Executive Summary

Consumption of sugar-sweetened beverages is strongly associated with excess mortality, diabetes, heart disease, obesity, and poor oral health. Taxing sweetened beverages is one of the most effective policies for reducing sales and purchases. Taxes also raise revenue that can be invested in the communities most impacted by health and social inequities. Revenues from current taxes have supported programs and activities that advance equity, including healthy food access, early childhood programs, chronic disease prevention and treatment, renovations of public facilities, and more.

Revenue dedication and allocation provisions in tax legislation shape the purposes for which tax revenues are used. Dedication can ensure that revenues are invested as promised, which builds support for tax policies. Allocation provisions provide specificity regarding the programs and activities funded by revenues and the communities that will benefit.

This report provides recommendations for policymakers and advocates for drafting revenue dedication and allocation provisions of sweetened beverage tax legislation. It emphasizes approaches that promote equity in tax implementation and outcomes.

The recommendations were informed by a review of sweetened beverage taxes proposed or adopted in the United States since 2012; lessons learned from tobacco, alcohol, and cannabis excise taxes; experiences of advocates and policymakers whom we interviewed; and consideration of legal issues. The review found multiple opportunities for centering revenue dedication and allocation in equity when drafting sweetened beverage tax legislation:

Include equity as goal for tax legislation
- Sweetened beverage tax legislation commonly included promotion of equity as an intention of the legislation.
- Health equity was the most commonly stated equity goal and racial equity was also mentioned frequently.
- Taxes with an equity intent often identified one or more priority communities as the focus of equity concerns (e.g., low-income communities or children).

Place tax revenues in a dedicated special budget fund
- Nearly all state and close to half of local proposed and adopted sweetened beverage tax legislation dedicated tax revenues by placing them in a special fund.
- Nearly half of state bills included non-supplantation language to prevent siphoning of dedicated funds to other purposes.

Describe how revenues will be allocated
- Sweetened beverage tax legislation commonly allocated revenues to support food security and healthy food access, health promotion, chronic disease prevention and treatment, school-based nutrition and physical education programs, community physical activity programs, and health care access. Some directed funding toward tax administration; tax implementation monitoring, reporting and evaluation; and advisory boards.
- Allocations were commonly directed to communities affected by health disparities and other inequities.
Build in accountability for revenue allocation and tax implementation
• Sweetened beverage tax legislation commonly established advisory boards or commissions to ensure that people from priority communities and other interested parties play a role in guiding tax revenue allocation and monitoring tax implementation.
• Most legislation required monitoring and reporting on tax implementation, especially revenue collections and allocations. It generally called for a public annual report to disseminate this information.
• Legislation in some jurisdictions required evaluation of tax impacts and implementation processes.

We used these findings to develop the recommendations for drafting sweetened beverage legislation that are described in this report.

Investing Sweetened Beverage Tax Revenues to Advance Equity:
Recommendations for Drafting Legislation

Include equity as goal for legislation
• Explicitly express the intention to advance equity as a key purpose of the tax.
• Invest tax revenues in priority communities impacted by inequities or disproportionately affected by sweetened beverages.

Place tax revenues in a dedicated special fund
• Establish a special budget fund for deposit of tax revenues dedicated to specific purposes.
• Include non-supplantation language to prevent siphoning of dedicated funds for other purposes.

Describe how revenues will be allocated
• Describe the programs and activities to be supported with tax revenues.
• Allocate revenues to support programs and activities in priority communities.

Build in accountability for revenue allocation and tax implementation
• Establish an advisory board to ensure that people from priority communities and subject matter experts play a role in guiding tax revenue allocation and monitoring tax implementation.
• Require monitoring and reporting on tax implementation, especially revenue collections and allocations, and share this information in a public annual report.
Introduction

Consumption of sugar-sweetened beverages is strongly associated with excess mortality, diabetes, heart disease, obesity, and poor oral health.\(^1\) Taxing sweetened beverages is one of the most effective policies for reducing sales and purchases. This report provides recommendations for policymakers and advocates to consider when drafting sweetened beverage tax (SBT) legislation, particularly regarding provisions related to revenue dedication and allocation.\(^2\) It emphasizes approaches that promote equity in tax implementation and outcomes.

The recommendations were informed by a review of tax legislation proposed in the United States since 2012; lessons from tobacco, alcohol, and cannabis excise taxes; experiences of advocates and policymakers; and consideration of legal issues. They focus on expression of legislative intent, language regarding dedication and allocation of revenues, accountability and monitoring mechanisms, and participation by community and other interested parties in revenue allocation and tax implementation decisions.

Tax revenue dedication:
A budget practice that assures that a portion, or all, of revenue from a tax will used for specific purposes as identified in legislative intent. “Earmarking” is another commonly used term.

Tax revenue allocation:
The process of distributing tax revenues, including for what purposes and activities, to which communities, and to which organizations.

Status of sweetened beverage taxes
Nine jurisdictions in the United States have adopted SBTs, including eight local governments and one Tribal nation. The first tax was implemented in Berkeley, CA in 2015. More than forty bills have been proposed in at least 18 states since 2012; none have yet been adopted. Across the globe, more than 50 taxes are in effect.\(^3\)

SBTs have been proposed with two goals in mind: (1) reducing sales and consumption of sweetened beverages to improve health and (2) generating revenues to address community needs. They raise the price of taxed beverages,\(^4\) reduce sales and purchases,\(^5\) and decrease consumption.\(^6\) Early evidence about health impacts suggests taxes may reduce overweight, obesity, and dental cavities.\(^7,8\)

Taxes have generated substantial revenues that have been allocated to support healthy food access, early childhood programs, chronic disease prevention and treatment, renovations of public facilities, and more.\(^9,10\) Revenue dedication and allocation provisions in tax legislation shape the purposes for which revenues are used and can advance a variety of policy goals.\(^11\) If written properly, these provisions can generate political support for tax adoption.

Sweetened beverage taxes and equity
More recently, advocates and policymakers have emphasized a third goal – designing and implementing SBTs to advance equity.\(^12\) There are many definitions of equity.\(^12,13\) For this report, we define equity as “fairness in process and outcomes that is achieved when everyone has a fair and just opportunity to participate and thrive, regardless of race, identity, economic class or other group characteristics.”

Revenue dedication and allocation are key approaches for designing and implementing taxes equitably. Equitable tax legislation* states an intent to reduce inequities and dedicates and allocates revenues

\(^*\)We use the term “legislation” to denote both proposed and adopted tax legislation at the state and local levels.
so they benefit priority communities, including people of color and people with lower incomes who experience health inequities – particularly in conditions associated with sweetened beverages – and are disproportionately affected by marketing and consumption of sweetened beverages. Community leaders, elected officials, and other interested parties are more likely to support adoption of tax legislation if it advances equity. They will continue to support the tax if revenues are allocated as promised. Dedication and allocation provisions are powerful tools to ensure this occurs.

Equity in the process of tax adoption and implementation also merits close attention. The recommendations of the Sugary Drink Tax Equity Work Group note the importance of ensuring that the lived experiences of people from priority communities influence tax design, implementation, and use of revenues. Representatives of priority communities should be equal partners in all stages of the tax policy process, playing roles in deciding whether to pursue a tax, designing the tax legislation (including how revenues will be used), and ensuring that tax revenues are used as promised and intended and support community values and needs.

Methods

Dedication and allocation approaches have varied across tax legislation. We sought information to describe the diversity of approaches used for dedicating and allocating tax revenues and identify factors to consider when drafting tax legislation. We summarize our methods in this section and Appendix A provides additional details.

Review of proposed and adopted tax legislation

We sought to collect all sweetened beverage tax legislation proposed and adopted in the U.S. since 2012. We searched Westlaw and Lexis Uni to identify state bills introduced between 1/1/2012 and 9/1/2021 using defined search terms. We retrieved 375 bills from Westlaw and 510 from Lexis Uni and then excluded irrelevant and duplicative bills. To identify local and Tribal legislation, we used our knowledge of SBT policy activity, queries to partners active in the SBT field, and a Google search. In cases where a state or local government had more than five bills brought forth during the study period, only the five most recent bills were included.

The final set of legislation used in this report consisted of 43 proposed state bills from 18 states, one Tribal law, and 12 proposed and enacted local ordinances from 11 localities. We extracted provisions related to tax intent, revenue dedication and allocation, participation by community representatives and other interested parties in tax implementation, reporting on implementation, and evaluation of tax implementation and impacts. Two student research assistants independently coded each piece of legislation using a structured coding guide. They attempted to resolve coding discrepancies through a joint review. When the students were unable to resolve discrepancies, a more senior team member provided the final decision. The students extracted data using Google Forms and compiled it into a searchable Excel spreadsheet. At the jurisdiction level, a given element was coded as present if it appeared at least once in legislation from that jurisdiction (some jurisdictions have multiple pieces of legislation). We summarized state and local legislation separately because some considerations differ by jurisdictional level and because state bills, thus far, are all proposed but not adopted, while most of the local legislation (7 of 12 ordinances and 7 of 11 jurisdictions) has been adopted and implemented. Note that because of the unique characteristics of the single Tribal legislation we identified, we described it separately (see box below on page 23) and it is not included in the quantitative summaries of tax policies and did not include it in the quantitative summaries of tax policies.

Review of lessons learned from alcohol, tobacco, and cannabis excise taxes

This review examined approaches used in alcohol, tobacco, and cannabis state excise taxes for dedicating and allocating revenues and lessons gleaned that could inform the purposes of this study. A student research assistant, with support from a senior researcher, summarized information obtained from review of peer-reviewed journal articles, state laws, policy papers, and commentaries. We identified documents by searching online databases, including Hein Online, Lexis Advance, Westlaw, JSTOR, PubMed, Google, and Google Scholar, for the period beginning 1/1/2000 and ending 3/31/22.

Legal case studies of excise tax revenue dedication and allocation

We reviewed state constitutional provisions, statutes, and case law to examine legal issues affecting dedi-
cation and allocation of excise tax revenues in three states with active policy efforts (CA, CO, MA). A student researcher, aided by a senior researcher, examined the extent to which legal requirements and limitations affect the ability of states to levy and dedicate or allocate state-level SBTs for specific purposes such as health equity and public health. The research focused on: legal authority and processes; legal limits or constraints affecting legal authority; and other notable barriers, challenges, or considerations.

Advocate and policymaker interviews
We conducted group or individual interviews with two to three leaders, advocates, policymakers, and/or legislative staff from each of five cities and five states that have proposed or adopted SBTs. We consulted with Center for Science in the Public Interest and the American Heart Association/Voices for Healthy Kids Initiative to choose sites that could provide broad and varied insights into tax dedication and allocation practices during tax adoption and implementation. Each group interview lasted 30-60 minutes and was led by an experienced facilitator, with a notetaker present.

We developed a semi-structured interview protocol that included questions on approaches, issues, obstacles, successes, insights, and lessons learned about drafting, adopting, and implementing revenue dedication and allocation provisions of tax legislation and ways such provisions can advance equity. Audio recordings of the interviews were transcribed by Rev.com and coded by a research assistant using Dedoose 9.0.46. Using the coded interviews, the project team identified, analyzed, and defined key themes present in the qualitative data.

Data synthesis and development of recommendations
We compiled and synthesized relevant data from the sources described above for each element. The entire project team then developed recommendations based on these data and its experiences working on sweetened beverage and other excise taxes.

Findings and Recommendations
We examined six elements of SBT legislation related to revenue dedication and use:

- Intent to promote equity and identification of communities experiencing inequities to prioritize for investment of tax revenues.
- Expression of other legislative intent in addition to promoting equity.
- Mechanisms for dedicating revenues.
- Mechanisms and targets for allocating revenues.
- Approaches to community participation in revenue allocation decisions and tax implementation.
- Mechanisms for tax implementation reporting and accountability.

Our analysis includes all taxes proposed or adopted in the United States in local and state jurisdictions between 2012-2021 (Appendix C):

- 18 states with 43 proposed bills (some states introduced bills in multiple years and/or multiple bills in a single year). No state bills have been adopted.
- 11 local jurisdictions (cities and counties) with 7 enacted tax ordinances, 1 enacted and repealed ordinance, and 4 proposed ordinances.

For simplicity of presentation, we use the terms “policy” or “legislation” to refer to proposed bills and ordinances and to enacted legislation unless a more specific term is applicable.

Equity intent
Tax policies commonly included promotion of equity as an intention of the legislation. Expression of equity as legislative intent broadens support for tax policy adoption and positions the policy as a tool for advancing health equity and racial and social justice.

Tax policies with an equity intent commonly identified one or more communities as the focus of equity concerns. We use the term “priority community” to describe communities that experience health inequities – particularly in conditions associated with sweetened beverages – and that are disproportionately affected by marketing and consumption of sweetened beverages. These inequities are rooted in adverse community conditions shaped by racial and ethnic discrimination and by social, political and economic exclusion, and are exacerbated by exposure to sweetened beverages.12

Summary of tax policies
We examined the included tax policies to identify language in the findings, purpose, or intent sections, or elsewhere in the legislation, that described an intent to
address or promote equity, including health, racial, or economic equity. The intention to advance equity has been expressed as an overall purpose of legislation. It has also been stated in provisions that:

- Create special funds for dedicated revenues (e.g., a health equity fund)
- Describe programs and activities supported by revenues (e.g., allocation of funds for programs and activities located in priority communities that address health disparities)
- Establish community participation structures and processes (e.g., specifying representation from priority communities on advisory boards)
- Require reporting and evaluation of tax implementation and impacts (e.g., documenting tax impacts on disparities).

Thus, equity can inform multiple provisions of SBT legislation.

Slightly more than half of states included an equity intent in at least one bill. Among all bills introduced, the majority expressed an equity intent. Among states and state bills that included an equity intent, health equity was the most common type mentioned, present in most states and bills. Racial equity was present in half, while economic equity was less common. Slightly less than half of bills that stated an equity intent addressed multiple types of equity.

Among the ten states with equity intent, eight specified one or more priority communities, as was the case in 22 of 26 state bills with equity intent. Nearly all states and bills included multiple priority communities.

Table 1: Equity Intent in State and Local Tax Policies, United States, 2012-2022

<table>
<thead>
<tr>
<th></th>
<th>State</th>
<th>Local</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Total States = 18</td>
<td>Total Policies = 43</td>
</tr>
<tr>
<td>States (N, %)</td>
<td>10 (56%)</td>
<td>26 (60%)</td>
</tr>
<tr>
<td>Policies (N, %)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jurisdictions (N, %)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policies (N, %)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equity intent included</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health equity</td>
<td>8 (80%)</td>
<td>21 (81%)</td>
</tr>
<tr>
<td>Racial equity</td>
<td>5 (50%)</td>
<td>13 (50%)</td>
</tr>
<tr>
<td>Economic opportunity equity</td>
<td>3 (30%)</td>
<td>4 (15%)</td>
</tr>
<tr>
<td>Among policies expressing equity intent, the type of equity prioritized was:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Among policies expressing equity intent, commonly named priority communities were:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children</td>
<td>6 (60%)</td>
<td>11 (42%)</td>
</tr>
<tr>
<td>Communities of Color</td>
<td>5 (50%)</td>
<td>12 (46%)</td>
</tr>
<tr>
<td>Low-income communities</td>
<td>7 (70%)</td>
<td>13 (50%)</td>
</tr>
<tr>
<td>High-burden communities</td>
<td>6 (60%)</td>
<td>12 (46%)</td>
</tr>
</tbody>
</table>

Additional priority communities included: Medicaid eligible individuals, children in pre-school or childcare, Indigenous people, rural communities.

“*We included equity language in the Findings and Declarations at the beginning of the bill, which although they don’t have the weight or the force of law, they do capture a lot of the equity conversation that surrounds the policy.*”

— State legislative staffer

§Multiple bills were proposed over the ten years by some of the states included in this report. In each state all, some or none of the bills may have included an equity intent.

†Legislation was coded as having a racial or economic equity intent if it expressed a purpose to address disparities associated with race or economic status. A health equity intent was present if legislation expressed a purpose to reduce health disparities.
Commonly identified communities were children, communities most affected by health inequities or sweetened beverages, people of color, and people with low incomes. A few states and bills addressed additional populations: Medicaid enrollees, children attending pre-school or childcare, or Indigenous populations.

Almost all local jurisdictions and tax policies included an equity intent. Nearly all these policies included health equity; racial and economic equity also were common. Inclusion of several types of equity within a single piece of legislation was more frequent in local policies compared to state bills.

Among the local jurisdictions and tax policies that included an equity intent, all but one identified at least one priority community. The most frequently specified communities were people with low incomes, people of color, and children.

**Experience from the field**

All interviewed policymakers and advocates highlighted the importance of promoting equity (or reducing disparities or inequities) when drafting sweetened beverage tax legislation. They emphasized that the tax should benefit communities experiencing the highest levels of inequities and rates of preventable chronic diseases linked to sweetened beverage consumption.

Interviewees from one state shared that bills should indicate the intent to invest tax revenues in priority communities impacted by inequities and to reduce exposure to and consumption of sweetened beverages in these communities, regardless of the programs the bill funds. Alternatively, we heard from one city that the only way to garner community support for a tax is to describe upfront the specific programs the tax revenue will fund. We heard from interviewees that equity intent centers taxes in equity, builds diverse support for taxes, commits government to equitable investment of revenues and tax implementation, and gives communities a tool to hold government accountable for doing so. It also counters the industry’s misleading claims that taxes are unfair to people with low incomes and people of color.

The interviewees noted that equity considerations apply to the policy development process as well as to the impacts of the tax. How the legislation is drafted, adopted, and implemented can impact equity. An equitable process includes, but is not limited to, seeking guidance from priority communities on targets for revenue use prior to legislation drafting, incorporating their priorities in legislative language, and honoring them during implementation. Several cities and states (e.g., Berkeley, DC, CA, RI, WA) hosted listening sessions, community forums, and focus groups with people from priority communities. Some cities and states included community members in pro-tax coalitions. Some cities sought grassroots participation through community organizing and door-knocking. In one city, a grassroots organization respected by elected officials had a major influence on shaping the legislation and determining revenue allocations. Advocates noted that a tax adoption campaign should allow for sufficient time prior to legislation drafting to build coalitions and authentically collaborate with communities.

**Experience from other taxes**

Historically, alcohol and tobacco excise taxes have not expressly stated an equity intent. Many of these taxes were adopted decades ago and have been viewed as “sin taxes” that generate revenue for a jurisdiction’s general fund. However, these taxes also are recognized as a means for preventing or reducing consumption of taxed products and raising revenues for public health purposes such as tobacco and alcohol education, prevention, and cessation. Increasingly, advocates have framed tobacco taxes as a progressive policy tool, based on evidence that disproportionately impacted populations stand to benefit from the tax. For example, a 2021 Minnesota bill proposed to amend state law to require dedication of $15 million in tobacco tax revenues annually to a tobacco use prevention and cessation special fund, naming promotion of racial and health equity as an objective. Ultimately, the final legislation earmarked $4 million per year in a line item in the state’s general fund.

Recreational cannabis excise taxes are relatively new in the United States. Legislators initially modeled them on alcohol taxes – viewing them primarily as a source of general revenue. There has been growing interest in enacting provisions – similar to tobacco tax provisions – that require an evidence-based cannabis prevention and control approach aimed at changing social norms and reducing use, especially among disproportionately impacted communities, to advance equity. The next generation of cannabis tax legislation may very well focus on addressing racial, health, and economic equity issues associated with cannabis use.14
We found a few additional examples of excise tax policies that included an equity intent, naming low-income communities of color or communities disproportionately affected by the taxed substance as priority communities. In addition to the Minnesota tobacco bill mentioned above, a bill introduced in Maryland in 2021 sought to increase the state’s alcohol excise tax by one percent with the intent to allocate the additional revenue to a Pathways to Equity Fund; ultimately, this portion of the bill was deleted during the legislative process. California and Massachusetts earmarked cannabis revenues for restorative justice and social service programs to assist communities, predominantly low-income communities of color, that have been disproportionately impacted by policing of marijuana prohibition laws.\textsuperscript{15}

Theoretical discussions of excise taxes have described “the benefit principle” - which states that dedicating and allocating revenues to specific purposes is justified when the revenues are used to benefit those paying the tax, e.g., to lessen negative health impacts of use among tobacco or cannabis users. Combining this concept with an equity lens suggests that for an excise tax to be equitable, revenues should be directed to programs and activities that address the needs of disproportionately impacted populations.\textsuperscript{16}

Additional legislative intent
Sweetened beverage tax legislation often included the intention to address additional goals and invest revenues for additional purposes to benefit priority communities.

Summary of tax policies
Most states included additional legislative intents (Table 2). Common topic areas were chronic disease prevention and treatment and promotion of health and healthy lifestyles. A small number of states included education and training, health-related infrastructure, oral health, parks, and water access. Most included more than one additional purpose.

State legislation identified priority communities for these other intents, which in general were similar to the priority communities for equity intent. One difference was that communities of color were prioritized less frequently.

Most localities included additional legislative intents as well. Similar to states, common topic areas were chronic disease prevention and treatment and promotion of health and healthy lifestyles. A small number of jurisdictions included education and training, parks, and commerce. The most commonly identified priority communities were similar to those identified for equity intent.

The choice of topics to include as additional intents was specific to each jurisdiction and piece of legislation, reflecting community needs and priorities.

Recommendations: Equity intent

- Include equity intent as a key purpose of the tax legislation and include reductions in disparities as a desired outcome.
- Include the intention to invest revenues in priority communities impacted by inequities or disproportionately affected by sweetened beverages as a key purpose of the tax legislation. Revenues should address the disparities affecting priority communities and the underlying social, economic, racial, and other factors that cause the disparities.
- Identify priority communities by their racial/ethnic, socioeconomic, and/or age characteristics or more broadly as those most affected by inequities or disproportionately affected by sweetened beverages.
- Specify the type(s) of equity the legislation addresses and define what is meant by “equity.” Consider health, racial, and economic equity.
- Include descriptions of equity issues and disparities as legislative findings.
Table 2: Additional Legislative Intent in State and Local Tax Policies, United States, 2012-2022

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<tr>
<th></th>
<th>State</th>
<th>Local</th>
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<tbody>
<tr>
<td></td>
<td>Total States = 18</td>
<td>Total Jurisdictions = 11</td>
</tr>
<tr>
<td></td>
<td>Total Policies = 43</td>
<td>Total Policies =12</td>
</tr>
<tr>
<td>Additional legislative intent</td>
<td>14 (78%)</td>
<td>35 (81%)</td>
</tr>
<tr>
<td>Among policies expressing additional legislative intent, the most common intentions were:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chronic disease prevention and treatment</td>
<td>12 (86%)</td>
<td>26 (74%)</td>
</tr>
<tr>
<td>Racial equity, healthy lifestyle and health promotion</td>
<td>8 (57%)</td>
<td>18 (51%)</td>
</tr>
<tr>
<td>Among policies expressing additional legislative intent, the most common priority communities were:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children</td>
<td>7 (50%)</td>
<td>13 (37%)</td>
</tr>
<tr>
<td>Low-income communities</td>
<td>8 (44%)</td>
<td>11 (31%)</td>
</tr>
<tr>
<td>High-burden communities</td>
<td>6 (33%)</td>
<td>11 (31%)</td>
</tr>
<tr>
<td>Communities of color</td>
<td>2 (11%)</td>
<td>2 (6%)</td>
</tr>
</tbody>
</table>

Less frequently, states included additional legislative intents: health-related infrastructure (3 states), education/training (3 states), oral health (1 state), parks (1 state) and water (1 state). Three local jurisdictions included education/training and one local jurisdiction each included parks and commerce. Additional priority communities included: Medicaid eligible individuals, children in pre-school or childcare, Indigenous people, rural communities.

Dedication
Tax dedication refers to the budget processes used to restrict use of tax revenues to specific purposes such as those identified through legislative intent. “Earmarking” is another commonly used term for dedication. Virtually all state and approximately half of local legislation dedicated revenues. The most common mechanism was to deposit revenues in a special fund, separate from the general fund.

Summary of tax policies
All states and virtually all bills proposed earmarking at least some tax revenues for specific purposes (Table 3). Nearly all proposed dedicating all tax revenues to a special fund. In a few instances, bills included a general fund line item or partial dedication in which a portion of funds went to a special fund with the balance remaining in the general fund. Most bills created new special funds, although some directed revenues to existing special funds. While most bills established a single special fund, some created several.

Fewer local jurisdictions and policies – somewhat less than half – included dedication. All of them used a special fund as the dedication mechanism. Of the seven currently levied local SBTs, six place revenues in the general fund and one in a special fund. Notably, California cities, which comprise the majority of these jurisdictions, are unable to dedicate revenues unless a tax ballot measure passes by at least two-thirds of votes cast. Because of this high threshold, no California city has included a dedication provision in tax legislation.

Supplantation refers to substituting a new source of funds for general budget funds allocated to an existing program or activity, thus freeing up the general funds allocated to those programs to use for other purposes. Supplantation is sometimes used by policymakers as a budget maneuver to work around dedication provisions. Eight states (44%) proposed at least one bill with non-supplantation language, which prohibits using the SBT revenues to fund current operations and requires use only for new or expanded programs. A third of bills included non-supplantation language. No initial local legislation included non-supplantation provisions. The Seattle city council created a special fund with non-supplantation language in a follow-up ordinance in response to an attempt by the mayor to use SBT revenues
**Investing sweetened beverage tax revenues for equity**

### Table 3: Revenue Dedication in State and Local Tax Policies, United States, 2012-2022

<table>
<thead>
<tr>
<th></th>
<th><strong>State</strong></th>
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<th><strong>Local</strong></th>
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<tbody>
<tr>
<td></td>
<td><strong>Total States = 18</strong></td>
<td><strong>Total Policies = 43</strong></td>
<td><strong>Total Jurisdictions = 11</strong></td>
</tr>
<tr>
<td></td>
<td>States (N, %)</td>
<td>Policies (N, %)</td>
<td>Jurisdictions (N, %)</td>
</tr>
<tr>
<td>Policy includes revenue dedication*</td>
<td>18 (100%)</td>
<td>42 (98%)</td>
<td>4 (36%)</td>
</tr>
<tr>
<td>General fund with line item</td>
<td>3 (17%)</td>
<td>3 (7%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>Special Fund</td>
<td>16 (89%)</td>
<td>39 (91%)</td>
<td>4 (36%)</td>
</tr>
<tr>
<td>General fund only (no dedication)</td>
<td>1 (6%)</td>
<td>1 (98%)</td>
<td>7 (58%)</td>
</tr>
</tbody>
</table>

*Funds could be dedicated via: a) General fund with line item, b) Combination of general fund and special fund, or c) Special fund only

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**Recommendations: Additional legislative intent**

- Include any additional purposes relevant to the jurisdiction as legislative intent, such as specific concerns (e.g., chronic diseases), conditions and issues shaping these concerns (e.g., access to healthy food), or the types of programs that will be supported (e.g., fruit and vegetable subsidies).

- Include the explicit intent to invest tax revenues used to address these additional purposes in priority communities and define these communities. Consider as priority communities those mentioned in the preceding section describing equity intent.

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“As far as getting money straight into the community, there was no vehicle for that, and that’s why we came up with the need to put this into some kind of special fund.”

— State legislative staffer

Dedication, is an effective but not fool-proof, mechanism for ensuring that revenues are spent as intended.

### Experiences from the field

Interviewees shared a strong desire that SBT revenues be dedicated and spent for specific purposes. All but one of the state-level interviewees recommended a dedicated special fund as the best way to ensure this happens. A Boulder interviewee reported that, once the city’s sweetened beverage tax revenues are dedicated, they are not tapped for anything else.

We learned that dedication provides a foundation for accountability – ensuring that tax revenues are used as promised. Honoring commitments for how revenues are used builds trust between community and government. When dedication is not included in legislation (e.g., in California cities), advocates, elected officials, and community members have made use of political processes to try to ensure that revenues are invested as originally intended.

Policymakers may try to divert revenues. Attempts to divert sweetened beverage tax revenues have occurred in Seattle and Oakland. Furthermore, a state interviewee cautioned that a dedicated fund is not fool-proof, drawing on lessons learned from the Tobacco Trust Funds set up after the Master Settlement Agreement. The settlement dollars were intended to support tobacco prevention and cessation activities, but legislators routinely raided or attempted to repeal dedication of these funds.

A few interviewees noted potential tensions between legislators wanting the flexibility to move funds to where they see fit, year to year, and policy advocates wanting to ensure stable long-term funding that is responsive to expressed community needs. A Philadelphia...
“So, while having dedication mechanisms is important, the political climate and community power to enforce the agreements about how revenues are to be used are key.”
— City level policymaker

interviewee cautioned against putting too many additional hurdles or restrictions on a SBT because this may make it less attractive to policymakers relative to other revenue options, and noted that dedication may complicate legislation and create barriers to adoption. Depending on the political context of a particular jurisdiction, it may be judicious to place revenue in the general fund (and designate a line item) or use an existing special fund.

Experiences from other taxes
Some states with alcohol and tobacco excise taxes have used special funds for revenue dedication. Orenstein and Glantz caution that state budgets “tend to absorb funds that are not earmarked for specific purposes.”19 As of 2005, 24 of 50 states dedicated at least a portion of tobacco revenues to specific purposes.20 We discuss this further in the following section on revenue allocation.

Approximately 23 states designate some, or all, of alcohol tax revenues for specific purposes.20 Another study found that 16 states specifically require allocation of at least a portion of alcohol tax revenues to one or more alcohol-related purposes.21

All state cannabis taxes dedicate at least a portion of revenues to specific programs or purposes.22 Commentators on cannabis taxes have advocated for this practice. Bryant recommends earmarking tax revenue to support programs for those adversely impacted by the War on Drugs, calling this an ethical obligation “to repair the collateral damage … [by] making lives of those negatively impacted whole again” through family counseling for those separated by incarceration, career development, educational loans, expungement of criminal charges, or restoration of voting rights.23 Barry and Glantz suggest modeling marijuana legislation on public-health oriented tobacco policies that include evidence-based prevention and control programs that change social norms and reduce tobacco use.14 On the other hand, Davis cautions that inflexible dedication may not always lead to desirable outcomes. Substituting the best judgment of elected officials with a mandated dedication formula may cause problems if state priorities and needs change but the formula does not.15

Revenue allocation
How tax revenues are allocated – for what purposes, to which communities, to which organizations – has a major influence on support for a tax, the extent to which it addresses equity, and its impacts. Tax legislation has

Recommendations: Dedication

- Establish a special budget fund for deposit of tax revenues dedicated to specific purposes. This is the best mechanism to ensure that revenues are used as intended. While legislation typically establishes a new special fund, it is possible to use an existing special fund alone or in combination with a new one.
- Clearly describe allowable uses of tax revenues deposited in the special fund, consistent with the legislatively expressed intent. Language describing uses should balance flexibility to meet changing needs with clarity of description of permitted uses.
- Include non-supplantation language that restricts use of funds to expansion of existing programs or creation of new ones and prohibits backfill of other appropriations.
- Designate that any unspent balances in a special fund must be carried forward in the special fund to the next budget cycle and not be moved to the general fund or another fund.

* Preferably, create the fund in the legislation establishing the tax. If a special fund is not included initially, subsequent legislation can create one later. If it is not possible to set up a special fund due to legal or political constraints, an alternative is to clearly specify intent for revenue allocations though a legislative intent statement in the bill or public statements by policymakers during the bill adoption process.
varied considerably in how specifically it describes allocation purposes and processes and in the types of programs and activities it authorizes. Most legislation directs funding to multiple target areas. Allocation of revenues is guided by legislative intent. Including equity as an intent is an important mechanism to help ensure that the programs and activities funded by tax revenues focus on priority communities and advance equity. Revenue allocation provisions can also identify communities prioritized for funding.

Table 4: Allocation in State and Local Tax Policies, United States, 2012-2022

<table>
<thead>
<tr>
<th>Target Area and Programs and Activities</th>
<th>State Total States = 18 Total Policies = 43</th>
<th>Local Total Jurisdictions = 11 Total Policies =12</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>States (N, %) Policies (N, %)</td>
<td>Jurisdictions (N, %) Policies (N, %)</td>
</tr>
<tr>
<td>Target Area: Community Health and Nutrition</td>
<td>15 (83%) 31 (72%)</td>
<td>4 (36%) 5 (42%)</td>
</tr>
<tr>
<td>Community access to food</td>
<td>12 (66%) 21 (49%)</td>
<td>4 (36%) 5 (42%)</td>
</tr>
<tr>
<td>Nutrition incentives</td>
<td>10 (56%) 10 (23%)</td>
<td>2 (18%) 3 (25%)</td>
</tr>
<tr>
<td>Chronic disease prevention and treatment</td>
<td>10 (56%) 20 (46%)</td>
<td>4 (36%) 4 (33%)</td>
</tr>
<tr>
<td>Reduction of sweetened beverage consumption</td>
<td>5 (28%) 10 (23%)</td>
<td>2 (18%) 3 (25%)</td>
</tr>
<tr>
<td>Community access to water</td>
<td>4 (22%) 8 (19%)</td>
<td>2 (18%) 2 (16%)</td>
</tr>
<tr>
<td>Target Area: Community Health and Nutrition</td>
<td>8 (44%) 16 (37%)</td>
<td>3 (27%) 4 (33%)</td>
</tr>
<tr>
<td>Parks</td>
<td>3 (17%) 4 (9%)</td>
<td>2 (18%) 2 (16%)</td>
</tr>
<tr>
<td>Other unspecified physical activity</td>
<td>6 (33%) 11 (26%)</td>
<td>2 (18%) 3 (25%)</td>
</tr>
<tr>
<td>Exercise classes</td>
<td>4 (22%) 4 (9%)</td>
<td>0 (0%) 0 (0%)</td>
</tr>
<tr>
<td>Target Area: Tax Implementation</td>
<td>8 (44%) 18 (42%)</td>
<td>4 (36%) 5 (42%)</td>
</tr>
<tr>
<td>Monitoring, reporting and evaluation</td>
<td>6 (33%) 10 (23%)</td>
<td>3 (27%) 4 (33%)</td>
</tr>
<tr>
<td>Administrative</td>
<td>7 (39%) 12 (28%)</td>
<td>3 (27%) 3 (25%)</td>
</tr>
<tr>
<td>Advisory board support</td>
<td>3 (17%) 6 (14%)</td>
<td>2 (18%) 2 (16%)</td>
</tr>
<tr>
<td>Target Area: Early Childhood</td>
<td>6 (33%) 10 (23%)</td>
<td>3 (27%) 3 (25%)</td>
</tr>
<tr>
<td>Pre-kindergarten</td>
<td>1 (6%) 1 (2%)</td>
<td>2 (18%) 2 (16%)</td>
</tr>
<tr>
<td>Childcare</td>
<td>1 (6%) 1 (2%)</td>
<td>2 (18%) 2 (16%)</td>
</tr>
<tr>
<td>Early childhood health</td>
<td>3 (17%) 5 (12%)</td>
<td>1 (9%) 1 (8%)</td>
</tr>
<tr>
<td>Other early school funding</td>
<td>3 (17%) 4 (9%)</td>
<td>0 (0%) 0 (0%)</td>
</tr>
</tbody>
</table>

Continued on page 13
**Table 4: Allocation in State and Local Tax Policies, United States, 2012-2022 (continued)**

<table>
<thead>
<tr>
<th>Target Area and Programs and Activities</th>
<th>State</th>
<th>Local</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total States = 18</td>
<td>Total Jurisdictions = 11</td>
</tr>
<tr>
<td></td>
<td>Total Policies = 43</td>
<td>Total Policies = 12</td>
</tr>
<tr>
<td>Target Area: School-based programs</td>
<td>States (N, %)</td>
<td>Policies (N, %)</td>
</tr>
<tr>
<td></td>
<td>12 (66%)</td>
<td>20 (46%)</td>
</tr>
<tr>
<td>School nutrition, school gardens, farm to school programs</td>
<td>10 (56%)</td>
<td>16 (37%)</td>
</tr>
<tr>
<td>School-based water access</td>
<td>4 (22%)</td>
<td>8 (19%)</td>
</tr>
<tr>
<td>School-based physical education</td>
<td>8 (44%)</td>
<td>15 (35%)</td>
</tr>
<tr>
<td>School capital improvements</td>
<td>5 (28%)</td>
<td>5 (11%)</td>
</tr>
<tr>
<td>Safe routes to schools</td>
<td>4 (22%)</td>
<td>6 (14%)</td>
</tr>
<tr>
<td>Target Area: Health care access</td>
<td>10 (56%)</td>
<td>17 (39%)</td>
</tr>
</tbody>
</table>

Less frequent programs included workplace wellness, parks, building and refurbishing community clinics, and programs to promote breast feeding. Emerging areas for investment addressed social determinants of health such as adverse childhood experiences (ACES), prison reform, and local food system development.

**Summary of legislation**

All states and most localities identified target areas for revenue allocation, which are summarized in Table 4 in the yellow colored rows. They also described specific types of programs and activities within these target areas. Community health and nutrition was the most frequent target area among both state and local jurisdictions and school-based nutrition and physical activity and access to health care were included by more than half of states. States included 46 types of programs and activities. Programs and activities mentioned by more than half of states were community access to food, nutrition incentives subsidizing purchase of fruits and vegetables, chronic disease prevention and treatment, and school nutrition programs. In addition to allocating revenues to programs, some states directed funding toward tax implementation: tax administration; tax implementation monitoring, reporting and evaluation; and Advisory Boards.

Local jurisdictions identified 12 types of programs for revenue allocation. The most common were community access to food and chronic disease prevention and treatment.

All states and localities allocated revenues to government agencies. Legislation directed the agencies to either implement programs themselves or to make grants to NGOs and local governments for program implementation, or both.

**Experiences from the field**

States and localities varied substantially in their choices of allocation targets, which are shaped by the context, values, and priorities of each jurisdiction. For example, interest in the SBT in Rhode Island originated from advocates seeking funding for SNAP program nutrition incentives. In Berkeley, parents seeking funds for school gardens launched the tax campaign. In Seattle, the initial council champion saw the tax as source of funds for early childhood programs, but the emphasis shifted to healthy food access when community advocates expressed their

“There's a zero percent chance that a piece of legislation like this has community acceptability without clearly defining how the funding is allocated, period.”

— Local advocate
priorities. In Hawaii, priorities have shifted over time to gain political support.

Tailoring allocation to the jurisdiction’s context builds support for proposed tax legislation, especially among the interested parties who stand to benefit from the allocations. For example, in the latest California bill, the allocation targets are the result of years of negotiations between representatives of priority communities, public health agencies, and organizations working in health education and disease prevention. Linking a tax to a tangible, popular program may make the tax more appealing and, in some cases, it may be preferable to frame the tax as a public health measure to reduce sweetened beverage consumption. Philadelphia portrayed its tax as a source of revenues for early childhood programs and rebuilding parks, recreation facilities and libraries.

Regardless of the allocation targets, clearly describing how funds will be used is essential. Advocates observed that allocating revenues to programs aimed at reducing exposure to and consumption of sweetened beverages (e.g., countermarketing and other public awareness campaigns), or to health-focused programs, can add to the positive health impact of taxes, beyond any reductions in consumption driven by higher prices due to the tax.

Others noted the value of balancing flexibility in allocating funds with assurances that funds will used as intended and promised. On the one hand, avoiding over-specification of allocation targets in legislation gives more latitude during tax implementation for community members, advocates, and legislators to shape the use of revenues and address changing community needs and priorities. On the other hand, specifying allocation targets promotes legislative and executive accountability to intentions expressed during tax policy adoption.

The revenue allocation processes described by the interviewees included direct funding of government agencies to develop programs and funding of community organizations via competitive grants. Grantmaking is usually administered by a government agency, often in concert with an advisory board. The advisory board may contribute to the design of a request for proposals, recommend priorities for allocations consistent with tax legislation, and make funding recommendations.

Interviewees offered some innovative approaches. Boulder is considering support for organizations engaging in advocacy aimed at policy change. Its advisory board, assisted by city staff, has developed definitions of equity to guide allocations and tax impact measures centered in equity. Massachusetts shared the idea of allocating revenue to each city in proportion to the amount of revenue it generates.

**Experiences from other taxes**

All 50 states have tobacco excise taxes. As of FY 2005, 26 of them specified how some or all tax revenues were to be used. The most common allocation targets were health and human services (23), local government operations (14), and K-12 and higher education (10).16, 20

All states also have alcohol excise taxes. As of FY 2005, approximately 23 states designated at least some tax revenue for specific purposes. The most common purposes included health and human services (13); local government, including highways (10); and education (4).20 A 2009 study looking specifically at alcohol-related uses of tax revenues found that 16 states required allocation of revenues to one or more of the following alcohol-related purposes: education and/or prevention; treatment or rehabilitation; enforcement and administration; and general mental health.21

At least a portion of the revenue from cannabis taxes has been allocated to purposes related to marijuana use. Some legislation has included funding for research on the impact of legalization on public health and safety, the economy, and criminal justice and clinical trials for medical uses of marijuana. Other taxes have supported restorative justice, community reinvestment grants, and social service programs to assist communities, predominantly low-income communities of color, that have been disproportionately impacted by policing related to prior marijuana prohibition. Additional uses of revenue have included support for people of color, women, veterans, and people with disabilities to participate in the cannabis industry; substance misuse prevention programs; youth programs; mental health services; and other public health and safety programs.15,19 It has been politically attractive to use revenue for other purposes including education and support for local government services such as police and fire. States have also directed some funds to pay for tax implementation and regulatory costs. In states without laws specifically depositing revenue from marijuana taxes into dedicated funds, revenues typically have been used to support the state’s medical marijuana program, law enforcement, or health services related to drug addiction.23
Discussions of alcohol and tobacco taxes note that when revenue is allocated to programs serving low-income communities, the tax revenues will partially offset adverse economic effects of the tax on people with low incomes who continue to consume the taxed products.\textsuperscript{11,24} This is especially true when allocations are made to programs designed to prevent or address harms associated with use of these products, which add to the health benefits of the tax beyond those attributable to lower consumption due to tax-induced price increases. That said, most states have failed to allocate any of their tobacco tax revenues to prevent or reduce use of commercial tobacco or the many associated harms and costs. Among the states that do support tobacco prevention and/or cessation, nearly all allocations are considerably below funding levels recommended by the U.S. Centers for Disease Control and Prevention.\textsuperscript{25,26}

Consistent with the observations from the interviews above, allocation of revenues to address the priorities of communities and policymakers increases support for taxes.\textsuperscript{26} Public support for a tax is also stronger when revenues are used for programs that address the behaviors (e.g., tobacco use) targeted by the tax.\textsuperscript{16}

Experience with tobacco taxes suggests that to effectively allocate revenues, government must develop well-designed mechanisms for distributing funds, strong intersectoral partnerships that engage multiple state agencies with intersecting policy interests, and compelling evidence linking funded programs to benefits in population health, including public health outcomes associated with tobacco.\textsuperscript{26}

**Participation by communities and other interested parties in tax design and implementation**

The participation by people from priority communities and other interested parties in designing and implementing sweetened beverage taxes is an innovative feature, setting them apart from other types of excise taxes. Interested parties – representatives of organizations and

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**Recommendations: Revenue allocation**

- Include legislative language that describes the programs and activities to be supported with tax revenues and the communities that will benefit from these allocations.
- Allocate revenues to address the health disparities noted in legislative intent, especially those caused by conditions associated with sweetened beverage consumption.
- Allocate revenues to support programs and activities in priority communities that address community-defined priorities and reflect community values. Use both scientific evidence and the lived experience of people from priority communities to inform selection of programs and activities. Note that allocations have varied substantially across jurisdictions, indicating there is no uniform best use of revenues.
- Consider allocating revenues to support programs and activities that address societal costs related to sweetened beverages and that reduce sweetened beverage availability, sales, purchases, or consumption (e.g., public awareness and countermarketing campaigns).
- Allocate revenues to pay for tax administration and enforcement costs.
- Allocate revenues for monitoring and reporting on tax implementation and for evaluation of tax impacts.
- Specify equity objectives and outcomes for revenue allocations.
- Consider flexible allocation targets that can adapt to changing community priorities or define targets broadly enough to accommodate changing needs.
- Establish grantmaking programs that award a portion of revenues to NGOs, especially those working in priority communities and led by people from those communities.
individuals whose work is closely tied to tax intent and revenue allocation targets – bring expertise in how to use revenues effectively. They are commonly included on boards or commissions that advise government on tax implementation, including revenue allocation.

Community participation has emerged as a key approach to centering taxes in equity – to ensure that revenue allocation and tax implementation reflect the values and priorities of priority communities, informed by lived experience. The most common mechanism for community participation has been inclusion of people from priority communities on advisory boards. While slightly more than half of advisory boards included community members, they nearly always constituted a small minority of the board. Other options for participation along the spectrum of community engagement could be considered.27

Summary of legislation
About a third of state bills established advisory boards (Table 5). Membership criteria varied across states. In part, this reflected differences in programs and sectors identified in legislative intent and targeted for revenue allocation. Among the seven states that included advi-

Table 5: Participation by Community and other Interested Parties in State and Local Tax Policies, United States, 2012-2022

<table>
<thead>
<tr>
<th></th>
<th>State Total States = 18 Total Policies = 43</th>
<th>Local Total Jurisdictions = 11 Total Policies =12</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>States (N, %)</td>
<td>Jurisdictions (N, %)</td>
</tr>
<tr>
<td>Policy established advisory board</td>
<td>7 (39%)</td>
<td>5 (45%)</td>
</tr>
<tr>
<td></td>
<td>State-level Bills (N, %)</td>
<td>Policies (N, %)</td>
</tr>
<tr>
<td></td>
<td>14 (33%)</td>
<td>5 (42%)</td>
</tr>
</tbody>
</table>

Of policies with an advisory board, the following types of members were specified:

<table>
<thead>
<tr>
<th>Member Type</th>
<th>State (N, %)</th>
<th>Local (N, %)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government public health</td>
<td>6 (86%)</td>
<td>1 (20%)</td>
</tr>
<tr>
<td>Health organizations - community health organizations</td>
<td>5 (71%)</td>
<td>2 (40%)</td>
</tr>
<tr>
<td>Health care provider – nurse, physician, other</td>
<td>5 (71%)</td>
<td>3 (60%)</td>
</tr>
<tr>
<td>Public health researcher</td>
<td>3 (43%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>School representative</td>
<td>4 (57%)</td>
<td>4 (80%)</td>
</tr>
<tr>
<td>Member of impacted community</td>
<td>4 (57%)</td>
<td>2 (40%)</td>
</tr>
<tr>
<td>Experience with early childhood programs</td>
<td>6 (86%)</td>
<td>4 (80%)</td>
</tr>
<tr>
<td>Experience with chronic disease prevention programs</td>
<td>3 (43%)</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>Experience with anti-hunger and food security programs</td>
<td>2 (29%)</td>
<td>4 (80%)</td>
</tr>
<tr>
<td>Elected official - senator, representative, member of general assembly</td>
<td>4 (57%)</td>
<td>0 (0%)</td>
</tr>
</tbody>
</table>

Other categories included: academic/university experts (4 states), individuals whose work focuses on equity (3 states), students and parents (3 cities), youth development experts (3 cities), parks development experts (2 cities)
Accountability is an extremely important element of utilizing public funds and especially ones that are coming out of a taxpayer's pocket. And so that was really our rationale behind including the advisory board and setting parameters for how funds can be used.” — State legislative staffer

Advisory boards, the most common types of members were public health officials, representatives of health organizations, and health care providers. About half of states specifically reserved positions for people from impacted communities, although they constituted a small minority of members.

State legislation described a variety of advisory board roles. All advisory boards made recommendations about allocation of revenues. Other common roles were monitoring and/or reporting on tax implementation (5 states/71%) and advising on tax impact evaluation (5 states/71%). Less frequent roles included: review of grant applications for programs funded by the tax (3 states/43%), advising grant recipients on management of funded programs (3 states/43%), advising the government agency responsible for tax implementation (2 states/29%), developing and monitoring strategic plans related to revenue-funded programs such as state obesity prevention plans (2 states/29%), and advising on other issues related to tax implementation (1 state/14%).

Appointment of advisory board members varied across states. The governor played a role in all bills. The legislature was involved in most bills (10 bills/71%), with some advisory board seats appointed independently by the executive branch and some by the legislature, or alternatively, one branch proposed members to the other branch, which then made the final selection. In some states, government agencies appointed board members to slots reserved for state agencies (6 bills, 43%).

Approximately two-fifths of local policies included advisory boards. The most common categories of members were school officials, experts in early childhood, and food security advocates, reflecting the targets for revenue allocation. Three jurisdictions included community members (either people from the community, not otherwise specified, or students or their parents).

All local policies with advisory boards required the board to monitor and report on tax implementation. Most (80%) gave advisory boards roles in making recommendations about allocation of revenues and advising on tax evaluation. Some localities involved advisory boards in advising the government agency responsible for tax implementation (60%), while one city (20%) required its advisory board to review grant applications for programs funded by tax revenue.

Five localities included advisory boards in their legislation. Two required appointments to the board by a government agency; of the remaining three, the city council alone appointed members in one, while the mayor and council shared this responsibility in two.

Experiences from the field
Interview participants from cities that have enacted sweetened beverage taxes noted emphatically that success with tax legislation does not end with enactment. Ongoing work to ensure that revenues go toward intended uses and that the tax is properly implemented is equally important. When members of priority communities have substantial roles in determining revenue allocation and monitoring tax implementation, a tax is more likely to be equitably and effectively implemented. Community participation respects principles of autonomy and self-determination. It brings the lived experience of community members to discussions of needs and solutions. It builds community support for the tax and helps counter industry arguments that taxes are unfair to people with lower incomes and people of color.

An advisory board with meaningful community representation is an effective way to ensure community participation. The primary objective of an advisory board is to hold elected officials accountable for allocating and using revenues as intended. It does so by making revenue allocation recommendations; monitoring and reporting on tax implementation including revenues

“An advisory board holds the city accountable via organizing and political power. So through coercion and through organizing, we have been able to make sure that that funding continues to be invested as originally intended.” — Advocate
collected, revenues allocated, and activities funded; and advising on tax impact evaluation. In practice, the power of advisory boards to shape allocations is a political question, determined by strength of community advocates and extent of support from elected official champions.

However, some interview participants noted that advisory boards may not always be politically feasible or effectively bring community voices to the table. In some cities, appointments to boards are viewed as political perks, controlled by the mayor, and boards are therefore not trusted by the community. While Philadelphia does not have an advisory board, it offers other opportunities for community participation, such as community planning sessions for infrastructure projects funded by its tax.

Some interviewees commented that advisory board members should be exclusively or primarily people with lived experience or on the front lines of providing services funded by the tax, who reflect the diversity of the

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**Recommendations: Participation by communities and other interested parties**

- Establish an advisory board to advise government on tax implementation, including allocation of tax revenues.

- Specify and tailor criteria for advisory board membership to align with the purposes of the legislation and jurisdictional context. The board should include people with the expertise needed to make recommendations on allocations. Consider reserving a majority or supermajority of board positions for community members with lived experience and including the following as either board members or expert advisors to the board:
  - Staff from organizations serving priority communities and led by people from the community.
  - Public health officials
  - Health and dental care providers
  - Representatives of organizations from sectors designated for funding (e.g., schools)
  - Subject matter experts in fields relevant to allocation targets and tax implementation (e.g., chronic disease prevention, community engagement, health equity, policy and program evaluation).

- Include provisions to prevent conflict of interests and prohibit participation by people employed by or associated with the beverage industry.

- Specify an appointment process. The process for non-government members should be open and transparent. For example, government should publicize the opportunity to participate in the advisory board, seek nominations from the community (including self-nominations), and develop a transparent selection process.

- Core roles for an advisory board include:
  - Making recommendations about allocation of revenues
  - Monitoring and reporting on tax implementation, including revenues collected and allocated, and programs and activities funded
  - Advising on evaluation of tax impacts and implementation.

- Additional roles may include:
  - Reviewing grant applications for programs funded by tax revenues and making funding recommendations
  - Advising grant recipients about management of programs funded with tax revenues.

- Include funding for advisory board administrative support.

- Compensate participating community members, including community organization staff whose time is not covered by salary and staff of low-budget community-based organizations.
priority community, and people served by programs funded by revenues, and who have been historically excluded from decision-making. Others noted the value of including people with recognized professional expertise related to tax intent and allocation targets.

Current advisory boards are local. Developing state-level advisory boards will require adaptation and innovation to develop an advisory board process that authentically incorporates community voices. One state policymaker noted that states commonly have strict rules that define payment for board service, which typically is insufficient to compensate community members adequately for their participation. Representing geographic diversity across the state and addressing the logistical challenges of convening the board in person are additional challenges.

Another consideration is staffing the advisory board through an existing Office of Equity rather than the agency responsible for managing programs funded by tax revenues (typically the Department of Health in state bills). This model may give the advisory board an added degree of autonomy for fulfilling its accountability and monitoring roles.

Experiences from other taxes
Our review of alcohol, tobacco, and cannabis taxes did not yield any examples of advisory boards, although we did not conduct a comprehensive assessment of all adopted legislation. Commentors on cannabis taxes recommend advisory boards whose members have expertise in cannabis prevention and control. They call for strict prohibitions on conflicts of interest, including a prohibition on industry participation.

While we did not find examples of advisory boards in alcohol, tobacco, or cannabis excise tax policies, states have included advisory boards in other public health-related legislation. For example, legislation creating the Minnesota Good Food Access Program established an advisory committee to advise on managing the program, including guidance on funding projects, monitoring, accountability, and helping leverage additional public and private investments.

“Evaluation of outcomes was a higher priority for national partners... than for local advocates. But I think it was an important piece to include because industry talks about the impact on small business and tax regressivity. If we had data to show improvement in health outcomes, if we were able to show no change in small business revenues, then we shut all of that down.”
— Local advocate

Reporting and accountability
Provisions that require public reporting regarding tax implementation, especially revenue collections and allocations, are commonly found in SBT legislation. They are used to promote accountability to the public and to policymakers for effective and equitable tax implementation.

Summary of legislation
The majority of states and bills required reporting on tax implementation (10 states, 55%; 23 bills, 53%). Of these, nearly all required an annual report (8 states, 80%; 14 bills, 61%). Commonly required report elements included revenue allocation (types of programs and activities funded, and amount of funding) and impacts of the tax on health, equity, and sweetened beverage consumption. Some states also required information on revenues received. An advisory board played a role in issuing the report in five states (8 bills), government agencies in nine (19 bills), and other parties in five (e.g., an independent evaluator or a legislative committee; 7 bills).

The majority of local jurisdictions (8 localities, 75%) and policies (9 policies, 70%) required annual reports. Legislation required information on revenues received and allocated, and the impact of the tax on health. An advisory board was responsible for the report in five jurisdictions and a government agency in four. Some jurisdictions assigned the report to an independent evaluator (three) or mayor (one).

* Washington state recently passed legislation increasing the maximum permitted compensation for community members who serve on advisory boards to $200 per day.
Evaluation of the impact of taxes on sales, purchases, or consumption of sweetened beverages, on health outcomes associated with sweetened beverages, or on health equity was required by about half of states (9 states, 50%; 19 bills, 44%) and localities (6 localities, 50%; 7 policies, 58%).

**Experiences from the field**

Interview participants from cities with taxes noted that reporting to the public, affected businesses, and others is important to grow and sustain support for a tax. Authentic community participation requires provision of timely, meaningful, and accessible information to the public about tax implementation, revenues, and allocations. Communities need this information so they can determine how equitable and responsive taxes are in relation to community priorities and values.

Effective reports include advisory board recommendations for revenue allocations; information about funded programs including program descriptions, who is funded, and amount of funding; amount of revenues collected; and balance of special funds.

Involving advisory boards in report preparation and dissemination increases its value as an accountability tool. The advisory board is perceived as an independent body, “outside” of government. Posting the report in accessible venues such as a city webpage devoted to the tax also increases accountability. Some cities post revenues on public webpages each month (e.g., Philadelphia and Boulder).

Interviewees noted the value of including a requirement (with funding) for an independent evaluation that describes the impacts of funded projects and provides process performance measures. Some suggested that impacts should go beyond usual public health metrics and include measures of community capacity building.

**Recommendations: Reporting and accountability**

- Require an annual public report on implementation of the tax legislation that includes:
  - Revenues received
  - Revenues deposited in any special funds
  - Revenues allocated and expended
  - Any appropriation or carry-forward of unspent funds
  - Fund balance of special fund or line item in general fund
  - Programs and activities funded by allocations – amounts allocated, program and activity descriptions, fund recipients, and program and activity evaluation findings if they are available
  - Advisory board recommendations for allocations compared to actual allocations (if tax policy creates an advisory board)
  - Advisory board description – membership, decision making processes (if advisory board).

- Assign responsibility for development of the report to an advisory board (with support from government staff) or to a specific government agency in absence of a board.

- Make the report publicly available and easy to access. At a minimum, post it on a government website and distribute it to interested parties.

- Require evaluation of tax impacts and implementation processes and include specific evaluation objectives such as:
  - Assessment of tax impacts on sales, purchases and/or consumption of taxed products; health equity; conditions associated with sweetened beverage consumption; employment; and business revenues
  - Assessment of tax implementation, including tax collections, tax evasion, fiscal accountability, and equity and fairness of administration and enforcement
  - Impact and performance measures of programs and activities funded with tax revenues.

- Dedicate funding for report development and dissemination and any required evaluation activities.
Experiences from other taxes
State cannabis tax legislation in two states (OR, CA) calls for using existing behavioral surveillance systems to describe perceptions of risk, use, and harms related to marijuana to measure the effects of legal marijuana sales on public health. Another state (WA) has allocated tax revenues to fund a marijuana research program.

Legal issues
All states have the authority to dedicate tax revenues. Local governments that have been granted authority by the state to levy excise taxes can also dedicate revenues. Specific dedication mechanisms and related requirements vary across states. When crafting proposed legislation, it is essential to consult with state or local tax experts to ensure that dedication language is consistent with the laws of a given jurisdiction.

We reviewed state constitutions, statutory authority, and case law in three states (CA, CO, MA) where enactment of sweetened beverage tax policy is under active consideration to gain insights into legal issues affecting the ability of each state to dedicate and allocate tax revenues (Table 6).

What we learned. State excise taxes can be levied in all 50 states. The legal authority to levy excise taxes and the process for doing so is state-specific, but there are commonalities. Most state legislatures have the power to impose excise taxes via statute.¹

A tax can also be levied through an amendment to the state constitution. There are three main ways to amend a state’s constitution – a citizen-initiated ballot measure (requires gathering of requisite signatures); a legislatively-referred ballot measure (often requires approval by a supermajority of the legislature); or a constitutional convention (rare, and not addressed further for this reason).²

Specific legal issues may constrain tax dedication. In some states, a common issue is the single-subject rule, which requires that a tax proposal address only one subject. Litigation can ensue over adherence to this rule. Additionally, some states restrict tax subject matter or how revenues raised by an excise tax can be dedicated.

Recommendations. It is essential to carefully review applicable constitutional provisions – those addressing taxation – as well as applicable statutes, administrative rules, and case law. Looking at past practices and challenges regarding similar taxation may avoid pitfalls when developing a tax proposal, particularly when designing provisions that dedicate or allocate revenues to public health and health equity purposes.

¹In most states (34 states plus District of Columbia), a tax bill can obtain the legislature’s approval with a simple majority vote in each house; in 16 states, however, some or all tax bills require a supermajority vote of each house. In seven states, a supermajority of each house, plus the governor’s signature, is required. (Delaware, Mississippi, and Oregon require a three-fifths vote of each house; and Arizona, California, Nevada, and Louisiana require a two-thirds vote of each house.) See https://www.cbpp.org/sites/default/files/atoms/files/PolicyBasics-StateSupermajorities-4-22-13.pdf. In addition, at least one state, Colorado, requires voter approval of any legislative effort to impose or raise an excise tax.

²All states except Delaware require voter approval of a constitutional amendment to establish an excise tax. Vote thresholds for approval of constitutional amendments vary among states – some require a simple majority while others require a supermajority.
### Table 6: Legal Process & Issues: Dedication and Allocation of State Excise Taxes in California, Colorado and Massachusetts²⁹

<table>
<thead>
<tr>
<th></th>
<th>California</th>
<th>Colorado</th>
<th>Massachusetts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Statutory path – is voter approval required?</strong></td>
<td>No – Approval of two-thirds supermajority of both houses of the legislature is required.</td>
<td>Yes – Voter approval is required for any initiative to increase taxes. A majority vote of the legislature is necessary to refer the statutory proposal for voter approval.</td>
<td>No – Approval by a simple majority of the legislature is required.</td>
</tr>
<tr>
<td><strong>Constitutional amendment – legislatively referred</strong></td>
<td>Legislative referral of a proposed amendment for placement on a ballot requires approval by a two-thirds supermajority vote of both houses of the legislature. It is then placed on a ballot, where at least 50% of voters must approve.</td>
<td>Approval by a two-thirds supermajority vote of both chambers of the legislature is required to place a legislatively referred proposed amendment on a ballot. Once on the ballot, supermajority approval by voters (55%) is required.</td>
<td>Approval by a majority vote of the joint session of the legislature in two consecutive sessions is required to place a legislatively referred proposed amendment on a ballot. Once on the ballot, a simple majority approval by voters is required; in addition, the measure must be approved by at least 30% of the total votes cast in the election.</td>
</tr>
<tr>
<td><strong>Constitutional amendment – citizen initiated</strong></td>
<td>Approval by at least 50% of voters is required.</td>
<td>Approval by supermajority of voters (55%) is required.</td>
<td>Intricate requirements: Legislature may amend the citizens' proposed amendment. Measure requires approval of at least 25% of total number of legislators in two consecutive sessions. Simple majority approval by voters is required, and the measure must be approved by at least 30% of the total votes cast.</td>
</tr>
<tr>
<td><strong>Single subject rule</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>No – multiple subjects are allowed if related or mutually dependent.</td>
</tr>
<tr>
<td><strong>Restriction of subject matter</strong></td>
<td>No</td>
<td>No</td>
<td>Yes – State's constitution restricts allowable subject matter. For example, ballot initiatives cannot: apply to only some political subdivisions of state; propose to make a specific appropriation from the state's treasury; or conflict with specific constitutional rights.³⁰</td>
</tr>
<tr>
<td><strong>Restriction on dedication or allocation of tax revenues</strong></td>
<td>Yes – Legislation can limit amount or percent allocated, to whom allocated, and purpose. Use must relate to the purpose of the tax as specified under the single subject rule.</td>
<td>Yes – Legislation can propose to limit how revenues can be used.</td>
<td>Yes - Cannot propose a specific appropriation from the state treasury via a ballot measure; these can only be made by the legislature. Ballot measure may propose dedication of funds to specific purpose without making appropriations.</td>
</tr>
<tr>
<td><strong>Notable considerations</strong></td>
<td>Allocations are limited by annual appropriation limits for each government entity. To bypass these limits, a constitutional amendment is required.</td>
<td>Changes to an existing constitutional amendment require voter approval. The legislature may enact statutes to clarify or implement a constitutional amendment, as long as not in conflict with the amendment.</td>
<td>If two competing measures are on a ballot, the measure with the most affirmative votes supersedes the other one only on any points of conflict.</td>
</tr>
<tr>
<td><strong>Lawsuits</strong></td>
<td><em>Kennedy Wholesale vs. State Bd. of Equalization</em>: tobacco tax revenue allocations were reasonably germane to single subject purpose because tobacco impacted each area to which funds were dedicated.</td>
<td></td>
<td><em>Mass. Teachers Ass’n vs. Sec’y of the Commonwealth</em>: the mutually dependent subject rule only requires &quot;a common purpose to which each subject of an initiative petition can reasonably be said to be germane.&quot;</td>
</tr>
</tbody>
</table>

²⁹ [Source: California Constitution, Colorado Constitution, Massachusetts Constitution]
³⁰ [Source: *Mass. Teachers Ass’n vs. Sec’y of the Commonwealth*]
The Navajo Nation Healthy Diné Nation Act of 2014 placed a two percent tax on unhealthy foods and beverages, including sweetened beverages. A companion law eliminated a sales tax on fruits and vegetables. We excluded this legislation from our review because this study focused on sweetened beverages exclusively. Nonetheless, the Navajo Nation experience offers valuable examples of how tax revenues can be dedicated and allocated to advance health equity.

Revenues from the Navajo Nation tax are deposited into the Community Wellness Development Projects Fund. The fund supports local wellness projects designed by Navajo Nation Chapters, such as farming, vegetable gardens, greenhouses, farmers markets, traditional and non-traditional food preparation classes, food processing and storage facilities, clean water, physical activity infrastructure such as trails and playgrounds, health classes, parks, and more.

The intent of the law is to improve health by creating an environment that supports health and wellness and to prevent obesity, type 2 diabetes, and other conditions by discouraging excessive consumption of sweetened beverages and other unhealthy foods and beverages. “Unhealthy foods and beverages” means sweetened beverages and candy, chips, sweetened baked goods, frozen desserts, and other foods or beverages that may be designated as unhealthy by the Navajo Tax Commission.


Conclusions

Explicitly stating equity as an intent of sweetened beverage tax legislation is a common practice that increases support for a tax and aligns it with other efforts to address inequities. We recommend incorporating equity into several provisions of tax legislation to realize this intent:

- Dedicating tax revenues to specific purposes
- Depositing revenues in a special fund
- Prohibiting use of tax revenues to supplant existing allocations
- Directing investment of revenues to priority communities impacted by inequities
- Specifying the programs and activities to be funded
- Seeking guidance from communities and other interested parties when making revenue allocation decisions by creating an advisory board
- Monitoring and reporting on revenue receipts and allocations.

These recommendations for designing sweetened beverage taxes deserve careful consideration when drafting tax legislation. To a large extent, proposed and adopted tax legislation in the U.S. has included these practices. Advancing equity is frequently an expressly stated intent of sweetened beverage tax legislation. Nearly all states and close to half of localities have dedicated tax revenues by placing them in a special fund. Nearly half of state bills also included non-supplantation language to prevent siphoning of dedicated funds to other purposes. All sweetened beverage tax legislation identified targets for revenue allocation but varied in the

“Moving forward, the biggest battle is not necessarily just passing a tax, it’s keeping it, right? I think the allocation is really key to that…. So making sure that [revenues are] allocated in the right way - so that people want to keep it. And when the industry pours in millions and billions of dollars to try to overturn a tax, people, the general public, and the residents… are like, ‘No, I really want this.”
— State-level advocate
degree of specificity regarding these allocations. Notably, the most common uses of tax revenues were for programs focused on preventing or treating the adverse health conditions associated with sweetened beverages.

The participation of people from priority communities and other interested parties in guiding revenue allocation and monitoring tax implementation is an innovative feature of sweetened beverage taxes. A common mechanism for incorporating community participation is to establish an advisory board. Most sweetened beverage tax policies require monitoring and reporting on tax implementation, especially revenue collections and allocations. Many also require evaluation of tax impacts.

Looking forward, the next generation of tax legislation could go further in advancing equity. It could incorporate participatory budgeting and establish grantmaking processes that emphasize funding organizations from priority communities. Consultation with subject matter experts in equity impact analysis could be required. Revenues could be allocated to support organizational capacity-building for increasing health equity and promoting additional policies that advance equity.

Dedicating and allocating revenues from sweetened beverage taxes to address the concerns of communities most impacted by health inequities and the health harms of sweetened beverages advances equity. While tax revenues can address a diverse purposes, using revenues to promote health, improve nutrition, and prevent the chronic conditions associated with sweetened beverages increases the health benefits taxes deliver. When taxes are perceived as meeting community needs and promoting health, enactment is more likely.

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