

# PROVIDER TAXES

## Overview

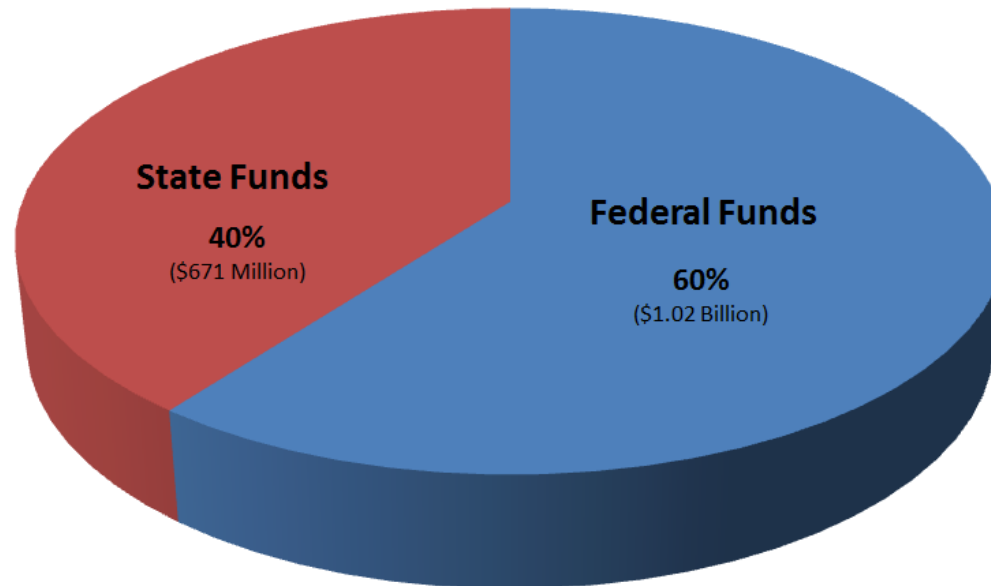
Nolan Langweil, Joint Fiscal Office  
Jennifer Carbee, Office of Legislative Council  
January 26, 2017



# Provider Taxes

## Context

- **SFY 2016:** TOTAL Medicaid spending was \$1.69 billion.



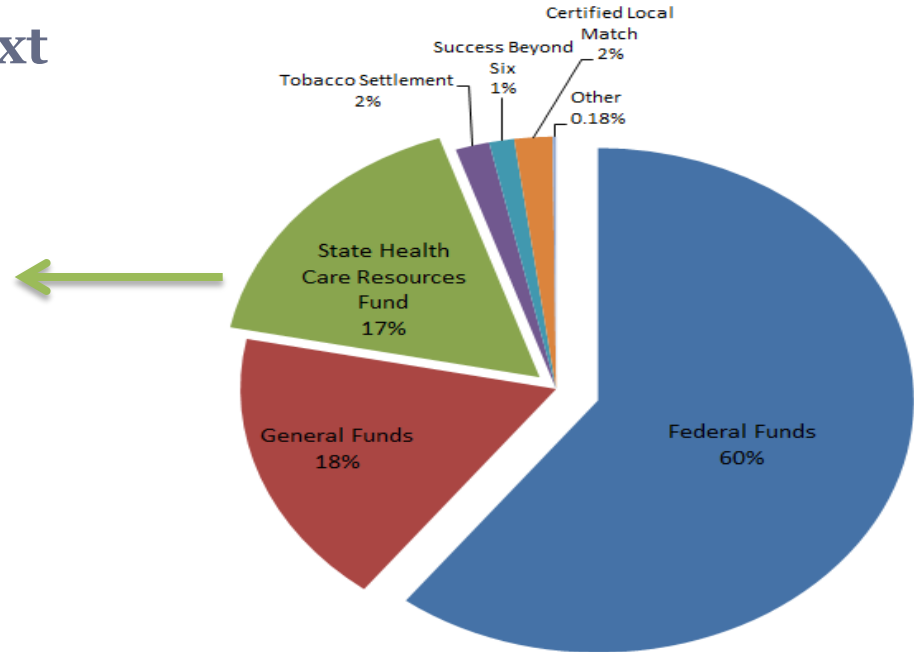
# Provider Taxes

## Context

### State Health Care Resources Fund

SFY'16

|                                       | \$                 |
|---------------------------------------|--------------------|
| Cigarette, Tobacco, & Floor Stock Tax | 79,917,862         |
| Graduate Medical Education            | 13,491,750         |
| Employer Assessment                   | 17,896,335         |
| Claims Assessment                     | 13,767,674         |
| <b>Provider Taxes</b>                 | <b>153,332,318</b> |
| Beneficiary Premiums                  | 3,213,299          |
| Settlements, recoveries, and other    | 1,869,283          |
| <b>TOTAL</b>                          | <b>282,647,700</b> |



- Vermont's provider tax revenues are deposited into the *State Health Care Resources Fund*
- Provider taxes account for:
  - **9%** of TOTAL funding sources for Medicaid (including federal dollars).
  - **23%** of state dollars used for Medicaid
  - **54%** of revenues in the *state health care resources fund*

# Provider Tax

## Overview

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- States can use provider tax revenues as part of the state share of Medicaid
- Federal law does not prohibit provider tax revenue from exceeding 25% of the State Medicaid dollars used to get federal match
  - Unless it does....
    - 42 USC § 1396b(w)(5) says there is a 25% cap
    - But 42 USC § 1396b(w)(1)(A)(iv) says (w)(5) applied “only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995”
    - Still waiting on final confirmation from CMS

# Provider Tax

## Overview

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- Provider taxes must comply with federal law, including:
  - Must be **broad based** – must apply across class of health care items/services/providers
  - Must be **uniformly applied** – e.g., same licensing fee across class, same per-bed licensing fee across class, same assessment rate on gross or net receipts
  - Must **not hold providers harmless** – cannot guarantee, directly or indirectly, that tax paid will be returned to providers to make them whole
    - Safe harbor: presumption that this requirement is met if tax is  $\leq 6$  percent of net patient revenue

# Current Vermont Provider Tax



| Class of Provider            | Rate                | Net Patient<br>Rev. Equivalent | FY'16                | Est.<br>SFY'17       |
|------------------------------|---------------------|--------------------------------|----------------------|----------------------|
| Hospitals                    | 6%                  | 6%                             | \$131,712,103        | \$142,286,414        |
| Nursing Homes                | \$4,919.53 per bed  | 6%                             | \$15,681,383         | \$15,039,003         |
| Home Health *                | 3.63% (FY'17 & '18) | 3.63%                          | \$4,488,435          | \$4,793,713          |
| Intermediate Care Facilities | 5.9%                | 5.9%                           | \$73,308             | \$73,708             |
| Pharmacy                     | \$0.10/script       | N/A                            | \$783,689            | \$780,000            |
| Ambulance **                 | 3.3%                | 3.3%                           | -----                | \$1,200,000          |
| <b>TOTAL</b>                 |                     |                                | <b>\$152,738,918</b> | <b>\$164,172,838</b> |

\* In FY'19 Home Health will revert back to 19.3% of net operating revenue

\*\* Ambulance provider tax went into effect 7/1/16

} Act 134 of 2016 (H.873 Misc Tax Bill)

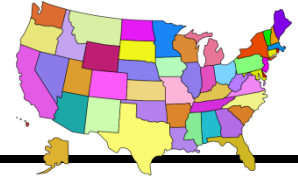
# Provider Tax: Classes

## 19 Federal Classes of Health Care Services

|   |  |  |
|---|--|--|
| Inpatient hospital services*              | Services of managed care organizations | Therapist services   |
| Outpatient hospital services*             | Ambulatory service centers             | Nursing services   |
| Nursing facility services*                | Dental services                        | Laboratory and x-ray services  |
| Services of intermediate care facilities* | Podiatric services                     | Emergency ambulance services*  |
| Physicians' services                      | Chiropractic services                  | Other health care items or services for which the state has enacted a licensing or certification fee |
| Home health care services*                | Optometric services                    |  |
| Outpatient prescription drugs*            | Psychological services                 |  |

\* Class currently assessed in Vermont

# Provider Taxes: Other States



**Based on a 50-state survey conducted by Kaiser in Oct. 2015:**

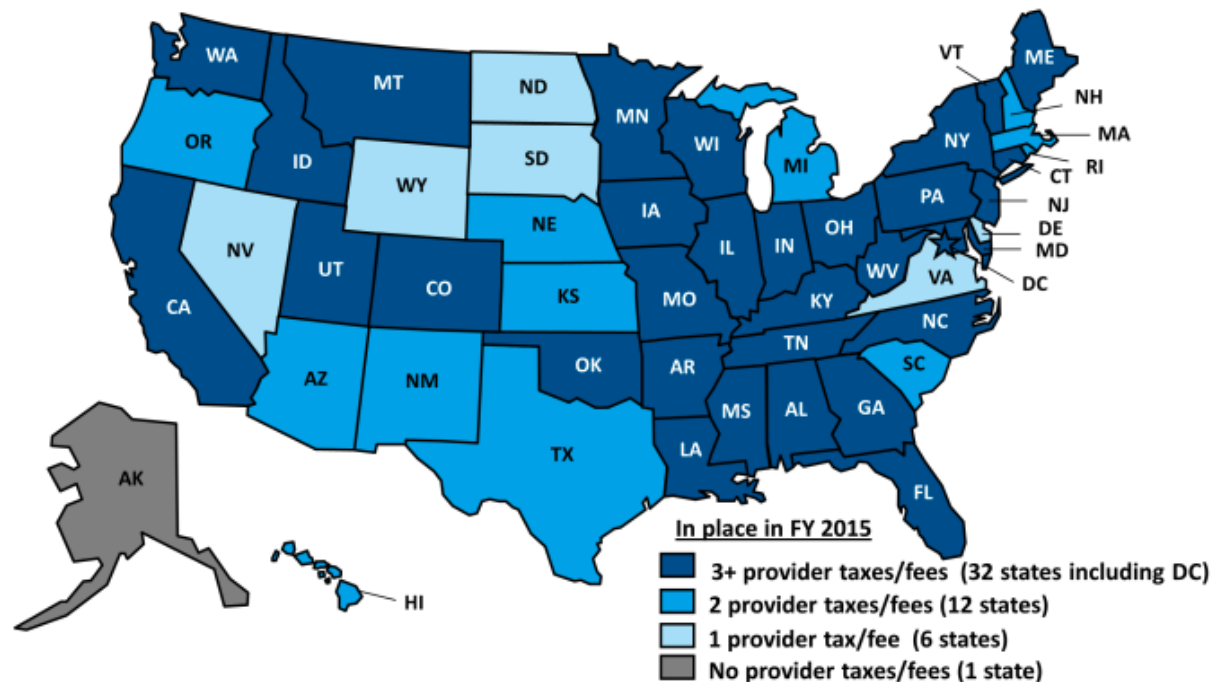
- In 2003, 21 states had at least one provider tax. By 2013, all but one state (Alaska) had at least one provider tax.
- The most common type of provider tax in place was for nursing homes (44 states), followed by Hospitals (39 states) and Intermediate Care Facilities (37 states).



# Provider Taxes: Other States

Figure 13

## States with Provider Taxes or Fees in Place in FY 2015



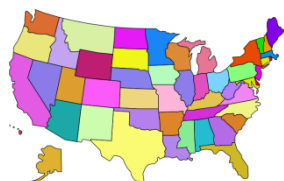
NOTES: Includes Medicaid provider taxes as reported by states. It is possible that there are other sources of revenue from taxes collected on health insurance premiums or health insurance claims that are not reflected here.

SOURCE: KCMU survey of Medicaid officials in 50 states and DC conducted by Health Management Associates, October 2015.



Figure 13: States with Provider Taxes or Fees in Place in FY 2015

# Provider Taxes in all 50 states and DC



Source: Kaiser Commission  
on Medicaid and Uninsured  
Survey of Medicaid officials  
in 50 states and DC.  
Conducted by Health  
Management Associates,  
October 2015

| States         | Hospitals |           | Intermediate Care Facilities |           | Nursing Facilities |           | Other     |           | Any Provider Tax |           |
|----------------|-----------|-----------|------------------------------|-----------|--------------------|-----------|-----------|-----------|------------------|-----------|
|                | 2015      | 2016      | 2015                         | 2016      | 2015               | 2016      | 2015      | 2016      | 2015             | 2016      |
| Alabama        | X         | X         |                              |           | X                  | X         | X         | X         | X                | X         |
| Alaska         |           |           |                              |           |                    |           |           |           |                  |           |
| Arizona        | X         | X         |                              |           | X                  | X         |           |           | X                | X         |
| Arkansas       | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| California     | X         | X         | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Colorado       | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Connecticut    | X         | X         | X                            | X         | X                  | X         |           | X         | X                | X         |
| Delaware       |           |           |                              |           | X                  | X         |           |           | X                | X         |
| DC             |           | X         | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Florida        | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Georgia        | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Hawaii         | X         | X         |                              |           | X                  | X         |           |           | X                | X         |
| Idaho          | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Illinois       | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Indiana        | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Iowa           | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Kansas         | X         | X         |                              |           | X                  | X         |           |           | X                | X         |
| Kentucky       | X         | X         | X                            | X         | X                  | X         | X*        | X*        | X                | X         |
| Louisiana      |           |           | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Maine          | X         | X         | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Maryland       | X         | X         | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Massachusetts  | X         | X         |                              |           | X                  | X         |           |           | X                | X         |
| Michigan       | X         | X         |                              |           | X                  | X         |           | X         | X                | X         |
| Minnesota      | X         | X         | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Mississippi    | X         | X         | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Missouri       | X         | X         | X                            | X         | X                  | X         | X*        | X*        | X                | X         |
| Montana        | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Nebraska       |           |           | X                            | X         | X                  | X         |           |           | X                | X         |
| Nevada         |           |           |                              |           | X                  | X         |           |           | X                | X         |
| New Hampshire  | X         | X         |                              |           | X                  | X         |           |           | X                | X         |
| New Jersey     | X         | X         | X                            | X         | X                  | X         | X*        | X*        | X                | X         |
| New Mexico     |           |           |                              |           |                    |           | X*        | X*        | X                | X         |
| New York       | X         | X         | X                            | X         | X                  | X         | X*        | X*        | X                | X         |
| North Carolina | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| North Dakota   |           |           | X                            | X         |                    |           |           |           | X                | X         |
| Ohio           | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Oklahoma       | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| Oregon         | X         | X         |                              |           | X                  | X         |           |           | X                | X         |
| Pennsylvania   | X         | X         | X                            | X         | X                  | X         | X*        | X*        | X                | X         |
| Rhode Island   | X         | X         |                              |           | X                  | X         |           |           | X                | X         |
| South Carolina | X         | X         | X                            | X         |                    |           |           |           | X                | X         |
| South Dakota   |           |           | X                            | X         |                    |           |           |           | X                | X         |
| Tennessee      | X         | X         | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Texas          |           |           | X                            | X         |                    |           | X         | X         | X                | X         |
| Utah           | X         | X         | X                            | X         | X                  | X         |           | X         | X                | X         |
| Vermont        | X         | X         | X                            | X         | X                  | X         | X*        | X*        | X                | X         |
| Virginia       |           |           | X                            | X         |                    |           |           |           | X                | X         |
| Washington     | X         | X         | X                            | X         | X                  | X         |           |           | X                | X         |
| West Virginia  | X         | X         | X                            | X         | X                  | X         | X*        | X*        | X                | X         |
| Wisconsin      | X         | X         | X                            | X         | X                  | X         | X         | X         | X                | X         |
| Wyoming        |           |           |                              |           | X                  | X         |           |           | X                | X         |
| <b>Totals</b>  | <b>39</b> | <b>40</b> | <b>37</b>                    | <b>37</b> | <b>44</b>          | <b>44</b> | <b>19</b> | <b>22</b> | <b>50</b>        | <b>50</b> |