

1 Introduced by Senators Miller and Carris

2 Referred to Committee on

3 Date:

4 Subject: Taxation; capital gains tax; sales and use tax; soft drinks; candy;

5 bottled water, groundwater withdrawal

6 Statement of purpose: This bill proposes “smart taxes” which are taxes that  
7 influence certain human behaviors beneficial to the long-term goals of  
8 Vermont. Specifically, the bill repeals changes made in 2009 to the treatment  
9 of capital gains; imposes a sales and use tax on soft drinks and candy; imposes  
10 a sales and use tax on bottled water; and imposes a groundwater withdrawal  
11 royalty on the extraction of groundwater for the purpose of bottling.

12 An act relating to the taxation of capital gains, taxes on soft drinks, candy,  
13 and bottled water, and a groundwater withdrawal royalty

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 \* \* \* Capital Gains \* \* \*

16 Sec. 1. 32 V.S.A. § 5811(21) is amended to read:

17 (21) “Taxable income” means federal taxable income determined

18 without regard to Section 168(k) of the Internal Revenue Code and:

19 (A) Increased by the following items of income (to the extent such  
20 income is excluded from federal adjusted gross income):

1 (i) interest income from non-Vermont state and local obligations;

2 and

3 (ii) dividends or other distributions from any fund to the extent  
4 they are attributable to non-Vermont state or local obligations; ~~and~~

5 ~~(iii) the amount in excess of \$5,000.00 of state and local income~~  
6 ~~taxes deducted from federal adjusted gross income for the taxable year, but in~~  
7 ~~no case in an amount that will reduce total itemized deductions below the~~  
8 ~~standard deduction allowable to the taxpayer; and~~

9 (B) Decreased by the following items of income (to the extent such  
10 income is included in federal adjusted gross income):

11 (i) income from United States government obligations;

12 (ii) ~~with respect to adjusted net capital gain income as defined in~~  
13 ~~Section 1(h) of the Internal Revenue Code:~~

14 ~~(I) if the taxpayer is aged 70 or older as of the last day of the~~  
15 ~~tax year, or for adjusted net capital gain income from the sale of a farm or from~~  
16 ~~the sale of standing timber, each as defined in subdivision (26) of this section,~~  
17 40 percent of adjusted net capital gain income but the total amount of decrease  
18 under this subdivision (ii)~~(I)~~ shall not exceed 40 percent of federal taxable  
19 income; ~~provided, however, that a taxpayer aged 70 or older as of the last day~~  
20 ~~of the tax year may elect to subtract his or her adjusted net capital gains~~  
21 ~~pursuant to subdivision (21)(B)(ii)(II) of this section.~~

1                   ~~(H) for taxpayers aged 70 or older as of the last day of the tax~~  
2 ~~year who so elect and for all other capital gain income, the first \$2,500.00 of~~  
3 ~~adjusted net capital gain income; and~~

4                   ~~(iii) recapture of state and local income tax deductions not taken~~  
5 ~~against Vermont income tax.~~

6 Sec. 2. REPEAL

7       The following sections of No. 2 of the Acts of 2009 (Sp. Sess.) are repealed:

8           (1) Sec. 16b (amending the definition of taxable income for taxable  
9 years beginning on and after January 1, 2011).

10          (2) Sec. 17 (providing definitions of the sale of a farm and the sale of  
11 standing timber).

12          (3) Sec. 18(b) (providing an effective date for the change in the  
13 treatment of capital gains).

14          (4) Sec. 18(c) (providing an effective date for the change in the  
15 treatment of capital gains).

16                   \* \* \* Soft Drinks and Candy Tax \* \* \*

17 Sec. 3. 32 V.S.A. § 9701(48) and (49) are added to read:

18           (48) Candy: means a preparation of sugar, honey, or other natural or  
19 artificial sweeteners in combination with chocolate, fruits, nuts, or other  
20 ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall  
21 not include any preparation containing flour and shall require no refrigeration.



1 water), sold for human consumption off the premises where sold; food stamps,  
2 purchases made with food stamps.

3 Sec. 6. 32 V.S.A. § 9771(9) is added to read:

4 (9) Bottled water.

5 Sec. 7. 32 V.S.A. § 9773(4) is amended and (5) is added to read:

6 (4) ~~Specified~~ Of specified digital products transferred electronically to  
7 an end user.

8 (5) Of bottled water.

9 \* \* \* Groundwater Withdrawal Royalty \* \* \*

10 Sec. 8. 32 V.S.A. chapter 215 is added to read:

11 CHAPTER 215. SEVERANCE ROYALTIES

12 § 8701. DEFINITIONS

13 As used in this chapter:

14 (1) “Bottle” shall have the meaning set forth in section 9701 of this title.

15 (2) “Bottled water” shall have the meaning set forth in section 9701 of  
16 this title.

17 (3) “Groundwater” shall have the meaning set forth in 10 V.S.A. § 1416.

18 (4) “Manufacturer of bottled water” shall have the meaning set forth in  
19 section 9701 of this title.

20 (5) “Spring” shall have the meaning set forth in 10 V.S.A. § 1416.

21 (6) “Well” shall have the meaning set forth in 10 V.S.A. § 1416.

1           (7) “Withdraw” or “withdrawal” shall have the meaning set forth in  
2           10 V.S.A. § 1416.

3           § 8702. IMPOSITION OF GROUNDWATER WITHDRAWAL ROYALTY

4           There is hereby imposed on each manufacturer of bottled water a  
5           groundwater withdrawal royalty of \$0.xxxx per gallon of groundwater  
6           withdrawn from a well or a spring within the state of Vermont for the purpose  
7           of manufacturing bottled water.

8           § 8703. PAYMENT

9           Each manufacturer of bottled water shall prepare and submit to the  
10           department a monthly report according to procedures established by the  
11           commissioner showing the total gallons of groundwater withdrawn for the  
12           purpose of bottling during the preceding month and other information the  
13           commissioner may require. The groundwater withdrawal royalty shall be paid  
14           each month to the department at the same time the report is submitted.

15           § 8704. RECORDS

16           Each manufacturer of bottled water shall keep a record of all groundwater  
17           withdrawn in this state, and that record must be open at all times to inspection  
18           by the commissioner of taxes.

1     § 8705. ENFORCEMENT

2             The groundwater withdrawal royalty imposed under this chapter shall be  
3     enforced using the enforcement and collection provisions set forth in chapter  
4     103 of this title.

5     Sec. 9. EFFECTIVE DATES

6             This act shall take effect upon passage, except that:

7                 (1) Sec. 1 (amending definition of taxable income) shall apply to taxable  
8     years beginning on and after January 1, 2010.

9                 (2) Secs. 3, 4, 5, 6, and 7 (imposing a tax on soft drinks, candy, and  
10    bottled water) shall take effect on July 1, 2010.

11                (3) Sec. 8 (imposing groundwater withdrawal royalty) shall take effect  
12    on January 1, 2011.