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Testimony in support of H.122, Recreational Use of School Property

Why is this legislation needed? – It provides schools with a tool to open more recreational facilities to Vermonters and help Vermont reduce increasing obesity rates.

This legislation would remove barriers and *perceived* barriers for schools to open their buildings and grounds to the community for recreational purposes.

Vermont schools want to be a community resource and have noted liability as one of their top concerns with opening their facilities to the public for recreation. **(See survey we conducted of 93 Vermont schools.)**

Vermont wouldn't be alone in addressing this issue – At least 13 states have passed legislation that meets AHA standards. These include: WA, CA, UT, SD, NE, KS, TX, MO, AR, AL, NC, SC and MI. At least 6 more states and DC are working on strengthening their laws.

There is broad support for the issue in Vermont -- We have received support from:

- The Vermont Principals Association
- The Vermont Superintendents Association
- The Vermont School Boards Association
- The Vermont School Boards insurance Trust
- Vermont Association of Health, Physical Education, Recreation and Dance – VAHPERD
- The VT-NEA
- American Cancer Society
- AARP
- Eat Well Play More Vermont (statewide obesity prevention coalition – YMCA)
- Live Healthy Vermont (chronic disease and obesity prevention coalition – VDH)
- AG's Task Force on Healthy Weight – Land Use Subgroup

The reason to take action now – Adult obesity had doubled in Vermont since 1990. Over 58% of adults and nearly 27% of Vermont children (ages 10-17) are overweight or obese.

Vermont spends over \$160 million each year on health care costs related to obesity. Just this week, independent health care reform consultant Ken Thorpe told the legislature that the rise in obesity has accounted for 27% of the growth in health spending over the past 20 years. The lack of physical activity is a major contributor to the problem.

60% of Vermont adults don't get the recommended 30 minutes a day.

25% of Vermont adults get none at all.

70% of middle school students and 76% of high school students do not meet physical activity recommendations outlined by the U.S. Dept. of Health and Human Services.

We can help to address this by opening our schools' facilities and grounds to communities for recreational activities and giving them the resources to do it --

- Providing access to recreational facilities is critical for helping people be more active.
- School facilities can be an excellent resource for recreation and exercise where there is limited availability or private options are too expensive.
- Research shows that people who are able to easily access recreational facilities exercise 38% more than those without easy access.
- Having access to parks and recreational facilities is associated with lower body mass index among children and increased physical activity among adults.
- Vermont data shows there are significant disparities in access to parks and recreational facilities across Vermont.
 - Franklin County, has a rate of 4 recreational facilities per 100,000 people. It also has a high rate of physical inactive adults – 25% get no physical activity and 29% are obese.
 - In comparison, Washington County has a rate of 18 recreational facilities per 100,000 people. Rates of physical inactivity and adult obesity are comparatively lower --18% of adults get no physical activity and 22% of adults are obese.
- Providing schools liability protection to open their facilities to the public for recreation will help to level the playing field.
- Schools can offer a variety of safe facilities, including running tracks, pools, gymnasiums, fitness rooms, and playgrounds for Vermonters of all ages to use at little or no cost.

What this bill does NOT do:

- This bill DOES NOT require school districts to give community members access to their facilities for recreational purpose.
- This law DOES NOT change the current duty that schools have to students and staff during regular school hours.

Suggested edits to the legislation from the Public Health Law Center – These are largely technical clean-up but would also include school district employees in the immunity section. See attached from Public Health Law Center.

Our position on liability/immunity provision in Vermont legislation:

- We believe the immunity provision in the legislation still leaves an option for recourse for Vermonters. If schools are reckless, they will still be liable.
- While Vermonters might have to accept the risk of using these facilities, it is no greater a risk than they'd take at home – and the trade-off is facilities that are nearby and free of charge to exercise, play and socialize that they might not have otherwise – especially low income Vermonters or those living in rural areas.
- This trade-off is critical because of Vermont's concerning rates of obesity.
- Also, the current rulemaking process by the State Board of Education did not include our recommendations to increase physical activity and physical education during the school day. Vermont must begin to address this problem. And this offers a no or low cost option.
- School districts already have a responsibility under Vermont's Duty of Care Statute. 16. V.S.A. § 834. This legislation does not eliminate this.
- It's not unusual for states to limit liability in certain circumstances for the public good. Attorney Ed Adrian has examples of other Vermont statutes that have done just this.