



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2667

by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 1010/1-45
30 ILCS 105/5.866 new

Creates the Healthy Eating Active Living (HEAL) Act. Imposes a tax on distributors of bottled sugar-sweetened beverages, syrups, or powders at the rate of \$0.01 per ounce of bottled sugar-sweetened beverages sold or offered for sale to a retailer for sale in the State to a consumer. Requires those distributors to obtain permits. Provides that 2% of the moneys shall be deposited into the Tax Compliance and Administration Fund for the administrative costs of the Department of Revenue, and 98% of the moneys shall be deposited into the Illinois Wellness Fund to be used for wellness programs and for expanded obesity prevention and treatment services for Medicaid beneficiaries. Creates an Advisory Council to govern the distribution of Illinois Wellness Fund moneys. Effective July 1, 2015.

LRB099 10698 HLH 30966 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public health.

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 Centers for Disease Control, nearly
12 28% of Illinois' adult residents in 2012 were considered obese
13 (body mass index (BMI) of 30 and above) and the rate was even
14 higher among African American (40.5%) and Hispanic (31.2%)
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 17 years of age or younger are obese, the ninth worst rate
21 in the 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 eight
21 studies examining the role of sugar-sweetened beverage
22 consumption on health found that consumption was significantly
23 associated with type 2 diabetes based on over 15,000 reported
24 cases of this condition. Additionally, consumption of
25 sugar-sweetened beverages has been linked to several diseases
26 independent of a person's weight status, including type 2

1 diabetes and heart disease, making sugary drinks especially
2 harmful to a person's health. A 2014 study showed an increased
3 risk for death from cardiovascular disease independent of
4 weight status. Adults who drink 1 to 2 servings of sugary
5 drinks per day are 26% more likely to develop type 2 diabetes
6 than those who drink 0 to 1 per month.

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

11 Consumption of sugar-sweetened beverages has gone up over
12 500% in the last 50 years, and those beverages are now the
13 number one source of added sugar in the American diet (51% of
14 added sugars when considering soft drinks, fruit drinks, and
15 sweetened teas). A study of a 5-year period between 1999 and
16 2004 showed that children and adolescents consumed 10-15% of
17 their daily caloric intake from sugar-sweetened beverages,
18 which offer little or no nutritional value and massive
19 quantities of added sugars. For example, a single 12-ounce can
20 of soda contains the equivalent of approximately 10 teaspoons
21 of sugar; the American Heart Association recommends that women
22 consume no more than 6 teaspoons of added sugar per day and men
23 consume no more than 9 teaspoons of added sugar per day.
24 Teenagers and young adults drink more sugary drinks than other
25 age groups, and low-income persons consume more sugary drinks
26 in relation to their overall diet than those with higher

1 income.

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

12 The Institute of Medicine recommends a multi-pronged
13 approach to obesity prevention, including: integrating
14 physical activity opportunities into communities, making
15 healthy food and beverages available everywhere, adopting
16 policies and practices to reduce sugar-sweetened beverage
17 consumption, improving marketing and messaging to the public
18 regarding adopting a healthy lifestyle, expanding the role of
19 health care providers, insurers, and employers in obesity
20 prevention, and working to improve school health and wellness.
21 Studies have shown that, when compared with more affluent
22 communities, low-income communities have less access to fresh,
23 affordable food, contain more fast food places in the
24 communities and near their schools, and have less access to
25 safe places to get physical activity, including access to fewer
26 adequate sidewalks. Additionally, the American Medical

1 Association adopted Clinical Practice Guidelines for the
2 treatment of pediatric overweight, which the American Academy
3 of Pediatrics has adopted and recommends to providers.

4 A study found that a penny-per-ounce excise tax on
5 sugar-sweetened beverages in Illinois could result in a 23.5%
6 reduction in sugar-sweetened beverage consumption, 185,127
7 fewer obese Illinoisans (a 9.3% reduction in youth obesity and
8 5.2% reduction in adult obesity), 3,442 fewer incidences of
9 diabetes, and a \$150.8 million reduction in obesity-related
10 healthcare costs in the first year. Another study found that
11 reducing obesity by 5% in Illinois could save Illinois \$9
12 billion over the next 10 years. The tax is estimated to raise
13 over \$600 million in the first year in Illinois.

14 It is the intent of the General Assembly, by adopting this
15 Act and creating an Illinois Wellness Fund to provide targeted
16 prevention initiatives in Illinois communities and additional
17 health and prevention funding to Medicaid, to diminish the
18 human and economic costs of sugar-sweetened beverages,
19 obesity, and related chronic disease in the State of Illinois.
20 This Act is intended to create a dedicated revenue source for
21 programs designed to prevent and treat obesity and related
22 chronic diseases by creating and implementing expanded
23 opportunities for Illinoisans to be healthy, especially in
24 high-need communities, and to discourage excessive consumption
25 of sugar-sweetened beverages by increasing the price of these
26 products, thereby reducing the health and economic burden of

1 sugar-sweetened drinks in Illinois.

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

3 "Advisory Council" means the Advisory Council for Health
4 and Wellness established under Section 70.

5 "Bottle" means any closed or sealed container regardless of
6 size or shape, including, without limitation, those made of
7 glass, metal, paper, plastic, or any other material or
8 combination of materials.

9 "Bottled sugar-sweetened beverage" means any
10 sugar-sweetened beverage contained in a bottle that is ready
11 for consumption without further processing such as, without
12 limitation, dilution or carbonation.

13 "Caloric sweetener" means any caloric substance suitable
14 for human consumption which adds calories to the diet of a
15 person who consumes that substance, is used as an ingredient of
16 a beverage, syrup, or powder, and includes, without limitation,
17 sucrose, fructose, glucose, fruit juice concentrate, or other
18 sugars. "Caloric sweetener" excludes non-caloric sweeteners.

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

21 "Department" means the Department of Revenue.

22 "Distributor" means any person, including manufacturers
23 and wholesale dealers, who receives, stores, manufactures,
24 bottles, or distributes bottled sugar-sweetened beverages,
25 syrups, or powders, for sale to retailers doing business in the

1 State, whether or not that person also sells such products to
2 consumers.

3 "Fund" means the Illinois Wellness Fund, established
4 pursuant to Section 55.

5 "High-need community" means communities designated as such
6 by the Department of Public Health by rule pursuant to
7 subsection (b) of Section 60 of this Act.

8 "Non-caloric sweetener" means any non-caloric substance
9 suitable for human consumption which does not add calories to
10 the diet of a person who consumes that substance, is used as an
11 ingredient of a beverage, syrup, or powder, and includes,
12 without limitation, aspartame, saccharin, stevia, and
13 sucralose. "Non-caloric sweetener" excludes caloric
14 sweeteners.

15 "Person" means any natural person, partnership,
16 cooperative association, limited liability company,
17 corporation, personal representative, receiver, trustee,
18 assignee, or any other legal entity.

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

22 "Powders" means any solid mixture of ingredients used in
23 making, mixing, or compounding sugar-sweetened beverages by
24 mixing the powder with any one or more other ingredients,
25 including without limitation water, ice, syrup, simple syrup,
26 fruits, vegetables, fruit juice, vegetable juice, carbonation

1 or other gas. A powder which indicates on the label that it can
2 be mixed with water is subject to the tax. Notwithstanding any
3 other provision, a powder which indicates on the label that it
4 cannot be mixed with water and is intended by the manufacturer
5 to be mixed only with alcohol or milk is not subject to the
6 tax.

7 "Retailer" means any person who sells or otherwise
8 dispenses in the State a sugar-sweetened beverage to a consumer
9 whether or not that person is also a distributor as defined in
10 this Section.

11 "Sale" means the transfer of title or possession for
12 valuable consideration regardless of the manner by which the
13 transfer is completed.

14 "State" means the State of Illinois.

15 "Sugar-sweetened beverage" means any nonalcoholic
16 beverage, carbonated or noncarbonated, which is intended for
17 human consumption and contains more than 5 grams of caloric
18 sweetener per 12 fluid ounces. As used in this definition,
19 "nonalcoholic beverage" means any beverage that contains less
20 than one-half of one percent alcohol per volume. The term
21 "sugar-sweetened beverage" does not include:

22 (1) beverages sweetened solely with non-caloric
23 sweeteners;

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

26 (3) beverages consisting of 100% natural fruit or

1 vegetable juice with no caloric sweetener; for purposes of
2 this paragraph, "natural fruit juice" and "natural
3 vegetable juice" mean the original liquid resulting from
4 the pressing of fruits or vegetables, juice concentrate, or
5 the liquid resulting from the dilution with water of
6 dehydrated natural fruit juice or natural vegetable juice;

7 (4) beverages in which milk, or soy, rice, or similar
8 milk substitute, is the primary ingredient or the first
9 listed ingredient on the label of the beverage; for
10 purposes of this Act, "milk" means natural liquid milk
11 regardless of animal or plant source or butterfat content,
12 natural milk concentrate, whether or not reconstituted,
13 regardless of animal or plant source or butterfat content,
14 or dehydrated natural milk, whether or not reconstituted
15 and regardless of animal or plant source or butterfat
16 content;

17 (5) coffee or tea without caloric sweetener;

18 (6) infant formula;

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

21 (8) water without any caloric sweeteners.

22 "Syrup" means a liquid mixture of ingredients used in
23 making, mixing, or compounding sugar-sweetened beverages using
24 one or more other ingredients including, without limitation,
25 water, ice, a powder, simple syrup, fruits, vegetables, fruit
26 juice, vegetable juice, carbonation, or other gas. A syrup

1 which indicates on the label that it can be mixed with water is
2 subject to the tax. Notwithstanding any other provision, a
3 syrup which indicates on the label that it cannot be mixed with
4 water, and is intended by the manufacturer to be mixed only
5 with alcohol or milk is not subject to the tax.

6 Section 15. Permit required.

7 (a) Beginning January 1, 2016, every distributor doing
8 business in the State who wishes to engage in the business of
9 selling sugar-sweetened beverages, syrups, or powders subject
10 to tax under this Act shall file with the Department an
11 application for a permit to engage in such business. An
12 application shall be filed for each place of business owned and
13 operated by the distributor. An application for a permit shall
14 be filed on forms to be furnished by the Department for that
15 purpose. Each such application shall be signed and verified and
16 shall state: (1) the name and social security number of the
17 applicant; (2) the address of his principal place of business;
18 (3) the address of the principal place of business from which
19 he engages in the business of distributing sugar-sweetened
20 beverages, syrups, or powders to retailers in this State and
21 the addresses of all other places of business, if any
22 (enumerating such addresses, if any, in a separate list
23 attached to and made a part of the application), from which he
24 engages in the business of distributing sugar-sweetened
25 beverages, syrups, or powders to retailers in this State; (4)

1 the name and address of the person or persons who will be
2 responsible for filing returns and payment of taxes due under
3 this Act; (5) in the case of a corporation, the name, title,
4 and social security number of each corporate officer; (6) in
5 the case of a limited liability company, the name, social
6 security number, and FEIN number of each manager and member;
7 and (7) such other information as the Department may reasonably
8 require. The application shall contain an acceptance of
9 responsibility signed by the person or persons who will be
10 responsible for filing returns and payment of the taxes due
11 under this Act.

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

1 discretion, may require that the application for permit be
2 submitted electronically.

3 (c) Upon receipt of an application and the annual permit
4 fee of \$250, the Department may issue to the applicant, for the
5 place of business designated, a permit, authorizing the sale of
6 sugar-sweetened beverages, syrups, and powders in the State. No
7 distributor shall sell any sugar-sweetened beverage, syrup, or
8 powders without first obtaining a permit to do so under this
9 Act. Permits issued pursuant to this Section shall expire one
10 year from the date of issuance and may be renewed annually.
11 Fees shall be deposited into the Tax Compliance and
12 Administration Fund.

13 (d) A permit may not be transferred or assigned from one
14 person to another, and a permit shall at all times be
15 prominently displayed in a distributor's place of business. The
16 Department may refuse to issue a permit to any person
17 previously convicted of violations of this Act under such
18 procedures as the Department may establish by regulation.

19 (e) The Department may, in its discretion, issue the permit
20 electronically.

21 Section 20. Tax imposed.

22 (a) Beginning on January 1, 2016, there is imposed a tax on
23 every distributor for the privilege of selling the products
24 governed by this Act in the State. The tax shall be imposed at
25 the rate of \$0.01 per ounce of bottled sugar-sweetened

1 beverages sold or transferred to a retailer in the State. The
2 tax on syrup and powder sold or transferred to a retailer in
3 the State, either as syrup or powder or as a sugar-sweetened
4 beverage derived from that syrup or powder, is equal to \$0.01
5 per ounce for each ounce of sugar-sweetened beverage produced
6 from that syrup or powder. For purposes of calculating the tax,
7 the volume of sugar-sweetened beverage produced from syrup or
8 powder shall be the larger of (i) the largest volume resulting
9 from use of the syrup or powder according to any manufacturer's
10 instructions or (ii) the volume actually produced by the
11 retailer. The taxes imposed by this Section are in addition to
12 any other taxes that may apply to persons or products subject
13 to this Act.

14 (b) A retailer that sells bottled sugar-sweetened
15 beverages, syrups, or powders in the State to a consumer, on
16 which the tax imposed by this Section has not been paid by a
17 distributor, is liable for the tax imposed in subsection (a) at
18 the time of sale to a consumer.

19 Section 25. Pass-through of the tax. A distributor shall
20 add the amount of tax levied by this Act to the price of
21 sugar-sweetened beverages sold to a retailer, and the retailer
22 shall pass the amount of the tax through to the consumer as a
23 component of the final retail purchase price. The amount of the
24 taxes may be stated separately on all invoices, signs, sales or
25 delivery slips, bills, and statements that advertise or

1 indicate the price of those beverages.

2 Section 30. Report of sales and tax remittances.

3 (a) Any distributor or retailer liable for the tax imposed
4 by this Act shall, on or before the twentieth day of each
5 calendar month, return to the Department a statement containing
6 its name and place of business, the quantity of sugar-sweetened
7 beverages, syrup, and powders subject to the tax imposed by
8 this Act sold or offered for sale in the month preceding the
9 month in which the report is due, and any other information
10 required by the Department, along with the tax due.

11 (b) If the taxpayer's average monthly tax liability to the
12 Department under this Act, was \$20,000 or more during the
13 preceding 4 complete calendar quarters, he shall file a return
14 with the Department each month by the twentieth day of the
15 month next following the month during which such tax liability
16 is incurred and shall make payment to the Department on or
17 before the 7th, 15th, 22nd, and last day of the month during
18 which such liability is incurred.

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

21 Section 35. Records of distributors. Every distributor and
22 every retailer subject to this Act shall maintain for not less
23 than 4 years accurate books and records, showing all
24 transactions that gave rise, or may have given rise, to tax

1 liability under this Act. Such records are subject to
2 inspection by the Department at all reasonable times during
3 normal business hours.

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

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

9 (2) Bottled sugar-sweetened beverages, syrups, and powders
10 sold by a distributor to another distributor that holds a
11 permit issued under Section 15 if the sales invoice clearly
12 indicates that the sale is exempt. If the sale is to a person
13 who is both a distributor and a retailer, the sale shall also
14 be tax exempt and the tax shall be paid when the purchasing
15 distributor-retailer resells the product to a retailer or a
16 consumer. This exemption does not apply to any other sale to a
17 retailer.

18 Section 45. Penalties.

19 (a) Any distributor, retailer, or other person subject to
20 the provisions of this Act who fails to pay the entire amount
21 of tax imposed by this Act by the date that payment is due,
22 fails to submit a report or maintain records required by this
23 Act, does business in the State of Illinois without first
24 obtaining a permit as required by this Act, or violates any

1 other provision of this Act, or rules and regulations adopted
2 by the Department for the enforcement of this Act, shall be
3 guilty of a misdemeanor and shall also be liable for the
4 penalties set forth and incorporated by reference into this
5 Section.

6 (b) Incorporation by reference. All of the provisions of
7 Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b,
8 6c, 8, 9, 10, 11, 11a, and 12 of the Retailers' Occupation Tax
9 Act, and all applicable provisions of the Uniform Penalty and
10 Interest Act that are not inconsistent with this Act, apply to
11 distributors of sugar-sweetened beverages to the same extent as
12 if those provisions were included in this Act. References in
13 the incorporated Sections of the Retailers' Occupation Tax Act
14 to retailers, to sellers, or to persons engaged in the business
15 of selling tangible personal property mean distributors and
16 retailers when used in this Act. References in the incorporated
17 Sections to sales of tangible personal property mean sales of
18 sugar-sweetened beverages, syrups, or powders when used in this
19 Act.

20 (c) In addition to any other penalty authorized by law, a
21 permit issued pursuant to Section 15 shall be suspended or
22 revoked if any court of competent jurisdiction determines, or
23 the Department finds based on a preponderance of the evidence,
24 after the permittee is afforded notice and an opportunity to be
25 heard, that the permittee, or any of the permittee's agents or
26 employees, has violated any of the requirements, conditions, or

1 prohibitions of this Act. For a first violation of this Act
2 within any 60-month period, the permit shall be suspended for
3 30 days. For a second violation of this Act within any 60-month
4 period, the permit shall be suspended for 90 days. For a third
5 violation of this Act within any 60-month period, the permit
6 shall be suspended for one year. For a fourth or subsequent
7 violation of this Act within any 60-month period, the license
8 shall be revoked.

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

12 Section 50. Unpaid taxes a debt. The tax herein required to
13 be collected by any person distributing sugar-sweetened
14 beverages, powders, or syrup for sale to a retailer in the
15 State, and any such tax collected by that person shall
16 constitute a debt owed by that person to this State.

17 Section 55. Revenue distribution; establishment of
18 Illinois Wellness Fund. The Illinois Wellness Fund is hereby
19 created as a special fund in the State treasury. All of the
20 moneys collected by the Department pursuant to the taxes
21 imposed by Section 20 shall be deposited as follows: 2% shall
22 be deposited into the Tax Compliance and Administration Fund
23 for the administrative costs of the Department, and 98% shall
24 be deposited into the Illinois Wellness Fund to be used for the

1 purposes set forth in Sections 60 and 65 of this Act. All
2 interest earned on moneys in the Illinois Wellness Fund shall
3 remain in the Fund.

4 Section 60. Expenditure of Illinois Wellness Fund for
5 community prevention and wellness initiatives.

6 (a) Fifty percent of moneys in the Illinois Wellness Fund
7 shall be used to support community prevention and wellness
8 initiatives, as follows:

9 (1) Up to 1% shall be dedicated to administration of
10 the Fund by the Illinois Department of Public Health, with
11 administrative support from the Advisory Council and a
12 Healthy in All Policies coordinator.

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

1 the Illinois Medicaid program. The evaluator shall report
2 annually to the Advisory Council on the progress and
3 results of the evaluation. The Advisory Council may adjust
4 the percentage of funds allocated to each category every 3
5 years based on the evaluation results and current obesity
6 prevention needs.

7 (3) Two percent shall be dedicated to eligible entities
8 to provide technical assistance to and statewide
9 coordination of strategies and activities of recipients of
10 funding from the Fund, including, but not limited to,
11 training and education around obesity prevention best
12 practices, coordination of strategies across grantees, and
13 quality improvement for obesity prevention and treatment
14 initiatives.

15 (4) Twenty percent shall be allocated to local health
16 departments via a formula developed by the Illinois
17 Department of Public Health based on population and need;
18 those moneys shall be used for the following activities and
19 services:

20 (A) conducting evidence-based obesity and chronic
21 disease prevention efforts to achieve at least one of
22 the following goals: eliminating racial, ethnic, and
23 socioeconomic disparities in obesity and chronic
24 disease incidence; improving access to and consumption
25 of healthy, safe, and affordable foods; reducing
26 access to and consumption of calorie-dense,

1 nutrient-poor foods; encouraging physical activity and
2 decreasing sedentary behavior; raising awareness about
3 the importance of nutrition and physical activity for
4 the prevention of chronic diseases; supporting the
5 consumption of foods that are grown or produced
6 locally; supporting the use of evidence-based clinical
7 preventive services; and promoting breastfeeding; and

8 (B) leading and coordinating the efforts of other
9 organizations in their jurisdictions that are engaged
10 in similar efforts to achieve these goals, whether
11 funded through this Act or otherwise.

12 (5) The remaining 75% shall be used to support the
13 prevention of obesity, diabetes, cardiovascular disease,
14 and cancer, as well as oral health improvement, including
15 but not limited to the following:

16 (A) funds to support school and early childhood
17 health and wellness, including increased access to
18 healthy foods, increased physical activity and
19 physical education, improved quality of physical
20 education, increased nutrition education, improved
21 health, mental health, oral health, and social
22 services in schools, increased opportunities for home
23 economics courses (cooking and healthy grocery
24 shopping education) and school and early childhood
25 education facility improvements that support health;

26 (B) funds to support community nutrition and

1 access to healthy foods, including nutrition
2 education, healthy cooking programs, healthy vending
3 initiatives, healthy food procurement, education
4 regarding shopping for healthy foods, increased
5 support for breastfeeding promotion programs, and
6 increasing access to healthy foods;

7 (C) funds to support physical activity in
8 communities, including active transportation,
9 community walkability and bike-ability initiatives,
10 multi-use trails, joint-use agreements, safe routes to
11 schools programs, educational programs that promote
12 physical activity, physical activity after school
13 programs, environmental changes that increase physical
14 activity; initiatives that create physically safe and
15 accessible areas for physical activity and play;

16 (D) funds to support worksite wellness, including
17 promotion of nutrition, physical activity and
18 preventive services in worksites, workplace policies,
19 and environmental changes that support employee
20 wellness;

21 (E) funds to support local food systems, including
22 promotion of, access to, and consumption of local
23 foods, farm-to-school and farm-to-institution
24 programs, community gardens, urban agriculture
25 projects, community-supported agriculture programs,
26 farmers markets and double-value coupons programs for

1 SNAP recipients at farmers markets, food hubs,
2 beginning farmer training programs, and farm stands;
3 and

4 (F) funds to support oral health improvement,
5 including increased access to oral health education,
6 dental sealants for children, and use of community
7 prevention and health education strategies that reduce
8 risk factors for oral and pharyngeal cancers.

9 (b) At least 50% of the funds allocated under this Section
10 shall be allocated to eligible entities serving high-need
11 communities. The Illinois Department of Public Health shall
12 adopt rules to designate high-need communities, with poverty
13 rates as the primary indicator of need, and may use obesity and
14 chronic disease rates as sub-indicators of need for
15 prioritizing funds to these high-need communities.

16 (c) 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) units of local government, including local public
24 health departments, local planning and transportation
25 departments, local school districts, and local park
26 districts;

1 (2) statewide or regional non-profit organizations,
2 including those with local chapters, members, or
3 affiliates;

4 (3) universities and institutions of higher learning;

5 (4) community-based health improvement coalitions,
6 which may include:

7 (A) schools and early childhood education
8 centers;

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

10 (C) Federally Qualified Health Centers,
11 community health centers, and organizations which
12 operate a school-based health center certified by
13 the Illinois Department of Public Health;

14 (D) non-profit hospitals and health systems;

15 (E) Illinois farms producing primarily fruits,
16 vegetables, and tree nuts for direct human
17 consumption by Illinois residents; and

18 (F) policy, research, or training institutes
19 or centers; and

20 (G) local public health, planning, and
21 transportation departments, and local park and
22 school districts; and

23 (5) individual non-profit community-based
24 organizations working to improve health, as determined by
25 the Advisory Council.

26 (d) The Department of Public Health shall distribute the

1 Illinois Wellness Fund moneys under this Section via grants to
2 eligible entities within 120 days after the start of each
3 fiscal year including:

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

8 (2) distribution the funds allocated to local health
9 departments via formula as described in Section 60;

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

15 (4) to advise on the selection of evaluators and
16 provide input on the evaluation design, goals, and methods,
17 at least annually receive and review a progress report on
18 the results of the evaluation.

19 Section 65. Expenditures of the Illinois Wellness Fund for
20 the Illinois Medicaid Program. Fifty percent of all moneys
21 collected shall be expended by the Department of Healthcare and
22 Family Services for expanded prevention an obesity treatment
23 services for Medicaid beneficiaries. These additional funds
24 shall not supplant existing State funds. The Department shall
25 seek all required amendments to the existing State Plan. The

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

8 (1) to the extent not already provided by EPSDT under
9 Federal Medicaid laws, coverage for all services
10 recommended for pediatric prevention, assessment and
11 treatment of overweight and obesity set forth by the
12 American Academy of Pediatrics (clinical practice
13 guidelines) and those recommended by the U.S. Preventive
14 Services Task Force Grade B Recommendation to screen for
15 obesity in children and adolescents. Medicaid benefits
16 must follow these recommendations and reimbursement rates
17 must be set at a level that ensures appropriate access to
18 services outlined in the recommendations;

19 (2) coverage for medical nutrition therapy, care
20 coordination, weight management programs, diabetes
21 education and multi-disciplinary obesity treatment
22 programs for overweight and obese children and adults,
23 including coverage for services from dietitians, social
24 workers, psychologists, and pharmacists;

25 (3) coverage for community-based, evidence-based
26 physical activity and nutrition programs, diabetes and

1 other health-behavior focused chronic disease
2 self-management and chronic disease prevention programs
3 for children and adults, including but not limited to,
4 participation in the evidence-based Diabetes Prevention
5 Program, MEND program, Chronic Disease Self-Management
6 Program, and Diabetes Self-Management Program;

7 (4) coverage for dental prevention services, including
8 routine oral health screenings, cleanings, and oral health
9 maintenance services for adults; and

10 (5) coverage for the U.S. Preventive Services Task
11 Force A and B recommendations.

12 Section 70. Illinois Wellness Fund governance.

13 (a) The Illinois Wellness Fund shall be governed by a
14 multi-sector Advisory Council for Health and Wellness, with
15 administration by the Department of Public Health and
16 Department of Healthcare and Family Services as described
17 below. The Advisory Council for Health and Wellness shall be
18 established by May 31, 2016 and be comprised of:

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

1 (B) one obesity prevention advocate representing a
2 statewide coalition working on reducing obesity through
3 policy, systems, and environmental changes, appointed by
4 the Governor;

5 (C) one school superintendent, appointed by the
6 Governor;

7 (D) one physical education or health teacher
8 representing an association that represents physical
9 education and health teachers, appointed by the Governor;

10 (E) one oral health advocate representing a statewide
11 coalition or organization working to promote oral health,
12 appointed by the Governor;

13 (F) one representative of a statewide organization
14 focusing on chronic disease prevention, appointed by the
15 Governor;

16 (G) one representative of an organization or coalition
17 focusing on active transportation, appointed by the
18 Governor;

19 (H) one representative of an organization or coalition
20 focusing on employer wellness initiatives, appointed by
21 the Governor;

22 (J) one person representing access to healthy foods
23 initiatives, appointed by the Governor;

24 (K) one person representing community-based obesity
25 prevention programs, appointed by the Governor;

26 (L) one representative of an association representing

1 hospitals across the State, appointed by the Governor;

2 (M) one person representing health departments in the
3 central and southern regions of the State and one person
4 representing health departments in the northern region of
5 the State, appointed by the Governor;

6 (N) one representative of an association representing
7 public health practitioners, appointed by the Governor;

8 (O) one representative of an organization representing
9 pediatricians in the State, appointed by the Governor;

10 (P) one representative of an organization representing
11 primary care providers in the State, appointed by the
12 Governor;

13 (Q) one dietician representing an association
14 representing dieticians in the State, appointed by the
15 Governor;

16 (R) two people representing community based healthy
17 eating-active living coalitions, appointed by the
18 Governor;

19 (S) two people representing communities of color or
20 communities that are disproportionately impacted by
21 obesity, appointed by the Governor; and

22 (T) four members of the General Assembly, one appointed
23 by each of the following: the Speaker and Minority Leader
24 of the Illinois House of Representatives and the President
25 and Minority Leader of the Illinois Senate.

26 (b) The Advisory Council for Health and Wellness shall have

1 the following powers and duties:

2 (A) to review and make recommendations to Department of
3 Public Health on fund allocation categories every 3 years
4 based on an assessment of the State's current conditions
5 and needs related to chronic disease prevention and the
6 results of the Act evaluation report;

7 (B) to develop and implement a request for proposal
8 (RFP) process for allocating the Illinois Wellness Fund
9 moneys via grants to eligible entities across the State
10 each year (or via multi-year grants);

11 (C) oversight of the request for proposals process,
12 including selection of eligible entities to receive funds,
13 selection of a recommended entity that can complete the
14 evaluation of the Act, and submission of funding
15 recommendations to the Department of Public Health for
16 funding for eligible entities for initiatives as described
17 in Section 60 within 120 days of the start of the fiscal
18 year;

19 (D) to annually receive and review the evaluation
20 progress report and Medicaid services, costs, and savings
21 report related to this Act; and

22 (E) to submit a report to the General Assembly every 3
23 years on the allocation of the funds and summary results of
24 the impact evaluation of the Illinois Wellness Fund and the
25 tax imposed under this Act.

1 Section 75. Rulemaking. No later than April 30, 2016, the
2 Department of Public Health shall adopt rules for the
3 allocation of Illinois Wellness Fund moneys for community
4 prevention, pursuant to Section 60. No later than April 30,
5 2016, the Department of Healthcare and Family Services shall
6 adopt rules for the allocation and distribution of Wellness
7 Fund moneys to support prevention in the Medicaid program
8 pursuant to Section 65. No later than December 31, 2015, the
9 Department of Revenue shall adopt rules to implement the
10 provisions of this Act related to the implementation,
11 collection, and deposition of the tax, so that taxes will be
12 collected beginning January 1, 2016.

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

15 Section 200. The Illinois Independent Tax Tribunal Act of
16 2012 is amended by changing Section 1-45 as follows:

17 (35 ILCS 1010/1-45)

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

19 (a) Except as provided by the Constitution of the United
20 States, the Constitution of the State of Illinois, or any
21 statutes of this State, including, but not limited to, the
22 State Officers and Employees Money Disposition Act, the Tax
23 Tribunal shall have original jurisdiction over all

1 determinations of the Department reflected on a Notice of
2 Deficiency, Notice of Tax Liability, Notice of Claim Denial, or
3 Notice of Penalty Liability issued under the Illinois Income
4 Tax Act, the Use Tax Act, the Service Use Tax Act, the Service
5 Occupation Tax Act, the Retailers' Occupation Tax Act, the
6 Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco
7 Products Tax Act of 1995, the Hotel Operators' Occupation Tax
8 Act, the Motor Fuel Tax Law, the Automobile Renting Occupation
9 and Use Tax Act, the Coin-Operated Amusement Device and
10 Redemption Machine Tax Act, the Gas Revenue Tax Act, the Water
11 Company Invested Capital Tax Act, the Telecommunications
12 Excise Tax Act, the Telecommunications Infrastructure
13 Maintenance Fee Act, the Public Utilities Revenue Act, the
14 Electricity Excise Tax Law, the Aircraft Use Tax Law, the
15 Watercraft Use Tax Law, the Gas Use Tax Law, ~~or~~ the Uniform
16 Penalty and Interest Act, or the Healthy Eating Active Living
17 (HEAL) Act. Except with respect to the Healthy Eating Active
18 Living (HEAL) Act, jurisdiction ~~Jurisdiction~~ of the Tax
19 Tribunal is limited to Notices of Tax Liability, Notices of
20 Deficiency, Notices of Claim Denial, and Notices of Penalty
21 Liability where the amount at issue in a notice, or the
22 aggregate amount at issue in multiple notices issued for the
23 same tax year or audit period, exceeds \$15,000, exclusive of
24 penalties and interest. In notices solely asserting either an
25 interest or penalty assessment, or both, the Tax Tribunal shall
26 have jurisdiction over cases where the combined total of all

1 penalties or interest assessed exceeds \$15,000.

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

13 (c) The Tax Tribunal may require the taxpayer to post a
14 bond equal to 25% of the liability at issue (1) upon motion of
15 the Department and a showing that (A) the taxpayer's action is
16 frivolous or legally insufficient or (B) the taxpayer is acting
17 primarily for the purpose of delaying the collection of tax or
18 prejudicing the ability ultimately to collect the tax, or (2)
19 if, at any time during the proceedings, it is determined by the
20 Tax Tribunal that the taxpayer is not pursuing the resolution
21 of the case with due diligence. If the Tax Tribunal finds in a
22 particular case that the taxpayer cannot procure and furnish a
23 satisfactory surety or sureties for the kind of bond required
24 herein, the Tax Tribunal may relieve the taxpayer of the
25 obligation of filing such bond, if, upon the timely application
26 for a lien in lieu thereof and accompanying proof therein

1 submitted, the Tax Tribunal is satisfied that any such lien
2 imposed would operate to secure the assessment in the manner
3 and to the degree as would a bond. The Tax Tribunal shall adopt
4 rules for the procedures to be used in securing a bond or lien
5 under this Section.

6 (d) If, with or after the filing of a timely petition, the
7 taxpayer pays all or part of the tax or other amount in issue
8 before the Tax Tribunal has rendered a decision, the Tax
9 Tribunal shall treat the taxpayer's petition as a protest of a
10 denial of claim for refund of the amount so paid upon a written
11 motion filed by the taxpayer.

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

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

14 (2) any decisions relating to the issuance or denial of
15 an exemption ruling for any entity claiming exemption from
16 any tax imposed under the Property Tax Code or any State
17 tax administered by the Department;

18 (3) a notice of proposed tax liability, notice of
19 proposed deficiency, or any other notice of proposed
20 assessment or notice of intent to take some action;

21 (4) any action or determination of the Department
22 regarding tax liabilities that have become finalized by
23 law, including but not limited to the issuance of liens,
24 levies, and revocations, suspensions, or denials of
25 licenses or certificates of registration or any other
26 collection activities;

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

3 (6) any challenge to an administrative subpoena issued
4 by the Department.

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

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

18 Section 990. The State Finance Act is amended by adding
19 Section 5.866 as follows:

20 (30 ILCS 105/5.866 new)

21 Sec. 5.866. The Illinois Wellness Fund.

22 Section 999. Effective date. This Act takes effect July 1,
23 2015.