

1.1 ..... moves to amend H.F. No. 3636 as follows:

1.2 Page 2, after line 12, insert:

1.3 "Sec. .... Minnesota Statutes 2020, section 256B.056, subdivision 3b, is amended to read:

1.4 Subd. 3b. **Treatment of trusts.** (a) It is the public policy of this state that individuals  
1.5 use all available resources to pay for the cost of long-term care services, as defined in section  
1.6 256B.0595, before turning to Minnesota health care program funds, and that trust instruments  
1.7 should not be permitted to shield available resources of an individual or an individual's  
1.8 spouse from such use.

1.9 ~~(a)~~ (b) A "medical assistance qualifying trust" is a revocable or irrevocable trust, or  
1.10 similar legal device, established on or before August 10, 1993, by a person or the person's  
1.11 spouse under the terms of which the person receives or could receive payments from the  
1.12 trust principal or income and the trustee has discretion in making payments to the person  
1.13 from the trust principal or income. Notwithstanding that definition, a medical assistance  
1.14 qualifying trust does not include: (1) a trust set up by will; (2) a trust set up before April 7,  
1.15 1986, solely to benefit a person with a developmental disability living in an intermediate  
1.16 care facility for persons with developmental disabilities; or (3) a trust set up by a person  
1.17 with payments made by the Social Security Administration pursuant to the United States  
1.18 Supreme Court decision in Sullivan v. Zebley, 110 S. Ct. 885 (1990). The maximum amount  
1.19 of payments that a trustee of a medical assistance qualifying trust may make to a person  
1.20 under the terms of the trust is considered to be available assets to the person, without regard  
1.21 to whether the trustee actually makes the maximum payments to the person and without  
1.22 regard to the purpose for which the medical assistance qualifying trust was established.

1.23 ~~(b)~~ (c) Trusts established after August 10, 1993, are treated according to United States  
1.24 Code, title 42, section 1396p(d).

2.1 ~~(e)~~ (d) For purposes of paragraph ~~(d)~~ (e), a pooled trust means a trust established under  
 2.2 United States Code, title 42, section 1396p(d)(4)(C).

2.3 ~~(d)~~ (e) A beneficiary's interest in a pooled trust is considered an available asset unless  
 2.4 the trust provides that upon the death of the beneficiary or termination of the trust during  
 2.5 the beneficiary's lifetime, whichever is sooner, the department receives any amount, up to  
 2.6 the amount of medical assistance benefits paid on behalf of the beneficiary, remaining in  
 2.7 the beneficiary's trust account after a deduction for reasonable administrative fees and  
 2.8 expenses, and an additional remainder amount. The retained remainder amount of the  
 2.9 subaccount must not exceed ten percent of the account value at the time of the beneficiary's  
 2.10 death or termination of the trust, and must only be used for the benefit of disabled individuals  
 2.11 who have a beneficiary interest in the pooled trust.

2.12 ~~(e)~~ (f) Trusts may be established on or after December 12, 2016, by a person who has  
 2.13 been determined to be disabled, according to United States Code, title 42, section  
 2.14 1396p(d)(4)(A), as amended by section 5007 of the 21st Century Cures Act, Public Law  
 2.15 114-255.

2.16 **EFFECTIVE DATE.** This section is effective the day following final enactment."

2.17 Page 10, after line 11, insert:

2.18 "Sec. .... Minnesota Statutes 2020, section 256B.0625, subdivision 64, is amended to read:

2.19 Subd. 64. **Investigational drugs, biological products, devices, and clinical**  
 2.20 **trials.** Medical assistance and the early periodic screening, diagnosis, and treatment (EPSDT)  
 2.21 program do not cover the costs of any services that are incidental to, associated with, or  
 2.22 resulting from the use of investigational drugs, biological products, or devices as defined  
 2.23 in section 151.375 or any other treatment that is part of an approved clinical trial as defined  
 2.24 in section 62Q.526. Participation of an enrollee in an approved clinical trial does not preclude  
 2.25 coverage of medically necessary services covered under this chapter that are not related to  
 2.26 the approved clinical trial. Any items or services that are provided solely to satisfy data  
 2.27 collection and analysis for a clinical trial, and not for direct clinical management of the  
 2.28 enrollee, are not covered."

2.29 Page 13, delete section 9

2.30 Page 14, delete section 10 and insert:

3.1 "Sec. .... **REPEALER.**

3.2 (a) Minnesota Statutes 2020, section 256B.057, subdivision 7, is repealed on July 1,  
3.3 2022.

3.4 (b) Minnesota Statutes 2020, section 256B.69, subdivision 20, is repealed the day  
3.5 following final enactment.

3.6 (c) Minnesota Statutes 2020, section 501C.1206, is repealed the day following final  
3.7 enactment."

3.8 Renumber the sections in sequence and correct the internal references

3.9 Amend the title accordingly