EIR National

Securities transfer tax on agenda in New Hampshire

by Marianna Wertz and Rochelle Ascher

A bill to tax the transfer or sale of stocks, bonds, securities, and speculative financial instruments, is on its way to a vote in the New Hampshire House of Representatives. The House Finance Committee took testimony on March 16-17 on H.B. 1671, which would establish a 1% tax on the transfer or sale of stocks, bonds, securities, futures, options, swaps, and other derivative financial instruments, in order to fund the state's public education system.

The proposal to tax speculation to pay for needed services, at a time when municipalities and states are slashing services right and left, was first widely circulated in 1993, when Lyndon LaRouche proposed a 0.1% Federal tax. Similar legislation is now pending or introduced in Pennsylvania, Alabama, and Louisiana, and legislators from those states sent supporting statements to the New Hampshire hearing (see *Documentation*).

Testifying in support of the bill were chief sponsor Rep. Bill McCann (D-Dover), former Assistant Whip, who is also president of a Service Employees union local and a school board member; Rep. Roland Hemon (D-Dover), who introduced a similar bill last year, which was killed; and Rep. Arthur Pelletier (D-Dover), a member of the Education Committee and a former teacher. All three are signers, together with 50 other current and former New Hampshire state representatives, of the Open Letter to President Clinton calling for LaRouche's exoneration.

The bill, and others which propose different funding sources, will be reported out for full House debate in the next few weeks.

H.B. 1671 was prompted by the Dec. 17, 1997 decision by the State Supreme Court, in the *Claremont* school funding lawsuit, which held that in its current form, the property tax, which is raised locally, disproportionately burdens property-poor school districts. The decision also struck down the state's definition of educational adequacy, ruling that providing an "adequate" education is a state responsibility, not a local one. The court gave the Legislature until the end of the current legislative session to adopt a proposal to change the funding system for education, and until April 1, 1999 to have it in place. The Finance Committee set itself a May 1 deadline for reporting out bills on the subject.

New Hampshire, by law and tradition, has no state sales tax or income tax, and first-term Gov. Jeanne Shaheen, a Democrat, has already announced she will veto any such tax if it is proposed and passed.

Benefits of the tax

In a March 16 memo to Finance Committee Chairman Rep. Neal Kirk, Representative McCann wrote:

"I have filed this bill for a variety of reasons. First, it will give the Legislature the funds necessary to deal with educational funding due to *Claremont II*. Second, it is good public policy, since this proposal will also tax a financial market, which is, to some economists, out of control. Third, it will, with bills in other states, raise the issue of regulating speculative markets in the future by other states or the Federal government."

The estimated revenue from the first year of the tax, calculated by the Secretary of State, Bureau of Securities Regulation, is $384 million, McCann said. However, this estimate includes *only* revenues from the sales of stocks and bonds, and *not* derivatives or other purely speculative instruments. McCann estimates that, if all securities were included in the estimate, the revenue would be in the range of $5 billion over four years, far more than the $1 billion estimated by the Legislature to "adequately" fund education in New Hampshire for the next four years.

The transfer tax could also become a crucial weapon against illegal drugs, according to the executive summary of the bill submitted by McCann. "According to law enforcement sources, unregulated trading of financial derivatives is a significant means of laundering dirty money. The disclosure requirements of a transfer tax would also allow easier detection of money-laundering schemes."

Tax history

A tax on the sale or transfer of financial securities has been applied frequently throughout the history of the United States, with bipartisan support, as *EIR* has documented. McCann reports the following instances in his executive summary:

"The earliest examples of a stock transfer tax are those instituted in 1862 by President Lincoln and 1898 by President McKinley, both Republicans. A state-level financial transaction tax has also been implemented, at various times, in Pennsylvania, New York, Massachusetts, Florida, and South Carolina.

"The Pennsylvania stock transfer tax was on the books from 1915-1957. The New York stock transfer tax has been on the books from 1905 to the present day. The South Carolina tax was effective even though, unlike New Hampshire, there was *no* stock trading done in the state.

"The Securities and Exchange Commission currently operates a stock transfer fee, which allowed the SEC to return $288 million to the Federal Treasury, in 1996. Various types of securities transaction taxes have been on the books for 103 out of the 222 years of American independence.

"Recent advocates of restoring a transfer tax include prominent economists such as Yale University professor and Nobel Prize-winner James Tobin, as well as many Congressional leaders. Recent studies by the Congressional Budget Office and the General Accounting Office support the feasibility of such a tax."

The hearing

The Finance Committee hearing on the bill, over two days, drew heavy media attention, and very heavy opposition, principally from the securities and banking sectors. In an interview with this news service on March 18, the day after he testified, Representative McCann said that the crucial question was whether collection of the tax could actually be enforced.

McCann read to the committee from Rep. Harold James's letter (see *Documentation*), citing U.S. Supreme Court precedents and noted, with a touch of irony, "We also are confident that brokers who want the Commonwealth's business will not encourage tax evasion. I have also argued that the state must be just as tough on 'tax cheats,' as we have been on 'welfare cheats.' "

McCann acknowledged in the interview, that the committee's uncertainty represents the level of opposition they face from the financial interests involved in derivatives speculation.

McCann is not certain of the outcome of the bill. "I think the lobbyists for the stock and bond dealers have gotten the committee's ear to some degree, and it's going to be a question of what happens when the committee starts looking at this bill in comparison to the other six or eight that are in there for money-makers. I think, in reality, ours is the less onerous tax, because you don't get into an income tax, which is a political disaster in New Hampshire; you don't get into a sales tax, which quite frankly wouldn't generate enough revenue to solve the problem; the other taxes that are being talked about don't have a history outside of the state, like the Securities Exchange excise tax does. That's the advantage I think we have."

Documentation

House Bill 1671

The following are excerpts from H.B. 1671:

An Act establishing a securities transfer excise tax to meet state obligations in funding education.

Be it Enacted by the Senate and House of Representatives in General Court convened:

Legislative Intent. It is the intent of the general court to provide a disincentive to financial speculative activity destructive to the economic well-being of the citizens of this state. It is the further intention of the general court to encourage stable investment and job creation and to provide funding for education through the enhancement of state revenues without harm to the lives or health of the people. . . .

Tax Imposed.

I. A tax is imposed on the sale or transfer of any bond, stock, security, future, option, swap, or derivative. The tax shall be payable by the seller or transferor at the time of the transaction.

II. The rate of tax payable by the seller or transferor shall be as follows:

a) One percent of the face value of any stock, bond, or security.

b) One percent of the value of the underlying asset supporting any derivative, future, option, or swap.

III. This tax shall not apply to the sale or transfer of treasury bonds or securities of the United States or of the state of New Hampshire. . . .

Administration.

Education Fund; Distribution of Revenue.

I. All monies collected by the department of revenue administration under this chapter, less costs associated with administration and enforcement, shall be deposited in a special, nonlapsing, continually appropriated education fund by the state treasurer. . . .

Testimony on H.B. 1671

Bill McCann

Summary of testimony of Rep. Bill McCann (D-Dover), principal sponsor of H.B. 1671, March 17, 1998, to the Finance Committee of the New Hampshire State House of Representatives.

Three months ago today, the Supreme Court issued the *Claremont II* decision, the impact of which is viewed by people in different manners. Some want to avoid dealing with it, some are "disappointed" in the decision, and some, like me, who have been involved in education for 30 years, see this as a challenge and an opportunity to finally deal with the fundamental issue of school equity and fairness.

Given the reality of how limited our options are—no income tax, no statewide property tax, and no broad-based taxes—I looked into other areas. I think the securities excise tax is a good vehicle to address several public policy issues. One of the stated goals of this legislation is to provide a disincentive to speculative activities. A perfect example of this is the matter of derivatives.

The rise in derivatives is alarming. For example: The value of all stock trades in 1997 is estimated to be ten or eleven trillion dollars. The value of *all* off-balance-sheet derivatives in 1997 is estimated by the Federal Deposit Insurance Corp. to be $25.4 trillion, an increase of more than 25% from 1996, according to the FDIC. This type of speculation would be impacted by the excise tax, since the tax is based on the face value of the underlying asset. For example, a derivative on a $100,000 bond may sell for $2,000. However, the tax is based on the $100,000 face value and would be $1,000. This would deter speculation in futures and derivatives.

In our revenue estimates, we used stock trades as the basis of revenue, even though the basis is far broader. The tax operates in a simple fashion: 1% of the total volume of stocks, bonds, futures, and derivatives based on our population. At present, the conservative estimate of all stocks, bonds, and derivatives sold in a year in this country is $100 trillion. Since New Hampshire has about 0.5% of the population, one-half of 1% of the volume of sales can be estimated at $500 billion, so a tax of 1% in New Hampshire could raise $5 billion, on the conservative *high end,* or it could raise as little as $277 million to $380 million. We have gone out of our way to give this committee low revenue estimates, so as not to mislead this General Court on the potential tax impact.

The Legislative Budget Assistant has estimated revenue to be $384 million [not including revenue from derivatives sales].

One point which was brought to my attention last week, was the issue of the New Hampshire retirement system. When the bill was drafted, it was done with the presumption that the system was tax exempt. I still believe that it is. The underlying presumption would be that if retirement is taxed at the estimated $30 million, then the cities and towns which are supposed to benefit from tax relief would have to pick up the $30 million in higher rates for their employees. This is not what I would want to happen. So on March 12, 1998, an amendment to this bill was drafted to clarify legislative intent, that retirement would be exempt. I offer that amendment for the committee's consideration.

Once we capture this revenue, the intent of the bill is to provide money to local school districts, using existing distribution plans, which will ensure no greater bureaucracy and the continuation of existing local control.

Step one would be to increase foundation aid to 200% of the existing formula. Using the assumption that $123.5 million would equal 100% funding, this would mean $247 million to our school districts in FY '99.

I would urge the committee to read my March 16, 1998 memo on this bill, to get more detailed fiscal data. In short, this bill will increase the state percentage of aid from just above 4% to over 16%, and will increase other categorical aid by at least 5%.

The bill will generate enough revenue to meet budget expected needs for education for the next three to five years or more. I ask for your support of H.B. 1671. Thank you.

Roland Hemon

Excerpt of testimony in support of H.B. 1671 by Rep. Roland E. Hemon (D-Dover), March 16, 1998, to the Finance Committee of the New Hampshire State House of Representatives:

The tax structure of this state is so skewed in the direction of the poorer elements of the population, as to create a condition of subsidizing the rich. The securities transfer tax has a tendency to remove this injustice.

It is not a broad-based tax (sales, income tax), which is anathema to some. It does have existing roots in the tax structure of the state. I refer to the real estate transfer tax. The securities transfer tax uses the same mechanics and rationale as the real estate transfer tax, only applies them to the transfer of stocks, bonds, options, derivatives, and other such securities.

Its potential for income to the state is tremendous. If 1% is insufficient to produce the necessary revenue, then amendment to 1.25%, 1.5%, etc. is quite possible.

Arthur Pelletier

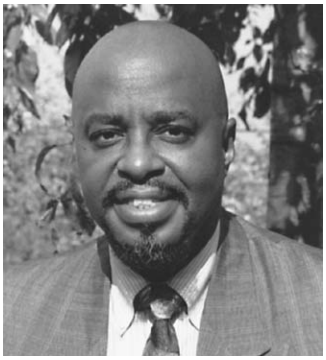
Summary of testimony in support of H.B. 1671 by Rep. Arthur Pelletier (D-Dover), March 16, 1998, to the Finance Committee of the New Hampshire State House of Representatives:

Representative Pelletier discussed in detail how the bill would fund the state's educational needs. He emphasized that the revenues it will generate, by the most conservative estimates, will far exceed the anticipated expenses. Given the hostility to an income tax in New Hampshire by a vocal minority, he said, and the governor's opposition to any statewide tax, H.B. 1671 is a "viable alternative" to generate adequate revenues for an "adequate" education, as defined by the state

Supreme Court, while utilizing existing funding formulas without "growing the state government."

Harold James

Testimony in support of H.B. 1671 by Pennsylvania State Rep. Harold James (D-186), who is also the chairman of the Pennsylvania Legislative Black Caucus. The statement was read into the record at the Finance Committee hearing on March 17, 1998. Representative James's "Tax Fairness" bill would tax the sale of stocks, bonds, derivatives, and other financial investments at the rate of two-tenths of 1%, or 20¢ per $100:



I am the author of a bill to create a securities transfer tax in Pennsylvania, which I introduced into the Pennsylvania State Legislature last year, along with a bi-partisan group of 12 other state representatives, and we will soon be holding hearings. I have spoken about this proposal with other legislators around the country, and also with Members of Parliament of Germany and Italy, and have found growing support for the idea. I am certain that positive action by New Hampshire will lead to supportive action, not only in other states, but perhaps in other nations as well.

I understand that some have argued that this legislation is unenforceable and impractical. Allow me to point out that the securities transfer tax has a rich historical tradition in the United States, with many successful precedents on the state and national level. Among other examples, the securities transfer tax has been applied successfully in the following cases:

- under the Presidencies of Abraham Lincoln and William McKinley;
- from 1915 to 1965, under the form of a national stock transfer tax;
- in New York State, from 1905 until the present day;
- in Pennsylvania, from the years 1915 until 1957;
- in the states of Florida, South Carolina, and Massachusetts.

Also, a securities transaction fee currently funds the operations of the Securities and Exchange Commission, allowing the Commission to return hundreds of millions of dollars to the U.S. Treasury.

My staff has researched the issue, and we are quite confident that the tax can be collected on Pennsylvania residents, including transactions by Pennsylvania residents made out of state. Certain Supreme Court decisions, such as *National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois,* and *Quill Corp. v. North Dakota,* give the state power to collect the tax on transactions technically made out of state. We also are confident that brokers who want the Commonwealth's business will not encourage tax evasion. I have also argued that the state must be just as tough on "tax cheats," as we have been on "welfare cheats."

In short, there is no technical difficulty with this proposal.

Charles J. Hudson

Testimony in support of H.B. 1671, by Louisiana State Rep. Charles J. Hudson (D-40), which was included in the record at the Finance Committee hearing on March 17, 1998:

I am introducing a Securities Transfer Tax bill in the 1998 Regular Session of the Louisiana Legislature.

Based on reliable data, there are strong indications to me that the securities transfer tax is a realistic way of raising needed revenue for governments.

It is my understanding that the concept of a securities transfer tax is gaining strong support in other states and countries.

I wish to express my personal best wishes to the author(s) and supporters of the proposed securities transfer tax for the State of New Hampshire.

Thomas Jackson

Testimony in support of H.B. 1671, by Alabama State Rep. Thomas Jackson (D-68), which was included in the record at the Finance Committee hearing on March 17, 1998:

I am very happy to hear that a bill similar to mine (H.B. 1111, for a 1% securities transfer tax) is being introduced in other states around the nation. It is a good bill when it comes to getting revenue, when there are no other sources of funds, the same situation we face in Alabama. My bill was introduced last year in the Alabama State Legislature, and we found it to be a good source of revenue, but we could not get the big power brokers to support us on this thing. One of the largest opposition groups was the Alabama Power Company, which we found out opposed the bill because they are so heavily invested in derivatives!

Even though the bill was not reported out of committee last year, a House Joint Resolution was passed for a study commission, which would be appointed by the House Speaker and the Lieutenant Governor, to include three members of the House and three in the Senate, to study how the projected revenue generated from this tax, estimated at approximately $500 million, could be used to finance desperately needed infrastructure in the poverty-stricken Black Belt of Alabama.

Funding of $7,500 has been approved for this study. We are going to reintroduce this bill in this session of the legislature. Therefore, I am quite happy to hear that you are involved in carrying out the same work that we are attempting here in Alabama.