STATE OF NEW YORK

8642--A

2025-2026 Regular Sessions

IN ASSEMBLY

May 22, 2025

Introduced by M. of A. HEVESI, SEAWRIGHT, ROSENTHAL, ROZIC, McMAHON, REYES, KELLES, SIMON, GONZALEZ-ROJAS, HYNDMAN -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the tax law and the state finance law, in relation to enacting the "NYS health care tax reform act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "NYS health care tax reform act".

§ 2. Legislative findings. The legislature hereby finds that:

The affordability of health care and health insurance is extremely important in ensuring that the maximum number of New York state residents can obtain high quality affordable health care.

Health care and health insurance are currently subject to several taxes that directly and indirectly increase the cost of health insurance coverage, including an annual flat tax on all privately insured people in New York state called the covered lives assessment and a 9.63% sales tax surcharge on certain hospital based health services (HCRA taxes).

Collectively, the taxes on health care, health insurance, and other taxes were budgeted at $6.5 billion in the FY 2025 state budget. These taxes are now the fourth largest revenue source for the state behind only the personal income, sales, and broad-based business taxes. These taxes have been increased fourteen times since the program began in 1997. The program is now far larger and is used for purposes never originally contemplated when first enacted.

The taxes on health care and health insurance are fundamentally regressive taxes because the taxes are unrelated to a consumer's wealth or ability to pay, directly impact hospitalization costs at a time when

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13012-04-6

consumers are facing some of their greatest health care challenges, directly increase the cost of health insurance, and are counterproductive to the public policy objective of making health insurance as affordable as possible. Even worse, these taxes are levied in a horribly unfair manner. They are levied on employees and their employers who are doing the right thing by providing employer-based health benefits. Employers who provide no health benefits to hourly workers, including some of the largest employers in the state, pay nothing.

It is therefore the intent of the legislature that these HCRA taxes be repealed and replaced so as to maintain the revenue needed to continue all of the public goods services currently provided under HCRA (including but not limited to indigent care grants, subsidies to medical malpractice insurers, and the creation of a diverse pool of physicians in training), as well as subsidies toward the state share of Medicaid payments currently provided through HCRA. Repeal of the current HCRA taxes may only occur in connection with the preservation of all the public goods and maintenance of the currently budgeted subsidy to the state share of Medicaid.

§ 3. Subparagraph (i) of paragraph (b) and paragraphs (c), (d) and (e) of subdivision 2 of section 2807-j of the public health law, as amended by section 50 of part B of chapter 58 of the laws of 2009, are amended to read as follows:

(i) the sum of (A) eight and eighteen-hundredths percent, provided, however, that for services provided on and after July first, two thousand three, the percentage shall be eight and eighty-five hundredths percent, and further provided that for services provided on and after January first, two thousand six, the percentage shall be eight and ninety-five hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the percentage shall be nine and sixty-three hundredths percent, **and provided that for services provided on and after April first, two thousand twenty-six, the percentage shall be zero percent,** plus (B) twenty-four percent, provided, however, that for services provided on and after July first, two thousand three, the percentage shall be twenty-five and ninety-seven hundredths percent, and further provided that for services provided on and after January first, two thousand six, the percentage shall be twenty-six and twenty-six hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the percentage shall be twenty-eight and twenty-seven hundredths percent, **and provided that for services provided on and after April first, two thousand twenty-six, the percentage shall be zero percent,** and plus (C) for a specified third-party payor as defined in subdivision one-a of section twenty-eight hundred seven-s of this article the percentage allowance applicable for a general hospital for inpatient hospital services pursuant to subdivision two of section twenty-eight hundred seven-s of this article;

(c) If an election in accordance with subdivision five of this section is in effect for a third-party payor and in addition in accordance with section twenty-eight hundred seven-t of this article for a specified third-party payor, the total percentage allowance factor shall be reduced to eight and eighteen-hundredths percent, provided, however, that for services provided on and after July first, two thousand three the total percentage allowance factor shall be reduced to eight and eighty-five hundredths percent, and further provided that for services provided on and after January first, two thousand six, the total percentage allowance factor shall be reduced to eight and ninety-five

hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the total percentage allowance factor shall be reduced to nine and sixty-three hundredths percent**, and further provided that for services provided on and after April first, two thousand twenty-six, the total percentage allowance factor shall be zero percent**.

(d) The total percentage allowance for payments by governmental agencies, as determined in accordance with paragraphs (a) and (a-1) of subdivision one of section twenty-eight hundred seven-c of this article as in effect on December thirty-first, nineteen hundred ninety-six, or health maintenance organizations for services provided to subscribers eligible for medical assistance pursuant to title eleven of article five of the social services law, or approved organizations for services provided to subscribers eligible for the family health plus program pursuant to title eleven-D of article five of the social services law, shall be five and ninety-eight-hundredths percent, provided, however, that for services provided on and after July first, two thousand three the total percentage allowance shall be six and forty-seven hundredths percent, and further provided that for services provided on and after January first, two thousand six, the total percentage allowance shall be six and fifty-four hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the total percentage allowance shall be seven and four hundredths percent**, and further provided that for services provided on and after April first, two thousand twenty-six, the total percentage allowance shall be zero percent, except that an entity covered by paragraph a of subdivision one of section twenty-eight hundred seven-c of this article may choose whether to apply surcharges and assessments pursuant to this section to its own health benefits and services provided for its own employees and their covered lives or to health maintenance organizations for services provided to subscribers eligible for medical assistance pursuant to title eleven of article five of the social services law, or approved organizations for services provided to subscribers eligible for the family health plus program pursuant to title eleven-D of article five of the social services law**.

(e) The total percentage allowance for payments for services provided by designated providers of services for which there is no third-party coverage in whole or in part shall be eight and eighteen-hundredths percent, provided, however, that for services provided on and after July first, two thousand three the total percentage allowance shall be eight and eighty-five hundredths percent, and further provided that for services provided on and after January first, two thousand six, the total percentage allowance shall be eight and ninety-five hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the total percentage allowance shall be nine and sixty-three hundredths percent**, and further provided that for services provided on and after April first, two thousand twenty-six, the total percentage allowance shall be zero percent**. This paragraph shall not apply to patient deductibles and coinsurance amounts.

§ 4. Subparagraph (iv) of paragraph (c) of subdivision 2 of section 2807-s of the public health law, as added by section 21 of part A of chapter 58 of the laws of 2007, is amended to read as follows:

(iv) The regional percentage allowance for [~~periods on and after~~] July first, two thousand seven **through March thirtieth, two thousand twenty-six**, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and

deductible amounts, shall be the same regional percentage allowance calculated pursuant to subparagraph (iii) of this paragraph for the period January first, two thousand six through June thirtieth, two thousand seven.

§ 5. The tax law is amended by adding a new section 1510-a to read as follows:

§ 1510-a. Public goods and Medicaid subsidy surcharge on insurance corporations. (a) Beginning on April first, two thousand twenty-six and expiring on March thirty-first, two thousand twenty-nine, in addition to any taxes imposed on insurance corporations pursuant to section fifteen hundred ten of this article, and except as hereinafter provided, for taxable years beginning January first, two thousand twenty-six, every domestic insurance corporation, every foreign insurance corporation, and every alien insurance corporation, other than such corporations transacting the business of life insurance, which are (1) authorized to transact business in this state under a certificate of authority from the superintendent of financial services or (2) a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, shall, to support the provision of public goods provided for in sections twenty-eight hundred seven-l, twenty-eight hundred seven-m, and twenty-eight hundred seven-v of the public health law, to support the state share of Medicaid and for the privilege of exercising corporate franchises or for carrying on business in a corporate or organized capacity within this state, and in addition to any other taxes imposed for such privilege, pay a surcharge on the tax liability owed for all gross direct premiums, less return premiums thereon, written on risks located or resident in this state.

(b) (1) The rate of the surcharge imposed by this section shall be thirty-six and two-tenths percent on the tax liability owed for all gross direct premiums, less return premiums thereon, written on risks located or resident in this state, provided, however, that on and after January first, two thousand twenty-seven, the surcharge percentage shall be forty-three percent, and further provided that on and after January first, two thousand twenty-eight, the surcharge percentage shall be fifty-five percent.

(2) Notwithstanding the provisions of paragraph one of this subdivision, for any employer subject to the surcharge pursuant to this section that contributes for employee health benefits, and where the employee cost of the health benefit plan does not exceed an affordable employee contribution for health benefits as defined in the affordable care act and implementing regulations and as modified annually by the federal internal revenue service, the rate of surcharge shall instead be eighteen and four-tenths percent, provided, however, that on and after January first, two thousand twenty-seven, the surcharge percentage shall be seventeen percent, and further provided that on and after January first, two thousand twenty-eight, the surcharge percentage shall be fourteen and five-tenths percent.

§ 6. The tax law is amended by adding a new section 220 to read as follows:

§ 220. Public goods and Medicaid subsidy surcharge on business corporations. 1. Except for (a) employers of fewer than fifty employees or full time equivalents in a calendar year where such employers are not "contractors" engaged in "construction" as such terms are defined in article twenty-five-B of the labor law, and (b) "contractors" engaged in "construction", as such terms are defined in article twenty-five-B of the labor law, whose gross revenue is less than five million dollars

annually, beginning on April first, two thousand twenty-six and expiring on March thirty-first, two thousand twenty-nine, and as hereinafter provided, for taxable years beginning January first, two thousand twenty-six, and except for corporations taxed pursuant to section fifteen hundred ten-a of this chapter, every domestic corporation, every foreign corporation and every alien corporation authorized to transact business in this state under a certificate of authority from the secretary of state shall, to support the provision of public goods provided for in sections twenty-eight hundred seven-l, twenty-eight hundred seven-m, and twenty-eight hundred seven-v of the public health law, to support the state share of Medicaid and for the privilege of exercising corporate franchises or for carrying on business in a corporate or organized capacity within this state, and in addition to any other taxes imposed for such privilege, pay a franchise tax surcharge, upon the basis of its business income base, or upon such other basis as may be applicable as provided by this article.

2. (a) In addition to any tax imposed, there shall be a surcharge of thirty-six and two-tenths percent, upon the tax liability provided by this article, provided, however, that on and after January first, two thousand twenty-seven, the surcharge percentage shall be forty-three percent, and further provided that on and after January first, two thousand twenty-eight, the surcharge percentage shall be fifty-five percent.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, for any employer subject to the surcharge pursuant to this section that contributes for employee health benefits, and where the employee cost of the health benefit plan does not exceed an affordable employee contribution for health benefits as defined in the affordable care act and implementing regulations and as modified annually by the federal internal revenue service, the rate of surcharge shall instead be eighteen and four-tenths percent, provided, however, that on and after January first, two thousand twenty-seven, the surcharge percentage shall be seventeen percent, and further provided that on and after January first, two thousand twenty-eight, the surcharge percentage shall be fourteen and five-tenths percent.

§ 7. The tax law is amended by adding a new section 866-a to read as follows:

§ 866-a. Public goods and Medicaid subsidy surcharge on pass-through entities. (a) Any entity electing to be taxed pursuant to this article shall, to support the provision of public goods provided for in sections twenty-eight hundred seven-l, twenty-eight hundred seven-m, and twenty-eight hundred seven-v of the public health law, to support the state share of Medicaid and for the privilege of exercising corporate franchises or for carrying on business in a corporate or organized capacity within this state, and in addition to any other taxes imposed for such privilege, pay a surcharge upon the basis of its business income base, excluding income credited pursuant to section eight hundred sixty-three of this article, or upon such other basis as may be applicable as provided by this article.

(b) (1) In addition to any tax imposed, there shall be a surcharge of thirty-six and two-tenths percent upon the tax liability provided by this article, provided, however, that on and after January first, two thousand twenty-seven, the surcharge percentage shall be forty-three percent, and further provided that on and after January first, two thousand twenty-eight, the surcharge percentage shall be fifty-five percent.

(2) Notwithstanding the provisions of paragraph one of this subsection, for any employer subject to the surcharge pursuant to this

section that contributes for employee health benefits, and where the employee cost of the health benefit plan does not exceed an affordable employee contribution for health benefits as defined in the affordable care act and implementing regulations and as modified annually by the federal internal revenue service, the rate of surcharge shall instead be eighteen and four-tenths percent, provided, however, that on and after January first, two thousand twenty-seven, the surcharge percentage shall be seventeen percent, and further provided that on and after January first, two thousand twenty-eight, the surcharge percentage shall be fourteen and five-tenths percent.

§ 8. Paragraph 3 of subsection (c) of section 658 of the tax law, as amended by section 1 of part H-1 of chapter 57 of the laws of 2009, subparagraph (A) as amended by section 13 of part Q of chapter 60 of the laws of 2016, and subparagraph (E) as added by section 13 of part S of chapter 59 of the laws of 2015, is amended to read as follows:

(3) Filing fees. (A) Every subchapter K limited liability company, every limited liability company that is a disregarded entity for federal income tax purposes, and every partnership which has any income derived from New York sources, determined in accordance with the applicable rules of section six hundred thirty-one of this article as in the case of a nonresident individual, shall on or before the fifteenth day of the third month following the close of each taxable year make a payment of a filing fee and filing fee surcharge. The amount of the filing fee [~~is~~] and filing fee surcharge are the [~~amount~~] amounts set forth in subparagraph (B) of this paragraph. The minimum filing fee is twenty-five dollars for taxable years beginning in two thousand eight and thereafter. Limited liability companies that are disregarded entities for federal income tax purposes must pay a filing fee of twenty-five dollars for taxable years beginning on or after January first, two thousand eight.

(B) (i) The filing fee and filing fee surcharge will be based on the New York source gross income of the limited liability company or partnership for the taxable year immediately preceding the taxable year for which the fee is due. If the limited liability company or partnership does not have any New York source gross income for the taxable year immediately preceding the taxable year for which the fee is due, the limited liability company or partnership shall pay the minimum filing fee. Partnerships, other than limited liability partnerships under article eight-B of the partnership law and foreign limited liability partnerships, with less than one million dollars in New York source gross income are exempt from the filing fee. New York source gross income is the sum of the partners' or members' shares of federal gross income from the partnership or limited liability company derived from or connected with New York sources, determined in accordance with the provisions of section six hundred thirty-one of this article as if those provisions and any related provisions expressly referred to a computation of federal gross income from New York sources. For this purpose, federal gross income is computed without any allowance or deduction for cost of goods sold.

(ii) The amount of the filing fee for taxable years beginning on or after January first, two thousand eight will be determined in accordance with the following table:

If the New York source gross income is:	The fee is:
not more than $100,000	$25
more than $100,000 but not over $250,000	$50
more than $250,000 but not over $500,000	$175

more than $500,000 but not over $1,000,000	$500
more than $1,000,000 but not over $5,000,000	$1,500
more than $5,000,000 but not over $25,000,000	$3,000
Over $25,000,000	$4,500

(iii) The amount of the filing fee surcharge for taxable years beginning on or after January first, two thousand twenty-six will be determined in accordance with the following table:

If the New York source gross income is:	The surcharge is:
not more than $1,000,000	$0
more than $1,000,000 but not over $5,000,000	$1,000
more than $5,000,000 but not over $10,000,000	$4,000
more than $10,000,000 but not over $25,000,000	$10,000
more than $25,000,000 but not over $100,000,000	$35,000
more than $100,000,000 but not over $500,000,000	$175,000
more than $500,000,000 but not over $1,000,000,000	$450,000
Over $1,000,000,000	$1,200,000

(C) No credits provided by this article may be taken against the fee or surcharge imposed by this paragraph.

(D) Where the filing fee or surcharge is not timely paid, it shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as taxes, and for those purposes any reference in this article to tax imposed by this article shall be deemed also to refer to this filing fee and surcharge.

(E) Notwithstanding the provisions of subsection (e) of section six hundred ninety-seven of this article, the commissioner shall provide the statements and other required information included on the filing fee and surcharge payment form under section three hundred one of the limited liability company law, subdivision (g) of section 121-1500 of the partnership law, and subdivision (f) of section 121-1502 of the partnership law, to the secretary of state for filing. Such provision may also include a copy or image of that portion of the report solely pertinent to such information to the extent feasible. The commissioner may also provide information on noncompliance.

(F) The filing fee surcharge set forth in clause (iii) of subparagraph (B) of this paragraph shall be collected for the purpose of supporting the provision of public goods provided for in sections twenty-eight hundred seven-l, twenty-eight hundred seven-m and twenty-eight hundred seven-v of the public health law.

§ 9. The tax law is amended by adding a new section 221 to read as follows:

§ 221. Public goods and Medicaid subsidy surcharge on misclassified workers. 1. A tax shall be imposed on any business corporation or other entity described pursuant to subdivision two of this section. Such tax shall be applied for each worker performing services, who is classified as an independent contractor, and who is not provided health benefits by the corporation or entity's health benefit plan which does not exceed an affordable employee contribution for health benefits as defined in the affordable care act and implementing regulations and as modified annually by the federal internal revenue service.

2. Business entities taxed pursuant to this section include:

(a)(i) Any business corporation or other entity that (1) uses an online platform or digital network to connect consumers to workers to provide personal services, including but not limited to passenger trans-

portation, shopping and delivery services, domestic services, or similar staffing and labor services, and (2) establishes the gross amounts earned by the worker, establishes the amounts charged to the consumer, collects payment from the consumer, pays the worker, or any combination of the foregoing.

(ii) Where a business corporation or other entity uses an online platform or digital network for the purposes of providing prearranged passenger transportation, this paragraph shall not apply unless such corporation or entity is a transportation network company, pursuant to article forty-four-B of the vehicle and traffic law, or a high-volume for-hire service, as defined in section 19-502 of the administrative code of the city of New York.

(b) Any business corporation or other entity which is a "contractor" engaged in "construction" as such terms are defined in article twenty-five-B of the labor law, and where the worker is not deemed a separate business entity pursuant to section eight hundred sixty-one-c of the labor law.

(c) Any business corporation or other entity which contracts with delivery drivers who are not employees of the business and are not covered by paragraph (a) or (b) of this subdivision.

3. The amount of the tax per worker for taxable years beginning on or after January first, two thousand twenty-six shall be determined in accordance with the following table:

If the number of workers is:	The tax per worker is:
not more than ten	$0
between eleven and twenty-five	$500
between twenty-six and fifty	$750
between fifty-one and one hundred	$1,500
more than one hundred	$2,000

§ 10. Subdivision (a) of section 92-dd of the state finance law, as amended by section 2 of part UU of chapter 59 of the laws of 2019, is amended to read as follows:

(a) On and after April first, two thousand five, such fund shall consist of the revenues heretofore and hereafter collected or required to be deposited pursuant to paragraph (a) of subdivision eighteen of section twenty-eight hundred seven-c, and sections twenty-eight hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred seven-t of the public health law, subdivision (b) of section four hundred eighty-two, clause (iii) of subparagraph (B) of paragraph three of subsection (c) of section six hundred fifty-eight and [~~section~~] sections fifteen hundred ten-a, two hundred twenty, eight hundred sixty-six-a and eleven hundred eighty-six of the tax law and required to be credited to the tobacco control and insurance initiatives pool, subparagraph (O) of paragraph four of subsection (j) of section four thousand three hundred one of the insurance law, section twenty-seven of part A of chapter one of the laws of two thousand two and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

§ 11. 1. Beginning April 1, 2027, the department of health, in cooperation with the NY State of Health, the Official Health Plan Marketplace established pursuant to title 7 of article 2 of the public health law, shall by April 1 of each subsequent year report to the legislature the following:

(a) The number of medical assistance recipients who: (i) upon enrollment or recertification had reported being employed, and beginning with

the 2027 report, the month and year they reported being hired; or (ii) upon enrollment or recertification had reported being the dependent of someone who was employed, and beginning with the 2027 report, the month and year they reported the employed person was hired. For recipients identified under subparagraphs (i) and (ii) of this paragraph, the department shall report the basis for their medical assistance eligibility, including but not limited to: family medical coverage, transitional medical assistance, children's medical coverage, aged coverage, or coverage for individuals with disabilities; member months; and the total cost to the state for these recipients, expressed as general fund-state and general fund-federal dollars. Such information shall be reported by employer size for employers having more than fifty employees or for contractors engaged in construction, as defined in article 25-B of the labor law, with gross revenues of more than five million dollars annually as recipients or with dependents as recipients. This information shall be provided for the preceding January and June of that year.

(b) The following aggregated information: (i) the number of employees who are recipients or with dependents as recipients by private and governmental employers; (ii) the number of employees who are recipients or with dependents as recipients aggregated by employer size for employers with fifty or fewer employees, fifty-one to one hundred employees, one hundred one to one thousand employees, one thousand one to five thousand employees and more than five thousand employees; and (iii) the number of employees who are recipients or with dependents as recipients by industry type.

(c) For each aggregated classification, the report shall include the number of hours worked, the number of covered recipients, and the total cost to the state for such recipients. Such information shall be provided for each quarter of the preceding year.

2. Beginning April 1, 2027, the department of health, in coordination with the NY State of Health, the Official Health Plan Marketplace established pursuant to title 7 of article 2 of the public health law, shall by April 1 of each subsequent year report to the legislature:

(a) The number of essential and/or basic health plan enrollees who: (i) upon enrollment or recertification had reported being employed, and beginning with the 2027 report, the month and year they reported being hired; or (ii) upon enrollment or recertification had reported being the dependent of someone who was employed, and beginning with the 2027 report, the month and year they reported the employed person was hired; and (iii) the total cost to the state for these enrollees. The information shall be reported by employer size for employers having more than fifty employees or for contractors engaged in construction, as defined in article 25-B of the labor law, with gross revenues of more than five million dollars annually as enrollees or with dependents as enrollees. Such information shall be provided for the preceding January and June of that year.

(b) The following aggregated information: (i) the number of employees who are enrollees or with dependents as enrollees by private and governmental employers; (ii) the number of employees who are enrollees or with dependents as enrollees aggregated by employer size for employers with fifty or fewer employees, fifty-one to one hundred employees, one hundred one to one thousand employees, one thousand one to five thousand employees and more than five thousand employees; and (iii) the number of employees who are enrollees or with dependents as enrollees by industry type.

(c) For each aggregated classification, the report shall include the number of hours worked, the number of covered lives, and total cost to the state for such enrollees. Such information shall be provided for each quarter of the preceding year.

§ 12. This act shall take effect April 1, 2026; provided, however, that if such act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2026; provided, however, that the amendments to section 2807-j of the public health law made by section three of this act shall not affect the expiration of such section and shall expire and be deemed repealed therewith; and provided further, however, that the amendments to section 2807-s of the public health law made by section four of this act shall not affect the expiration of such section and shall expire and be deemed repealed therewith.