Bill as Introduced

HB 337-FN-A-LOCAL – AS INTRODUCED

2003 SESSION

03-0173
04/09

HOUSE BILL ***337-FN-A-LOCAL***

AN ACT relative to state funding of county correctional facilities.

SPONSORS: Rep. Cloutier, Sull 22; Rep. J. Pratt, Ches 24; Rep. Gorman, Hills 62; Rep. Milligan, Hills 58; Rep. Jacobson, Merr 32; Sen. Odell, Dist 8

COMMITTEE: Finance

ANALYSIS

This bill requires the state to annually reimburse counties for 50 percent of the expense of incarcerating inmates sentenced to county correctional facilities.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 337-FN-A-LOCAL – AS INTRODUCED

03-0173
04/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to state funding of county correctional facilities.

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

1 County Department of Corrections; State Share of Expenses. Amend RSA 30-B:1 to read as follows:

30-B:1 County Department of Corrections.

I. Each county shall provide, keep, and maintain facilities, administered by a county department of corrections, for the reception and confinement of prisoners committed to or ordered to be detained at a county correctional facility.

II. The state shall annually reimburse the superintendent of each county department of corrections for 50 percent of the expense of incarcerating inmates sentenced to county correctional facilities, less any income from sources other than wages or salaries earned by inmates and used to offset the costs of incarceration under RSA 30-B:19, II.

2 Effective Date. This act shall take effect July 1, 2003.

LBAO
03-0173
1/14/03

HB 337-FN-A – LOCAL - FISCAL NOTE

AN ACT relative to state funding of county correctional facilities.

FISCAL IMPACT:

The NH Association of Counties stated this bill will increase state expenditures by $8,100,000 in FY 2004 and in each year thereafter. County revenue will increase by $8,119,000 in FY 2004 and in each year thereafter. The Department of Corrections indicated this bill will increase state expenditures and county revenue by $16,160,385 in FY 2004 and in each year thereafter. There will be no fiscal impact on state and local revenue or county and local expenditures.

METHODOLOGY:

The NH Association of Counties indicated the county correctional facilities had combined expenditures of approximately $32,476,000 in FY 2001. Approximately 50% of this total, or $16,238,000, is attributable to sentenced inmates and half of this amount, $8,119,000 the state would pay the counties.

The Department of Corrections sited the 2002-2004 "National Jail and Adult Detention Directory" from the American Correctional Association. The directory provided a budget of $25,856,616 for 8 jail facilities. From this information, the Department derived a cost estimate for New Hampshire's ten county facilities at $32,320,770. The state's reimbursement on 50% would be $16,160,385 per year.

Committee Minutes

HOUSE FINANCE COMMITTEE
Legislative Office Building, Rooms 210-211
Concord, New Hampshire
Thursday, January 30, 2003

HOUSE BILL 337-FN-A-LOCAL, AN ACT relative to state funding of county correctional facilities.

Testimony of:
Rep. John Cloutier.....2
Rep. Mary Gorman.....15
Mr. John Monahan.....15
Rep. James Phinizy.....20
Rep. John Pratt.....21

CHAIRMAN KURK: I'll open the hearing on House Bill 337-FN-A-Local, an act relative to state funding of county correctional facilities. And recognize the prime sponsor, Rep. Cloutier. Good afternoon, sir.

JOHN CLOUTIER, Representative, Sullivan County, District 22: Good afternoon, Mr. Chairman, members of the committee. For the record, I am State Representative John Cloutier from Sullivan County, District 22, which comprises the communities of Claremont, Lempster and Unity.

I'm here today to testify as the prime sponsor and in favor of House Bill 337, which requires the state to annually reimburse counties for 50 percent of the expense of incarcerating inmates sentenced to county correctional facilities. And, frankly, I filed House Bill 337 for three reasons.

First of all, because a group of county -- Sullivan County citizens who, in 2000-2001, had studied how county government is presently run, as well as how it might be improved, recommended that such a bill be supported. I have a copy -- I mean I have study, if you want to make copies. But I have -- it's on page 5. I can get copies for the committee, if you would like. They recommend that such a bill be supported.

Now I believe too that when a group of concerned citizens -- by the way, this committee was chaired by Henry Rodeschin a Newport -- former Newport selectman, and it happens to be the husband of my colleague, Beverly Rodeschin.

CHAIRMAN KURK: Is Rep. Rodeschin a cosponsor?

REP. CLOUTIER: No, she is not today. I figured, you know, she'd help me out on the Finance Committee.

CHAIRMAN KURK: Thank you.

REP. RODESCHIN: He's not locking the door.

REP. CLOUTIER: Okay. Now, I believe, too, that when a group of concerned citizens, chaired by Mr. Rodeschin, take time out of their busy schedules to conduct a thorough study of their county government. And then to issue some thoughtful recommendations, that these recommendations, especially the recommendations that the state could try to implement, should not just sit on a shelf gathering dust. In other words, they deserve serious review and debate by legislators like ourselves.

Second, House Bill 337 is a follow-up to earlier legislation that I have sponsored, including House Bill 1363. Which some of you may remember, which initially passed the House last February, but was sent to further study on this committee's recommendation, because of some of the complex policy issues raised by the bill. I believe that House Bill 337 is a simpler version of House Bill 1363 for this committee and the rest of the legislature to understand.

Finally, today's bill is also a follow-up to House Bill 642, which I had sponsored in 2001. And that bill would have abolished county correctional departments and turned over the counties' correctional responsibilities to the state. I had filed that bill because I thought maybe the state might be able to do a better -- more efficient job in running county prisons.

Additionally, I think such prisons as currently funded might violate the spirit, if not the letter of our Article 28-a, which prohibits the imposition of unfunded mandates upon local governments.

But during the consideration of House Bill 642, and we had a floor debate, and of course, the Criminal Justice Committee thoroughly considered the bill. I heard from the bill's opponents and they like the way the county prisons are now run. I heard from many county superintendents and that basically they are more responsive on the local level to their prisoners' needs. And they did complain about the lack of money for programs and facilities, but nevertheless they did not think that turning the county prisons over to the state would not improve them, necessarily.

Obviously, with the bill's defeat two years, they had the more persuasive of the argument. So, I decided after talking with them, some other of my colleagues to try with a slightly different approach; approach that is in today's bill, House Bill 337, and it simply would preserve the local control while at the same time giving the county prisons some much needed state aid.

I think the important thing to remember in this whole issue that county prisons, while being funded by local property taxes, house inmates who have violated state criminal statutes; not county or municipal statutes. When we, as a legislature, changed state criminal statutes, we can effect not only our state prisons but our county prisons, as well. Such changes can increase the number of county inmates, among other results.

And, for example, I can remember in this legislature, there was House Bill 52, in 1995; we passed it into law, and reduced the minimum age at which individuals could be incarcerated from 18 to 17. Although this bill was well intended, the new law did increase the Sullivan County Prison's inmate population. But, unfortunately, the new law did not provide additional funding for county prisons, like Sullivan County, to handle these new young inmates. And although we apparently repealed the bill, House

Bill 179, which was passed last year, I believe, has basically repealed the law that was passed in 1995. There's no guarantee that this legislature again could pass new laws that are costly to our county prisons. And I, frankly, in 1995, when as a member of this legislature, on the advice of my county superintendent, I voted against the bill, because it was just going to increase the cost, and she was right.

Third and finally, I filed this bill as one of many vehicles to help give property tax relief to property taxpayers in my county. You know, such relief is needed not only by my constituents in Sullivan County, but all our constituents throughout the state and other counties. And Gov. Benson has pledged to give us property tax relief in his campaign, and I'm just here to say that the supporters of House Bill 337 are here to help him redeem that pledge.

So, in conclusion I urge this committee to give House Bill 337, after review, a unanimous ought to pass recommendation for the good of our counties and the good of our property tax payers.

CHAIRMAN KURK: Thank you, Rep. Cloutier. Questions from committee members? Rep. Anderson.

REP. ANDERSON: Thank you, Mr. Chair. I guess I applaud the effort to want to transfer some of the responsibility. I guess my question is, though, if 50 percent of the responsibility is now going to be shared by the state, do you have some idea where that 50 percent of the money may come from, from the state?

REP. CLOUTIER: I'll admit that it'd be a tough job, but I think we've got to look at all our state government. I believe, I think we passed a bill earlier today about trying to do a study to try to make state government more efficient. I think we got -- that includes the state Department of Corrections. And I think we've got to look at it. And I think we've got to maybe try to think of some creative ways, thinking out of the box, as Gov. Benson has said. To try to get the state corrections department -

- and I assume if there's going to be state -- some state funding of county prisons that the state and county prisons would work more closely together, too, which I would like to see. And I -- from some of my conversations, I don't -- you know, I think there should be more coordination in some cases between the two, you know, departments; the county corrections and the state Department of Corrections.

And I know this is going to be a tough task of finding that money; but, nevertheless, I think everything's got to be looked at. Because, as I said earlier, the state, the county correction facilities are doing the work of the state when they house inmates who are violating state laws. And I don't envy you your task, but I guess this is why my bill is before the Finance Committee today, because you're the ones who, obviously, have got to do the task.

I don't know if that answers your question. I'm open-minded to looking at different ways to cut expenses. I mean, and it looks like though we can't raise revenue, so that's -- I guess we've got to look at cutting expenses.

CHAIRMAN KURK: Rep. Rodeschin.

REP. RODESCHIN: This is a question of the chair. Rep. Cloutier said we passed House Bill 179. I don't believe we did, did we? Did we pass that, increase the age to 18?

CHAIRMAN KURK: I asked our clerk to refresh my memory, and I believe he indicates the answer is yes.

REP. WHEELER: Yes, we did.

REP. RODESCHIN: And it passed all -- through the whole system?

REP. EMERTON: Yes, 17 to 3.

CHAIRMAN KURK: Let's -- Rep. Wheeler.

REP. WHEELER: Thank you. We had Rep. Cloutier's bill here last year, and it was ITL'd at the end.

REP. RODESCHIN: No, I'm talking about the juvenile age to increase it to 18 from 17. Did we pass that?

REP. WHEELER: Yes.

CHAIRMAN KURK: Apparently the answer is yes, but I really think that these questions are more appropriate to executive session, or, if you wish, ask them of the witness.

Further questions of Rep. Cloutier? Rep. Wendelboe.

REP. WENDELBOE: Thank you, Mr. Chairman. Good afternoon, Rep. Cloutier.

REP. CLOUTIER: Good afternoon, Rep. Wendelboe.

REP. WENDELBOE: Perhaps we could have a statewide property tax on the county level to pay for county expenses that are now state responsibilities. But I know that counties do make some revenue from their prisons, and would the state then be paying a higher portion by paying 50 percent, so would it be not fairer, under your proposal, be it that the state would share 50 percent after the county revenue?

REP. CLOUTIER: Okay. Good question. I believe as the bill is written, and if I may quote --

REP. WENDELBOE: It talks about costs.

REP. CLOUTIER: I think it says annual reimburse the superintendent for 50 percent of the expense to county correctional facilities, less any income from sources other than wages or salaries earned by inmates and used to offset the costs of incarceration. I mean, my understanding is that would be taken into account. I mean, I may be wrong, but --

CHAIRMAN KURK: Follow-up.

REP. WENDELBOE: So, that would include federal dollars, that would include telephone charges, Medicare, Medicaid?

REP. CLOUTIER: My understanding is I think it would as I read the bill. But I'm -- if you want to amend the bill to include that, I'd be happy to work with the committee on that. But my understanding, I think from sources other than wages or salaries. I believe it would cover that, if I'm not mistaken.

CHAIRMAN KURK: Rep. Elliott.

REP. ELLIOTT: Representative, the difficulty I'm having with this is, is that we set the corrections' budget at the county level, and so we may choose to pay our superintendent more or less, we may choose to have carpeting in the common area, more or less, and that those would all become expenses of the facility which we pass through to the inmates. So, is there any way to have accountability on the county for their expenditures?

REP. CLOUTIER: If you so chose, I'd be happy to work with the committee. I realize if the state's going to help fund it, then maybe there would be some more accountability for our county correctional facilities. But -- and I would be open to that. I don't know how the superintendents would feel. But, as I said, now they're doing the state's work, and I believe they have to meet some minimal standards that the state passes for housing prisoners. And certainly federal laws too, which they are subject to lawsuits sometimes.

We've had some real problems with some of our facilities, making sure that the prisoners have a library and I think some of that's federal law, too. A law library and so much space for them and their attorneys, and chapel space and cafeteria; there are certain standards. And I believe a lot of that's state law, some of that's federal law. I mean, and that's so the county correctional

facilities are under state law. They were set up by state law; they are subject to state law, and as I said, they're doing the work of the state. And when the state passes a new law effecting them, it can -- the trouble is now the local property taxpayer has to pick up sometimes the cost of those new prison improvements. And I just mentioned earlier the example with House Bill 52.

But I understand maybe the state would want a little more accountability. At this point, with our situation in Sullivan County, we're such a poor county and our property tax is so high, I might be open to that within reason, so long as it wouldn't increase our overall cost. I don't know if that answers your question, but I think there's a lot of -- As I said, the state's heavily involved now with county prisons as it is.

CHAIRMAN KURK: Rep. Mitchell.

REP. MITCHELL: Thank you, Mr. Chairman. Rep. Cloutier, my question is, do you know how you arrived at the cost? Was it based on beds available, the size of the --

REP. CLOUTIER: I, frankly, in my previous bill, 1363, and I had worked with Legislative Services, and I had thought I had -- the way I had worded it was going to be about 50 percent. I had no -- it was to me, just a number that, frankly, I had decided upon, myself and the sponsors. I take -- but I take, as the prime sponsor, responsibility for that.

The bill -- actually my intent with 1363 was 50 percent, I was later learned that was going to be 100 percent. So, actually, this bill for the state is actually a savings from what I had original -- for what was by the -- the way the bill was worded. My intent was though from -- since 1363 was 50 percent. And I just feel that I'd like the county correctional facilities to retain some local control. But if they're doing the work of the state that the state help pick up some of those costs. So, I just pick that number and that was my determination in this bill, frankly. I did a thorough study.

REP. MITCHELL: Follow up?

CHAIRMAN KURK: Follow up.

REP. MITCHELL: In Cheshire County our house of corrections now has 40-plus beds. We're now pretty much going to do a new house of corrections with double the size, and that will probably happen within the next year or two. Once that new facility comes on line, it would seem to me that the fiscal impact would be quite a bit different than what is being suggested here. And I know also there are other counties that are doing new jail construction, and I was wondering how far have you projected down the road or considered say four years out, six years out, ten years out?

REP. CLOUTIER: You raise a question that's really -- I haven't given much thought to. But, you know, 50 percent -- annually 50 percent of whatever that expense is as determined. It says reimbursement, so I assume there would be -- the counties would know at the end of the year how much they spent for a prison and you just simply take 50 percent of that number after the end of each year. I mean, that's -- I know costs will change, they will probably grow in most cases and in your case you're going to add more beds, so maybe your costs are going to go up. Well, it's 50 percent of whatever those costs are. In one year it may be one figure -- you know, 50 percent of whatever your prison -- let's say it's 3 million one year and let's say you have put on an addition, maybe it's 4 million the next year; well, it's 50 percent of that. That's my intent from this legislation, anyway in introducing this bill.

REP. MITCHELL: Thank you.

CHAIRMAN KURK: Rep. Smith.

REP. M. SMITH: Thank you very much, Mr. Chairman. Rep. Cloutier, thank you very much for your efforts to stick at this issue. There are counties, mine in particular and others, that have chosen to build county facilities that are larger than there

are immediate county needs for -- bad sentence, but you know what I mean. And we have in our county facility federal prisoners who are there for violation of federal law. When I read this, I don't see anything that would exempt their cost from your calculations, although I see the phrase that says less any income from sources other than wages or salaries earned by inmates.

REP. CLOUTIER: Of course, yeah, I know -- familiar with counties who are housing federal inmates. At the present time I believe, our county does not -- do not house federal inmates because we just don't have the room. And we may in the future, because we've got to consider building a new prison as well. We just -- you know, we've had a national assessment study come in last summer and do a whole study, and we've got a -- even we made some minor improvements a few years ago, but still they've come in and said we've got to make even more improvements. We're facing considering building a whole new prison in Sullivan County.

I would be happy to work with the committee to change this to account for federal inmates. I realize for some counties that's a big source of revenue. Maybe someday if we get the space we might take federal inmates, too. I think probably that maybe needs to be an account to make it more clearer. I mean, I thought it was clearer, but I'm willing to work it, because I realize some counties have an advantage, they're able to take -- they have more space, they have available space, they can take federal inmates. But I know my county, we don't do that at the present time. I think we would like to though someday if we could get that extra income. I don't know if that answers your question.

REP. M. SMITH: If I could follow up?

CHAIRMAN KURK: Further question.

REP. M. SMITH: Since I'm quite concerned about the practice of *if you build it, they will come*, is there some way that this legislation, if it were to pass might even encourage counties

to build facilities larger than there is need for in order to meet their -- just the requirements of their county?

REP. CLOUTIER: I would -- well, I would think the way it's written, whatever your expense is, you know, 50 percent reimbursement. I mean, if you -- the county's going to have to pick up a share if they build their facility. And I assume unless they can fill that with inmates, you know, federal inmates or whatever, they want to -- I think, basically, most prisons want to keep their facilities as reasonably full as possible to make money and to have -- be justified in having a certain-sized facility. You know, they don't want to be overcrowded, but at the same time they don't want to have a lot of empty spaces.

I feel that there is, I suppose, a possibility of this happening, but it's just a 50 percent reimbursement. So, whatever the costs are the counties would get a reimbursement of 50 percent from the state. But if you want control so the state wouldn't -- the cost wouldn't run up too much, I'm willing to work with the committee to amend the bill if necessary. For the state's sake, I realize the state has to be careful as well.

REP. M. SMITH: Thank you, Representative.

REP. CLOUTIER: But I'm trying to help the counties here.

REP. SMITH: Thank you, Mr. Chairman.

CHAIRMAN KURK: Rep. Emerton.

REP. EMERTON: Thank you, Mr. Chairman. Good afternoon. I just applaud you very much for your bill.

REP. CLOUTIER: Thank you.

REP. EMERTON: Having 15 years in this place and working on ED&A and a few other committees, the interaction of so many big agencies with the counties, corrections, HHS, Department of Justice, DCYS, YDC, plus we throw Medicare --

like Rep. Smith mentioned, Medicare, Medicaid into, I think we'd have to form a consultant a year or two to figure this all out, how to interact back and forth, maybe we should do that. And we'd throw in -- my county has about six or seven or 800 inmates at any given time, the feds are there. I see them in my court all the time coming back and forth. It's just an amazing amount of work to get this extricated. I'd like to see it done maybe, but I don't know how you could do it in a short period of time. It just boggles my mind, anyway. Maybe smarter people here could figure it out. Maybe we could do it somehow on a consulting basis out of the Governor's Office, I don't know. Just wondered how you thought of that?

REP. CLOUTIER: Well, I know this bill is a challenge for the state and this committee and the members of this committee. I know you have a lot of responsibility and you've got to make some tough decisions this year.

But I would just simply say, please, you've got to -- the state has to remember our counties and county government, who by housing inmates are doing the work of the state for violating -- And they've got to pay for it through local property taxes and -- I just, you know, one of the reasons, too, I filed this bill, and I really didn't want to get -- But I was chair of my county government's Finance Committee for four years, and believe me it was one of the toughest challenges I've ever faced, and I -- you know, trying to pick and choose priorities.

And during my tenure our county correct -- in one year increased over 34 percent the prison budget due to capital cost and inmate expense cost and medical cost, and we had to as a finance committee and then as a delegation pass a budget. We had to dramatically increase property taxes. We had to have a supplemental budget. I mean, some of the problems were caused by our own problems, and we're getting out house in order now. But some of it's state mandates whether it's prisons, whether it's nursing homes.

And I know this bill does not deal with nursing homes, but we've got to get out county budgets under control and give some relief to property taxpayers, especially in Sullivan County. I hear from my constituents all the time, and they don't care whether it's caused by the schools, the cities and towns, the counties, they want lower property taxes. And Sullivan County, we're one of the poorer counties in the state. But even from some more wealthier counties, I've heard complaints.

And you'll notice my cosponsors, you know, except I'm the only one from Sullivan County on the bill as an official cosponsor. You'll notice that I've gathered cosponsors from throughout the state and, of course, also Sen. Odell, who, when he was a Rep. served with me on the Finance Committee. He can tell you the tough decisions we had to make.

REP. EMERTON: Thank you.

REP. CLOUTIER: And I just am here pleading with this committee to remember our counties and to give them some relief. And this is one -- it's not the only vehicle for property tax relief, but it is one of them. And I just feel if we're doing the work of the state, then the state's got to help us out a little bit. And this bill is one way to do that.

REP. EMERTON: Thank you.

CHAIRMAN KURK: Thank you, Rep. Emerton. Rep. Wendelboe.

REP. WENDELBOE: Thank you, Mr. Chairman. Rep. Cloutier, you mentioned a minute ago that you would want local controls to continue at the county level for prisons. And right now the set up is that it's mostly -- tends to be mostly your local people that go to your local county jail, and they tend to be -- except for those awaiting trial, tend to be your lessor offenses, because it's a sentence of a year or less. But do you think you're opening counties up to the possibility? That if the state is going to be paying half of the freight that they might say, well, you

know, we're going to take Sullivan County, and we're going to put more serious offense there, and we're going to segregate all kind of offenders like this? And they're all going to be sent to Sullivan County now, since we're paying have the freight and we have equal say. And could this potentially change the whole flavor of what the county correction system is?

REP. CLOUTIER: It possibly could and I am a little bit concerned, because as I mentioned earlier, I did sponsor another bill asking the state to takeover the entire system. And as a result of that bill and the opposition in talking with county superintendents, some of my colleagues, I mean, I heard they were very concerned about that. They felt that this could open up to a lot of inmates being shipped outside the county. And they felt that people who are arrested and awaiting trial or in county prison need to be close to their friends and family, so hopefully they can be better rehabilitated. And I am -- that is a concern of mine.

But as I said, the county prisons are also doing the state's work, and I just feel the state should help out. That's why I don't want the state taking them completely over, and I still want the counties to pay for 50 percent, so they retain that local control. But I think part of it's just that the county is doing the state's work, so I think the state should help out. I mean, that's a -- what I believe.

CHAIRMAN KURK: Rep. King.

REP. KING: Thank you, Mr. Chairman. Rep. Cloutier, I think that your bill is very easy to understand.

REP. CLOUTIER: Thank you.

REP. KING: I don't think there's any question that what the bill intends to do is after the county completes its year and all of the revenues they take in and we've talked about, whether from a Coke machine, whether it comes as credited the difference, which is the expense, and you intend to have the state

share 50/50. So, if the county takes in $200,000 in federal prisoner revenue that gets discounted, it gets credited.

REP. CLOUTIER: Right. Yeah, that's my intent.

REP. KING: So, I don't think the bill needs to be changed, because that's what it says. However, I think getting $10 million or so out of the state's going to be difficult.

REP. CLOUTIER: I understand that. It's not going to be easy, I realize that. It's not easy for our counties either.

CHAIRMAN KURK: Further questions? There being none, thank you very much.

REP. CLOUTIER: Okay. Thank you very much, Mr. Chairman and members of the committee.

CHAIRMAN KURK: The chair recognizes Rep. Gorman.

MARY GORMAN, Representative, Hillsborough County, District 62: Thank you, Mr. Chairman and committee members. For the record, I am Rep. Mary Gorman from Nashua, Hillsborough, 62. I am a cosponsor of this bill.

And the reason why I am a cosponsor of this bill is that in late spring, early summer the Hillsborough County delegation voted on the county budget. And the pay raises for the staff at our correctional institute. And as we were voting for the pay raises of the individuals, well deserved, one of the county commissioners leaned over and said to me, Mary, I don't know where we're going to get the money for this. I'm worried about how we are going to pay for it.

And I voted for the pay raises, as did others in my delegation. And I wholeheartedly agree with Rep. Cloutier, we are housing inmates that have broken state laws. The state has asked us to take on the responsibility of the inmates, and I think

in fairness that we are certainly reasonable in our request to have state aid for our correctional facility, and I thank you.

CHAIRMAN KURK: Thank you very much, Rep. Gorman. Are there questions from committee members? There being none, thank you.

REP. GORMAN: Thank you.

CHAIRMAN KURK: The chair recognizes James Monahan representing the New Hampshire Association of Counties. Good afternoon and welcome.

JAMES MONAHAN, Lobbyist, New Hampshire Association of Counties: Thank you, Mr. Chairman. As you said, my name is James Monahan. I work for the Dupont Group, and we represent the New Hampshire Association of Counties. My card indicates that I've signed up in opposition to the bill, but I should make it clear to the committee the reason I did so is because the association has not had the opportunity to vote to support it yet. So, I felt that that was the clearest way to proceed.

What I wanted to do this afternoon is offer the opportunity to the committee if there's any questions you may have of the association, I'll do my best to answer them. And if I can't, bring them back to the association.

But for clarity, one of the things that could be helpful to the committee perhaps is to let you know how we approached the fiscal note that's attached to the bill, and I think that will answer some of the questions with regard to our understanding of the legislation.

Our presumption in the way the bill that was written was that if enacted the state would pick up 50 percent of the cost of incarcerated inmates who are sentenced to the county facilities. So, in doing so, we generally have three core populations in the county jails, and this would just apply to that population of folks

that have been sentenced. So, what we extracted out of the population for our fiscal note considerations are pretrial detainees, because they've not been sentenced yet, and as has been discussed here, federal inmates or other inmates who are not sentenced as a consequence of being sentenced through state law to the county facility.

So, in rough terms, as is explained in the fiscal note, the combined county budgets for fiscal -- for the most recent fiscal year -- well, actually some counties are in calendar year and some are in fiscal year. So, we found a -- I think we based it on a complete calendar year for 2001 was approximately $32 million. And from that, we presumed, and obviously it's going to be different every year, but about 50 percent of the populations would be the sentenced folks in the county facilities. And so, 50 percent of that figure was 16 million and then having the state pick up half the cost of that would be 8 million, more or less.

I was more precise in the fiscal note, but I did want to explain why our numbers in the fiscal note were different than the Department of Corrections. I think that the difference is the Department of Corrections did not account for inmates who were not sentenced.

So, with that I'll -- we have asked our corrections superintendents' affiliate to spend some more time with the legislation, and they are in the process of doing that. Our association meets on the first Friday of February. I expect at that point we'll take a vote on this legislation, and I'll be prepared to report the outcome of that decision to the subcommittee, should there be one. But I can answer any questions the committee may have.

CHAIRMAN KURK: Thank you. Rep. Mitchell.

REP. MITCHELL: Yes, Mr. Chairman. A question to you, I'm assuming that this would be coming to Division I?

CHAIRMAN KURK: Probably.

REP. MITCHELL: It would be good to have as much information that you are willing to offer for us at that point in time.

MR. MONAHAN: Yes. I must say it was the intention of Superintendent Glen Libby from Grafton County to be at the hearing today, but he had a family difficulty that prevented him from being here. But if it does go to subcommittee, I'll make sure there's a county professional here, rather than myself.

REP. MITCHELL: Thank you.

CHAIRMAN KURK: Rep. Wendelboe.

REP. WENDELBOE: Thank you, Mr. Chairman. Good afternoon, Mr. Monahan. If this legislation were to pass and the state were to assume this cost, what kind of door are we opening then? Because the next step would be looking at the cost of the county attorney's office and how much of their time, paid by county dollars, is actually preparing cases for people that broke the state's laws? And then, take it one step further to the law enforcement costs for our local towns and the sheriffs' office, because they're using their time to arrest people breaking the state laws. So, do we follow the feed chain till we get to the point where not only should the state pay for the incarceration but for the prosecution, for the arrest down the line.

MR. MONAHAN: That was a slippery slope question?

REP. WENDELBOE: Yes, it was.

MR. MONAHAN: That has been a serious part of the consideration at the county level. I think the County Association superintendents have been generally concerned that the consequence of the state stepping in on a financial basis could have the state stepping in on a matter of control and expressing more authority in the operation of county facilities. The clearest example that the county governments have seen with regard to

whether or not this has been good or not for the taxpayers has been the unified court system. You know, as a general matter, I think, when the state started funding the court system, as opposed to the counties, those costs have increased, for a lot of reasons. But in fact, that's the control case that we look at when we look as to whether or not, you know, it would be less expensive to do it that way to the taxpayers overall.

REP. WENDELBOE: Follow up.

CHAIRMAN KURK: Follow up.

REP. WENDELBOE: I don't think I was going a control route, I was going more why shouldn't the state pay for prosecution and for law enforcement costs of the county and the towns as well because of it being -- they're doing their jobs prosecuting and arresting violators of the state laws, just like the incarceration is because they violated the state laws.

CHAIRMAN KURK: I thought Mr. Monahan was just going further down the slippery slope.

REP. WENDELBOE: On control?

CHAIRMAN KURK: On control and state takeovers of counties.

MR. MONAHAN: And costs, is it overall is it -- I guess in trying to answer the question I perhaps leaped ahead. If the question was actually asked, I think one of the considerations would be -- would it be more efficient and less expensive for the taxpayers, recognizing that whether or not they're paying a state tax or a county tax. I think that's what I was trying to answer, but I think as a general matter your question was has that issue been -- is that part of the consideration of the association? And yes, it is.

CHAIRMAN KURK: Further question? Rep. Anderson.

REP. ANDERSON: Thank you, Mr. Chairman. This is more a question of curiosity. In looking at the 50 percent issue, I'm just wondering if that might end up rewarding some county correctional facilities that may not be as efficient. I'm just curious to know whether or not the use of a per inmate fee might make more sense, for instance, $2000 an inmate as opposed to 50 percent or whatever the amount is?

MR. MONAHAN: Subject to check, and I'll try to get back to you. When the counties agree with the federal government to take a federal inmate in, it's based on a per diem, a per day charge for the inmate. And I think when those relationships are negotiated on a county-by-county basis, they look at the actual costs in those counties. And so, you may be on to something.

CHAIRMAN KURK: Further questions? There being none, thank you very much.

MR. MONAHAN: Thank you.

CHAIRMAN KURK: The chair recognizes Rep. Phinizy. Good afternoon, Rep. Phinizy and welcome. It's good to see you.

JAMES PHINIZY, Representative, Sullivan County, District 23: Good afternoon, Mr. Chairman. Thank you very much for allowing me the time. For the record, my name is Jay Phinizy, and I represent Sullivan, District 23, which is Acworth, Langdon and Charleston.

And I come here not only as that and I'm sure Rep. Rodeschin and Cloutier would endorse this, as we discussed it a little bit at our last delegation meeting. I come as the delegation chair, and I wholeheartedly support and endorse Rep. Cloutier's bill and his testimony.

I would like to be very brief and answer several questions. I think Rep. Wendelboe brought up the question of slippery slope. And I think what Rep. Cloutier's trying to do is address an issue now where you will provide, hopefully, the counties

with a certain amount of pressure relief. There's a symbiosis between the counties and the state, and the symbiosis extends beyond just the correctional facility.

It deals with such issues as shuttling prisoners back and forth. It does deal with the county attorney versus the state attorney. And it deals with things like conducting autopsies and the costs that are shared by the counties and the state. And in looking at this basket of obligations and costs, I don't believe that the counties would be looking to have the state take over the entire amount of cost probably imposed upon the counties. But I think really what we're looking at is we're looking at a situation where if the counties don't get some relief, certain other areas are going to have to be let go.

And I specifically refer to things like the county nursing homes, which would then create, I think, a far greater problem for the state. And I specifically refer to probably some of the other issues that the counties take up at this time. So, rather than look at this as opening the flood gates or one of a thousand many cuts, look at this as a way of providing pressure relief for what otherwise could turn into a real fiasco and a real problem. And with that, I will close my testimony.

CHAIRMAN KURK: Thank you, sir. Questions for Rep. Phinizy? There being none, thank you.

REP. PHINIZY: Thank you, Mr. Chairman.

CHAIRMAN KURK: Is there anyone else who wishes to testify? Rep. Pratt.

JOHN PRATT, Representative, Cheshire County, District 24: Thank you, Mr. Chairman.

CHAIRMAN KURK: Good afternoon, sir, and welcome and we await your pink card.

REP. PRATT: Good afternoon, Mr. Chairman. For the record, Rep. John Pratt from Cheshire, 24. I apologize for being late, but I am here simply to endorse this bill in the strongest of terms. I guess what my testimony in one sentence would be: I think the time has come when we need the state to save us from ourselves. It is just simply too costly for each of these counties to keep on -- Cheshire's as I'm -- We have no facilities that I can see for rehabilitation for treatment for adequate resources for the women in the prison. We don't have very much resources -- I look at you, I apologize, but we have very few resources for the men, but we have none for women. I mean, yeah, we're housing them, we're warehousing them. We're not -- there is no penitents, there is no reform.

And I think, you know, and then we say look at the recidivism -- look at the return rate. It's late in the day. I mean, I think we could do a better job, and I do think there would be economies. We house the youth in a central facility, not very central, but in a single facility in Manchester. At least, that's my understanding.

CHAIRMAN KURK: Rep. King.

REP. KING: Thank you, Mr. Chairman. Rep. Pratt, I gather from what you're saying that what you think really should happen, rather than pass this bill, is to deal with this whole issue of turf and where these facilities are built and then come to grips with that issue first?

REP. PRATT: I have heard the chairman of your committee talk about new ventures. I have no doubt that great new fundings aren't coming. I think this is very much a part of what the Governor is trying to tell us, that we must think anew and act anew and look at the way in which we do things with a new perspective, instead of in a hidebound way. I think -- I frankly think we would find that the counties -- the county government would benefit. I think we might have a far better penal system. We may lower the return rate. I think you could do an awful lot of things if you looked at it from a fresh

perspective. So, I think I'm in total agreement with you, but the issue's got to get raised somewhere.

REP. KING: I asked you to answer my question. Yes, the answer is yes?

REP. PRATT: The answer to the question is yes. Clearly, I think we do need to study it, and I think this is -- but this is the opening shot.

REP. KING: Thank you.

CHAIRMAN KURK: Further questions? There being none, thank you very much, Rep. Pratt.

REP. PRATT: Thank you, Mr. Chairman.

CHAIRMAN KURK: Is there anyone else who wishes to testify on House Bill 337? If you don't wish to testify but wish to express support or opposition, please sign the blue sheet on the witness table. There being no one else who wishes to testify, the hearing on House Bill 337 is closed.

[Hearing closed]

MINUTES
HOUSE COMMITTEE ON FINANCE
DIVISION I - WORK & EXECUTIVE SESSION
February 11, 2003 – Room 209, Legislative Office Building

Division Members Present: Reps. Stone, Anderson, Robert Johnson, King, Coes, Mitchell, Wheeler, Blanchard

Rep. Stone, chairman, called the work session to order at 3:00 p.m.

****HB 327 establishing a committee to study the use of state vehicles**

Rep. Wendelboe shared with the division past reports whose recommendations were not followed and the inefficiencies that exist in the present system. **Rep. Blanchard** indicated that she thought we had more important issues to deal with but others shared differing views. Rep. Wheeler moved OTP, Rep. King seconded the motion. Bill passed OTP roll call vote 5 to 2.

****HB 337-FN-A-L relative to state funding of county correctional facilities**

Rep. Cloutier explained his frustration with ever increasing county taxes, he recalled this bill was overturned by the full house. Rep. King moved ITL, Rep. Wheeler seconded the motion. Roll call vote ITL 7-0

No other bills before the Committee, Rep. Stone adjourned the work session.

Respectfully submitted:

Robert Wheeler

Rep. Robert Wheeler
Clerk for Division I

DIVISION I

2003 SESSION

B # 337, King moved JIL second Wheeler

UBLIC HEARING: ✓ FEB 11 2003

XECUTIVE SESSION: ✓

Amendment # -- proposed/adopted

	YEAS	NAYS	OTHER	ABSENT
STONE, JOSEPH E., CHM.	✓			
HOLBROOK, ROBERT G., V. CHM.				
WHEELER, ROBERT L., CLERK	✓			
JOHNSON, ROBERT A.	✓			
ANDERSON, ERIC				
KING, FREDERICK	✓			
BLANCHARD, MARYANN N.	✓			
COES, BETSY A.	✓			
MITCHELL, MCKIM W.	✓			
KURK, NEAL M.				

COMMITTEE REPORT: 7-0

MINUTES
HOUSE COMMITTEE ON FINANCE
EXECUTIVE SESSION - FEBRUARY 12, 2003
Room 210-211, Legislative Office Building

Rep. Kurk, chairman of the committee, called the executive session to order at 12:30 p.m..

Members Present: Reps. Kurk, Robert Johnson, Stone, Anderson, Wendelboe, Mercer, Emerton, Wheeler, Rodeschin, Rogers Johnson, Elliott, Dodge, Hunter, King, Smith, Blanchard, Coes, Mitchell, Densmore, Eaton

****HB 327, establishing a committee to study the use of state vehicles,**

Rep. Wheeler moved, seconded by **Rep. King** to recommend **Ought to Pass.** The motion passed on a **18-1** Roll Call Vote, to be placed on the **Consent Calendar.**

****HB 337-FN-A-L, relative to state funding of county correctional facilities.**

Rep. King moved, seconded by **Rep. Wheeler** to recommend **ITL.** The motion passed on a **20-0** Roll Call Vote, to be placed on the **Consent Calendar.**

Rep. Kurk, chairman of the committee, adjourned the executive session..

Respectfully submitted,

Rep. Robert L. Wheeler
Clerk for the Committee

OFFICE OF THE HOUSE CLERK

2003 SESSION

FINANCE

Bill #: #337 Title: Relative to State Funding of County Correctional facilities

PH Date: ___/___/___ Exec Session Date: 04/12/03

Motion: ITL Amendment #:

MEMBER	YEAS	NAYS
Kurk, Neal M. Chairman	20	
Wevler, Kenneth L. V Chairman		
Holbrook, Robert G		
Johnson, Robert A	1	
Stone, Joseph E	2	
Anderson, Eric	3	
Wendelboe, Fran	4	
Hager, Elizabeth S		
Mercer, Robert S	5	
Emerton, Larry A	6	
Wheeler, Robert L	7	
Rodeschin, Beverly T	8	
Johnson, Rogers J	9	
Elliott, Larry G	10	
Dodge, Robert K	11	
Hunter, Bruce F	12	
King, Frederick W	13	
Wallner, Mary Jane		
Smith, Mariorie K	14	
Blanchard, MarvAnn N	15	
Coes, Betsy A	16	
Mitchell, McKim W	17	
Densmore, Edward D	18	
Eaton, Daniel A	19	
	20	0
TOTAL VOTE:		

Printed: 1/6/2003

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 337-FN-A-L Date JANUARY 30 2003

Committee FINANCE

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con
Rep Joe Harris	43 Ridge Ave Claremont	542-6973	Sullivan #22	X	
Rep Robert Milligan	43 State Merrimack	424-3944	Hill # 58		

Fill in *ONLY* if *SPEAKING* on Bill

Bill # 337FN Date 1/31/03

Committee Finance.

I support the bill ✓

I oppose the bill ____

I have written testimony ____

(Number of copies) ____

Time needed to speak: 2-3 mm

Name Joy Phinizy

Address ____

ACWORTH

Phone ____

Representing Sull. Dist 23

Fill in *ONLY* if *SPEAKING* on Bill

Bill # 337 Date 1-30-03

Committee Finance

I support the bill ✓

I oppose the bill ____

I have written testimony ✓

(Number of copies) 25

Time needed to speak: 5 minutes

Name Rep. John R. Cloutier

Address 13 W. LaFayette St.

Claremont, NH 03743

Phone 542-6190

Representing Sull. Dist #22

Fill in *ONLY* if *SPEAKING* on Bill

Bill # HB332 Date ____

Committee Finance

I support the bill ____

I oppose the bill ✓

I have written testimony ____

(Number of copies) ____

Time needed to speak: 2 minutes

Name James Monahan

Address 114 N. main St.

Concord, NH 03301

Phone 228-3382

Representing NH Assn. of Counties

Fill in *ONLY* if *SPEAKING* on Bill

Bill # 337 Date 1/30

Committee _____

I support the bill ____

I oppose the bill ____

I have written testimony ____

(Number of copies) ____

Time needed to speak: _____

Name REP John Patt

Address _____

_____

Phone _____

Representing Rhs 2x

Fill in *ONLY* if *SPEAKING* on Bill

Bill # 337 Date 1/30/03

Committee Finance

I support the bill Y

I oppose the bill ____

I have written testimony ____

(Number of copies) ____

Time needed to speak: _____

Name MARY GORMAN

Address 44 1/2 Amherst St

_____

Phone _____

Representing Hills. 62

Hearing Minutes

MINUTES
HOUSE COMMITTEE ON FINANCE
PUBLIC HEARINGS – THURSDAY, JANUARY 30, 2003
Legislative Office Building, Room 210-211

Committee Members Present: Reps. Kurk, Weyler, Holbrook, Robert Johnson, Stone, Anderson, Wendelboe, Mercer, Emerton, Wheeler, Rodeschin, Elliott, Dodge, King, Smith, Coes, Densmore, Eaton

****HB 286, establishing a committee to study certain proposals to fund education in New Hampshire.**

Bill Sponsors: Rep Carlson, Rep. Ross

The hearing was called to order by Rep. Kurk, chairman at 1:30 p.m.

Rep. Carlson, prime sponsor testified in favor of establishing a study committee to review certain proposals to fund education.

No one else wishing to testify for or against the bill, the chairman adjourned the hearing.

For a list of those persons did not testify, but wished to express an opinion, see **ATTACHMENT A.**

****HB 327, establishing a committee to study the use of state vehicles.**

Bill Sponsors: Rep. Wendelboe, Sen. Boyce

The hearing was called to order by Rep. Kurk, chairman at 2:00 p.m.

Rep. Wendelboe, prime sponsor, spoke to her bill in favor of creating a study committee to review the use of state vehicles and policies related thereto.

Emily Cole submitted written testimony (attachment 1) on behalf of Senator Boyce.

No one else wishing to testify for or against the bill, the chairman adjourned the hearing.

****HB 337-FN-A-L, relative to state funding of county correctional facilities.**

Bill Sponsors: Rep. Cloutier, Rep. J. Pratt, Rep. Gorman, Rep. Milligan, Rep. Jacobson, Sen. Odell

The hearing was called to order by Rep. Kurk, chairman at 2:45 p.m.

Prime Sponsor, Rep. Cloutier, submitted written testimony (attachment 1). He then responded to questions from the committee members.

Rep. Mary Gorman spoke in favor of the bill as a co-sponsor.

James Monahan, representing the NH Association of Counties spoke in opposition of the bill only because his clients have not yet voted on this issue.

Rep. Phinizy testified in support of the bill as chairman of the County Delegation.

Rep. John Pratt, co-sponsor spoke in favor of the bill saying its time has come.

No one else wishing to testify for or against the bill, the chairman adjourned the hearing.

For a list of those persons did not testify, but wished to express an opinion, see **ATTACHMENT A.**

No further bills before the Committee, the public hearings were adjourned.

Respectfully Submitted:



Rep. Robert L. Wheeler
Clerk for the Committee

Testimony

(1)

STATE REP. JOHN CLOUTIER'S TESTIMONY ON HOUSE BILL 337

JANUARY 30,2003 BEFORE THE HOUSE FINANCE COMMITTEE

I am here today to testify as the prime sponsor and **in favor of House Bill 337,** which requires the state to annually reimburse counties for 50 percent of the expense of incarcerating inmates sentenced to county correctional facilties.

Frankly, I filed House Bill 337 for three reasons. First, because a group of Sullivan County citizens, who in 2000-2001 had studied how county government is presently run as well as how it might be improved, recommended that such a bill be supported. Now I believe that when a group of concerned citizens take time out of their busy schedules to conduct a thorough study of their county government, and then to issue some thoughtful legislative recommendations that such recommendations should not just sit on a shelf gathering dust. In other words, they deserve review and debate by legislators like ourselves.

Second, House Bill 337 is a follow-up to earlier legislation that I have sponsored, including House Bill 1363, which initially passed the House last February, but was sent to further study on this committee's recommendation because of some of the complex policy issues raised by the bill. I believe House Bill 337 is a simpler version of House Bill 1363 for this committee and the rest of the legislature to understand.

Today's bill is also a follow-up to House Bill 642, which I had sponsored in 2001. That bill would have abolished county correctional departments, and turned over the counties' responsibilities to the state. I had filed that bill because I believed the state might be able to do a more efficient job in running county prisons. Additionally, I believed that such prisons as currently funded might violate the spirit, if not the letter of Article 28-A, which of course prohibits the imposition of unfunded state mandates on local governments.

But during House Bill 642's consideration, I heard from the bill's opponents that many county prisons are now run efficiently, and are responsive to their county's residents. They said that despite sometimes lacking money for facilities and programs that turning over the prisons to the state would not necessarily improve them. Obviously, with the bill's defeat, the opponents had made the more persuasive of the two arguments. I have decided on a slightly different approach with House Bill 337. An approach which I believe would preserve some local control of county prisons while getting them some much-needed state aid.

Please remember that county prisons while being funded by local property taxes, house inmates who have violated state criminal statutes--not county or municipal statutes. When we as a legislature change state criminal statutes, we can affect not only our state prisons, but our county prisons as well. Such changes can increase the number of county inmates, among other results.

For example, there was House Bill 52, which this legislature had passed into law in 1995. It reduced the minimum age at which individuals could be incarcerated in all prisons from 18 to 17. Though well-intended, the new law did increase the Sullivan County prison's inmate population. But unfortunately, the new law did not provide additional funding for prisons like Sullivan County's, and the law definitely increased the prison's budget. While House Bill 179, which was enacted last year, basically repealed the just-described law, there are no guarantees that new laws costly to county prisons will not be passed again.

Third and finally, I filed this bill as one of many vehicles to help give property owners some property tax relief. Such relief is not only needed by my Sullivan County constituents, but in the other counties throughout our state. Gov. Benson pledged to give property taxpayers such relief, and the supporters of House Bill 337 are here to help him redeem his pledge.

In conclusion, I urge this committee to give House Bill 337 a unanimous **Ought to Pass recommendation** for the good of our counties and property taxpayers.

John R. Cloutier

State Rep.
John R. Cloutier

Committee Report

COMMITTEE REPORT

COMMITTEE: Finance

BILL NUMBER: **HB 337-FN-A-L**

TITLE: relative to state funding of county correctional facilities.

DATE: February 12, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The committee heard compelling testimony of the impact on county budgets for costs associated with inmates serving time for infractions of state laws. Given the fiscal impact and the uncertainty of state revenues the committee voted against passage of this legislation.

Vote 20-0.

Rep. Frederick King
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Finance

HB 337-FN-A-L, relative **to state funding of county correctional facilities. INEXPEDIENT TO LEGISLATE**

Rep. Frederick King for Finance:

The committee heard compelling testimony of the impact on county budgets for costs associated with inmates serving time for infractions of state laws. Given the fiscal impact and the uncertainty of state revenues the committee voted against passage of this legislation Vote **20-0.**

HB 337 RELATIVE TO ANNUAL REIMBURSEMENT BY THE STATE TO THE COUNTIES FOR 50% OF THE OPERATING COST OF THE COUNTY CORRECTION FACILITIES

INEXPEDIENT TO LEGISLATE

THE COMMITTEE HEARD COMPELLING TESTIMONY ~~OF~~ THE IMPACT ON COUNTY BUDGETS FOR COST ASSOCIATED WITH INMATES SERVING TIME FOR INFRACTIONS OF STATE LAWS. GIVEN THE FISCAL IMPACT AND THE UNCERTAINTY OF STATE REVENUES THE COMMITTEE VOTED AGAINST ~~THE~~ PASSAGE OF THIS LEGISLATION, VOTE