RICHARD BLUMENTHAL
ATTORNEY GENERAL

55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Office of The Attorney General
State of Connecticut

TESTIMONY OF ATTORNEY GENERAL RICHARD BLUMENTHAL BEFORE THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE MARCH 8, 2010

I appreciate the opportunity to comment on House Bill 5348, An Act Implementing Additional Recommendations of the Program Review and Investigations Committee Concerning Retaliation for Whistleblower Complaints and Senate Bill 306, An Act Implementing the Recommendations of the Program Review and Investigations Committee Concerning Whistleblowers.

I commend the diligent effort of the committee and its staff in their review of the whistleblower process. Whistleblowers are critical to maintaining ethical and effective government. They need to be protected and their claims should be carefully and critically evaluated and investigated.

Time after time, courageous whistleblowers have aided my office to start and sustain significant investigations into violations of state law, mismanagement and abuse of authority -- at great risk to themselves. They are messengers with bad news and evidence of wrongdoing who should be shielded from adverse action. Whistleblowers are often the key link or lead that sparks effective investigation and prosecution. They clearly need interim protection from vengeful actions, subtle or direct. Anyone determined to fight public corruption should support stronger protection for citizens who step forward to expose wrongdoing. We have a moral obligation to do so.

With regard to the whistleblower investigation process, I support the following concepts contained in these legislative proposals:

- More broadly disseminating information on the office website regarding the number of completed whistleblower investigations, the type of complaints and the agency involved;
- Requiring state agencies and quasi-public authorities to post notices of the whistleblower provisions and protections to their employees;
- Extending the time period for filing a whistleblower complaint with the Chief Human Rights Referee from 30 days to 90 days;
- Creating a more streamlined investigation process to avoid the current duplication of review of each complaint by the Auditors of Public Accounts and the Attorney General;

- Providing a clear delineation of the types of complaints that would not be the subject of a whistleblower investigation and, in particular, clarifying that personnel matters that are within the Board of Labor Relations should be filed with that agency;
- Requiring that the whistleblower be informed of the result of the investigation;
- Empowering the Auditors of Public Accounts and the Attorney General to require specific corrective action after a finding of a violation of the whistleblower statute and notifying the Governor if such corrective action is not implemented;

In addition, I urge the committee to consider language that would supplement the authority of the Auditors of Public Accounts and the Office of the Attorney General to require corrective action. In some instances, the corrective action may involve a private entity or a quasi-public authority over which the Governor has limited, if any, authority. The committee should consider a provision to provide additional measures to ensure that corrective action occurs.

With regard to protecting whistleblowers, I support the following concepts contained in the legislative proposals:

- Establishing the Chief Human Rights Referee as the primary place for resolving whistleblower retaliation complaints;
- Authorizing the referee to allow amended complaints if additional retaliation occurs after the filing of the original complaint;
- Providing the referee with authority to order temporary relief to stop ongoing retaliation by the agency;

In addition, I urge the committee to consider provisions that (1) authorize the Attorney General to join a retaliation proceeding before a hearing officer, seeking restitution and other interim injunctive relief for a whistleblower who has been determined to be a victim of retaliation; and (2) extend the time period for the rebuttable presumption that adverse personnel action is retaliation to three years from the date the whistleblower filed a complaint pursuant to the whistleblower statute.

I look forward to working with the committee on these critically important provisions.