

1 **Executive Summary/SMART Taxes**

2 **Introduction.** There are certain things I think all citizens of Vermont can
3 agree on.

4 1. Life will be more expensive going forward and we need to be very
5 thoughtful about how to raise resources and how to spend them.

6 2. Vermont has always depended on entrepreneurs and small business
7 owners to create jobs and we will depend even more on this group in the future
8 for job creation.

9 3. We need to continue to balance our revenues with expenses; a balanced
10 budget is in the best interest of all Vermonters.

11 4. We want to provide services for those who cannot provide for
12 themselves.

13 I am proposing SMART taxes instead of FAIR taxes. Smart taxes are those
14 that motivate human behavior to support strategic goals of the state as stated
15 above. Fair taxes are those designed and imposed based upon someone's
16 interpretation of what is "fair". Some feel it is fair to tax the rich and give to
17 the poor. Others feel that fairness has to do with the relationship between
18 effort and reward.

19 SMART taxes are not part of any political agenda which always attempts to
20 create the world as it SHOULD be according to certain group's world view.

1 These “fair” agendas have nothing to do with the practical dependability of
2 human nature and behavior.

3 1. People are much more prone to do something if they are incentivized to
4 do so.

5 2. If people feel that they are being overtaxed, targeted, or paying more
6 than their fair share, they will look for ways to avoid paying; either by using
7 creative estate planning or by simply giving up state residency, moving their
8 business out of state, or declining to expand their business.

9 3. Taxes can alter purchasing decisions because it makes the product more
10 costly; taxes on cigarettes are a good example.

11 4. Tax what you take, not what you make” is a concept that those who
12 believe that the state’s natural resources are a “common asset” can understand
13 and support.

14 5. With the emphasis on reducing our carbon footprint, taxes on high-
15 carbon footprint products resonate with the challenges of the 21st century.

16 **Purpose of Bill.** The bill (1) repeals changes made in 2009 to the treatment of
17 capital gains; (2) imposes a sales and use tax on soft drinks and candy;
18 (3) imposes a sales and use tax on bottled water; and (4) imposes a
19 groundwater withdrawal royalty on the extraction of groundwater for the
20 purpose of bottling.

1 **Proposed Outcome:** By providing incentives for risk capital for job creation,
2 by taxing food products that contribute to obesity and diabetes, by taxing
3 products that leave a large carbon footprint, and by incorporating a philosophy
4 within this state of “taxing what one takes instead of what one makes,”
5 Vermont can use taxation as a means to further positive public policy goals.

6 * * * Capital Gains * * *

7 **Sec. 1.** Redefines taxable income so that only 40% of capital gain income is
8 taxed by the state of Vermont.

9 FINDINGS.

10 (a) In the next decade in Vermont, 95% of newly created jobs will be
11 generated by entrepreneurs and small businesses.

12 (b) New jobs are created by high-risk capital investment in start-ups by
13 entrepreneurs of small and medium-sized businesses. The Small Business
14 Administration estimates that two-thirds of new employer establishments only
15 survive for two years, and less than half (44%) survive past four years. Since
16 small business start-ups face difficult odds, Vermont should incentive capital
17 investment by rewarding these risk-takers and return Vermont’s capital gains
18 system to the way it was prior to the 2009 session. The 40% capital gains rate
19 helps compensate risk investment capital for small country stores, auto
20 mechanics and hairdressers when they sell their assets for retirement.

1 (c) In Vermont prior to the 2009 legislative session, capital gain income
2 was treated preferentially because of the recognition that high-risk capital
3 investment is a positive source of economic growth for Vermont.

4 (d) Since the purchase price of an asset is not indexed for inflation, the
5 seller pays tax on the illusory gain attributed to inflation. For example, an
6 investment of \$100,000 in 1968 would, in 2009 dollars, cost over \$620,000.
7 However, if that asset were sold in 2009 for \$200,000, the seller would be
8 taxed as though he or she had profited \$100,000. In reality, the asset actually
9 lost value over its lifespan, due to inflation, and the seller's true net profit was
10 negative \$420,000. Vermont should return to allowing an investor to protect
11 from taxation 60% of the net capital gain on the sale of an asset because this
12 policy recognizes that some of the profit is attributable only to inflation.

13 **Revenue Effect: Negative. \$18.9 million**

14 **Sec. 2.** Repeals additional changes made during the 2009 session to the
15 taxation of capital gains, the special treatment for timber and farm sales, the
16 aged 70 and over exemption, and the transition rules. There does not seem to
17 be a valid policy reason for treating timber and farm sales differently than
18 investment in other businesses that grow in value over a long period of time.

1 * * * Candy and Soft Drinks Tax * * *

2 **Sec. 3.** Adds the definition of candy and soft drinks to the Sales and Use Tax
3 chapter of Title 32.

4 FINDINGS

5 (a) With health care reform taking center stage at the national level,
6 Vermont should look to ways in which we can make a difference in the health
7 and well-being of all Vermonters. Studies have shown clear links between
8 consumption of foods with high sugar content and low nutritional value, such
9 as candy, and consumption of soft drinks and sweetened beverages.

10 (b) By including candy and soft drinks in Vermont's sales and use tax
11 regime, it is the policy of Vermont that the consumers of these items contribute
12 to rising health care costs, which costs can be somewhat offset by making the
13 consumption of these items taxable.

14 **Revenue Effect: Positive. \$6.0 million (\$2.5 candy, \$3.5 soft drinks)**

15 * * * Bottled Water Tax * * *

16 **Sec. 4.** Defines the term "bottled water" and adds that term to the Sales and
17 Use Tax chapter of Title 32.

18 FINDINGS

19 (a) According to the Container Recycling Institute, a nonprofit organization
20 that studies and promotes policies and programs that increase recovery and
21 recycling of beverage containers:

1 (1) Almost two-thirds, or 37 billion, of the 58 billion noncarbonated,
2 nonalcoholic beverages purchased in 2005 in the United States were packaged
3 in polyethylene terephthalate (PET) plastic bottles.

4 (2) Ninety-six percent of bottled water was sold in PET bottles, with the
5 vast majority being single-serve sizes.

6 (3) PET bottles are prone to being littered and have a lower recycling
7 rate than any of the most common packaging materials.

8 (4) Approximately 18 million barrels of crude oil equivalent were
9 consumed in 2005 to replace the two million tons of PET bottles that were not
10 recycled in the United States.

11 (b) Although some solid waste districts in Vermont have successfully
12 reduced the number of PET bottles that are disposed of in landfills or otherwise
13 not recycled, PET bottles continue to leave a large carbon footprint.

14 **Revenue Effect: Positive. \$1.1 million**

15 **Sec. 5.** Using the definitions set forth in Sections 3 and 4, imposes the sales
16 and use tax on candy, soft drinks and bottled water (this section is an
17 exemption section, so those three items are being listed as *not* included in the
18 exemption).

19 **Sec. 6.** Adds bottled water to the list of taxable goods at the point of sale.

20 **Sec. 7.** Adds bottled water to the list goods which are taxable if purchased
21 outside the state for use in this state (also makes minor technical correction).

1 * * * Groundwater Withdrawal Royalty * * *

2 **Sec. 8.** Imposes a groundwater withdrawal royalty upon the withdrawal of
3 groundwater for the purposes of bottling. This concept flows from the
4 philosophy “tax what you take, not what you make.”

5 **FINDINGS.**

6 (a) No. 199 of the Acts of the 2007 Adj. Sess. (2008):

7 (1) ensures that Vermont will protect its groundwater resources through
8 long-range water resource planning and management and a groundwater
9 withdrawal permitting process; and

10 (2) provides that Vermont’s groundwater is a “precious, finite, and
11 invaluable” public trust resource held in trust for the benefit of all Vermonters.

12 (b) Approximately 99 million gallons of groundwater was withdrawn from
13 Vermont in 2008 for the purposes of bottling.

14 (c) In order to benefit all Vermonters, companies or persons who withdraw
15 groundwater for the purpose of bottling that water should pay a royalty to the
16 state of Vermont to compensate those Vermonters who do not benefit from that
17 withdrawal of groundwater. This concept flows from the common assets
18 philosophy to “tax what you take, not what you make.”

19 **Revenue Effect: Positive. \$11.8 million**

1 **Sec. 9.** Sets forth the effective dates for the provisions of this act.

2 (1) Section 1 (changes to capital gains treatment) takes effect for taxable
3 years beginning on and after January 1, 2010.

4 (2) Sections. 2, 3, 4, 5, and 6 (imposing sales and use tax on candy, soft
5 drinks, and bottled water) takes effect on July 1, 2010.

6 (3) Sec.8 (imposing groundwater withdrawal royalty) takes effect on
7 January 1, 2011.

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Fiscal Summary

10 40% Capital Gains Tax: (\$18,900,000)

11 Sales Tax on:

12 Candy: \$2,500,000

13 Soft Drinks: \$3,500,000

14 Bottled Water: \$1,100,000

15 Groundwater Withdrawal Royalty: \$11,800,000

16 **Overall Net Revenue Effect: Neutral**