



# S.3814-4 (Rivera) / A.5743-A (Dilan)

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<p><b>BILL</b></p> <p>S.3814-4 (Rivera) / A.5743-A (Dilan)</p>
<p><b>SUBJECT</b></p> <p>Imposes a Tax on Out-of-State Transfers, Dividends, Payments, and Loans by Certain Accident and Health Insurance Companies and Health Maintenance Organizations</p>
<p><b>DATE</b></p> <p>April 24, 2026</p>
<p><b>OPPOSE</b></p>

The Business Council of New York State opposes S.3814-A (Rivera) / A.5743-A (Dilan) which would impose a new 9.63% tax on any dividends, payments or loans transferred out-of-state, made by for-profit health insurers and both for-profit and non-profit HMOs that provide coverage in the individual, small group and large group markets.

This bill would set a dangerous precedent for the business environment in New York by targeting one specific industry while also sending an anti-business message and creating negative effects for the state economy. This legislation would essentially be double taxing earnings as revenues that are already taxed. Currently here are implemented taxes on health insurance, these taxes on health insurance are the third-largest source of state revenue behind sales and incomes taxes. Any additional tax would further jeopardize employers' ability to provide affordable health insurance.

Further, and equally important, this bill is on its face unconstitutional. It creates a discriminatory tax system that imposes higher tax rates on dividends payments or loans issued to out-of-state individuals or entities than it does on comparable payments made to New York entities. This is a textbook violation of the Dormant Commerce Clause of the United State Constitution, which itself and through caselaw specifically, expressly prohibits states from discriminating against interstate commerce by imposing tax structures that would provide a direct commercial advantage to in-state business, which this bill so clearly does. Additionally, the bill violates the Equal Protection Clause of the 14th Amendment by favoring its own residents over other Americans.

New York State employers already pay the bulk of health insurance premiums and the taxes associated with them. While it appears, this bill places the burden on insurers, it will increase the financial burden on small and medium sized businesses. For these reasons, The Business Council opposes the above-mentioned legislation.