank you for your time and consideration of our views.

LINDSTROM: Thank you. Any questions from the committee? Oh, Senator Flood.

FLOOD: Thank you for your testimony, Miss Sundquist.

JONI SUNDQUIST: Um-hum.

FLOOD: How stressed out would you say those tax preparers are?

JONI SUNDQUIST: They are— there is— they're under a lot of pressure right now, especially with all the federal changes that are coming down the pike and— and the tax credits and COVID. So they're—they're pretty— they're under a lot of pressure, yes.

FLOOD: If this passes with an emergency clause attached to it, do you think it'll be soon enough to help them this tax season? Or do you-is this really for next tax season?

JONI SUNDQUIST: You know, I don't know that the Department of Revenue can change their procedures--

FLOOD: Sure.

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JONI SUNDQUIST: --in time, so it may help if they can-- I think there's a provision in there where they can carry it over till the next tax season.

FLOOD: That's right.

JONI SUNDQUIST: So I think it would help, yes, for this tax season, --

FLOOD: Thank you very much.

JONI SUNDQUIST: --because of that, um-hum.

LINDSTROM: Senator Briese.

BRIESE: Thank you, Vice Chairman Lindstrom. Thanks for your testimony here today. You suggested earlier that the process is extremely cumbersome. Is that only in regard to the pass-throughs?

JONI SUNDQUIST: You know, I-- that might be a better question for-- our society chairman is here to testify next, and he might be able to answer that. I know for a fact that pass-through entities, it's a problem for.

BRIESE: OK, very good. Thank you.

JONI SUNDQUIST: Um-hum.

LINDSTROM: Senator Pahls.

PAHLS: Thank you, Vice Chair. I'm just curious 'cause I've heard the cost of doing it is higher, maybe, than the recipient receiving the refund. I'm just curious, what would be a typical refund, just so I can drive it around?

JONI SUNDQUIST: That might be a question for the chairman, as well.

PAHLS: OK.

JONI SUNDQUIST: I don't know if there's a typical refund. It really depends on the entity, I'm assuming. But there was one example where, you know, it's-- there's multiple layers and each per-- you know, each owner would only receive like 48 cents--

PAHLS: Oh.

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JONI SUNDQUIST: -- for a refund, which--

PAHLS: OK.

JONI SUNDQUIST: --doesn't, you know, --

PAHLS: That's what--

JONI SUNDQUIST: --so then it doesn't make sense to--

PAHLS: Either that or--

JONI SUNDQUIST: -- to do that.

PAHLS: -- you're charging too much money [LAUGHTER]. That's humor; that's a joke. Thank you.

LINDSTROM: Any other questions? Seeing none, thank you.

JONI SUNDQUIST: Thank you.

LINDSTROM: Next proponent? Good afternoon.

RYAN BURGER: Good afternoon, Vice Chair Lindstrom and members of the Revenue Committee. For the record, my name is Ryan Burger, R-y-a-n B-u-r-g-e-r. I am the current chair of the board of the Society of CPAs. I'm also president of Gabriel, Burger, Else CPAs in Seward, Nebraska, and I'm also an adjunct professor of taxation at Concordia University. I'm here today to show-- just very pleased with the amendment that Senator Linehan has proposed and support it strongly. The simplification on the pass-throughs is going to be extremely beneficial. You heard from the Tax Commissioner today about their tracking and auditing efforts. It would be simplified for them. Tax preparers, simplification. The actual taxpayers themselves, kind of alleviating some of that administrative burden. And I think what I'd like to do is-- I think you know where we stand, and you guys had some really excellent questions. So I just want to make sure that everyone is aware of how much we are in support of this amendment. And in consideration of your time, I'd love to answer any questions that you may have that have been deferred so far, maybe to me. So questions, please.

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LINDSTROM: You have some time left, so if you want to just jump into it.

RYAN BURGER: I'll just dive right into it, --

LINDSTROM: Sure.

RYAN BURGER: --if that's OK. The LLCs are the pass-through filers. They must file with the state of Nebraska currently, as maybe you saw in your emails and in some other testimony. The-- that just shows the income or loss passing through to the actual taxpayers. And they receive a K-1 and they apply it on their 1040 or, in this case, the 1040N for Nebraska, where they must also apply for that property tax credit. The problem with this is, every parcel must be reported to every partner. OK? So it gets reported, on the entity level, to the state of Nebraska. Then it gets reported to the shareholders through K-1. Then it gets reported again, on the 1040 of Nebraska, of each shareholder. That is an extreme amount of duplication. My favorite example was written by Vice Chair Erica Parks, where there's ten parcels-- ten partners, that's 100 lines of coding going to the state through the entity, 100 lines of coding going to each shareholder on their K-1N, and 100 lines of coding then going on their 1040N so that they can claim the credit. That's 300 lines of coding for 10 parcels. That's a-- that's a lot. And if one of those partners of the original 10 happens to be a partnership with 10 partners, you do the 300 again; that's 600 lines of coding for 10 parcels. That's a lot of duplication. So we're trying to eliminate that. So with the tax filings, Senator, the entity can file for the tax credit, and it comes to the entity, and they can distribute it among their partners as they see fit, without the partners needing to file a 1040N just to claim the property tax credit, if that makes sense. OK. One question about the cost benefit analysis. Every entity, every person, every firm is a little different. What I'm typically finding is, administratively, at least on our side, in terms of fees, 10 to 20 percent additional fees for the tax credit received. And I don't believe -- that was probably the Legislature's intent when we passed this bill. We were trying to get this to taxpayers in the most efficient, cost-effective manner possible. And yes, our fees are sometimes high, but reasonable, I feel. But I think 10 to 20 percent is additional fees to help administer the pass-through of this property tax credit, is what I'm seeing personally so far. That seems high. I would rather it go to the taxpayers, frankly, if that makes sense. The question about if this

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will help affect this tax season, really only for the entities, the pass-through entities that have ignored passing it through to the partners and shareholders, either because it was too cumbersome or they just chose not to. At least those now will have the opportunity next tax season to go claim the previous one and the current credit at that point in time, if that makes sense. There was another question, I believe, about just the property tax credit as a whole. This one's focus is on pass-throughs, which is a big step in the right direction. So if I can draw on some personal experience currently, every client-not every client we have owns real estate, but 90 percent of them do, which means every single one of them in the state of Nebraska, we are now making sure that we have the correct year on the tax return, we are having the correct parcel number -- and every parcel number is different -- and the correct county, and the correct school district property tax amount, so that we can calculate the 6 percent credit so we can get it on the tax return. Not a joy of mine to do that, frankly. Yeah, I think I'll leave it at that and see if there are follow-up questions, so--

LINDSTROM: Thank you. Senator Albrecht.

ALBRECHT: Thank you, Chair Lindstrom. And so we're talking-- this bill's just on pass-throughs.

RYAN BURGER: Correct.

ALBRECHT: Do you have a farmer that has a significant amount of land-you're still having to go through, like you just said, every single parcel--

RYAN BURGER: Um-hum.

ALBRECHT: -- to find out. How could we possibly simplify that?

RYAN BURGER: That is an amazing question.

ALBRECHT: Because that is not--

RYAN BURGER: Can I be very honest?

ALBRECHT: That is not part of the bill. Right?

RYAN BURGER: OK.

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ALBRECHT: So--

RYAN BURGER: You know, I'm wondering for-- I don't want to get myself or my society in trouble; I'll just speak personally. How about that? OK, we're-- have a property tax situation you're trying to help resolve through school tax credits, essentially. Right? Makes total sense to me. Other than the people-- the-- the Nebraska Department of Revenue, in a short period of time, did an amazing job of putting together a tool for us to look up every parcel and the school credit amount. Thank goodness for that.

ALBRECHT: OK.

RYAN BURGER: OK? Where did they get the data from that tool? They got it from the county treasurers.

ALBRECHT: Um-hum.

RYAN BURGER: Correct? So the county treasurers have all of the data necessary to implement a 6 percent tax credit to-- from the school amount paid.

ALBRECHT: Um-hum.

RYAN BURGER: They're giving it to the Department of Revenue, who's making the CPAs, and preparers, and taxpayers look it up so that they can get it onto their tax return, so that they can file the tax return, so that they can receive the credit,--

ALBRECHT: Um-hum.

RYAN BURGER: --which is the current administration. Or we could have the county treasurers apply the credit on property taxes and distribute it that way, would be--

ALBRECHT: So the math--

RYAN BURGER: -- one idea.

ALBRECHT: So the math doesn't need to be done at tax preparing time. It's--

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RYAN BURGER: That is what I would prefer. And I'm sure there are political, and legislative, and other reasons that I am wholly unaware of, why it wasn't done that way. I'm just telling you what I'm seeing. So we--

ALBRECHT: That's good to know because I do believe that, when we do go to our CPAs and we ask them to prepare our taxes, that it does take a lot of time. And I'm more than happy to pay him for his time, but if we've created something that now, the money that I might be getting back is going to end up being passed to you folks to do all the work, something's not right there yet.

RYAN BURGER: Yeah.

ALBRECHT: So I'm--

RYAN BURGER: Many of our clients are very happy to receive the credit. They'd rather have it than not. They'd rather pay us 10 to 20 percent of the credit to prepare it, and receive it. Right? However, a few of my clients do not have much in real estate. There's a \$28 credit out there, and I have to make the decision whether I'm going to charge them \$50 to go get it or not,--

ALBRECHT: Um-hum.

RYAN BURGER: --in which case I don't, and then they don't get the credit. Right? Or they're receiving other information from us, and they live out of state, and their preparer sees it, and they have no idea what the Nebraska property tax credit is, and they ignore it completely.

ALBRECHT: Um-hum.

RYAN BURGER: Right?

ALBRECHT: So if I felt like every county truly would be able to do this,--

RYAN BURGER: Um-hum.

ALBRECHT: --if it's in their new computer system or whatever, I mean, to me, I-- I would like to see maybe an amendment that we fix that as well, because it doesn't make any sense to me that-- that we would--

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you know, you get the tax credit, but you really don't. And we put the CPAs to work on things that— it takes you long enough in a season to prepare everyone's taxes by the deadline. So I'd like to kind of talk about that with—

RYAN BURGER: OK.

ALBRECHT: --you a little later, but thanks for your testimony.

RYAN BURGER: Excellent, yeah.

LINDSTROM: Senator Friesen.

FRIESEN: So to simplify it a little bit, you're going to treat a pass-through LLC like a C corp would get treated.

RYAN BURGER: Yeah.

FRIESEN: It defiles the refund?

RYAN BURGER: So yeah, I think you're framing it correctly, in terms of the property tax credit solely. Right? We can have the refund mailed to the entity's home office or apply bank information. The Nebraska Department of Revenue can—Revenue can create an e-file schema that allows bank information to be attached to those pass—throughs, so that refund can go directly to the LLC's bank account. But the income and losses, that will still pass through to people's personal tax returns. Yes.

FRIESEN: So should we be required to do it the simplest way possible?

RYAN BURGER: Should you be required to do it the simplest way possible? What an excellent question. You can do it however— this is the joy, for me, to be here. I don't have to vote on this. I'm not on public record. I'm just speaking with you with what I'm seeing. So—

FRIESEN: Well again, I mean, we-- as we do things sometimes, we don't look at the unintended consequences. But I, as a taxpayer, I looked up all the information and gave it to my accountant. So it was all printed out. And so I'm assuming I won't have to pay my accountant to do that. Again, due diligence on my part.

RYAN BURGER: Yeah.

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FRIESEN: I-- I went through those steps, and the Department of Revenue did a really good job of setting up a Web site. But unintended consequences are the pass-throughs.

RYAN BURGER: Sure. Absolutely.

FRIESEN: So I get that, so--

RYAN BURGER: And I will promise that your accountant will data match those parcels as they're entering it. And it's data entry, it's extra time. I like to provide value to clients through planning and options. This is data entry, and if we typo one parcel and get a letter from the Nebraska Department of Revenue, and then that's on us, and clients are upset. And it just is not— it's a little cumbersome at that point, yes.

FRIESEN: OK. Thank you.

RYAN BURGER: Um-hum.

LINDSTROM: Thank you. Any other questions? Seeing none, thank you. Any other proponents? Any opponents? Seeing none, any neutral testifiers? Seeing none, Senator Linehan, if you would like to close?

LINEHAN: Thank you. First of all, I'd like to thank everyone that came today, including the Tax Commissioner and the Society of CPAs. One of the things that— I don't know if it's widely known, but as you all know, the credit is going to grow. So this will be— there will be a bigger reward next year, and a bigger and bigger reward. So it won't be. And I would think, once you get it done, it's kind of like the same thing year after year. And Senator Friesen, I talked to a friend of mine who has several partnerships and several parcels, and he just brought it back home and said: I'll have my people do it and give it to you. So that is an option that other people have thought of, too. With that, I'd take any questions.

LINDSTROM: Senator Albrecht.

ALBRECHT: Thanks for bringing the bill. I did have my CPA let me know that this was just like crazy. But is there any reason why we couldn't have the counties send it to the people, and not have to go through all the number of parcels? And--

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LINEHAN: I think there was some feeling, when we were doing this last year, that we wanted the money to come from the state to the taxpayer, because I think there is some feeling that, when it's on your tax statement, they don't realize that--

ALBRECHT: They're giving [INAUDIBLE].

LINEHAN: --money's coming from the state. I mean, there's no doubt people don't realize that.

ALBRECHT: But when you have some-- too many parcels and you end up giving back the money to someone else, when-- I mean, if I would-- if I prepared it myself, I still have to give it to them to do the work of putting it all on a form, and and still get charged for it. So if there is a way that we could simplify--

LINEHAN: Well, we can [INAUDIBLE] -- we can -- I mean, I don't --

ALBRECHT: --is what I would be interested in.

LINEHAN: I think there was— there was a very strong feeling that the money needed to go to the taxpayer.

ALBRECHT: Um-hum.

LINEHAN: So that's-- and I realize it's complicated, but it's new. And next year it won't be as complicated, and--

ALBRECHT: True, but— but for somebody to get 30 to 50 percent of my money when I can prepare it for them, but they still have to put it in, once it's in the system, you wouldn't think that they'd have to double-check it. But I think it's kind of crazy to give me something, and then I still have to pay to get it. It's— and to put the CPAs through the extra work, I think, is asking a lot of them, too. So that's just me.

LINDSTROM: Any other questions from the committee? Seeing none, thank you.

LINEHAN: Thank you very much.

LINDSTROM: With that, --

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LINEHAN: It's time for lunch.

LINDSTROM: --I'll close the hearing for today.

GRANT LATIMER: We have two letters.

LINDSTROM: Oh, I'm sorry. We have two letters for the record, two proponents on the amendment. And with that, we'll end the hearing for today; thank you.