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Testimony of Mary Alice Moore Leonhardt, Chair,
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Senate Bill 201, An Act Establishing a Demonstration Project
For An Office of Administrative Hearings
Government Elections & Administration Committee
February 20, 2008

Senator Slossberg, Representative Caruso and members of the Government Elections & Administration Committee, thank you for the opportunity to submit written testimony on Senate Bill 201, An Act Establishing a Demonstration Project for an Office of Administrative Hearings.

My name is Mary Alice Moore Leonhardt. I am an attorney in private practice in Hartford, where I practice in the area of administrative law and I primarily concentrate on representation of health care clients and transportation providers. A substantial part of my law practice has been devoted to representing, for almost twenty years, these types of clients before state agencies including the Department of Public Health, Office of Health Care Access, Department of Children and Families, Department of Education, Department of Social Services, Department of Transportation, Department of Motor Vehicles and Department of Consumer Protection, in contested cases and appeals of state agency decisions. I am the chairperson of the Administrative Law Section of the CBA, which consists of attorneys in private practice who represent others before executive agencies, as well as attorneys employed by the State of Connecticut.

The CBA, on behalf of the Administrative Law Section, **supports** this legislation which would bring the state of Connecticut current with the trend followed by the majority of states (30, including Massachusetts, New Hampshire, New Jersey, Oregon

recommended and final decisions would, as under present law, be taken to Superior Court. Under the bill, the office of administrative hearings would be accountable to the Governor through the appointment of the chief administrative law adjudicator, and to the legislature through the budget and confirmation processes. The bill allows for recognition of collective bargaining units in the new agency. Hearing officers transferred to this new agency would retain their rights, class, status and opportunities to avoid any adverse impact.

An office of administrative hearings should be established because it would provide:

- **Impartiality.** Because hearing officers currently are employees of the agencies conducting the hearings, they are not always perceived as impartial, unbiased adjudicators of the issues before them. An agency promulgates regulations and rules of practice, investigates violations, prosecutes cases and decides those very cases. An agency has authority over hearing officers and outside-contracted hearing officers, possibly compromising the integrity and fairness of the hearing process. A centralized panel of administrative law adjudicators sitting in an impartial agency would provide fundamental fairness and due process; apply agency policy and regulations without being subjected to advancement or penalty by the agency for their cooperation or lack of cooperation; and enhance public trust and confidence in the process and in decisions rendered. Consequently, an office of administrative hearings would foster trust and confidence in state government.
- **Efficiency.** A central office of administrative law adjudicators would consolidate support services and systems within one agency, thereby generating efficiencies in time and cost savings. Flexibility in case assignments would predominate to ensure that appropriate administrative adjudicators would be assigned both to specific kinds of cases or particular agencies to apply the necessary expertise, and to meet the "feast or famine" fluctuating caseloads of the various agencies. Staff would easily be assigned where the need exists and cases would be handled in less time. Fewer administrative law adjudicators would be needed to hear more cases. Attorneys and members of the public would have a central location from which to obtain copies of the administrative law adjudicators' decisions, the procedural regulations established by the office of administrative hearings and the substantive regulations of the departments. It will eliminate a process that currently puts professionals, consumers, businesses and other parties through a prolonged hearing process.

creative inquiry into novel issues, provide for peer consultation and attract the most qualified people to the administrative bench. The proposed legislation also provides for consistent training of the administrative law adjudicators in procedural and substantive law, ensuring competence and enhanced professionalism, particularly in those agencies that currently use contractual hearing officers.

- **Uniformity and consistency.** The administrative hearing and enforcement processes used by state agencies, except where governed by the UAPA, vary unnecessarily and often for no apparent reason. Uniformity can be achieved by adopting a single process under a central hearing office that can be varied in limited circumstances to address agency needs. A central hearing office could establish uniform hearing procedures.

Members of the committee should know that the Administrative Law Section has been working hard to build consensus on the bill. We have met with, among others, representatives of A & R/AFT, which represents attorney-hearing officers that would be affected by the legislation. As with similar experiences in our neighboring state of Massachusetts and other states such as Oregon and Michigan, the bill provides that the employment rights of employees transferred to the central office would be unaffected. Members of these bargaining units would retain their memberships as they transition over to the new office. We have discussed the bill with representatives of a number of other organizations and representatives from the agencies in the bill and we understand that many of the current hearing officers and their supervisors are supportive of this legislation.

Finally, after carefully reviewing Senate Bill 201, the Administrative Law Section respectfully suggests that several changes to the bill would be appropriate. I have attached the section's suggested substitute language to my testimony, and would be happy to discuss these suggestions or answer any questions you may have concerning the proposed substitute language.

Suggested substitute language for Senate Bill 201,
**An Act Establishing a Demonstration Project for an Office of Administrative
Hearings**

1. In line 2, strike “branch” and insert in lieu thereof “department”
2. In line 4, strike “branch” and insert in lieu thereof “department”
3. In line 39, strike “(a)”
4. Strike lines 86 to 90, inclusive, and insert the following in lieu thereof:

“(8) Develop a program for the continuing education of administrative law adjudicators in procedural due process and in the substantive law of the agencies subject to the provisions of section 8 of this act and for the training of ancillary personnel, and implement such program; and”

5. Strike lines 96 to 99, inclusive, in their entirety (Section 3 (b))
6. In line 114, after “service” insert “and”