1	H.386
2	Introduced by Representatives Keenan of St. Albans City, Dakin of
3	Colchester, Fagan of Rutland City, Hooper of Montpelier,
4	Juskiewicz of Cambridge, Lanpher of Vergennes, Rosenquist of
5	Georgia, and Yacovone of Morristown
6	Referred to Committee on
7	Date:
8	Subject: Taxation; health; Medicaid; provider taxes; home health agencies
9	Statement of purpose of bill as introduced: This bill proposes to revise the
10	home health agency provider tax base, establish a cap on total home health
11	agency provider tax revenues, and create an annual inflationary increase for
12	home health agency Medicaid rates.
13	An act relating to home health agency provider taxes
14	It is hereby enacted by the General Assembly of the State of Vermont:
15	Sec. 1. 33 V.S.A. § 900 is amended to read:
16	§ 900. DEFINITIONS
17	Unless otherwise required by the context, the words and phrases in this
18	chapter shall be defined as follows As used in this chapter:
19	* * *

1	(7) "Home health agency" means an entity that has received a certificate
2	of need from the State to provide home health services and is certified to
3	provide services pursuant to 42 U.S.C. § 1395x(o).
4	Sec. 2. 33 V.S.A. § 904 is amended to read:
5	§ 904. RATE SETTING
6	(a) The Director shall establish by rule procedures for determining payment
7	rates for care of State-assisted persons to nursing homes and to such other
8	providers as the Secretary shall direct, as well as for inflationary rate increases
9	to home health agencies. The Secretary shall have the authority to establish
10	rates that the Secretary deems sufficient to ensure that the quality standards
11	prescribed by section 7117 of this title are maintained, subject to the provisions
12	of section 906 of this title. Beginning in State fiscal year 2003, the Medicaid
13	budget for care of State-assisted persons in nursing homes shall employ an
14	annual inflation factor which is reasonable and which adequately reflects
15	economic conditions, in accordance with the provisions of Section 5.8 of the
16	regulations promulgated rules adopted by the Division of Rate Setting
17	("Methods, Standards, and Principles for Establishing Medicaid Payment Rates
18	for Long-Term Care Facilities").
19	(b) No payment shall be made to any nursing home, on account of any
20	State-assisted person, unless the nursing home is certified to participate in the

1	State/federal medical assistance program and has in effect a provider
2	agreement.
3	Sec. 3. 33 V.S.A. § 911 is added to read:
4	§ 911. INFLATION FACTOR FOR HOME HEALTH AGENCIES
5	The rates for home health agencies shall be increased by an annual inflation
6	factor commensurate with the average statewide inflation factor applicable to
7	all nursing homes pursuant to this chapter. The Division shall calculate the
8	aggregate inflation factor applicable to nursing homes annually according to
9	the procedure adopted by rule and shall report it to the Department of Vermont
10	Health Access for application to home health agency rates beginning on July 1
11	Sec. 4. 33 V.S.A. § 1951 is amended to read:
12	§ 1951. DEFINITIONS
13	As used in this subchapter:
14	(1) "Assessment" means a tax levied on a health care provider pursuant
15	to this chapter.
16	(2)(A) "Core home health eare and hospice services" means:
17	(i) those medically necessary skilled nursing, home health aide,
18	therapeutic, and personal care attendant services, provided exclusively in the
19	home by home health agencies. Core home health services do not include
20	private duty nursing, hospice, homemaker, or physician services, or services
21	provided under early periodic screening, diagnosis, and treatment (EPSDT),

1	traumatic brain injury (TBI), high technology programs, or services provided
2	by a home for persons who are terminally ill as defined in subdivision 7102(3)
3	of this title home health services provided by Medicare-certified home health
4	agencies that are covered under Title XVIII (Medicare) or XIX (Medicaid) of
5	the Social Security Act;
6	(ii) services covered under the adult and pediatric High
7	Technology Home Care programs;
8	(iii) personal care, respite care, and companion care services
9	provided through the Choices for Care program contained within Vermont's
10	Global Commitment to Health Section 1115 Medicaid demonstration;
11	(iv) hospice services; and
12	(v) home health and hospice services covered under a health
13	insurance or other health benefit plan offered by a health insurer, as defined in
14	<u>18 V.S.A. § 9402.</u>
15	(B) The term "core home health and hospice services" shall not
16	include any other service provided by a home health agency, including:
17	(i) private duty nursing;
18	(ii) case management services;
19	(iii) homemaker services;

1	(iv) the Flexible Choices or Assistive Devices options under the
2	Choices for Care program contained within Vermont's Global Commitment to
3	Health Section 1115 Medicaid demonstration;
4	(v) adult day services;
5	(vi) group-directed attendant care services;
6	(vii) primary care services;
7	(viii) nursing home room and board when a hospice patient is in a
8	nursing home;
9	(ix) health clinics, including occupational health, travel, and flu
10	clinics;
11	(x) services provided to children under the early and periodic
12	screening, diagnostic, and treatment Medicaid benefit;
13	(xi) services provided pursuant to the Money Follows the Person
14	demonstration project;
15	(xii) services provided pursuant to the Traumatic Brain Injury
16	Program; or
17	(xiii) maternal-child wellness services, including services
18	provided through the Nurse Family Partnership program.
19	* * *

1	(10) "Net operating patient revenues" means a provider's gross charges
2	less any deductions for bad debts, charity care, contractual allowances, and
3	other payer discounts as reported on its audited financial statement.
4	* * *
5	Sec. 5. 33 V.S.A. § 1955a is amended to read:
6	§ 1955a. HOME HEALTH AGENCY ASSESSMENT
7	(a)(1) Beginning October 1, 2011, each Each home health agency's
8	assessment shall be 19.30 3.63 percent of its net operating patient revenues
9	from core home health eare and hospice services, excluding revenues for
10	services provided under Title XVIII of the federal Social Security Act;
11	provided, however, that each home health agency's annual assessment shall be
12	limited to no more than six percent of its annual net patient revenue provided
13	exclusively in Vermont homes. The total amount of revenue to be generated
14	by the assessment across all home health agencies shall not exceed a maximum
15	of \$4,788,000.00 in any given year. If total revenue from the home health
16	agency assessment is projected to exceed \$4,788,000.00, the Commissioner
17	shall reduce the assessment percentage for all home health agencies for that
18	year by a uniform amount in order to remain below the \$4,788,000.00 revenue
19	cap.
20	(2) The amount of the tax shall be determined by the Commissioner
21	based on the home health agency's most recent audited financial statements at

1	the time of submission, a copy of which shall be provided on or before May 1
2	of each year to the Department.
3	(3) For providers who begin operations as a home health agency after
4	January 1, 2005, the tax shall be assessed as follows:
5	(1)(A) Until such time as the home health agency submits audited
6	financial statements for its first full year of operation as a home health agency,
7	the Commissioner, in consultation with the home health agency, shall annually
8	estimate the amount of tax payable and shall prescribe a schedule for interim
9	payments.
10	(2)(B) At such time as the full-year audited financial statement is filed,
11	the final assessment shall be determined, and the home health agency shall pay
12	any underpayment or the Department shall refund any overpayment. The
13	assessment for the State fiscal year in which a provider commences operations
14	as a home health agency shall be prorated for the proportion of the State fiscal
15	year in which the new home health agency was in operation.
16	* * *
17	Sec. 6. 2016 Acts and Resolves No. 134, Sec. 32 is amended to read:
18	Sec. 32. HOME HEALTH AGENCY ASSESSMENT FOR FISCAL
19	YEARS YEAR 2017 AND 2018
20	Notwithstanding any provision of 33 V.S.A. § 1955a(a) to the contrary, for
21	fiscal years year 2017 and 2018 only, the amount of the home health agency

1	assessment under 33 V.S.A. § 1955a for each home health agency shall be 3.63
2	percent of its annual net patient revenue.

- 3 Sec. 7. EFFECTIVE DATES
- 4 (a) Secs. 1–3 (rate setting) shall take effect on passage and shall apply to
- 5 <u>home health agency rates on and after July 1, 2018.</u>
- 6 (b) Secs. 4 and 5 (provider tax) and 6 (FY 2017 tax rate) shall take effect
- 7 <u>on July 1, 2017.</u>
- 8 (c) This section shall take effect on passage.