

# NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES

February 5, 2019

Senator Linehan  
District 39, State Capitol  
P.O. Box 94604  
Lincoln, NE 68509

RE: LB 705

Chairwoman Linehan:

The Department of Health and Human Services, Division of Medicaid and Long-Term Care (MLTC) would like to submit a neutral letter in regards to LB 705. I respectfully request that my letter formally be included in the record.

When this bill was introduced, MLTC had concerns related to the bill's enforceability, specifically in regards to two subsections. The provisions included in subsection three of this bill which describe the conditions in which an ABLE account may be transferred to another individual are more limited in federal law than they are written in this bill. As such, members of the public could be accidentally misled into believing they have greater flexibility in transferring an ABLE account than they really do. Subsection five of this bill, which would prevent Medicaid estate recovery from recovering funds from the ABLE account of the deceased account holder, violates the IRS code at 26 USC 529A, which specifically states ABLE accounts are subject to estate recovery. MLTC would not be able to implement this bill if it were passed.

We would like to thank Senator Murman, the bill's introducer, for meeting with the Division on January 31, 2019, to discuss the issues noted above. My team and I have come to a shared understanding of what is needed to improve this bill, and we are working on an amendment in the coming days to resolve the issues discussed.

I appreciate your hard work and attention to this important matter.

Sincerely,



Matthew A. Van Patton, DHA, Director  
Division of Medicaid and Long-Term Care

MVP/dp

cc: Members of the Revenue Committee, Nebraska Legislature  
Senator Murman



Pete Ricketts, Governor