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Committee on Planning and Development  
Public Hearing  
Monday, March 3, 2008

Committee Bills No. SB 2, SB 495, HB 5712

Good Morning Chairmen Coleman and Feltman, and members of the Planning and Development Committee. My name is Anthony J. Vasiliou. I am currently the Executive Director of the Milford Redevelopment & Housing Partnership. Additionally, I am the Chairman of the Housing and Legislative Committees for both the state chapter and New England regional chapter of the National Association of Housing and Redevelopment Officials (NAHRO). As you may know, in Connecticut, our organization is known as CONN-NAHRO.

Today, on behalf of CONN-NAHRO, I would like to speak in support of Senate Bill: SB 2 (with comment to follow), and House Bill: HB 5712 (with comment to follow). CONN-NAHRO opposes Senate Bill: SB 495 (with comment to follow).

SB 2 -- I would like to speak in support of S.B. 2 and related bills that call for the full two-year restoration of Payment in Lieu of Taxes (PILOT) to municipalities that have for decades supported low and moderate rental housing.

The legislation calls for two million two hundred four thousand dollars to be appropriated for the fiscal years ending June 30, 2008, and June 30, 2009, to fund the PILOT Program in 22 communities across Connecticut. Additionally, the bill would appropriate one million seven hundred four thousand eight hundred ninety dollars in support of 14 low and moderate income tax abatement communities where housing is operated by nonprofit entities. This funding request only restores money for PILOT in accordance with subsections (a) and (b) of Section 8-216 of the general statutes. It does not increase the funding or create a new program. As you are aware, PILOT is based on a contract that calls for the state to provide a payment “that, in consideration of such grant-in-aid, the municipality shall waive during the period of such contract any payments by the housing authority or the Connecticut Housing Finance Authority to the municipality under the provisions of section 8-71, ...”. (See below Attachment “A” for Sections 8-71 & 8-216)

The PILOT Program currently administered by the Department of Economic and Community Development was created more than forty (40) years ago in 1967. It is the only subsidy program that directly funds annual operating costs or reserves to pay for running moderate rental and tax abated housing in the State of Connecticut. Moreover, the program was conceived as a way to provide an incentive to local housing authorities and communities to build and maintain subsidized housing for low and moderate income families. It’s become fashionable to now refer to these working families, that live and raise children in our communities, as residents in need of work force housing. Then the question arises, why is the government turning its back on working families in Connecticut at the very time officials across the state are concerned about retaining employees in their communities? The economic data certainly suggests that affordable housing is increasingly in short supply or stated another way is increasingly out of the reach of families whose incomes are 50 percent or less of the area medium income. These are the very

families served by more than 100 Public Housing Authorities in Connecticut that reside in over 18,000 units of housing built with state tax dollars.

We therefore, respectfully ask this Committee and the State Legislature to fully restore the two years of funding for the PILOT Program. Senators Williams and Looney's legislation needs to be acted on favorably by the Committee. The urgency of getting the funding to the municipalities warrants consideration by the leadership to consider getting the legislation to the respective floors using the emergency certification procedures.

HB 5712 -- CONN-NAHRO supports Section 2 of HB 5712. However, we note that the legislation calls for restoring PILOT for only one fiscal year ending June 30, 2009. As we remarked on earlier, CONN-NAHRO supports restoring PILOT for the two fiscal years respectively ending on June 30, 2008 and June 30, 2009.

At this time speaking as an Executive Director in the public housing industry, I want to comment on the principle embodied in this legislation that recognizes that communities that have agreed to do "the right thing", by permitting state facilities to be located into their jurisdictions, deserve consideration to receive compensation from the state. This principle goes beyond monetary considerations and speaks to the concept of getting cities and towns to support state sponsored facilities with positive incentives.

In speaking with colleagues in the public housing industry in other parts of the country, communities that support correctional facilities have experienced a disparate impact on their housing programs because of such facilities. In Connecticut, such a disparate effect on public housing is evidenced in Middletown where the public housing authority for years has been impacted due to the rehabilitation programs and facilities located in that community. Although these facilities are different than those located in Enfield and other communities hosting

correctional or juvenile detention centers, the same principle applies. These cities and towns have committed their most precious resources -- land -- to site state sponsored facilities and deserve consideration to be compensated for the loss of that resource and any other costs associated with supporting those facilities.

SB 495 -- CONN-NAHRO vigorously opposes the adoption of SB 495. The language of this legislative measure would intervene in the contractual relationship between public housing authorities and municipalities. Communities that in the past have in principle done "the right thing" by encouraging subsidized housing to be built within their legal jurisdictions, would now be penalized by taking away PILOT. What kind of message does that send to cities and towns that are being asked by the state to provide additional and incremental affordable housing for income limited working families, elderly and non-elderly disabled individuals? A reasonable person might answer that the message is "don't get involved"! Moreover, SB 495 would undercut the statutory foundation for the manner in which state-aided housing is operated in Connecticut which provides decent, safe and sanitary dwellings as called for in Sec. 8-40 (see below Attachment "B").

Additionally, Sec. 44-g of the General Statutes states: The Commissioner of Economic and Community Development shall approve an operation or management plan of each housing project, which shall provide an income adequate for debt service, administration, including a state service charge, other operating costs and establishment of reasonable reserves for repairs, maintenance and replacements, vacancy and collection losses. (see below Attachment "C")

Sec. 8-72 of the General Statutes further states: "Each developer or housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with providing decent, safe

and sanitary dwelling accommodations, and no housing authority or nonprofit corporation shall construct or operate any such project for profit. To this end an authority or a nonprofit corporation shall fix the rentals for dwelling in its projects at no higher rates than it finds to be necessary in order to produce revenues which, together with all other available money, revenues, income and receipts of the authority or nonprofit corporation from whatever sources derived, will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds of the authority or nonprofit corporation; (b) to meet the cost of, and to provide for, maintaining and operating the projects, including the cost of any insurance, and the administrative expenses of the authority or nonprofit corporation;...” (see below Attachment “C”)

The state public housing program as currently constituted by law and administered by state agencies requires Public Housing Authorities (PHA’s) to meet their statutory obligations of adjusting base rents to raise sufficient revenues to pay for reasonable operating expenses. CONN-NAHRO understands and supports the need for the current funding program that essentially relies exclusively on tenants paying rent to be reassessed. This review should be done in the context of replacing it with an annual operating subsidy system that closes the gap between the PHA’s rapidly escalating costs of running the organization and the relatively fixed income generated by assessing tenants, in general, 30 percent of their adjusted gross income. In 1969 when the Congress adopted Senator Brooke’s amendment, which called for charging residents a percentage of their income, it took only five (5) years for them to follow with an annual operating subsidy program in 1974. It was apparent that PHA’s could not pay their expenses when their income was relatively fixed and pegged to resident’s incomes instead of market costs to operate the properties. In February of 1996, the National Housing Law Project wrote, “In 1969, the National Association of Housing and Redevelopment Officials (NAHRO), in its testimony before the Senate Subcommittee on Housing and Urban Affairs, brought to Congress’ attention the fact

that public housing could no longer continue to serve the lowest income families because of rapidly rising costs. To support that proposition, NAHRO attached to its prepared statement an article written by Albert A. Walsh, Chairman of the New York City Housing Authority. In that article, Mr. Walsh reflected on the fiscal crisis faced by his authority and many others like it. He made the point that public housing in 1969 faced two choices. It could continue forward with its existing structure of limited federal subsidies and ever escalating rents to cover increased operating costs. Or it could switch to a revised federal subsidy system that would keep the rents affordable and fill the gap between rents and costs with adequate federal operating subsidies.”

The Connecticut public housing industry faces the same crisis today. We are running out of money to run our developments and to provide safe, decent, sanitary and drug-free housing for the frail, elderly and working families of Connecticut. Very serious consideration needs to be given to replacing RAP with a true annual operating subsidy program if we are to preserve and protect the long-term viability of subsidized housing in Connecticut. HB 5547 introduced by the Select Housing Committee embodies the spirit of this policy proposition by calling for the funding of annual operating costs for the Hartford PHA. This funding proposal needs to be universal and available to all PHA’s in Connecticut.

In closing, I want to very briefly comment on H.B. 5148 that would Reestablish a Department of Housing. The language of this legislative measure supports the State-assisted Public Housing Sustainability Advisory Committee's objectives of developing strategies to meet expanding housing needs and the necessity to review regulations to insure that they are coordinated and look holistically at the public housing and affordable housing nonprofit industries.

Although at this time we can not offer remarks directly on specific provisions of the legislation, the bill does support the principle and CONN-NAHRO’s current legislative issue priorities by

calling for the consolidation of state low and moderate income housing program administration under one umbrella. CONN-NAHRO strongly supports the unification of the administration of all public housing -- family, elderly and non-elderly disabled -- into a single entity instead of the current bifurcated administrative structure that is currently in place. Please see the following excerpt from our current Issue Priorities below.

**Level B) Consolidate state low and moderate income housing program administration under one umbrella.** At the current time the divided roles with the statutory authority residing with DECD and the outstanding program debt residing with CHFA has created a bifurcated administrative structure that is not balanced nor appropriate to needs and resources provided to the portfolio. The issues of level and type of oversight can only be addressed once the lines of authority for the portfolio are clear and based on statutory and regulatory clarity.

This issue is a subset of a larger set of issues concerning State level housing policy. While there are many variations in States across the nation as to how administration for housing programs is distributed, finding more than two major state level entities is rare. With the state allocation of housing Choice Vouchers administered by DSS, Connecticut has three major agencies involved in housing (CHFA and DECD being the other two) as well as other peripheral agencies such as DMHAS and DMR, who administer a network of community residences and permanent housing solutions for their clientele. The development of this initiative requires a clear understanding of the relationship between the various roles: regional planning (including coordination with economic development and transportation initiatives), financing (grants and loans ideally under a "one-stop" model), operational oversight (compliance) and asset management (physical plant renewal and housing market issues).

Again, thank you for the opportunity to testify before you today. If you have any questions, I would welcome the opportunity to respond.

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## Attachment -- A

Sec. 8-71. Payments in lieu of taxes, assessments and use charges. In lieu of real property taxes, special benefit assessments and sewerage system use charges otherwise payable to such municipality, except in such municipalities as, by special act or charter, on May 20, 1957, had a sewer use charge, an authority shall pay each year to the municipality in which any of its moderate rental housing projects are located a sum to be determined by the municipality, with the approval of the Commissioner of Economic and Community Development, not in excess of twelve and one-half per cent of the shelter rent per annum for each occupied dwelling unit in any such housing project; except that the amount of such payment shall not be so limited in any case where funds are made available for such payment by an agency or department of the United States government, but no payment shall exceed the amount of taxes which would be paid on the property were the property not exempt from taxation.

(1949 Rev., S. 951; 1949, S. 446d; 1957, P.A. 395, S. 3; 1963, P.A. 232; 1967, P.A. 522, S. 8; P.A. 76-67, S. 1, 3; P.A. 77-614, S. 284, 610; P.A. 78-303, S. 81, 136; P.A. 79-598, S. 3, 4, 10; P.A. 93-309, S. 14, 29; P.A. 95-250, S. 1; P.A. 96-211, S. 1, 5, 6; P.A. 06-93, S. 6.)

History: 1963 act changed maximum to be paid from a sum not in excess of ten per cent of the shelter rent per annum to a sum not in excess of twelve and one-half per cent; 1967 act substituted commissioner of community affairs for public works commissioner; P.A. 76-67 added exception to twelve and one-half per cent limit in cases where federal funds available and provided that no payment exceed amount of taxes due were property not tax-exempt; P.A. 77-614 substituted department of economic development for commissioner of community affairs, effective January 1, 1979; P.A. 78-303 substituted commissioner for department; P.A. 79-598 substituted commissioner of housing for commissioner of economic development; P.A. 93-309 added provision requiring payments be made for rental or quasi-ownership units of housing development receiving financial assistance under Sec. 8-433, effective July 1, 1993; P.A. 95-250 and P.A. 96-211 replaced Commissioner and Department of Housing with Commissioner and Department of Economic and Community Development; P.A. 06-93 removed references to repealed section.

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Sec. 8-216. State reimbursement for tax abatements. Payment in lieu of taxes on housing authority or state land. (a) The state, acting by and in the discretion of the Commissioner of Economic and Community Development, may enter into a contract with a municipality for state financial assistance for housing, or any part thereof, solely for low or moderate-income persons or families, or for housing or any part thereof, on property classified by the municipality pursuant to section 8-215, for use for housing solely for low or moderate-income persons or families, in the form of reimbursement for tax abatements under said section, provided the construction or rehabilitation of such housing shall have been commenced after July 1, 1967, or, in the case of apartment buildings containing three or more stories, under construction on July 1, 1967. Such contract shall provide for state financial assistance in the form of a state grant-in-aid to the municipality not to exceed the amount of taxes abated by the municipality pursuant to section 8-215, provided no payment shall be made to any municipality under any contract entered into on or after October 1, 1973, unless the assessment on such housing or part thereof is determined as provided in section 8-216a except when such contract is a modification, amendment, or

replacement of a contract already in existence on or before October 1, 1973. In such contract, the commissioner may require assurances that the amount of tax abatement will be used for the purposes stated in section 8-215, and that the commissioner shall have the right of inspection to determine that such purposes are being achieved. With respect to housing for which tax abatement has been provided pursuant to said section 8-215, such grant-in-aid shall be paid to the municipality each year, in an amount not to exceed the tax abatement for such year, as long as the housing continues to fulfill the purposes stated in said section, but in no case shall payments of such state financial assistance continue for more than forty consecutive fiscal years of the municipality.

(b) The state, acting by and in the discretion of the Commissioner of Economic and Community Development, may enter into a contract with a municipality and the housing authority of the municipality or with the Connecticut Housing Finance Authority or any subsidiary created by the authority pursuant to section 8-242a or 8-244 to make payments in lieu of taxes to the municipality on land and improvements owned or leased by the housing authority or the Connecticut Housing Finance Authority under the provisions of part II of chapter 128. On and after July 1, 1997, the time period of the contract may include the remaining years of operation of the project. Such payments shall be made annually in an amount equal to the taxes that would be paid on such property were the property not exempt from taxation, and shall be calculated by multiplying the assessed value of such property, which shall be determined by the tax assessor of such municipality in the manner used by such assessor for assessing the value of other real property, by the applicable tax rate of the municipality. Such contract shall provide that, in consideration of such grant-in-aid, the municipality shall waive during the period of such contract any payments by the housing authority or the Connecticut Housing Finance Authority to the municipality under the provisions of section 8-71, and shall further provide that the amount of the payments so waived shall be used by the housing authority or the Connecticut Housing Finance Authority for a program of social and supplementary services to the occupants or shall be applied to the operating costs or reserves of the property, or shall be used to maintain or improve the physical quality of the property.

**Attachment -- B**

Sec. 8-39a. "Affordable housing" defined. As used in this title, "affordable housing" means housing for which persons and families pay thirty per cent or less of their annual income, where such income is less than or equal to the area median income for the municipality in which such housing is located, as determined by the United States Department of Housing and Urban Development.

(P.A. 88-13, S. 2, 3.)

Cited. 37 CA 303. Cited. 42 CA 94.

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Sec. 8-40. Creation of housing authorities. In each municipality of the state there is created a public body corporate and politic to be known as the "housing authority" of the municipality; provided such authority shall not transact any business or exercise its powers hereunder until the governing body of the municipality by resolution declares that there is need for a housing authority in the municipality, provided it shall find (1) that insanitary or unsafe inhabited dwelling accommodations exist in the municipality or (2) that there is a shortage of safe or sanitary dwelling accommodations in the municipality available to families of low income at rentals they can afford or (3) that there is a shortage of safe or sanitary dwelling accommodations in the municipality available to families of moderate income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary, said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes. The governing bodies of two or more municipalities may create a regional housing authority, which shall have all the powers, duties and responsibilities conferred upon housing authorities by this chapter and chapter 130. The area of operation of such authority shall include the municipalities for which such authority is created. Such authority shall act through a board of commissioners composed of two representatives from each municipality appointed for terms of four years in the manner provided in section 8-41.

(1949 Rev., S. 925; 1949, S. 437d.)

Cited. 133 C. 546. Hartford Housing Authority is a distinct corporate entity and the city is not responsible for its debts. 143 C. 338. Cited. 208 C. 161. Cited. 213 C. 354. Cited. 216 C. 112.

Cited. 38 CA 175.

Cited. 11 CS 465. Local housing authorities are corporations established pursuant to state statutes, with delegated authority to regulate rent subsidy programs. Activities of landlord of low cost housing development constitute "state action" re federal constitution. Informal hearing required before summary process eviction may be instituted. 33 CS 15.

Sec. 8-44a. Housing authority programs for social and supplementary services, project rehabilitation and improvement and energy conservation.

(g) The Commissioner of Economic and Community Development shall approve an operation or management plan of each housing project, which shall provide an income adequate for debt service, administration, including a state service charge, other operating costs and establishment of reasonable reserves for repairs, maintenance and replacements, vacancy and collection losses.

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Sec. 8-72. Operation of projects. Rentals. Tenant eligibility. Inspections. Semiannual statements. Penalty for false statement. Each developer or housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with providing decent, safe and sanitary dwelling accommodations, and no housing authority or nonprofit corporation shall construct or operate any such project for profit. To this end an authority or a nonprofit corporation shall fix the rentals for dwelling in its projects at no higher rates than it finds to be necessary in order to produce revenues which, together with all other available money, revenues, income and receipts of the authority or nonprofit corporation from whatever sources derived, will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds of the authority or nonprofit corporation; (b) to meet the cost of, and to provide for, maintaining and operating the projects, including the cost of any insurance, and the administrative expenses of the authority or nonprofit corporation; provided nothing in this section shall be construed as prohibiting any authority or nonprofit corporation from providing for variable rentals based on family income. In the operation or management of housing projects an authority or nonprofit corporation shall, at all times, rent or lease the dwelling accommodations therein at rentals within the financial reach of families of low income. The Commissioner of Economic and Community Development may establish maximum income limits for admission and continued occupancy of tenants, provided such maximum income limits and all revisions thereof for housing projects operated pursuant to any contract with any agency of the federal government shall be subject to the prior approval of such federal agency. The Commissioner of Economic and Community Development shall define the income of a family to provide the basis for determining eligibility for the admission, rentals and for the continued occupancy of families under the maximum income limits fixed and approved. The definition of family income, by the Commissioner of Economic and Community Development, may provide for the exclusion of all or part of the income of family members which, in the judgment of said commissioner, is not generally available to meet the cost of basic living needs of the family. No housing authority or developer shall refuse to rent any dwelling accommodation to an otherwise qualified applicant on the ground that one or more of the proposed occupants are children born out of wedlock. Each housing authority and developer shall provide a receipt to each applicant for admission to its housing projects stating the time and date of application and shall maintain a list of such applications, which shall be a public record as defined in section 1-200. The Commissioner of Economic and Community Development shall, by regulation, provide for the manner in which such list shall be created, maintained and revised. No provision of this part shall be construed as limiting the right of the authority to vest in an obligee the right, in the event of a default by such authority, to take possession of a housing project or cause the appointment of a receiver thereof or acquire title thereto through foreclosure

proceedings, free from all the restrictions imposed by this chapter with respect to rental rates and tenant selection. The Commissioner of Economic and Community Development shall approve an operation or management plan of each housing project, which shall provide an income adequate for debt service, if any, administration, including a state service charge, other operating costs and establishment of reasonable reserves for repairs, maintenance and replacements, vacancy and collection losses. Said commissioner shall have the right of inspection of any housing during the period between the date on which construction thereof begins and the date the state loan is fully paid or, in the case of a grant, during the period for which any housing project built pursuant to such grant is used for housing for families of low and moderate income. An authority or developer shall semiannually submit to said commissioner a sworn statement setting forth such information with respect to the tenants and rentals for each housing project hereunder and the costs of operating each housing project under its jurisdiction as said commissioner requires. Any person who makes a false statement concerning the income of the family for which application for admission to or continued occupancy of housing projects is made may be fined not more than five hundred dollars or imprisoned not more than six months or both. With regard to a family who, since the last annual recertification, received any public assistance or state-administered general assistance and received earnings from employment, the authority or developer shall not require any interim recertification due to an earnings increase. At the annual recertification, the authority or developer shall base rent levels on such family's average income throughout the preceding twelve months. During the subsequent twelve-month period, the authority or developer shall not require any interim recertifications due to increased earnings from employment. However, if a family's income has decreased, nothing in this section shall preclude an interim recertification or recertification based on the reduced income level.

(1949, March, 1950, S. 447d; November, 1955, S. N16; 1957, P.A. 399, S. 1; 1967, P.A. 522, S. 8; P.A. 77-614, S. 284, 610; P.A. 78-303, S. 81, 136; P.A. 78-304, S. 4, 5, 22; P.A. 79-598, S. 3, 4, 10; Oct. Sp. Sess. P.A. 79-3, S. 1, 2; P.A. 82-130, S. 2; P.A. 84-143, S. 2; 84-210; 84-493, S. 5, 9; P.A. 91-374, S. 4; P.A. 95-250, S. 1; P.A. 96-211, S. 1, 5, 6; P.A. 98-114, S. 1; P.A. 04-76, S. 2.)

History: 1967 act substituted commissioner of community affairs for public works commissioner; P.A. 77-614 substituted department of economic development for commissioner of community affairs, effective January 1, 1979; P.A. 78-303 substituted commissioner for department; P.A. 78-304 deleted reference to provisions of Secs. 8-45 and 8-46 and instead restated those provisions in section; P.A. 79-598 substituted commissioner of housing for commissioner of economic development; Oct. Sp. Sess. P.A. 79-3 specified that rentals may be variable based on family income; P.A. 82-130 provided for the issuance of a receipt and the maintenance of a list of applicants; P.A. 84-143 required the commissioner of housing to provide, by regulation, for the manner of creation, maintenance and revision of waiting lists; P.A. 84-210 excluded partnerships from the prohibition against operating projects for profit and included nonprofit corporations in the provisions concerning minimizing of rents; P.A. 84-493 provided procedures when state financial assistance to moderate rental housing projects is in the form of a grant; P.A. 91-374 transferred authority to establish maximum income limits from the housing authority or developer to the commissioner; P.A. 95-250 and P.A. 96-211 replaced Commissioner and Department of Housing with Commissioner and Department of Economic and Community Development; P.A. 98-114 provided a procedure to set rental rates for families who received public or general assistance and had earnings from employment; P.A. 04-76

replaced reference to "received any public or general assistance" with reference to "received any public assistance or state-administered general assistance".

See Sec. 8-45a re criteria and consideration of applicant's or proposed occupant's history of criminal activity.

Duties of commissioners. 164 C. 247. Cited. 214 C. 505.

Cited. 18 CA 393.