



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2914

by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 1010/1-45

30 ILCS 105/5.878 new

Creates the Healthy Eating Active Living (HEAL) Act. Imposes a tax on distributors of sugar-sweetened beverages in the State at the rate of \$0.01 per ounce. Contains provisions concerning the distribution of the proceeds from the tax. Creates a multi-sector Advisory Council for Health and Wellness to govern the distribution of the proceeds. Amends the State Finance Act to create the Illinois Wellness Fund. Effective immediately.

LRB100 09641 HLH 19810 b

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Healthy Eating Active Living (HEAL) Act.

6 Section 5. Findings and purpose. The General Assembly finds
7 that:

8 Over the past 30 years, the obesity rate in the United
9 States has substantially increased. The prevalence of adult
10 obesity has more than doubled during that time. According to
11 statistics compiled by the Trust for America's Health, nearly
12 31% of Illinois' adult residents in 2015 were considered obese
13 (body mass index (BMI) of 30 and above) and the rate was even
14 higher among African American (40.7%) and Hispanic (36%)
15 residents.

16 For children, the increase in obesity has been even more
17 dramatic, with the obesity rate among children ages 6-11 more
18 than quadrupling over the last 4 decades. The State of Illinois
19 is not immune to the problem. Over 19% of Illinois children who
20 are 10 to 17 years of age are obese, the ninth worst rate in the
21 nation.

22 Obese children are at least twice as likely as non-obese
23 children to become obese adults. Research indicates that the

1 likelihood of an obese child becoming an obese adult increases
2 with age; adolescents who are obese have a greater likelihood
3 of being obese in adulthood as compared to younger children.

4 The obesity epidemic has led to a dramatic increase in
5 obesity-related health conditions, such as type 2 diabetes,
6 asthma, and heart disease. These health conditions cost the
7 nation billions of dollars in health care costs and lost
8 productivity. Overweight and obesity account for \$147 billion
9 in health care costs nationally, or 9% of all medical spending
10 per year. Obesity-related annual medical expenditures in the
11 State of Illinois are estimated at \$6.3 billion dollars, with
12 over \$1 billion of that as a cost to the State Medicaid
13 program.

14 Numerous studies have established a link between obesity
15 and consumption of sugar-sweetened beverages such as soft
16 drinks, energy drinks, sweet teas, and sports drinks. One study
17 found that just one sugary drink per day increased a child's
18 odds of becoming obese by 60%. Rigorous scientific studies show
19 that consuming sugary drinks leads to obesity and diabetes more
20 than any other food category. One meta analysis of 8 studies
21 examining the role of sugar-sweetened beverage consumption on
22 health found that consumption was significantly associated
23 with type 2 diabetes based on over 15,000 reported cases of
24 this condition. Additionally, consumption of sugar-sweetened
25 beverages has been linked to several diseases independent of a
26 person's weight status, including type 2 diabetes and heart

1 disease, making sugary drinks especially harmful to a person's
2 health. A 2014 study showed that regular consumption of sugary
3 drinks (at least 7 drinks per week) was associated with an
4 increased risk for death from cardiovascular disease. Adults
5 who drink 1 to 2 servings of sugary drinks per day are 26% more
6 likely to develop type 2 diabetes than those who drink 0 to 1
7 per month. A 2015 study in the journal *Circulation* suggested
8 that sugar-sweetened beverages are linked to 25,000 American
9 deaths per year.

10 Research has found that sugary drinks have a unique and
11 harmful effect on health. Liquid calories don't trigger a
12 person's sense of feeling "full", and contribute to excess
13 calorie consumption without the person being aware.

14 Consumption of sugar-sweetened beverages has gone up over
15 500% in the last 50 years, and those beverages are now the
16 number one source of added sugar in the American diet (51% of
17 added sugars when considering soda, energy drinks, sports
18 drinks, fruit drinks, and sweetened teas). A study of a 5-year
19 period between 1999 and 2004 showed that children and
20 adolescents consumed 10-15% of their daily caloric intake from
21 sugar-sweetened beverages, which offer little or no
22 nutritional value and massive quantities of added sugars. For
23 example, a single 12-ounce can of soda contains the equivalent
24 of approximately 10 teaspoons of sugar; the American Heart
25 Association recommends that children over the age of 2 and
26 women consume no more than 6 teaspoons of added sugar per day

1 and men consume no more than 9 teaspoons of added sugar per
2 day. The World Health Organization recommends limiting added
3 sugar intake to no more than 10% of an individual's total
4 energy intake. Teenagers and young adults drink more sugary
5 drinks than other age groups, and low-income persons consume
6 more sugary drinks in relation to their overall diet than those
7 with higher income.

8 In its adult and pediatric nutrition recommendations, the
9 American Heart Association recommends that no-calorie and
10 low-calorie beverages like water, diet soft drinks, fat free or
11 low fat milk, and other beverages that have 5 grams or less of
12 added caloric sweetener per 12 fluid ounces are better choices
13 than full calorie soft drinks, and Americans should limit the
14 amount of added sugars in the foods they eat. The U.S.D.A. 2010
15 Dietary Guidelines for Americans also recommends limiting
16 added sugars in the diet and reducing intake of sugar-sweetened
17 beverages.

18 The Institute of Medicine recommends a multi-pronged
19 approach to obesity prevention, including: integrating
20 physical activity opportunities into communities, making
21 healthy food and beverages available everywhere, adopting
22 policies and practices to reduce sugar-sweetened beverage
23 consumption, improving marketing and messaging to the public
24 regarding adopting a healthy lifestyle, expanding the role of
25 health care providers, insurers, and employers in obesity
26 prevention, and working to improve school health and wellness.

1 Studies have shown that, when compared with more affluent
2 communities, low-income communities have less access to fresh,
3 affordable food, contain more fast food places in the
4 communities and near their schools, and have less access to
5 safe places to get physical activity, including access to fewer
6 adequate sidewalks. Additionally, the American Medical
7 Association adopted Clinical Practice Guidelines for the
8 treatment of pediatric overweight, which the American Academy
9 of Pediatrics has adopted and recommends to providers.

10 A study by researchers at the University of Chicago found
11 that a penny-per-ounce excise tax on sugar-sweetened beverages
12 in Illinois could result in a 23.5% reduction in
13 sugar-sweetened beverage consumption, 185,127 fewer obese
14 Illinoisans (a 9.3% reduction in youth obesity and 5.2%
15 reduction in adult obesity), 3,442 fewer incidences of
16 diabetes, and a \$150.8 million reduction in obesity-related
17 healthcare costs in the first year. Another study found that
18 reducing obesity by 5% in Illinois could save Illinois \$9
19 billion over the next 10 years. The World Health Organization
20 recommends that governments impose a tax on sugar-sweetened
21 beverages to address obesity. The tax is estimated to raise
22 over \$600 million in the first year in Illinois.

23 It is the intent of the General Assembly, by adopting this
24 Act and creating an Illinois Wellness Fund to provide targeted
25 prevention initiatives in Illinois communities and additional
26 health and prevention funding to Medicaid, to diminish the

1 human and economic costs of sugar-sweetened beverages,
2 obesity, and related chronic disease in the State of Illinois.
3 This Act is intended to create a dedicated revenue source for
4 programs designed to prevent and treat obesity and related
5 chronic diseases by creating and implementing expanded
6 opportunities for Illinoisans to be healthy, especially in
7 high-need communities, and to discourage excessive consumption
8 of sugar-sweetened beverages by increasing the price of these
9 products, thereby reducing the health and economic burden of
10 sugar-sweetened drinks in Illinois.

11 Section 10. Definitions. For purposes of this Act:

12 "Advisory Council" means the Advisory Council for Health
13 and Wellness established under Section 70.

14 "Bottle" means any closed or sealed container regardless of
15 size or shape, including, without limitation, those made of
16 glass, metal, paper, plastic, or any other material or
17 combination of materials.

18 "Bottled sugar-sweetened beverage" means any
19 sugar-sweetened beverage contained in a bottle that is ready
20 for consumption without further processing such as, without
21 limitation, dilution or carbonation.

22 "Caloric sweetener" means any caloric substance suitable
23 for human consumption which adds calories to the diet of a
24 person who consumes that substance, is used as an ingredient of
25 a beverage, syrup, or powder, and includes, without limitation,

1 sucrose, fructose, glucose, fruit juice concentrate, or other
2 sugars. "Caloric sweetener" excludes non-caloric sweeteners.

3 "Consumer" means a person who purchases a sugar-sweetened
4 beverage for consumption and not for sale to another.

5 "Department" means the Department of Revenue.

6 "Distribute" means the act, by any person, including
7 manufacturers and wholesale dealers, of receiving, storing,
8 manufacturing, or bottling sugar-sweetened beverages, syrups,
9 or powders for sale to retailers doing business in the State,
10 whether or not that person also sells those products to
11 consumers.

12 "Distributor" means any person, including manufacturers
13 and wholesale dealers, who distributes bottled sugar-sweetened
14 beverages, syrups, or powders, for sale to retailers doing
15 business in the State, whether or not that person also sells
16 such products to consumers.

17 "Fund" means the Illinois Wellness Fund, established
18 pursuant to Section 55.

19 "High-need population" means a population or community,
20 defined geographically or as a group, designated as a high-need
21 population by the Department of Public Health by rule pursuant
22 to subsection (b) of Section 60 of this Act.

23 "Non-caloric sweetener" means any non-caloric substance
24 suitable for human consumption which does not add calories to
25 the diet of a person who consumes that substance, is used as an
26 ingredient of a beverage, syrup, or powder, and includes,

1 without limitation, aspartame, saccharin, stevia, and
2 sucralose. "Non-caloric sweetener" excludes caloric
3 sweeteners.

4 "Person" means any natural person, partnership,
5 cooperative association, limited liability company,
6 corporation, personal representative, receiver, trustee,
7 assignee, or any other legal entity.

8 "Place of business" means any place where sugar-sweetened
9 beverages, syrups, or powders are manufactured or received for
10 sale in the State.

11 "Powders" means any solid mixture of ingredients used in
12 making, mixing, or compounding sugar-sweetened beverages by
13 mixing the powder with any one or more other ingredients,
14 including without limitation water, ice, syrup, simple syrup,
15 fruits, vegetables, fruit juice, vegetable juice, carbonation
16 or other gas. A powder which indicates on the label that it can
17 be mixed with water is subject to the tax. Notwithstanding any
18 other provision, a powder is not subject to the tax if the
19 label contains either or both of the following instructions:
20 (1) that the powder should not be mixed with water; or (ii)
21 that the powder is intended by the manufacturer to be mixed
22 only with alcohol or milk.

23 "Retailer" means any person who sells or otherwise
24 dispenses in the State a sugar-sweetened beverage to a consumer
25 whether or not that person is also a distributor as defined in
26 this Section.

1 "Sale" means the transfer of title or possession for
2 valuable consideration regardless of the manner by which the
3 transfer is completed.

4 "Simple syrup" means a substance comprised of one or more
5 caloric sweeteners and water or ice.

6 "State" means the State of Illinois.

7 "Sugar-sweetened beverage" means any nonalcoholic
8 beverage, carbonated or noncarbonated, which is intended for
9 human consumption and contains more than 5 grams of caloric
10 sweetener per 12 fluid ounces. As used in this definition,
11 "nonalcoholic beverage" means any beverage that contains less
12 than one-half of one percent alcohol per volume. The term
13 "sugar-sweetened beverage" does not include:

14 (1) beverages sweetened solely with non-caloric
15 sweeteners;

16 (2) beverages sweetened with 5 grams or less of caloric
17 sweeteners per 12 fluid ounces;

18 (3) beverages consisting of 100% natural fruit or
19 vegetable juice with no caloric sweetener; for purposes of
20 this paragraph, "natural fruit juice" and "natural
21 vegetable juice" mean the original liquid resulting from
22 the pressing of fruits or vegetables, juice concentrate, or
23 the liquid resulting from the dilution with water of
24 dehydrated natural fruit juice or natural vegetable juice;

25 (4) beverages in which milk, or soy, rice, or similar
26 milk substitute, is the primary ingredient or the first

1 listed ingredient on the label of the beverage; for
2 purposes of this Act, "milk" means natural liquid milk
3 regardless of animal or plant source or butterfat content,
4 natural milk concentrate, whether or not reconstituted,
5 regardless of animal or plant source or butterfat content,
6 or dehydrated natural milk, whether or not reconstituted
7 and regardless of animal or plant source or butterfat
8 content;

9 (5) coffee or tea without caloric sweetener;

10 (6) infant formula;

11 (7) medically necessary foods, as defined in the
12 federal Orphan Drug Act; and

13 (8) water without any caloric sweeteners.

14 "Syrup" means a liquid mixture of ingredients used in
15 making, mixing, or compounding sugar-sweetened beverages using
16 one or more other ingredients including, without limitation,
17 water, ice, a powder, simple syrup, fruits, vegetables, fruit
18 juice, vegetable juice, carbonation, or other gas. A syrup
19 which indicates on the label that it can be mixed with water is
20 subject to the tax. Notwithstanding any other provision, a
21 syrup is not subject to the tax if the label contains either or
22 both of the following instructions: (i) that the syrup should
23 not be mixed with water; or (ii) that the syrup is intended by
24 the manufacturer to be mixed only with alcohol or milk.

25 Section 15. Permit required.

1 (a) Beginning May 1, 2017, every distributor doing business
2 in the State who wishes to engage in the business of selling
3 sugar-sweetened beverages, syrups, or powders subject to tax
4 under this Act shall file with the Department an application
5 for a permit to engage in such business. An application shall
6 be filed for each place of business owned and operated by the
7 distributor. An application for a permit shall be filed on
8 forms to be furnished by the Department for that purpose. Each
9 such application shall be signed and verified and shall state:
10 (1) the name and federal tax identification number of the
11 applicant; (2) the address of the applicant's principal place
12 of business; (3) the address of the principal place of business
13 from which the applicant engages in the business of
14 distributing sugar-sweetened beverages, syrups, or powders to
15 retailers in this State and the addresses of all other places
16 of business, if any (enumerating such addresses, if any, in a
17 separate list attached to and made a part of the application),
18 from which the applicant engages in the business of
19 distributing sugar-sweetened beverages, syrups, or powders to
20 retailers in this State; (4) the name and address of the person
21 or persons who will be responsible for filing returns and
22 payment of taxes due under this Act; (5) in the case of a
23 corporation, the name, title, and social security number of
24 each corporate officer; (6) in the case of a limited liability
25 company, the name, social security number, and FEIN number of
26 each manager and member; and (7) such other information as the

1 Department may reasonably require. The application shall
2 contain an acceptance of responsibility signed by the person or
3 persons who will be responsible for filing returns and payment
4 of the taxes due under this Act.

5 (b) The Department may deny a permit to any applicant if a
6 person who is named as the owner, a partner, a manager or
7 member of a limited liability company, or a corporate officer
8 of the applicant on the application for the certificate of
9 registration, is or has been named as the owner, a partner, a
10 manager or member of a limited liability company, or a
11 corporate officer, on the application for the permit or
12 certificate of registration of a retailer under the Retailers'
13 Occupation Tax Act that is in default for moneys due under this
14 Act or any other tax or fee Act administered by the Department.
15 For purposes of this paragraph only, in determining whether a
16 person is in default for moneys due, the Department shall
17 include only amounts established as a final liability within
18 the 20 years prior to the date of the Department's notice of
19 denial of a certificate of registration. The Department, in its
20 discretion, may require that the application for permit be
21 submitted electronically.

22 (c) Upon receipt of an application and the annual permit
23 fee of \$250, the Department may issue to the applicant, for the
24 place of business designated, a permit, authorizing the sale of
25 sugar-sweetened beverages, syrups, and powders in the State. No
26 distributor shall sell any sugar-sweetened beverage, syrup, or

1 powders without first obtaining a permit to do so under this
2 Act. Permits issued pursuant to this Section shall expire one
3 year from the date of issuance and may be renewed annually.
4 Fees shall be deposited into the Tax Compliance and
5 Administration Fund.

6 (d) A permit may not be transferred or assigned from one
7 person to another, and a permit shall at all times be
8 prominently displayed in a distributor's place of business. The
9 Department may refuse to issue a permit to any person
10 previously convicted of violations of this Act under such
11 procedures as the Department may establish by rule.

12 (e) The Department may, in its discretion, issue the permit
13 electronically.

14 Section 20. Tax imposed.

15 (a) Beginning on May 1, 2017, there is imposed a tax on
16 every distributor for the privilege of selling the products
17 governed by this Act in the State. The tax shall be imposed at
18 the rate of \$0.01 per ounce of bottled sugar-sweetened
19 beverages distributed to a retailer in the State. The tax on
20 syrup and powder distributed to a retailer in the State, either
21 as syrup or powder or as a sugar-sweetened beverage derived
22 from that syrup or powder, is equal to \$0.01 per ounce for each
23 ounce of sugar-sweetened beverage produced from that syrup or
24 powder. For purposes of calculating the tax, the volume of
25 sugar-sweetened beverage produced from syrup or powder shall be

1 the larger of (i) the largest volume resulting from use of the
2 syrup or powder according to any manufacturer's instructions or
3 (ii) the volume actually produced by the retailer. The taxes
4 imposed by this Section are in addition to any other taxes that
5 may apply to persons or products subject to this Act.

6 (b) If and only if the tax imposed under subsection (a), or
7 the application thereof to any person or circumstance, shall,
8 for any reason, be adjudged by a court of competent
9 jurisdiction to violate the Constitution of the United States
10 or the Constitution of the State of Illinois, or otherwise be
11 adjudged invalid, the following language shall be used to
12 replace subsection (a) for the purpose of arriving at
13 satisfactory implementation of the Act:

14 (1) The tax shall be imposed at the rate of \$0.004 per
15 gram of caloric sweetener in bottled sugar-sweetened
16 beverages containing more than 5 grams of caloric sweetener
17 per 12 ounces of liquid (or 0.41 grams per ounce) sold or
18 transferred to a retailer in the State.

19 (2) The tax on syrup and powder sold or transferred to
20 a retailer in the State, either as syrup or powders or as a
21 sugar-sweetened beverage derived from that syrup or
22 powders, is equal to \$0.004 per gram of caloric sweetener
23 in sugar-sweetened beverages that contains more than 5
24 grams of caloric sweetener per 12 ounces of liquid (or 0.41
25 grams per ounce) produced from that syrup or powder; for
26 purposes of calculating the tax, the volume of

1 sugar-sweetened beverage produced from syrup or powders
2 shall be the larger of (i) the largest volume resulting
3 from use of the syrup or powder according to any
4 manufacturer's instructions or (ii) the volume actually
5 produced by the retailer.

6 (c) A retailer that sells bottled sugar-sweetened
7 beverages, syrups, or powders in the State to a consumer, on
8 which the tax imposed by this Section has not been paid by a
9 distributor, is liable for the tax imposed in subsection (a) or
10 (b), as applicable, at the time of sale to a consumer.

11 Section 30. Report of sales and tax remittances.

12 (a) Any distributor or retailer liable for the tax imposed
13 by this Act shall, on or before the twentieth day of each
14 calendar month, return to the Department a statement containing
15 its name and place of business, the quantity of sugar-sweetened
16 beverages, syrup, and powders subject to the tax imposed by
17 this Act sold or offered for sale in the month preceding the
18 month in which the report is due, and any other information
19 required by the Department, along with the tax due.

20 (b) If the taxpayer's average monthly tax liability to the
21 Department under this Act, was \$20,000 or more during the
22 preceding 4 complete calendar quarters, he shall file a return
23 with the Department each month by the twentieth day of the next
24 month following the month during which such tax liability is
25 incurred and shall make payment to the Department on or before

1 the 7th, 15th, 22nd, and last day of the month during which
2 such liability is incurred.

3 (c) The Department, in its discretion, may require that
4 returns be submitted and payments be made electronically.

5 Section 35. Records of distributors. Every distributor and
6 every retailer subject to this Act shall maintain for not less
7 than 4 years accurate books and records, showing all
8 transactions that gave rise, or may have given rise, to tax
9 liability under this Act. Such records are subject to
10 inspection by the Department at all reasonable times during
11 normal business hours.

12 Section 40. Exemptions. The following shall be exempt from
13 the tax imposed under this Act:

14 (1) Bottled sugar-sweetened beverages, syrups, and
15 powders sold by a distributor or a retailer expressly for
16 resale or consumption outside of the State.

17 (2) Bottled sugar-sweetened beverages, syrups, and
18 powders sold by a distributor to another distributor that
19 holds a permit issued under Section 15. For this exemption
20 to apply, the sales invoice shall clearly indicate that
21 this subsection applies to the sale.

22 (3) Bottled sugar-sweetened beverages, syrups, and
23 powders sold to a person who is both a distributor and a
24 retailer. For this exemption to apply, the tax shall be

1 levied when the purchasing distributor-retailer resells
2 the product to a retailer or a consumer. This exemption
3 does not apply to any other sale to a retailer.

4 At no time shall the tax imposed under this Act be imposed
5 more than once per product sold.

6 Section 45. Penalties.

7 (a) Any distributor, retailer, or other person subject to
8 the provisions of this Act who fails to pay the entire amount
9 of tax imposed by this Act by the date that payment is due,
10 fails to submit a report or maintain records required by this
11 Act, does business in the State of Illinois without first
12 obtaining a permit as required by this Act, or violates any
13 other provision of this Act, or rules and regulations adopted
14 by the Department for the enforcement of this Act, shall be
15 guilty of a misdemeanor and shall also be liable for the
16 penalties set forth and incorporated by reference into this
17 Section.

18 (b) Incorporation by reference. All of the provisions of
19 Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b,
20 6c, 8, 9, 10, 11, 11a, and 12 of the Retailers' Occupation Tax
21 Act, and all applicable provisions of the Uniform Penalty and
22 Interest Act that are not inconsistent with this Act, apply to
23 distributors of sugar-sweetened beverages to the same extent as
24 if those provisions were included in this Act. References in
25 the incorporated Sections of the Retailers' Occupation Tax Act

1 to retailers, to sellers, or to persons engaged in the business
2 of selling tangible personal property mean distributors and
3 retailers when used in this Act. References in the incorporated
4 Sections to sales of tangible personal property mean sales of
5 sugar-sweetened beverages, syrups, or powders when used in this
6 Act.

7 (c) In addition to any other penalty authorized by law, a
8 permit issued pursuant to Section 15 shall be suspended or
9 revoked if any court of competent jurisdiction determines, or
10 the Department finds based on a preponderance of the evidence,
11 after the permittee is afforded notice and an opportunity to be
12 heard, that the permittee, or any of the permittee's agents or
13 employees, has violated any of the requirements, conditions, or
14 prohibitions of this Act. For a first violation of this Act
15 within any 60-month period, the permit shall be suspended for
16 30 days. For a second violation of this Act within any 60-month
17 period, the permit shall be suspended for 90 days. For a third
18 violation of this Act within any 60-month period, the permit
19 shall be suspended for one year. For a fourth or subsequent
20 violation of this Act within any 60-month period, the license
21 shall be revoked.

22 (d) A decision of the Department under this Section is a
23 final administrative decision and is subject to review by the
24 Illinois Independent Tax Tribunal.

25 Section 50. Unpaid taxes a debt. The tax herein required to

1 be paid by any person distributing sugar-sweetened beverages,
2 powders, or syrup for sale to a retailer in the State, and any
3 such tax required to be paid by that person shall constitute a
4 debt owed by that person to this State.

5 Section 55. Revenue distribution; establishment of
6 Illinois Wellness Fund. The Illinois Wellness Fund is hereby
7 created as a special fund in the State Treasury. All the moneys
8 collection by the Department pursuant to the taxes imposed by
9 Section 20 shall be deposited as follows; 2% shall be deposited
10 into the Tax Compliance and Administration Fund for the
11 administrative costs of the Department, and 98% shall be
12 deposited into the Illinois Wellness Fund. Of the moneys
13 deposited into the Illinois Wellness Fund on a monthly basis,
14 the following amounts shall remain in the fund and be used for
15 the purposes set forth in Section 60 of this Act:

- 16 (a) \$4,167,000 until June 30, 2018;
17 (b) \$6,250,000 from July 1, 2018 until June 30, 2019; and
18 (c) \$8,334,000 after July 1 2019.

19 The remainder of the monthly balance shall be deposited
20 into the Healthcare Provider Relief Fund. Beginning July 1,
21 2019, those funds shall be used for the purposes set forth in
22 Section 65 of this Act.

23 Section 60. Expenditure of Illinois Wellness Fund for
24 community prevention and wellness initiatives.

1 (a) The moneys remaining in the Illinois Wellness Fund
2 shall be used to support community prevention and wellness
3 initiatives, as follows:

4 (1) One-half of one percent (0.5%) shall be dedicated
5 to administration of the Fund by the Department of Public
6 Health, and an additional 0.5% shall be appropriated to the
7 Department of Public Health for the purpose of providing
8 administrative support to the Advisory Council and a
9 Healthy in All Policies coordinator.

10 (2) At least 1% but not more than 2% shall be dedicated
11 to evaluation of the impact of the Act on the health and
12 wellness of Illinoisans. Evaluation of the Act shall be
13 conducted by an independent evaluator selected by the
14 Department of Public Health in consultation with the
15 Advisory Council. Those funds may also be used to support
16 relevant surveillance systems to support tracking of the
17 impact of the Act. The evaluation shall encompass the
18 impact of the Illinois Wellness Fund and the tax on the
19 consumption of sugar-sweetened beverages and obesity
20 rates, among other indicators. The evaluation shall also
21 include a summary of how moneys in the Illinois Wellness
22 Fund were allocated to eligible entities and spent within
23 the Illinois Medicaid program. The evaluator shall report
24 annually to the Advisory Council on the progress and
25 results of the evaluation.

26 (3) Two percent shall be dedicated to eligible entities

1 to provide technical assistance to and statewide
2 coordination of strategies and activities of recipients of
3 funding from the Fund, including, but not limited to,
4 training and education around obesity prevention best
5 practices, coordination of strategies across grantees, and
6 quality improvement for obesity prevention and treatment
7 initiatives.

8 (4) Twenty percent shall be allocated to local health
9 departments via a formula developed by the Illinois
10 Department of Public Health based on population and need.
11 These funds shall not supplant existing State funding. The
12 moneys allocated under this paragraph (4) shall be used for
13 the following activities and services:

14 (A) conducting evidence-based obesity and chronic
15 disease prevention efforts to achieve at least one of
16 the following goals: eliminating racial, ethnic, and
17 socioeconomic disparities in obesity and chronic
18 disease incidence; improving access to and consumption
19 of healthy, safe, and affordable foods; reducing
20 access to and consumption of calorie-dense,
21 nutrient-poor foods; encouraging physical activity and
22 decreasing sedentary behavior; raising awareness about
23 the importance of nutrition and physical activity for
24 the prevention of chronic diseases; supporting the
25 consumption of foods that are grown or produced
26 locally; supporting the use of evidence-based clinical

1 preventive services; and promoting breastfeeding; and

2 (B) leading and coordinating the efforts of other
3 organizations in their jurisdictions that are engaged
4 in similar efforts to achieve these goals, whether
5 funded through this Act or otherwise.

6 (5) The remaining money shall be used to support the
7 prevention of obesity, diabetes, cardiovascular disease,
8 and cancer, as well as oral health improvements, and shall
9 not be used to supplant existing State funds. At least 50%
10 of the funds allocated under this item (5) shall be
11 allocated to eligible entities serving high-need
12 populations. The Department of Public Health shall adopt
13 rules to designate high-need populations. The rules shall
14 establish the poverty rate as the primary indicator of
15 need, and, to the extent data is available, rates of
16 obesity and nutrition and physical activity-related
17 chronic diseases, sugary drink consumption, and population
18 density as sub-indicators of need for prioritizing funds.
19 The Department shall use the most up-to-date and valid data
20 available. These prevention initiatives shall include, but
21 are not limited to, the following:

22 (A) funds to support school and early childhood
23 health and wellness, including increased access to
24 healthy foods, increased physical activity and
25 physical education, improved quality of physical
26 education, increased nutrition education, improved

1 health, mental health, oral health, and social
2 services in schools, increased opportunities for home
3 economics courses (cooking and healthy grocery
4 shopping education) and school and early childhood
5 education facility improvements that support health;

6 (B) funds to support community nutrition and
7 access to healthy foods, including nutrition
8 education, healthy cooking programs, healthy vending
9 initiatives, healthy food procurement, education
10 regarding shopping for healthy foods, increased
11 support for breastfeeding promotion programs, and
12 increasing access to healthy foods, including through
13 reducing the prevalence and effects of food deserts;

14 (C) funds to support physical activity in
15 communities, including active transportation,
16 community walkability and bike-ability initiatives,
17 multi-use trails, joint-use agreements, safe routes to
18 schools programs, educational programs that promote
19 physical activity, physical activity in after school
20 programs, environmental changes that increase physical
21 activity; initiatives that create physically safe and
22 accessible areas for physical activity and play;

23 (D) funds to support worksite wellness, including
24 promotion of nutrition, physical activity and
25 preventive services in worksites, workplace policies,
26 and environmental changes that support employee

1 wellness;

2 (E) funds to support local food systems, including
3 promotion of, access to, and consumption of local
4 foods, farm-to-school and farm-to-institution
5 programs, community gardens, urban agriculture
6 projects, community-supported agriculture programs,
7 farmers markets and double-value coupons programs for
8 SNAP recipients at farmers markets, food hubs,
9 beginning farmer training programs, and farm stands;
10 and

11 (F) funds to support oral health improvement,
12 including increased access to oral health education,
13 dental sealants for children, and use of community
14 prevention and health education strategies that reduce
15 risk factors for oral and pharyngeal cancers.

16 (b) All moneys in the Illinois Wellness Fund, spent in
17 accordance with this Section, shall be expended only for the
18 purposes expressed in this Act and shall be used only to
19 supplement existing levels of service and not to supplant
20 current federal, State, or local funding for existing levels of
21 services as provided in fiscal year 2014. Entities that are
22 eligible to receive moneys from this Section include:

23 (1) community-based health improvement coalitions,
24 including, but not limited to:

25 (A) schools and early childhood education centers;

26 (B) non-profit community-based organizations;

1 (C) Federally Qualified Health Centers, community
2 health centers, and organizations which operate a
3 school-based health center certified by the Illinois
4 Department of Public Health;

5 (D) non-profit hospitals and health systems,
6 particularly safety net hospitals;

7 (E) Illinois farms producing primarily fruits,
8 vegetables, and tree nuts for direct human consumption
9 by Illinois residents;

10 (F) faith-based organizations;

11 (G) policy, research, or training institutes or
12 centers; and

13 (H) local public health, planning, and
14 transportation departments, and local park and school
15 districts; and

16 (2) individual non-profit community-based
17 organizations, including faith-based organizations,
18 working to improve health, as determined by the Advisory
19 Council;

20 (3) units of local government, including local public
21 health departments, local planning and transportation
22 departments, local school districts, and local park
23 districts;

24 (4) statewide or regional non-profit organizations,
25 including those with local chapters, members, or
26 affiliates; and

1 (5) non-profit universities, public universities, and
2 institutions of higher learning.

3 (c) The Department of Public Health shall distribute the
4 moneys under this Section via grants to eligible entities
5 within 120 days after the start of each fiscal year including:

6 (1) allocation of funds for staff and resources needed
7 to administer the Fund and Advisory Council, including a
8 Health in All Policies Coordinator;

9 (2) distribution of funds allocated to local health
10 departments via formula as described in Section 60; and

11 (3) distribution of the remaining funds to eligible
12 entities as recommended by the Advisory Council for Health
13 and Wellness based on a request for proposal process; at
14 least half of the funds shall be dedicated to entities
15 serving high-need communities.

16 Funds may be distributed as multi-year grants.

17 Section 65. Expenditures of the Illinois Wellness Fund for
18 the Illinois Medicaid Program. Beginning July 1, 2019, the
19 moneys collected in the Illinois Wellness Fund and deposited
20 into the Healthcare Provider Relief Fund shall be expended by
21 the Department of Healthcare and Family Services for expanded
22 prevention and obesity treatment services for Medicaid
23 beneficiaries. The Department shall seek all required
24 amendments to the existing State Plan. The Department of
25 Healthcare and Family Services shall submit a report at the end

1 of each State fiscal year to the Advisory Council on the
2 expanded services provided along with the savings and costs
3 associated with these services to the Medicaid program. The
4 Department of Healthcare and Family Services shall cover the
5 following prevention and obesity treatment services for all
6 Medicaid beneficiaries:

7 (1) all services recommended for pediatric prevention,
8 assessment and treatment of overweight and obesity set
9 forth by the American Academy of Pediatrics (clinical
10 practice guidelines) and those recommended by the U.S.
11 Preventive Services Task Force Grade B Recommendation to
12 screen for obesity in children and adolescents, including
13 clinical pediatric weight management treatment programs;
14 Medicaid benefits must follow these recommendations and
15 reimbursement rates must be set at a level that ensures
16 appropriate access to services outlined in the
17 recommendations;

18 (2) community-based, evidence-based lifestyle change
19 physical activity and nutrition programs, diabetes and
20 other health-behavior focused chronic disease
21 self-management and chronic disease prevention programs
22 for children and adults, including, but not limited to,
23 participation in the evidence-based Diabetes Prevention
24 Program, MEND program, Chronic Disease Self-Management
25 Program, and Diabetes Self-Management Program;

26 (3) evidence-based diabetes education programs;

1 (4) medical nutrition therapy, care coordination,
2 weight management programs, diabetes education and
3 multi-disciplinary obesity treatment programs for
4 overweight and obese children and adults, including
5 coverage for services from dietitians, social workers,
6 psychologists, and pharmacists; and

7 (5) dental prevention services, including routine oral
8 health screenings, cleanings, and oral health maintenance
9 services for adults.

10 Section 70. Illinois Wellness Fund governance.

11 (a) The Illinois Wellness Fund shall be governed by a
12 multi-sector Advisory Council for Health and Wellness, with
13 administration by the Department of Public Health and
14 Department of Healthcare and Family Services as described
15 below. The Advisory Council for Health and Wellness shall be
16 established by December 31, 2017 and be comprised of:

17 (1) one ex officio representative from each of the
18 following Departments: the Department of Public Health,
19 the Department of Human Services, the State Board of
20 Education, the Department on Aging, the Department of
21 Healthcare and Family Services, the Department of
22 Transportation, and the Department of Agriculture,
23 appointed by the Director or Secretary of the respective
24 Department;

25 (2) one obesity prevention advocate representing a

1 statewide coalition working on reducing obesity through
2 policy, systems, and environmental changes, appointed by
3 the Governor;

4 (3) one person representing primary or secondary
5 education, or both, appointed by the Governor;

6 (4) one representative of a statewide organization
7 focusing on chronic disease prevention, appointed by the
8 Governor;

9 (5) one representative of an organization or coalition
10 focusing on active transportation, appointed by the
11 Governor;

12 (6) one representative of an organization or coalition
13 focusing on employer wellness initiatives, appointed by
14 the Governor;

15 (7) one person representing access to healthy foods
16 initiatives, appointed by the Governor;

17 (8) one person representing community-based obesity
18 prevention programs, appointed by the Governor;

19 (9) one representative of an association representing
20 hospitals across the State, appointed by the Governor;

21 (10) one person representing public health
22 departments, appointed by the Governor;

23 (11) one representative of an association representing
24 public health practitioners, appointed by the Governor;

25 (12) one representative of an organization
26 representing pediatricians in the State, appointed by the

1 Governor;

2 (13) one representative of an organization
3 representing primary care providers in the State,
4 appointed by the Governor;

5 (14) one person representing community based healthy
6 eating-active living coalitions, appointed by the
7 Governor;

8 (15) one person representing communities of color or
9 communities that are disproportionately impacted by
10 obesity, appointed by the Governor;

11 (16) one person representing faith-based
12 organizations, appointed by the Governor;

13 (17) one person representing an organization working
14 in behavioral health, appointed by the Governor;

15 (18) one person representing the general public,
16 appointed by the Governor; and

17 (19) four members of the General Assembly, one
18 appointed by each of the following: the Speaker and
19 Minority Leader of the Illinois House of Representatives
20 and the President and Minority Leader of the Illinois
21 Senate; the members appointed by the Speaker and the
22 President of the Senate shall serve as co-chairs of the
23 Advisory Council.

24 (b) The public members of the Advisory Council for Health
25 and Wellness shall serve 4-year terms, and may be reappointed
26 for consecutive terms. Members whose terms expire shall

1 continue to serve until their successors are appointed and
2 qualified. The legislative members of the Advisory Council for
3 Health and Wellness shall serve 2-year terms that correspond to
4 each General Assembly, except that the incumbent shall continue
5 to serve until reappointed or replaced.

6 (c) The Advisory Council for Health and Wellness shall have
7 the following powers and duties:

8 (1) to make recommendations to Department of Public
9 Health on fund allocation categories every 3 years based on
10 the State's current conditions and needs related to
11 nutrition and physical activity-related chronic disease
12 prevention and the results of the Act evaluation report;

13 (2) to develop and implement a request for proposal
14 (RFP) process for allocating the Illinois Wellness Fund
15 moneys via grants to eligible entities across the State
16 each year (or via multi-year grants);

17 (3) oversight of the request for proposals process,
18 including advising on the selection of eligible entities to
19 receive funds and submission of funding recommendations to
20 the Department of Public Health for funding for eligible
21 entities for initiatives as described in Section 60 within
22 120 days of the start of the fiscal year;

23 (4) to advise on the selection of evaluators and
24 provide input on the evaluation design, goals, and methods
25 at least annually, and to receive and review progress
26 reports on the evaluation;

1 (5) to annually receive and review the evaluation
2 progress report and Medicaid services, costs, and savings
3 report related to this Act; and

4 (6) to submit a report to the General Assembly every 3
5 years on the allocation of the funds and summary results of
6 the impact evaluation of the Illinois Wellness Fund and the
7 tax imposed under this Act.

8 Section 75. Rulemaking. No later than August 31, 2017, the
9 Department of Public Health shall adopt rules for the
10 distribution of Illinois Wellness Fund moneys for community
11 prevention, pursuant to Section 60. No later than August 31,
12 2017, the Department of Healthcare and Family Services shall
13 adopt rules for the allocation and distribution of Wellness
14 Fund moneys to support prevention in the Medicaid program
15 pursuant to Section 65. No later than April 30, 2017, the
16 Department of Revenue shall adopt rules to implement the
17 provisions of this Act related to the implementation,
18 collection, and deposition of the tax, so that taxes will be
19 collected beginning May 1, 2017.

20 Section 97. Severability. The provisions of this Act are
21 severable under Section 1.31 of the Statute on Statutes.

22 Section 200. The Illinois Independent Tax Tribunal Act of
23 2012 is amended by changing Section 1-45 as follows:

1 (35 ILCS 1010/1-45)

2 Sec. 1-45. Jurisdiction of the Tax Tribunal.

3 (a) Except as provided by the Constitution of the United
4 States, the Constitution of the State of Illinois, or any
5 statutes of this State, including, but not limited to, the
6 State Officers and Employees Money Disposition Act, the Tax
7 Tribunal shall have original jurisdiction over all
8 determinations of the Department reflected on a Notice of
9 Deficiency, Notice of Tax Liability, Notice of Claim Denial, or
10 Notice of Penalty Liability issued under the Illinois Income
11 Tax Act, the Use Tax Act, the Service Use Tax Act, the Service
12 Occupation Tax Act, the Retailers' Occupation Tax Act, the
13 Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco
14 Products Tax Act of 1995, the Hotel Operators' Occupation Tax
15 Act, the Motor Fuel Tax Law, the Automobile Renting Occupation
16 and Use Tax Act, the Coin-Operated Amusement Device and
17 Redemption Machine Tax Act, the Gas Revenue Tax Act, the Water
18 Company Invested Capital Tax Act, the Telecommunications
19 Excise Tax Act, the Telecommunications Infrastructure
20 Maintenance Fee Act, the Public Utilities Revenue Act, the
21 Electricity Excise Tax Law, the Aircraft Use Tax Law, the
22 Watercraft Use Tax Law, the Gas Use Tax Law, ~~or~~ the Uniform
23 Penalty and Interest Act, or the Healthy Eating Active Living
24 (HEAL) Act. Except with respect to the Healthy Eating Active
25 Living (HEAL) Act, jurisdiction ~~Jurisdiction~~ of the Tax

1 Tribunal is limited to Notices of Tax Liability, Notices of
2 Deficiency, Notices of Claim Denial, and Notices of Penalty
3 Liability where the amount at issue in a notice, or the
4 aggregate amount at issue in multiple notices issued for the
5 same tax year or audit period, exceeds \$15,000, exclusive of
6 penalties and interest. In notices solely asserting either an
7 interest or penalty assessment, or both, the Tax Tribunal shall
8 have jurisdiction over cases where the combined total of all
9 penalties or interest assessed exceeds \$15,000.

10 (b) Except as otherwise permitted by this Act and by the
11 Constitution of the State of Illinois or otherwise by State
12 law, including, but not limited to, the State Officers and
13 Employees Money Disposition Act, no person shall contest any
14 matter within the jurisdiction of the Tax Tribunal in any
15 action, suit, or proceeding in the circuit court or any other
16 court of the State. If a person attempts to do so, then such
17 action, suit, or proceeding shall be dismissed without
18 prejudice. The improper commencement of any action, suit, or
19 proceeding does not extend the time period for commencing a
20 proceeding in the Tax Tribunal.

21 (c) The Tax Tribunal may require the taxpayer to post a
22 bond equal to 25% of the liability at issue (1) upon motion of
23 the Department and a showing that (A) the taxpayer's action is
24 frivolous or legally insufficient or (B) the taxpayer is acting
25 primarily for the purpose of delaying the collection of tax or
26 prejudicing the ability ultimately to collect the tax, or (2)

1 if, at any time during the proceedings, it is determined by the
2 Tax Tribunal that the taxpayer is not pursuing the resolution
3 of the case with due diligence. If the Tax Tribunal finds in a
4 particular case that the taxpayer cannot procure and furnish a
5 satisfactory surety or sureties for the kind of bond required
6 herein, the Tax Tribunal may relieve the taxpayer of the
7 obligation of filing such bond, if, upon the timely application
8 for a lien in lieu thereof and accompanying proof therein
9 submitted, the Tax Tribunal is satisfied that any such lien
10 imposed would operate to secure the assessment in the manner
11 and to the degree as would a bond. The Tax Tribunal shall adopt
12 rules for the procedures to be used in securing a bond or lien
13 under this Section.

14 (d) If, with or after the filing of a timely petition, the
15 taxpayer pays all or part of the tax or other amount in issue
16 before the Tax Tribunal has rendered a decision, the Tax
17 Tribunal shall treat the taxpayer's petition as a protest of a
18 denial of claim for refund of the amount so paid upon a written
19 motion filed by the taxpayer.

20 (e) The Tax Tribunal shall not have jurisdiction to review:

21 (1) any assessment made under the Property Tax Code;

22 (2) any decisions relating to the issuance or denial of
23 an exemption ruling for any entity claiming exemption from
24 any tax imposed under the Property Tax Code or any State
25 tax administered by the Department;

26 (3) a notice of proposed tax liability, notice of

1 proposed deficiency, or any other notice of proposed
2 assessment or notice of intent to take some action;

3 (4) any action or determination of the Department
4 regarding tax liabilities that have become finalized by
5 law, including but not limited to the issuance of liens,
6 levies, and revocations, suspensions, or denials of
7 licenses or certificates of registration or any other
8 collection activities;

9 (5) any proceedings of the Department's informal
10 administrative appeals function; and

11 (6) any challenge to an administrative subpoena issued
12 by the Department.

13 (f) The Tax Tribunal shall decide questions regarding the
14 constitutionality of statutes and rules adopted by the
15 Department as applied to the taxpayer, but shall not have the
16 power to declare a statute or rule unconstitutional or
17 otherwise invalid on its face. A taxpayer challenging the
18 constitutionality of a statute or rule on its face may present
19 such challenge to the Tax Tribunal for the sole purpose of
20 making a record for review by the Illinois Appellate Court.
21 Failure to raise a constitutional issue regarding the
22 application of a statute or regulations to the taxpayer shall
23 not preclude the taxpayer or the Department from raising those
24 issues at the appellate court level.

25 (Source: P.A. 97-1129, eff. 8-28-12; 98-463, eff. 8-16-13.)

1 Section 990. The State Finance Act is amended by adding
2 Section 5.878 as follows:

3 (30 ILCS 105/5.878 new)

4 Sec. 5.878. The Illinois Wellness Fund.

5 Section 999. Effective date. This Act takes effect upon
6 becoming law.