Legislative History for Connecticut Act

PA 11-211 PA11-211

HB6557

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CONNECTICUT

GEN. ASSEMBLY

HOUSE

PROCEEDINGS

2011

VOL.54

PART 10

3113-3437

Thank you, Mr. Speaker. Mr. Speaker, about to vote on today's Consent Calendar, there are items that have been listed on the Consent Calendar. Maybe we're not. Hold on a moment, please.

Thank you, Mr. Speaker. Mr. Speaker, we are about to vote on them. I'm going to move those items to the Consent Calendar.

The items are Calendar Number 314, Calendar Number 404 and Calendar Number 500. Thank you, Mr. Speaker.

HB 6422
SB 1025
SB 1041

DEPUTY SPEAKER ALTOBELLO:

Motion before the Chamber is to place items Calendar Number 314, 404 and 500 on the Consent. Without objection? Without objection? Seeing none, so ordered.

Would the Clerk please call Calendar 432. 432.

THE CLERK:

On Page 28, Calendar 432, Substitute for House Bill Number 6557 AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS. Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram of the 15th, you have the floor, sir.

REP. BARAM (15th):

Thank you, Mr. Speaker. I move for acceptance of the Joint Committee's Favorable Report and passage of the Bill.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is acceptance of the Joint Committee's Favorable Report and passage of the Bill. Please proceed.

REP. BARAM (15th):

Thank you, Mr. Speaker. This Bill amends the recreational land use immunity statute by creating some limited liability for municipalities and other political subdivisions of the state, municipal corporations, special districts, water and sewer districts, and makes certain types of land available to the public without charge for recreational purposes.

H.B. 6557 accomplishes the following. First, there are no changes to existing immunity to private landowners or the State of Connecticut.

Section 3 of the statute now will define owner to include municipalities, political subdivisions of the state, special districts, water and sewer districts.

Section 4 adds bicycling to the list of recreational activities covered by this act.

Section 2, the definition of land remains the same for private landowners. However, to address various concerns and goals of all interest groups, the definition of land for municipalities and such other entities was modified.

For these such entities land does not include the following specific improvements or recreational amenities: swimming pools, playing fields, courts, playgrounds.

Also excluded from political or subdivision and such entities is excluded buildings with electrical service or machinery, all of which must be attached to the realty and within the possession and control of the municipality or district.

The intent here is to exclude buildings that have more complex code and regulatory requirements, or that have electrical components. The intent is to provide immunity for other structures such as lean-tos, open shacks or huts and the kind of less complex structures that are built for the benefit of recreational convenience of the public.

It is not intended to create liability for structures that do not constitute buildings by definition or structures that are defined in other statutes like 52-557n.

Also excluded from immunity are paved public through roads open to the public for the operation of a four-wheel private passenger motor vehicle. This continues the possible liability for such public roadways that connect to other public roadways, which are available for public transportation in one's private passenger vehicle.

It retains, however, immunity by definition for paved pathways, paved bicycle lanes, paved trails, paved roads that are not open to the public use or available to some vehicle or riding apparatus with less than four wheels, or an interior paved road that doesn't connect with other roadways.

Finally, it is important to understand that there are other statutes in sections of the Recreational Land Use Act that are unchanged by this Bill.

For instance, 52-557h, an owner is still liable for the willful or malicious failure to guard or warn against dangerous conditions, and also an injury that occurs where a landowner charges a fee for use of his

land. There is no intent for taxes to be considered as fees.

This Bill contains fair compromises that were addressed by multiple parties, which included municipalities and special districts, the general public and the Trial Lawyers Association.

I believe that this Bill is fair to all parties and is a good compromise. We will follow the path of 27 other states in providing some limited immunity to our municipalities, and this Bill has over 75 organizational endorsements and over 80 legislators have signed on to the Bill.

Mr. Speaker, I move its adoption.

DEPUTY SPEAKER ALTOBELLO:

The question before the Chamber is adoption. Would you remark? Representative Lavielle of the 143rd, you have the floor madam.

REP. LAVIELLE (143rd):

Thank you very much, Mr. Speaker. Good afternoon. I rise in very strong support of this Bill, which I have a particular interest in because I'm from the Town of Wilton where the case arose in 1996 that gave rise to the incident that actually

deprived towns of the immunity that this Bill seeks to restore.

So I think it's an excellent example of collaboration among such a large number of parties and Legislators. I support it for two reasons.

It spares our towns' exposure both to the expense of frivolous lawsuits and to the expense of protection against frivolous lawsuits.

And also, we're at a time when there is so much emphasis on health and wellness and on providing transportation that suggests alternatives to cars, and I think we really need to do what we can to remove obstacles to towns that want to make open space available to the people who live there and the people who travel through them.

So our only real natural resource in Connecticut besides our people is our spectacular landscape and I think we should do what we can to remove obstacles to towns so that they can take advantage of it, and without this Bill many of them might not choose to do that.

So thank you very much, and I urge all my colleagues to support it.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Lavielle.

Representative Hovey of the 112th, you have the floor, madam.

REP. HOVEY (112th):

Thank you, Mr. Speaker. Through you, a couple of questions to the proponent of the legislation.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, madam.

REP. HOVEY (112th):

Thank you, sir. Through you, in Section 4 it talks about recreational purpose and lists a large number of different types of things that one would consider to be kind of standard recreation and now includes bicycling.

But I think that there is a glaring omission in this particular part of the legislation that has to do with horseback riding.

Through you, Mr. Speaker, is there, was horseback riding considered, and will there be future intentions to include horseback riding in this section later on?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

And if the answer is Neighhhh. Oh, never mind.

Representative Baram.

REP. BARAM (15th):

Thank you. Through you, Mr. Speaker, my colleague correctly points out that in Section 4 under recreational purposes there is no inclusion of equestrian activities.

However, I would point out that under the Connecticut General Statutes, Section 52-557p there is a statute entitled Assumption of Risk by persons engaged in recreational equestrian activities and seems to indicate that somebody engaging in those activities assumes the risk of riding on a landowner's property.

However, this statute is not technically part of the Recreational Immunity Act, and I think that all parties that participated in this discussion would probably be willing to entertain next year some review of this and other matters that have come to our attention after we reached this complicated agreement.

DEPUTY SPEAKER ALTOBELLO:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Mr. Speaker, and I thank the good gentleman for his comments. I do believe that in the

equestrian world we have been struggling with the issues around liability.

It would be our preference to be included in this legislation, and I thank him for his openness with regards to possibly considering it after this legislation has been passed through.

I think this is an important step. I think it also will be an important step to have equestrians included in the future, especially in light of the fact that Connecticut has more horses per capita than even Kentucky.

So, we are a large community in the state and we do want to be able to access our municipal lands along with other people who participate in recreational activities and so I thank him very much and I urge everyone to support this legislation.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Hovey. Representative Reynolds of the 42nd District, you have the floor, sir.

REP. REYNOLDS (42nd):

Thank you, Mr. Speaker. I rise in support of the Bill before us. I want to begin by thanking

Representative Baram for his leadership in brokering an extraordinary compromise.

You know, municipalities and our water companies are the second largest landowners in the state, and our local budget constraints and the understandable fear of liability will forever make many of these lands closed to recreational use and it will continue to serve as a disincentive to acquire an additional open space.

So I am really thrilled that my region, in particular, will be significantly aided by this. We have a three-town initiative currently under way to launch a major trail initiative and the lack of this legislation has been the most significant political obstacle to the advancement of that trail initiative in our region.

So I'm very pleased to support this legislation and thank the proponent for all his good work.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Reynolds. Representative Wadsworth of the 21st, you have the floor, sir.

REP. WADSWORTH (21st):

Thank you, Mr. Speaker. I also rise in support of Bill 6557. This is much needed legislation to protect municipalities from legal action while providing full access to the open space that the residents of Connecticut have invested in so heavily.

I would also like to thank the, I take this opportunity to thank the Planning and Development Committee for moving through similar legislation and the Judiciary Committee for moving through this legislation, and I urge my colleagues to support in favor of Bill 6557.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Wadsworth. Representative Sawyer of the 55th District, you have the floor, madam.

REP. SAWYER (55th):

Thank you, Mr. Speaker. A question through you to the proponent of the Bill.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, madam.

REP. SAWYER (55th):

Representative Baram, I would like to just for a point of legislative intent, on line 15 subsection b

it has the word road. In parentheses it says, does not include a paved public through road that is open to the public for the operation of four-wheel private passenger motor vehicles.

For legislative intent, that type of a road, could that include say a, I'm careful how to use the word, but a paved infrastructure proceeding through open space from one side to the other, say in a town park?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, if this road that you identify is not available for public use, it would not be covered.

If that road didn't connect with other public roads making it a through road, it would not be covered.

If that road was not available for four-wheel vehicle travel, it would not be covered.

So again, the intent was that only roads that are open to the public that are connected to other roads as a through road and capable of handling passenger

vehicle traffic would be exempted from the immunity portion of the statute.

DEPUTY SPEAKER ALTOBELLO:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. So in the case where, a question through you, a case where we have an access road that is put in specifically for emergency vehicles, how would that road qualify? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that was an example that was specifically discussed in our negotiations and that kind of road would remain under immunity because again, it's not available for public travel.

DEPUTY SPEAKER ALTOBELLO:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. And my understanding is that if there is a road constructed for the handicap usage on certain parcels of land so that they are more accessible and they are paved, that would not be

considered under this definition? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that's correct.

DEPUTY SPEAKER ALTOBELLO:

Representative Sawyer.

REP. SAWYER (55th):

I thank the gentleman and I thank him for bringing this out so that we can have legislative intent in case we ever run into a problem further down the road, and I thank the gentleman for his brokerage skills.

DEPUTY SPEAKER ALTOBELLO:

Thank you, madam. Representative Hetherington of the 125th, you have the floor, sir.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. I support the Bill. I'd like to ask a few questions to the proponent, however.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, sir.

REP. HETHERINGTON (125th):

Through you, Mr. Speaker, a playing field on line 11, does that include a playing field, a field that is open for play whether or not it's improved? That is, whether or not it has a hard surface.

Through you, Mr. Speaker.

REP. BARAM (15th):

Through you, Mr. Speaker, the intent was to cover a playing field such as baseball fields, soccer fields, volleyball fields or courts, any field that's made available for some kind of a recreational use.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

If I may follow up on that, through you, Mr. Speaker, does that mean that the field has to be in some way improved so that it particularly suits that kind, that sport? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that's correct.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

And also for the purposes of intent, through you, Mr. Speaker, playground. Would that include only a playground that is improved in some way that is, with recreational apparatus or something that distinguishes the playground from simply an open, natural field where you allow people to play? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that's correct.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you. Through you, Mr. Speaker, talking about roads again, lines 15, 16 and 17. Does this intend to be a restrictive description, through you, Mr. Speaker?

That is, does not include a paved road that is open to the public for the operation of four-wheel private passenger vehicles. So does that mean that if the road were open to other than four-wheel vehicles this would not be included within that description?

Through you, Mr. Speaker.

REP. BARAM (15th):

Mr. Speaker, through you, that's correct. Any vehicle that had less than four wheels would not meet this definition.

DEPUTY SPEAKER ALTOBELLO:

Representative Hetherington.

REP. HETHERINGTON (125th):

Through you, Mr. Speaker, I thank the proponent for that because I think it's important to establish that those words create a restriction even though they don't include only or other words that are usually used to indicate restriction, and I thank the proponent.

Mr. Speaker, I strongly support this Bill. I think it is particularly important as has been pointed out, as we try to encourage municipalities to make land available for outdoor recreation, which we recognize to be so important for health.

I know in my town, or one of my towns, both towns, in fact, there is a strong emphasis on making available land open to the public for recreational purposes and a recognition of the good health benefits that come from that.

I think that while I strongly support this, would urge its adoption, I think it's rather a shame that we have to limit it through the exclusions that are recited.

I applaud the work of the Representative in reaching this compromise and I am grateful for his efforts and for the result he's obtained. However, I think it's unfortunate we have to have these broad exceptions.

I would note there's a certain irony in that as was previously pointed out. The need for legislation was at least in part borne by an incident in Wilton some years ago, which actually took place on a tennis court. And there's an irony now that we bring courts under an exclusion, so in fact the Bill would not apply to the very situation that originally gave rise and gave impetus to this kind of legislation.

Nevertheless, it's a laudable compromise and an important Bill, and I would urge adoption.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Hetherington. Representative D'Amelio of the 71st, you have the floor, sir.

REP. D'AMELIO (71st):

Thank you, Mr. Speaker, and good evening to you. I rise in strong support of the Bill before us.

As many of you, I have two municipalities that I represent that their leaders very much want this Bill to go forward.

A short time ago, the City of Waterbury was sued by somebody who was sled riding in a park for millions of dollars. The park was used for many, many years, probably over 100 years for sled riding purposes and this one accident occurred and the City was liable for those injuries.

And also for the Town of Middlebury who was thinking of actually banning sled riding from their town hall building.

So now with this Bill in force, there will be no question that those recreational areas could be used by the public without any fear of our municipalities being sued.

So thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative D'Amelio. Representative Aman of the 14th District, you have the floor, sir.

REP. AMAN (14th):

Thank you very much, Mr. Speaker. Like all the other prior speakers, I stand in favor of the Bill, but I do have a couple of questions that did come up during the Planning and Development hearing and at other times that I would just like for purposes of legislative intent to ask the proponent of the Bill, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Aman. Representative Baram, please prepare yourself. Representative Aman, please proceed.

REP. AMAN (14th):

Yes, through you, Mr. Speaker, the questions that I have came up during the public hearing and actually in the reading of the original Wilton case, and for purposes of legislative intent, I would just like to have them discussed for the record.

The first one is in lines 4 and 5 when it talks about a charge, be it the admission price or fee has to be returned for use of the land.

In the Wilton case, one of the judges in writing his opinion talked about the fact that it might not be directly in that case, but he considered the use of

municipal land that by the taxes, would be his interpretation a charge for the use of the property.

And just for legislative intent, it is my understanding that this charge is a direct use for the property and something like property taxes or an indirect charge would not fall under the intent of the Bill.

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker. That's correct. It is not intended that the levy of taxes includes a charge as contemplated by the statute.

DEPUTY SPEAKER ALTOBELLO:

Representative Aman.

REP. AMAN (14th):

Through you, Mr. Speaker, would that also fall under the category if a town had a general recreation fee or some other sort of charge like that that is not directly tied to the property where the injury occurred?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, if the recreational fee was related to funding the program, I don't believe that that would be considered a charge.

If, however, they charge for use of the land or the property, that probably would be considered a charge.

DEPUTY SPEAKER ALTOBELLO:

Representative Aman.

REP. AMAN (14th):

Yes. I'm very glad to hear that because that is my interpretation also. When reading the legal opinion I had trouble understanding the judge's logic, but I think this would make it very clear if it ever comes up in the future.

The other part that I would like to have expanded on a little bit is the part in recreational purposes - -

DEPUTY SPEAKER ALTOBELLO:

Excuse me, Representative Aman. Representative Baram, please prepare yourself. Thank you. Representative Aman, please proceed.

REP. AMAN (14th):

Yes. The other area that I'd just like to get some legislative intent on is the recreational purpose includes, but is not limited to, and it's the not limited to that I would like to have expanded a little bit, because during the course of discussion in the public hearing, I believe sledding came up as some prior speaker talked about. I know that rock climbing came up and a few other items.

And so for, again, for legislative intent, not limited to, I interpret it as being fairly a wide cast net that the items listed are just general suggestions and that anyone looking at this in the future should look at not limited to in a very broad basis. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that is my understanding as well.

DEPUTY SPEAKER ALTOBELLO:

Representative Aman.

REP. AMAN (14th):

I thank you very much for bringing the Bill forward. Like many of my other colleagues, I've

received any number of worried calls from town officials and also from the general public, worried that because of the liability issues certain properties would be taken off the public use, and so therefore, like many of the rest of you, I will be supporting the Bill.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Aman. Representative LeGeyt of the 17th, you have the floor, sir.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. I align myself with the comments that have been made so far and am in support of this Bill, but I do have a question for the proponent.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, sir.

REP. LEGEYT (17th):

I'm reading from the Bill file, and there is a section here that says that political subdivisions under certain situations are not liable for damages. And then it goes on to list six of those, two of which are the temporary condition of a road or bridge resulting from weather, and the condition of an

unpaved road, trail or footpath that provides access, and they both have the same condition after them.

If the political subdivision, municipality, has not received notice that the condition exists, and has not had a reasonable opportunity to make the condition safe, I assume that those are qualifiers that would protect the municipality from claim.

But my question is, who has the burden of proof in a situation like that? Is it the municipality or the plaintiff in an action for damages?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, there is another Connecticut General Statute that is unrelated to the act that we're talking about. It's 52-557n that talks about various conditions where towns are liable and not liable and in Section 4 of Subsection b, it talks about the condition of an unpaved road and such where the town has not received notice.

So it is my understanding that under that section, which again is different than the act we're talking about, the town has to have notice of a

dangerous condition of a roadway very similar to the State of Connecticut.

If there's a pothole and you go over it and you blow a tire, the state generally isn't liable unless they're put on notice ahead of time. I think it's a similar example of what was intended to protect the towns.

DEPUTY SPEAKER ALTOBELLO:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker, and I thank the good gentleman for his answer and appreciate that he is so well versed in the CGS.

My question though is, in those situations, who has the burden of proof, the municipality or the plaintiff, if someone is injured and wants to claim damages?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, it's my understanding that the injured party would have to prove that notice had been given to the municipality.

DEPUTY SPEAKER ALTOBELLO:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker, and I appreciate that. And so the second half of that condition that the town, the municipality or political subdivision has not had a reasonable opportunity to make the condition safe, would that also be the burden that the plaintiff would have to make, that the town had not had the reasonable opportunity to make the condition safe?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, I think that's a question of fact for, let's say, a court to determine how much time had expired to give the town a reasonable opportunity to correct the situation.

I'm not sure that there's any definition that you or I could come up with to provide for that. Again, it's just under the circumstances what the facts are that would lead somebody to come to the conclusion that there was sufficient time to remediate the problem.

DEPUTY SPEAKER ALTOBELLO:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker for that. But in that same scenario, to establish that on a factual basis, that would be the burden of the plaintiff?

Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, that's my understanding.

DEPUTY SPEAKER ALTOBELLO:

Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker. I just wanted that assurance and would like to say for the record that I'm strongly in support of this Bill and glad to see it here. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, sir. Representative Fleischmann of the 18th District, you have the floor, sir.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker, and I'll try and be brief. I hadn't intended to speak on this Bill at all, but it does also affect my neck of the woods. There was a serious incident at the District Commission that serves both Representative Baram's district and mine and so I was just trying to get my arms around what will involve liability limitations and what will not.

So if I may, through you, to the proponent of the Bill.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, sir.

REP. FLEISCHMANN (18th):

I see as Representative Hetherington pointed out, that paved, public through roads open to the public for the operation of four-wheeled private passenger cars are not, are not covered. In other words, there would be some liability there.

If someone were riding a bicycle or riding a skateboard on that road and hit an iron bar or hit a pothole that could reasonably have been fixed, could have been foreseen to be a danger but was not fixed. Would that person have any basis at all for recovering under this Bill?

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, I would point to Connecticut General Statute 52-557h, which indicates notwithstanding all of the other sections, that a political subdivision or landowner is responsible for what they call willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity.

So again, I believe it would be a question of fact whether or not if the town or subdivision did something that it knew was dangerous and was interpreted as willful or malicious, which oftentimes is considered intentional, an intentional act, that it would be liable.

DEPUTY SPEAKER ALTOBELLO:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker. So the flip side of that response would seem to be, if this impediment on the roadway were not there due to willful or malicious efforts, if it were there due to simple negligence or even gross negligence, the person riding the bicycle,

or the person riding the skateboard would have no grounds at all for recovery? Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Baram.

REP. BARAM (15th):

Through you, Mr. Speaker, I'm not sure that gross negligence would not constitute and be equated with willful or malicious, but at least in the case of general negligence, there probably would be no liability if all the other circumstances of this act were in effect.

DEPUTY SPEAKER ALTOBELLO:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker, and I thank my good friend and colleague for his responses. I know he has put a tremendous amount of effort into this Bill and I think that it does cure a problem that he has worked very hard to address.

But I also am very concerned on behalf of individuals who are potentially harmed by negligence. Willful and malicious acts involve intent, and it's

very rare that anyone intentionally does something to hurt someone who's recreating.

It's less rare, however, that there is negligence. In the case of what happened at the Metropolitan District Commission there was negligence and that's why there was a finding for the person who was riding a bicycle and hit an iron bar because a jury of 12 people found there was negligence.

So I respect this effort to address the problem that was highlighted in our community in Wilton, but I'm not sure I'll be able to support the measure before us, but I do thank the good Representative for all of his efforts and I thank you for your time.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Fleischmann. Further on the Bill? Seeing none, staff and guests please retire to the Well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER ALTOBELLO:

Have all Members voted? Have all the Members voted? Please check the board to make sure your vote is properly cast. If all Members have voted, the machine will be locked.

Would the Clerk please take a tally. Would the Clerk please announce the tally.

THE CLERK:

House Bill 6557.

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	142
Those voting Nay	1
Those absent and not voting	8

DEPUTY SPEAKER ALTOBELLO:

The Bill passes.

Would the Clerk please call Calendar 355.

THE CLERK:

On Page 22, Calendar 355, House Bill Number 6489 AN ACT REQUIRING DNA TESTING OF PERSONS ARRESTED FOR THE COMMISSION OF A SERIOUS FELONY. Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER ALTOBELLO:

Representative Tallarita of the 58th, you have the floor, madam.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY

PART 19
5940-6247

2011

REP. ADINOLFI: Okay. Very good. Thank you.

Thank you Mr. Chairman.

REP. FOX: Are there other questions? Thank you very much.

JOSEPH HAGGAN: Thank you.

REP. FOX: Next is Representative Gail Lavielle.

REP. LAVIELLE: Good morning.

REP. FOX: Good morning.

REP. LAVIELLE: Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington, members of the committee, I'm here to testify in support of House Bill 6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

It won't escape you that I come from the town where the incident that led to the decision in Conway versus Wilton, that occasion -- the need for this bill happened. So that's just a piece of trivia.

This bill would restore to municipalities the same limited immunity from liability that's extended under the Recreational Land Use Act to other types of owners of land who make the property available without charge to the public for recreational purposes.

Restoring this protection to towns and cities is particularly important at a time when there's so much focus both on health and wellness initiatives and on reducing automobile usage by facilitating the use of nonmotorized modes of transportation like biking and walking.

In my district which includes most of the town of Wilton and the eastern portion of the city of Norwalk, there are several such initiatives underway. I'll just cite a couple of them for you. The Wilton YMCA just received a grant for programs designed to combat childhood obesity. And the Y is working on a program with the Town of Wilton to develop a wellness zone that would make biking and walking and outdoor activities easier in the center of town.

Wilton and Norwalk are also collaborating with Ridgefield, Redding and Danbury on the development of the Norwalk River Valley Trail which is a multiuse trail that would extend from Norwalk to Danbury and provide links to rail stations, parks and other towns' facilities. Segments of this trail will include municipal land.

The existing law restricts the freedom of towns to pursue initiatives like these. As our towns and cities continue to grapple with increasing costs and declining revenues they shouldn't have to cope with the uncertainties of exposure to unlimited and unknown liability that are presently a consequence of making municipal land available for public use.

One of our state's greatest attractions is -- as a place to live, is it's natural landscape. Protecting open space and making it available to the public for recreation is a priority for many of our towns and this legislation, I believe, would help them achieve it.

I'd like to submit one small suggestion to the committee and that's that walking be added to the list of activities in the definition of recreational purpose. And I say that because

municipal land is often located in urban areas where the term hiking may not technically be judged to apply.

You don't have this in my written testimony, but I would add that both the mayor of Norwalk Richard Moccia and the First Selectman of Wilton Bill Brennan do join me in supporting this bill. And I respectfully request that the members of the committee support it.

Thank you very much.

REP. FOX: Well, thank you, Representative.

Are there any questions?

Thank you very much.

REP. LAVIELLE: Thank you.

REP. FOX: Next is Makul Havnurkar.

And I'm sorry if I mispronounced your name, but I gave it a try.

MAKUL HAVNURKAR: Close enough.

Senator Coleman, Representative Fox and Holder-Winfield and members of the Judiciary Committee, on behalf of Asian Pacific American Affairs Commission thank you for the opportunity to testify on Senate Bill 1230, AN ACT CONCERNING TRAFFIC STOP INFORMATION.

As you know the APAAC is the only nonpartisan comprehensive state institution that evaluates laws and policies for their impact on the lives of Asian Pacific Americans in Connecticut. Our job is to provide information, analysis and assistance to the General Assembly, state agencies, state

Connecticut having been the victim of racial profiling. In fact, I think it's the rare -- I'll speak for African-American males -- who hasn't been stopped merely because he's an African-American male.

So thank you for your testimony.

Bill Wadsworth.

REP. WADSWORTH: Good morning, Senator Coleman, Representative Holder-Winfield and Representative Hetherington and Judiciary Committee members. I would like to thank you. My name is Bill Wadsworth and I would like to thank you for raising House Bill 6557, AN ACT CONCERNING LIABILITY FOR RECREATIONAL USE OF LAND.

As the State of Connecticut closes in on the goal to preserve 21 percent of its land for open space, it is important to reinforce that commitment with other protection in other areas. One of the other areas that should be considered is including municipalities, quasipublic agencies and certain special districts as owners of land entitled to immunity under the Recreational Land Use Act. This additional protection will provide confidence to municipalities, quasipublic agencies and special districts to retain and acquire open space for preservation.

If the threat of litigation is part of that decision-making strategy then the aforementioned entities may postpone or abandon the purchase of additional open space, close off access to parks, playgrounds and open space or begin to schedule use. There is also a monetary component to this issue, spending money on safety equipment for maintenance, obtaining additional liability

insurance at additional cost and defending frivolous lawsuits are considerable costs to just a few of the financial exposures that are possible. Municipalities, quasipublic agencies and certain special districts that are self insured are exposed to an unknown liability. The public has a right to utilize public land without restriction.

I thank the committee for considering Proposed House Bill 6557 and I ask that it be given a favorable report. One of the main purposes of open space is to provide access to the public for passive recreational use and this access would be seriously curtailed or eliminated if municipalities, quasipublic agencies and special districts are at risk for providing that use.

Thank you.

SENATOR COLEMAN: Thank you, Representative.

Are there questions? Seeing none, we appreciate your testimony.

REP. WADSWORTH: Thank you.

SENATOR COLEMAN: Next is Kevin Ryan, State Representative.

REP. RYAN: Good morning, Senator Coleman, Representative Holder-Winfield, Representative Hetherington, Senator Kissel -- if he was here. I just wanted -- I'm Kevin Ryan. I'm State Representative for the 139th District. I'm here to talk about House Bill 6632, AN ACT CONCERNING THE CITING OF RESIDENTIAL SEXUAL OFFENDER TREATMENT FACILITIES.

I'm speaking to the members of the Judiciary Committee today about an issue that's come to

Are there questions for Mr. Cassis?

Representative Shaban.

REP. SHABAN: Thank you, Mr. Chair.

Thank you for testimony.

I was reading through your testimony as you sat down and the others' testimony. One of the criticisms or worries, I guess, about this bill is the costs requiring to give -- requiring officers to give out forms and notices and whatnot.

As part of your suggestions, you know, get information to, you know, create a system, you know, get reliable information, would you be in favor of eliminating the requirement in the raised bill at least, or suspending it at least for now, giving traffic -- folks who've been stopped some kind of notice.

You know, these are your rights. This is your cause of action. You've got X number, you know, that kind of stuff. Maybe suspending that until there's a proper analysis with better data?

GLENN CASSIS: Absolutely not. I think the citizens need to have some record that they have received the stops so that they can follow up. I think it's necessary to have something back in their hands.

SENATOR COLEMAN: Other questions? Seeing none, thank you, Mr. Cassis.

Frank Chiaramonte.

FRANK CHIARAMONTE: Good morning, Senator Coleman and Representative Fox and members of the

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Judiciary Committee. I'm Frank Chiaramonte. I'm first selectman in the Town of Harwinton and I am here to support House Bill 6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

I urge lawmakers to support to support H.B. 6557 which would extend the recreational Land Use Act to municipalities to encourage towns to the continue to make open space land available for recreation.

Our town prides itself on providing opportunities for residents and visitors to enjoy our recreational facilities. The town maintains a conservation recreation area which provides hiking, trails with pavilions with picnic tables, a pond that's stocked with trout each spring, three tennis courts, a playground and sand volleyball court. We are concerned however that the increased liability costs may force us to consider limiting access to these facilities which could be a shame to us.

Faced with trying to budget for increased costs in the areas of education, road repair, health care, labor costs, more towns like Harwinton may have very few options for reducing costs. Increased liability concerns will also be an important factor in determining whether we should move forward with any new recreational facilities, or to purchase -- and protection of open space land.

We just purchased five and a half acres along the Naugatuck River to develop our Naugatuck River Greenway. And we're not sure now whether we would actually build the trails on that as we had planned.

Open space land and ponds and other water

resources can be difficult to monitor to ensure the safety of recreational uses. Many small towns simply don't have the resources to ensure that the trails are always free from fallen limbs or debris that may pose a safety risk to hikers and bikers. As a result, many communities are considering or have already begun to restrict access to open-space lands.

To address these concerns we urge you to support House Bill 6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LAND, which extends limited liability protections that are enjoyed by private owners and make their land available to the public without charge to the municipalities.

Thank you and I'd be happy to answer any questions.

SENATOR COLEMAN: Are there questions for First Selectman Chiaramonte? Seeing none, thank you, Frank.

FRANK CHIARAMONTE: Okay.

SENATOR COLEMAN: Good to see you again.

Wayne -- Werner Oyonodel.

Representative Matt Lauer -- Lesser.

Ronald Wick, or Wicke.

Rick Tillotson.

RICK TILLOTSON: Good morning, Senator Coleman, Representative Fox and members of the committee. I'm here to speak in support of House Bill 6557. I'd like to take a few moments to tell you about the experiences that people from Connecticut have while on property

that would pertain to this legislative agenda.

My own background is as a volunteer firefighter --

SENATOR COLEMAN: Excuse me, sir. Before you get rolling, I've called a couple of names. I think you're Rick Tillotson, but confirm that --

RICK TILLOTSON: Rick Tillotson. Yes.

SENATOR COLEMAN: Okay. Please proceed.

RICK TILLOTSON: Thank you.

I would like to take a few moments to tell you about the experiences that people from Connecticut have while on property that would pertain to this legislative agenda. My own background is as a volunteer firefighter, EMT and trail manager for one of Connecticut's Blue-Blazed Trails. From.

Time to time I have assisted with locating lost hikers in Connecticut or responded to an occasional outdoor injury. These happen, not often, but they do. In each of these events as I have participated in not one of those involved has attributed blame to anyone, but themselves. The vast majority of the time my outdoor responsibilities have been keeping trails clear of fallen branches and such and providing hikers with information about particular views, trails history or birds, plants and animals in the area.

As more and more electronic alternatives press for the attention of our children it becomes more important to make them aware of the entertainment and enjoyment received by those who would carry along a trail next to a river

or through the woods. For those who would pause to examine a plant as it slowly uncurls from fiddlehead to fern, to feel the texture of a tree's bark, to compare the scents of different wildflowers or observe a chickadee flick branch to branch, and to be fortunate to see the majestic sight of a bald eagle, to invent games of their own and exercise their imagination as well as their bodies.

It used to be that our backyards were nature preserves. Building lots and yards were larger then. Nowadays children simply don't have a readily available sampling of nature within their grasp. Today most families have to travel to find that. To restrict that further by closing access would in many cases completely eliminate that exposure that will shape our children's views as they become adults. How can they be expected to become stewards of these resources if they have such limited experience to draw from? How will the needs of such sanctuaries ever become important to them if they themselves are not brought up with access to such places?

So the cost of removing this access is indeed high. How do we avoid that? We have to ensure that we take -- provide appropriate legal protections for the owners of these areas so they are not afraid of what the consequences of allowing people onto them will be. Yes, nature is beautiful, but nature itself cares not for whomever would trip over a tree root or fall into a stream. Living and dying are both aspects of all natural things. Injuries and healings are part of that, too.

We all need to accept that nature is, well, nature. That as custodians we will minimize risks as well as can be expected, but risks can never be eliminated. There will be

skinned knees. There will be sprained ankles and broken bones. Yes, there will even be worse. We as those who would partake of those offerings of nature's bounty have to accept those conditions. We cannot place blame on those municipalities or organizations who would allow us to hike, bike, jog or otherwise wonder through their properties.

So please consider providing that protection with House Bill 6557. Only then can we ensure that the bounty of nature's beauty will remain available to all who would wish to enjoy it.

Thank you for your time.

SENATOR COLEMAN: Thank you.

Are there questions for Mr. Tillotson? Seeing none, thank you, sir.

RICK TILLOTSON: Thank you.

SENATOR COLEMAN: Ronald Wicke.

RONALD WICKE: Senator Coleman, Representative Fox and members of the Judiciary Committee. My name is Ronald Wicke and I am testifying today in support of Bill S.B. 1033.

I am a survivor of childhood sexual abuse and I know how long it took me to recover enough to overcome my shame and be able to talk about my own abuse. Like most children I was abused by someone I knew, a close family friend. I was 11 years old. I first spoke about my abuse at the age of 25, but no one listened.

It took another 27 years for me to be heard. In between I followed a path well-worn by many other abuse survivors. Filled with self hate and anger I acted out with drugs and alcohol.

Sidney Van Zandt.

SIDNEY VAN ZANDT: Good morning.

SENATOR COLEMAN: Good morning.

SIDNEY VAN ZANDT: My name is Sidney Van Zandt and I live in Groton. I would urge you to support H.B. 6557 that will protect municipalities that want to offer free access to their recreational land and that take reasonable precaution to ensure that recreational areas are safe.

A successful lawsuit against the MDC resulting from a bike accident in 2010 has aroused fears that municipalities may need to restrict or end public access to open-space parcels that they hold. My concern is that existing open-space, if it is no longer available for recreation because of liability issues, may get placed on the auction block to the highest bidder. In addition, any future hope of promoting protection of open space through purchase by municipalities would be threatened.

Open space is not only a vital recreational asset and a refuge for wildlife, it protects our underground water supplies and retards harmful runoff into our waterways. Once it is claimed by development it is gone forever.

Besides the MDC, there are 169 towns in this state. You represent some of them. If you take a moment to visualize each parcel that is owned by your town, that includes woodlands and fields with trails, baseball fields to kiddie parks, you will realize how valuable these parcels are to the greenbelt, wildlife corridor's, places of recreation that make your town and all the others a special place

to live. That also includes the village green, which is the center of the place you call home.

I was founder of the Groton Open Space Association, GOSA, in 1967 which spearheaded the fund drive with the help of the Connecticut Forests and Park Association to raise the funds for the town's portion of open space grants, that in the 1970's saved the Haley Farm, now a state park.

GOSA was also involved in helping to save Bluff Point from massive development pressures. Now Bluff Point State Park and Coastal Reserves. Bluff Point and Haley Farm have been joined by a pedestrian bridge and bike bridge over the Amtrak rail line and they total over a thousand acres. Our organization has recently purchased, with the help of the DEP and LIS funds and local supporters, two parcels in Groton of 76 acres and 63 acres in December 2010 for open-space.

We have promoting protection of the Greenbelt since '67 for wildlife habitat as well as supporting the Bluff Point in the Preston hike -- bike/hike trail. In our town, Avalonia Land Trust, the State and Town have helped to provide a corridor from the Mystic River to the Thames River. Unfortunately key parcels along this corridor belong to the Town and they could conceivably become unavailable for liability reasons.

If every one of the 169 towns in Connecticut -- the loss of liability protection has a huge potential effect. It is provided in abutting states Massachusetts and Rhode Island. I urge you to restore recreational liability protection for Connecticut municipalities by giving your

support to H.B. 6557.

Thank you for letting me make my statements.

SENATOR COLEMAN: Thank you.

Are there questions for Ms. Van Zandt? Seeing none, thank you for your information.

Margaret Miner.

MARGARET MINER: Chairman Coleman and Fox and members of the Judiciary Committee, thanks for this opportunity to testify. I've submitted written testimony on 6557. This has been an issue for my organization, Rivers Alliance of Connecticut. I'm the executive director.

It's been an issue for several years. In 2009 we began to field a number of questions from members who were concerned about whether they could proceed without risk of litigation in some of their outdoor activities. We were lucky enough to learn of an attorney Beth Critton who was an avid hiker as well as very generous with her time and she gave an hour workshop at a conference in 2010.

And so many people were interested in learning more from her, that she helped Rivers Alliance and a number of other outdoor organizations promote a follow-up conference that was attended by about 150 outdoor leaders. You can see the clubs that were the sponsors and organizations. Many more participated, but I'll mention American Canoe Association, Appalachian Mountain Club, Connecticut Forest and Park, Farmington River Watershed Association and Sierra Club Connecticut Chapter.

At that conference and prior to the MDC

decision the participants concluded that the single most urgent action step should be restoration of protection for towns against liability suits. We're looking for equality of towns with the State and with private owners. I think that that is fair and it's also urgently needed.

I point out that towns these days do not have a lot of extras they could offer residents and visitors, but open-space is something we have, we want to enjoy. And when people are out there it's not only healthy, they learn to appreciate the natural resources in their our town.

So I urge you to support this bill. I support the more full presentations you'll hear from Beth Critton and others who have worked on this. There's an extremely large coalition. I've never had the pleasure of working on a clause that had so many supporters and such a wide range of them. It is quite terrific.

I don't know -- everybody is wearing little badges. I don't know if you would want to see their hands, but we have tried to have a good turnout.this has been a very popular cause.

Oh, thank you. I hope that was all right.

That is my testimony. I don't know if you have questions.

SENATOR COLEMAN: Are there questions for Ms. Miner?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Good to see you, Margaret.

MARGARET MINER: Hello and thank you.

REP. BARAM: You indicated in your testimony that you're advocating that municipalities have the same legal immunity rights that currently exist for private landowners and you mentioned the State.

MARGARET MINER: Yes.

REP. BARAM: Is it your understanding that currently under law the State does enjoy partial immunity that is given to a private landowner?

MARGARET MINER: That is my understanding. Yes, that there have been a number of lawyers, you know, in our group. And so we've all had a bit of a legal education. And that is my understanding that there is parity with the State. And the private land owner are treated almost exactly the same way, but the municipality is at a greater risk.

In my town, as in some of the others, we have trails that cross state land -- utility land in this case -- power utility, town land and land trust land. So the differences in liability are quite confusing.

REP. BARAM: That actually was my last question. Don't we now have the bizarre results where somebody could be hiking on a trail and cross state land, town land and private land? And depending on if they, let's say, twisted their ankle, depending on where the event occurred -- would depend on whether or not it was immunity or liability.

MARGARET MINER: That is the case. As far as I

know, that is the problem that the many participants in our conference pointed to and said that we really needed to fix that situation so that there would not be different standards in different parts of the trail.

REP. BARAM: Thank you very much for coming.

MARGARET MINER: Thank you.

SENATOR COLEMAN: Senator Meyer.

SENATOR MEYER: Thank you, Mr. Chairman.

Margaret, thanks for all you do for the environment.

MARGARET MINER: Thank you, too, Senator.

SENATOR MEYER: And I am pleased to be, I think, one of 17 legislators who introduced this bill.

MARGARET MINER: As I recall, you were actually on our steering committee.

SENATOR MEYER: Okay. And I know exactly what you do for the environment. You and I work together while. How did you get interested in this concept and this legislation?

MARGARET MINER: Yes. It might seem -- because many of our members are involved with river cleanups, river paddling events, they may be fixing put ins. So the overlap -- and on maps and Connecticut forest and park maps, we often combine hiking with a river, you know, with a river outing. And so when we began to investigate this issue primarily for the sake of paddlers and boaters we immediately found that they were also hikers and that there was a widespread interest in the state in keeping

these spaces open.

Of course it became acute after the MDC decision, but it began as a -- as questions from our members and quickly became obvious that it was a statewide issue with many people involved. And I'm happy to say, because it's even more land than water, that other groups like Connecticut Forests and Park Association have really stepped up and taken it as a highest priority perhaps this session.

SENATOR COLEMAN: Are there other questions? Seeing none, thank you, Margaret.

MARGARET MINER: Thank you.

SENATOR COLEMAN: Good to see you again.

Beth Critton.

BETH CRITTON: Good morning. My name Beth Critton and I live in West Hartford, Connecticut. I'm here as a free agent. I don't represent any particular group. I'm a mother, a grandmother, a hiker and an attorney with at least 30 years experience.

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I've read every case in Connecticut that has ever come down relating to recreational immunity. This began before Manning versus Barenz. At that time I was an attorney in West Hartford. And in those days -- the Manning versus Barenz days, the case before Conway versus Wilton, if there was an injury related to recreation the law was clear.

In most of those -- first of all, many suits were not brought at all and when they were brought they were disposed of often by summary judgment with relatively few discovery costs and with a degree of certainty a member of the

public could look at the recreational immunity statute and understand what it says. A town attorney, a plaintiff's attorney or a defendant's attorney could understand what they said, what it said.

It actually said any property owner, but in Conway versus Wilton the supreme court interpreted mainly looking at the legislative history that the statute that provides recreational immunity did not include municipalities and entities such as the Metropolitan District Commission. Since that time municipalities have become increasingly fearful of opening their public space -- their lands to the public for recreation.

When I spoke -- and thank you, Margaret, for your kind words -- when I spoke to the large group of participants at the recreational liability conference that we held, it was before the MDC Blonski case and I directed the people at the conference to the general municipal liability statutes and said, there's a measure of protection there. I'm not sure there really is. Perhaps there is, but it is so buried in legalese, it's so difficult to understand that no member of the public perhaps, you know, can count on, can understand what the statute means.

Recently our supreme court, in a case called Keane versus Fischetti that was decided on March 15, 2011, reiterated that reducing municipal liability is a legitimate government objective. Legally all that is needed for a legislature to eliminate certain categories of municipal liability is a rational basis. A rational basis exists here for at least four reasons: restoring municipal liability will foster the State's goal of preserving 21 percent of Connecticut land as open space

by 2023.

It will support the kind of consistency that Margaret Miner mentioned. It will provide clarity with regard to what is -- what the law means and it's practical reality. I know my time is up, but I lead hikes. And when I lead a hike, about a week ahead of time I go and I check out the hike. A week later that trail has changed. It is simply impossible to anticipate all the things that might happen on a trail in the woods and to hold municipalities accountable is simply bad public policy.

So I hear rumor has it that your committee is going to kill this grassroots movement. And I ask you not to do that. I ask you to look out for the broader interests of the public and not for special interests with regard to this legislation.

Thank you.

SENATOR COLEMAN: Representative Baram and then Senator Meyer.

REP. BARAM: Thank you, Mr. Chairman.

Good to see you, Attorney Critton. You indicated that there is some confusion with the, what we call the General Immunity Statute 52-557n.

And isn't it true however based on your knowledge of the Wilton case that the supreme court only looked at the land recreational statute and interpreted that statute as the threshold law determining as a result that it was not applicable to municipalities?

BETH CRITTON: That is correct, Representative

Baram. In fact, as you may know, other states clearly include municipalities (inaudible). Massachusetts does. Rhode Island does. This works in other states. It can work here in Connecticut.

REP. BARAM: And another misnomer, isn't it also true that the recreational land use statute only provides partial immunity to towns that under certain circumstances liability can still be found?

BETH CRITTON: That's correct. And, you know, it's interesting to me and I've never been able to fully look at the legislative history, but it appears that when the State adopted the general immunity law that they allowed -- it's interesting. They allow no liability if it's completely undeveloped and they allow a certain amount of liability if it's trail going to a recreational area, but they truly didn't deal with what we're dealing with, which is the recreational areas themselves.

So there's -- so that means that if it relates to a municipality it goes into the more general discretionary or administrative, which is a very complicated area of the law. So while there may be protection, it is not clear and it certainly is at a much -- municipalities are held to a much higher standard than the standard of the State, and that's Connecticut General Statutes 4160 -- make sure got my records right -- 4160c, which puts the State on the same level with respect to liability as a private landowner.

Under the existing recreation immunity statutes private landowners are liable only if they've been willful in not giving notice of a dangerous condition. So what's happened is municipalities are held to a different and

higher standard than is the case.

REP. BARAM: With regard to that point, Connecticut General statutes 4-160 -- I just want to make that clear for this committee -- indicates that anybody who may bring a claim against the State that claims commissioner, the State is judged in the same role as a private party. Is that correct?

BETH CRITTON: That is correct and I believe Janet Brooks who worked for a number of years in interpreting and enforcing that law, on behalf of the State, will be speaking to you later, but that's exactly correct.

REP. BARAM: So again, if somebody was walking on a trail and, you know, they took five steps and they crossed onto state land and hurt themselves there would be immunity, but if five steps previous, they twisted their ankle, the town could be liable.

BETH CRITTON: That is correct.

REP. BARAM: And one last thing. With your familiarity of the various statutes under what's been called the recreational land use statute, is it also correct that in cases of malicious or wanton acts which have been interpreted to be something where it's intentional or you have notice of a defect, the town, if it were included, but now the private owner and perhaps the State would have some liability?

BETH CRITTON: That's very clear in the text of the existing recreational immunity statute.

REP. BARAM: So the fear that has been expressed by some that there is an absolute immunity even if the town was willfully negligent or have

notice of a defect, really isn't a true characterization, that the town under those circumstances would still have liability under this statute.

BETH CRITTON: They would indeed have liability under this statute.

REP. BARAM: Thank you very much. Good to see you.

BETH CRITTON: Thank you.

SENATOR COLEMAN: Senator Meyer.

SENATOR MEYER: I think Representative Baram is referring in some ways to some opposition to this bill from some members of the bar and maybe of a section of the bar as well.

I noticed that in the bill before us we are -- a municipality or the State would be responsible for an injury occurring -- I'm looking at lines 10 and 11 -- injury occurring in a public swimming pool, in a playing field, in a playground or in a tennis court.

And those are places we often call, attractive nuisances, that -- and the liability of the town or the State would still remain for those. In your view, does that add some balance to this bill before us today?

BETH CRITTON: I believe that it does. We anticipated -- those of us who worked together to try to bring this legislation forward -- that trial attorneys would raise, in some cases, legitimate concerns about places where towns do have an ability to provide some supervision. Playgrounds, you know, it's not hard for if a gym teacher sees something wrong with the playing field she can report it to the grounds crew.

So we, in an attempt to make this legislation more fair, we did add certain areas where the decisions relating to liability would be under the existing and more general immunity statutes. That was in our effort to bring about a compromise that would be exactly -- I should say, fair.

Now there are other versions that do not have that language in them, other versions, bills set forth by other legislators. And I mentioned Massachusetts and Rhode Island. They do not have any sort of cutouts, any exceptions for playgrounds, swimming pools or the like.

SENATOR MEYER: Well, I was aware of a 12 year old who dove into an empty swimming pool and was badly injured. And your interpretation of this bill would -- the town or the State would be responsible for that kind of injury because apparently it wouldn't have put a fence around it when the pool was empty. Is that right?

BETH CRITTON: Well, I, without knowing the exact facts and circumstances I don't know, but certainly that sort of injury would not be -- there would not be immunity under the version of the bill that's before you today.

SENATOR MEYER: And we have some hard tennis courts, cement tennis courts in Connecticut that have got huge cracks in them. And if somebody was playing tennis and tripped on a crack and broke an ankle, there would still be liability for that kind of an injury as well under this bill, wouldn't it?

BETH CRITTON: Well, again it would depend on the, you know, I'm a lawyer, I'm going to say it's always going to depend on the facts and

circumstances. But yes, it would not be subject to immunity under this statute. The, you know, the law would look at whether, you know, whether a duty had been breached in determining that.

As an interesting aside, I know the mother of Conway, the woman who brought the suit in Wilton. And I understand -- it's apparent, that I want the areas that are where my children play on a playground or in a swimming pool, I want them to be reasonably safe.

But I think on the other hand an area in the woods where the town cannot get out and inspect on a regular basis should be treated differently than a swimming pool or something where the town is in a position to keep an eye on it on a regular basis.

SENATOR MEYER: Thank you.

Thank you, Mr. Chairman.

SENATOR COLEMAN: Are there other questions? Seeing none, I have not been made privy to the rumors that you referenced in your testimony.

BETH CRITTON: Oh, well that's good news, Senator.

SENATOR COLEMAN: Well, we can talk off line, I guess, about the source or the basis of that rumor.

BETH CRITTON: Thank you.

SENATOR COLEMAN: Good to see you.

Tim Phelan.

TIM PHELAN: Good afternoon, Senator Coleman, Senator Kissel and other members of the

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on -- to restrict the use of these reports we believe would only cause problems for both parties in the long run. The consumer report used in employment purposes is only one piece of the hiring process that an employer uses. And presumption, that there is a presumption built into this bill that denial of employment is used because of consumer reports and we believe that that's simply not the case.

So we again appreciate the time you've given us to testify on this bill and be happy to try to answer any questions you may have.

SENATOR COLEMAN: Are there any questions for Mr. Phelan? Seeing none, thanks for your input.

TIM PHELAN: Thank you.

SENATOR COLEMAN: Tessa Bondi.

TESSA BONDI: Good afternoon. Thank you for allowing me to testify before you today on House Bill 6557. My name is Tessa Bondi and I'm the outreach specialist for recreational Equipment, Incorporated, in West Hartford.

REI is a national retail outfitter in gear and clothing. Our company is structured as a consumer cooperative, meaning that REI is owned by our 4.4 million active members worldwide and that we share our profits with members, employees and communities that we serve.

One of the ways in which we give back to the community is through our annual giving. We've been a part of the West Hartford community since 2007 and we are active in giving back through local grants and throughout -- through the organization of environmental stewardship

projects throughout the greater area.

In 2010 alone REI West Hartford donated $20,500 to three local nonprofits: Riverfront Recapture in Hartford, the Farmington River Watershed Association in Simsbury and the Connecticut Forests and Parks Association; were our 2010 grant recipients. Additionally we've promoted and rallied volunteers from various volunteer opportunities in the outdoors throughout the region. REI operates retail stores across the country, two of them here in Connecticut. Our mission is to inspire, educate and outfit for a lifetime of outdoor adventure and stewardship.

I live in West Hartford. I am an active outdoor enthusiast and an avid hiker. I enjoy the various public recreational amenities that our community and state provides. I'm here today to speak in favor of House Bill 6557, which I believe helps ensure access to our public recreational places in Connecticut.

As a businessperson it is crucial that our customers have a place close to home which to enjoy the outdoors as well as the products that we sell. According to the Outdoor Industry Association, outdoor recreation nationally generates 730 billion in economic activity and generates over 6 million jobs. In New England the association reports 23 billion in economic activity and 270,000 jobs attributable to outdoor recreation.

Industry research also shows that having recreation opportunity nearby is also very important for the ability to recreate. It also ensures a high quality of life which allows people to be active and healthy. Close-to-home recreation is an essential way to expose people to the outdoors. With

participation in many outdoor activities in decline and with soaring inactivity and obesity rates, especially among our young people, it has never been more important to ensure people have access to the outdoors and abundant recreation opportunities.

H.B. 6557 provides immunity for municipalities under Recreation Lands Use Act that helps ensure access to recreation areas. This bill restores the necessary immunity to municipalities and it is consistent in which the ways the land -- the law views private landowners and the State.

Last year the Metropolitan District in West Hartford considered closing the recreational area that attracts more than 200,000 visitors a year and is within 1.5 miles of our store for lack -- because of lack of this immunity. We believe similar concerns would play out across the state without the protection afforded in Bill 6557.

Thank you.

SENATOR COLEMAN: Are there questions for Ms. Bondi? Apparently not. Thank you for your testimony.

Kimberly Shellman.

KIMBERLY SHELLMAN: Good morning. Senator Coleman and members of the Judiciary Committee, my name is Kimberly Shellman and I'm the assistant director for the Sexual Assault Crisis Service of Hartford and New Britain regions, a program of the YWCA, New Britain. I'm here today in full support of Senate Bill 1033.

The YWCA of New Britain provides services to

time?

JENNIFER ZITO: The community service labor program -- you may not with the drug education program, but with the community service labor program, if you apply for it for a second time there must be a conviction and a suspended sentence is offered in conjunction with the treatment program being given. So there's a conviction, but the judge can suspend the sentence and order you to do the community service labor program for a second time.

SENATOR COLEMAN: Thank you.

Are there other questions? If not thank you very much.

JENNIFER ZITO: Thank you.

SENATOR COLEMAN: Georgette Yaindl.

GEORGETTE YAINDL: Is it afternoon? Good afternoon, Senator Coleman, Representative Fox and members of the Judiciary Committee. My name is Georgette Yaindl. I'm executive director of Bike Walk Connecticut, a statewide not-for-profit membership based organization committed to increasing opportunities for more and better bicycling throughout our state.

We come here in support of land use -- Recreational Land Use Act reform. Whether or not this particular bill, 6557 is the perfect one, as you know, is the big question right now. We are very heartened that at the start of this legislative session 13 bills in addition to this one were introduced by some 42 individual Senators and Representatives here in the State of Connecticut, crossing all party lines, all persuasions. And we're very optimistic that that should send a very strong

signal to this committee that there is bipartisan deep support for reforming the land use recreation act here in Connecticut.

In Bill 6557, one thing we do strongly want to encourage is the section of this bill that would amend the language that identifies certain particular recreational activities, notwithstanding the fact that that section does say, without limitation. Anytime the issue of bicycling is brought before you as elected representatives in the State of Connecticut, Bike Walk Connecticut urges you to think, listen a little more cautiously and carefully than in any other state in the United States.

The original bicycle patent was filed in New Haven on November 22, 1866. The first mass-produced bicycle rolled off of assembly lines right down the street here on Capitol Avenue, making Colt Manufacturing New England's largest single employer by the turn of the century back in 1900.

Bicycles have a very compelling place in the history of Connecticut's development as a manufacturing center and as a center for innovative transportation technologies. So we urge you always to be pay very careful attention to advancing the bicycling agenda for Hartford and Connecticut because no one else can claim what we can claim.

I was very -- also heartened to hear Attorney Critton mention that there was another supreme court case decided this past March, wherein some very instructive dicta our supreme court reminded us that should the Legislature act to amend the land use recreation act, provide for limited immunity to municipalities, that the standard of review

would be on a rational basis.

I'm asking this committee to kind of provide its own Judiciary Committee standard of review and do your own rational analysis, if you will, of what is the rational basis for providing limited immunity for persons who recreate on land to every landowner except municipalities? What is that rational basis?

Now whereas there may be a rational basis for distinguishing between public landowners and private landowners, then that question should be, or the approach should be taken if you do determine there is a distinction between privately held land and publicly held land, that the only responsible thing for the State of Connecticut to do is to consent to be sued just like it is requiring municipalities or subjecting municipalities to the potential for these lawsuits.

Lastly, in looking at the language in 6557, in Section 2 in the proposed amendments to the definition of land it was suggested that this is trying to attempt to achieve a balance between the advocates for land use reform and those who are not advocating for land use reform. If we even look at the original definition of land, which was enacted by the General Assembly some 40 years ago, this is the 40 year anniversary of the land use recreation act. It's very interesting to see that in the definition of land 40 years ago was included: building, structures and machinery or equipment when attached to the realty.

Don't know why, but if the goal of the land use recreation act is to allow for the free recreational use and enjoyment on open space, I think the better question for adversaries of

land use reform is how -- what is the rational basis for including structures, machinery and equipment when the goal is free use and enjoyment of open space for recreational purposes?

Thank you.

REP. FOX: And thank you very much for your testimony.

Are there any questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Thank you for joining us today. As I understand it you support -- in favor, the amended definition of recreational purpose by adding bicycling to that. Is there anything that is also related to bicycling that you think needs to be clarified in this statute? Or is this sufficient?

GEORGETTE YAINDL: If the original definition of land as written now, which clearly says, land and roads, that should be sufficient.

REP. BARAM: I know that in talking to many of the enthusiasts who participate in bicycling and hiking -- have indicated that oftentimes these trails may have huts or other buildings, if you will, that provides a source of rest or shade. And my guess is, is that when this was enacted 40 years ago --

GEORGETTE YAINDL: Uh-huh.

REP. BARAM: -- some of that was contemplated. I don't know if you have any thoughts on that.

GEORGETTE YAINDL: No. Unfortunately I have not performed a legislative history on the original act passed in 1971.

REP. BARAM: Thank you very much.

REP. FOX: Representative Hetherington.

REP. HETHERINGTON: Thank you, Mr. Chairman.

Thank you. Thank you for your testimony. Are you comfortable with these exclusions in the bill that would appear to retain liability for municipalities in the case of, well, particularly for playing fields and tennis courts. Playing fields are pretty general. That would really include any field where ball playing is permitted presumably. And then also tennis courts I was -- as I believe the Wilton case actually was a tennis court case.

GEORGETTE YAINDL: Yes, sir.

REP. HETHERINGTON: So are you comfortable with those exclusions?

GEORGETTE YAINDL: Well, another court opinion in another jurisdiction once said that a law that is riddled with exceptions, there's inherently something wrong with it. So once you start to see exceptions I think that's like cause for pause. Is there something better we can do here?

And I think what's happening here is you see with the new proposed language where it talks about the land does not include a pool, playing field, playground or tennis court --

REP. HETHERINGTON: Yeah.

GEORGETTE YAINDL: -- that begs the position that

many other jurisdictions have taken that limited liability does not apply to capital improvements or structures. It is open land. And there the arguments get into well, what is improvement? If there's a natural trail; a terrible storm, someone goes out and clears it, in some jurisdictions they've argued, well, that's maintenance. That is therefore not subject to -- it is not afforded the protections.

But I think inherently, sir, is that the issue is, is that here you are starting to get into defining what some of those building structures, machinery and equipment may be. But if a municipal owner is going to be held liable for injuries as a result of these facilities I think the argument needs to also be made as well, why wouldn't a private or state owner be held to the same level of liability when you're not talking about open land and you're talking about capital improvements?

REP. HETHERINGTON: Obviously, you've given a lot of thought to this and knowledgeable. A playing field is pretty general, though. Isn't it? I mean, you wouldn't require any capital improvement if you just had a lot where, you know, pick up games occurred. That would be a playing field even though there were no capital improvements.

GEORGETTE YAINDL: Someone could argue and (inaudible) baseball season, right? When you roll out the line marking the pitcher's mound or the catcher's area, that arguably is an improvement. Playing field may -- you envision the one that is the dugout and the fences.

REP. HETHERINGTON: Sure. Bleachers and whatnot.

Yeah.

GEORGETTE YAINDL: Right. It's not your traditional open land, open space.

REP. HETHERINGTON: Okay. All right. I thank you very much.

GEORGETTE YAINDL: Thank you, sir.

REP. FOX: Thank you.

Representative Adinolfi.

REP. ADINOLFI: Just a question. Thank you for being here. Over the years I've been involved with many open-space acquisitions for the community and the towns as far as on the town council. And any land that people donated to the town that we got usually had restrictions attached to it.

GEORGETTE YAINDL: Yes.

REP. ADINOLFI: And that's -- most of them had. You could -- just had to leave it as open space. You couldn't do any development on it and so on and so forth. But isn't that the usual case with most of the stuff or there are some -- I've seen some pieces of land that were donated that could be -- there were different types, like, I think there was one case maybe 20 years ago the dime savings bank gave Cheshire 110 acres of land.

GEORGETTE YAINDL: Uh-huh.

REP. ADINOLFI: Okay. And -- but I think they were allowed if they wanted to build a school there or something like that, they could. That was in there, but I know there's other cases, one in my own family that is getting land where

they put restrictions on it that it can only be used for, you know, hiking, trails and stuff like that. You couldn't put a ball field or anything like that on it.

But isn't that usually the case? Or do people just leave it open?

GEORGETTE YAINDL: Well, I can't speak to what is usually the case in, you know, any neighborhood, let alone the state of Connecticut. But a concern I think following that same line of thought, sir, is, well, think about the magnificent park system in the city of Hartford and Colonel Pope's Park over here on Park Street and Laurel.

I know in that deed it says, shall forever be used for the recreational use and enjoyment of the public. Well, what happens if the City of Hartford says, well, you know what? We still haven't been able to secure a limited liability for, you know, passive open recreation. Boom. We're putting up a gate around the 80 acres of Pope Park. What happens then to that deed? Is there a diversionary clause in any of these, you know, lands that are held by deed or in trust?

REP. ADINOLFI: It makes it difficult.

GEORGETTE YAINDL: Yes. Thank you.

REP. FOX: Thank you.

Are there other questions? Thank you very much for your testimony.

GEORGETTE YAINDL: Thank you for your time.

REP. FOX: Robert Izard.

ROBERT IZARD: Good afternoon.

REP. FOX: Good afternoon.

ROBERT IZARD: My name is Robert Izard. I live in West Hartford, Connecticut and I'm here in support of 6557. My family and I have frequented the MDC Reservoir on Farmington Avenue in West Hartford for over 20 years. Mountain biking, cross-country skiing, hiking; we've had our share of crashes and injuries and we understand the risk and we are glad to bear the risk. And I think the risk of injuries, say, in high-risk activities is well-known.

I'm also a partner at the law firm of Izard Nobel in West Hartford. It's a plaintiff's law firm and I'm a plaintiff's lawyer. So I understand the need to have a liability system, a legal system where we can protect those people who have been injured in one way or another, but we have to look at balance and rationally when such a system is designed. And I think when we look at 6557, we're not talking about necessary essentials of life.

We're not talking about health care. We're not talking about transportation. We're not talking about banking or finance. We're talking about recreation. We're talking about entertainment. Nobody has to go on the MDC Reservoir and ride a mountain bike unless they choose to. So I think what you're looking at the question of balance it's important to look at what the interest is that's being accommodated for.

And when I look at this from the perspective of a taxpayer and as a lawyer, I have a very difficult time understanding why the liability of me, as a private landowner, would be

different from my liability as a taxpayer. Because at the end of the day the taxpayers ultimately are responsible and taxpayers are people, too. So I can't see any rational basis for concluding that the liability of a taxpayer for a voluntary recreational activity would be different than my liability as a homeowner if somebody comes on my land for a voluntary recreational activity.

If people don't want to bear the risk then they can go to a gym and go on a treadmill or they can go in a gym and go on a stationary bike, but one of the attractive features of something like the West Hartford Reservoir is your out in nature. You know there's risks and you're happy to bear them.

When my wife and I moved here from North Carolina in 1987 I was from the South and she was from New England. And we had a choice of a lot of places we could have moved to. We looked at Boston. We looked at Providence. We looked at New York. We elected to come to West Hartford and one of the primary reasons we came to West Hartford was because of the Farmington Avenue Reservoir. I don't know if you've all been there, but it's a unique, unique place that's five miles from here.

And there are very, very few cities in America -- and I have a national practice. I've visited a lot of cities all over the place. There are hardly any cities in America that have a resource like the Farmington Avenue Reservoir this close to a big city because I say, that's why we moved to West Hartford.

So I think when you balance everything out and you look at the notion of, well, why should we treat a municipality different from a private

landowner? Or why should we treat a municipality different from the State? 6557 makes complete sense and again, if someone doesn't want to go to the reservoir and run the risk of being injured on a mountain bike, don't go. That's the easy answer.

So thank you.

A VOICE: (Inaudible.)

REP. FOX: I'm sorry.

Are there any other questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

And thank you, Attorney Izard. As a trial lawyer plaintiff's counsel, is it my understanding then that understanding the value that plaintiff's counsel plays in making sure that things are done properly, that you feel that there's a balance here and that the balance of providing this kind of recreational activity for the public outweighs the other issues raised by some of the trial attorneys, as a proper public purpose?

ROBERT IZARD: Absolutely because I think it's important to look at the interest to be protected. Again, if we were talking about necessities of life like health care or transportation or banking or financing -- or I do a lot of the retirement planning -- or any of those areas where you need protections. But here you have a voluntary choice to take advantage of an activity you know is going to be risky. And so, you know, the taxpayers can't be responsible for everything. So we have to make choices.

And again, I go to the reservoir at least weekly and I've had plenty of accidents along the way, but I know that. That's one of the reasons I go there, I want to be in the woods. And I think that people who make that choice should assume the risk of that choice.

REP. BARAM: And as an attorney I'm just wondering if you feel the proposed bill is balanced, or perhaps overly balanced by carving out some of these improvements that normally towns do supervise such as swimming pools, tennis courts and playgrounds.

ROBERT IZARD: I think it is. One thing I do know is there are a lot of proponents for this bill and I know a lot of people thought about it for a long time. So I'm not going to make my separate judgments on individual items like tennis courts and that sort of thing.

The judgment I can make, though, is that I don't understand a rational reason to create the State and a municipality, or municipal taxpayer or a private person different. And I think the balance is there with regard to the State and the private landowner, but not municipality.

I think it would be a tragedy to deny the public access to something like the MDC Reservoir which is essentially public land. It's a park really for the benefit of all of us and I wouldn't want that compromised.

REP. BARAM: I'm not sure if you're also aware that there's a statute, I believe it's 25-43c, that allows other recreational lands located in watersheds to also have a degree of immunity as long as the facility applies to the Department of Environmental Protection for a

proper permit.

So we even have another subdivision of the State that has a possibility of immunity, leaving a municipality sort of in an isolated silo by themselves.

ROBERT IZARD: Which is again, a reason to pass this bill.

REP. BARAM: Thank you very much.

ROBERT IZARD: Thank you.

REP. FOX: Are there any other questions?

Thank you very much.

ROBERT IZARD: Thank you.

REP. FOX: Sandy Staub.

SANDY STAUB: Good afternoon Representative Fox, members of the committee.

Am I done already?

A VOICE: (Inaudible.)

SANDY STAUB: I thought maybe you read my testimony. You wanted me to leave.

My name is Sandra Staub and I'm the legal director for the ACLU of Connecticut. And I'm here today to support Bill Number 1230, AN ACT CONCERNING TRAFFIC STOP INFORMATION.

In the next couple of months my child, my 16-year-old child will be obtaining her driver's license in Connecticut. At that time she will receive two privileges, one is the privilege to drive and the other is to

If not, thank you for your testimony.

SANDY STAUB: Thank you.

REP. FOX: Thank you, Representative Holder-Winfield.

Next is Charlie Beristain.

CHARLIE BERISTAIN: Thank you for allowing me to talk on H.B. 6557 on recreational use of lands.

My name is Charles Beristain and I live in West Hartford. I belong to the following organizations: I'm a founding member of Bike Walk Connecticut, I'm a principle behind SaveourConnecticuttrails.org, a Principal behind SavetheMDCtrails.org, the New England Mountain Biking Association, the International Mountain Biking Association, the MDC Recreational Committee and the Connecticut Bicycle and Pedestrian Advisory Committee.

It's impressive that there's been 14 identical or very similar bills on this recreational liability issue working their way through the legislative process with sponsorship of 42 legislators, Senators, Representatives, Republicans and Democrats.

There have been three public hearings so far with strong public support. Over 150 written testimony items in support a passage from organizations and individuals that have been placed online by these committees. Over 70 businesses and organizations have signed on in support of passage of this bill.

In the initial stages of getting grassroot support we had over 6,000 individuals sign up in support of, quote, fixing the holes in the

liability law -- yet there is a very significant public support for fixing the liability law.

The Trial Lawyers Association was the only organization to talk against these bills. No one else has come forward to talk against passage of these bills. I'm not a lawyer, but there are arguments being used against municipalities receiving liability protection that just do not pass the commonsense test.

In the trial lawyer testimony, one very important topic was not addressed, which is the liability protection that is afforded to the State of Connecticut. The State has the same limited liability protection as private landowners, except under CGS Section 4-160, rather than 52557 (inaudible).

I have yet to figure out what it is that's so different about a municipality that it should be singled out and excluded from coverage provided to the State, to private landowners, to corporations and to utilities.

Also the trial lawyer -- the previous trial lawyer's testimony, they suggested that municipalities already had adequate protection with existing law, yet fear of liability exists and municipalities have closed half of the rock climbing sites since Conway versus Wilton. And the fear of liability rose to an even higher level after two recently reported cases, the $2.9 million MDC cycling verdict and the $8 million Waterbury verdict.

I've been riding at the reservoir approximately 200 days a year for the past 13 years. I know every single nook and cranny at the reservoir. And looking at the incident that happened at the MDC, the person was

traveling at a very high rate of speed on the wrong side, riding the wrong way on the blacktop, riding in the lane where the people and baby carriages and runners and walkers are supposed to be and not in the bike lane, which it belonged.

She was racing with her head down and she didn't see the giant yellow fenceposts that she ran into. And the verdict was the MDC should have had warning signs. It says that now on every one-way section we have to put signs on the opposite direction warning somebody who's violating the law that there's something wrong and they should be careful. There's just something that isn't right about that.

The trial lawyers also, you know, testimony suggested that because the municipalities do have -- that have in the past made open space available to the public. There's no need to encourage them to do so in the future, but with the budget issues that the towns are having and (inaudible) an increasing fear of liability, municipalities will have an incentive to close open spaces, not open open spaces unless you pass the liability reform now.

Open spaces are very important to Connecticut communities. They provide places for recreational activities, support many different businesses, employ people, pay taxes and make Connecticut a place where people want to live.

Thank you.

REP. FOX: Thank you and thank you for your testimony today.

If I may ask, where do you live?

RANDALL WALLACE: Where do I live?

REP. ROLDAN: Yeah. Where do you come from?

RANDALL WALLACE: Meriden, Connecticut.

REP. ROLDAN: Meriden. So Meriden is the place that would -- the population would somewhat mirror something similar to Hartford or maybe even a little less (inaudible) geography. Well, with that I don't want to take more of your time.

But Mr. Chairman, I want to thank the gentleman for his comments and thank you, Mr. Chairman.

REP. FOX: Thank you.

Are there other questions or comments?

Thank you very much.

RANDALL WALLACE: Thank you.

REP. FOX: Next is Martin Mador.

MARTIN MADOR: Good afternoon, members of the committee. I'm Martin Mador. I'm here testifying as the legislative chair for the Connecticut Sierra Club representing our 8,000 members. I do want to draw your attention to some additional testimony that we filed. We asked people to provide statements to us so in your package you will see testimony of 123 people that we put together in the packet. HB6557

Now I've brought them all with me. They're all waiting downstairs, but I did promise Senator Coleman that we wouldn't keep you

folks here till 1:30 a.m. So if you'll like, I'll just go ahead and speak on their behalf and leave them downstairs.

REP. FOX: That would be great. Thank you.

MARTIN MADOR: Okay. And I will try not to repeat some of the testimony you've already heard.

Fifteen years of legislative efforts to restore the immunity for towns for use of open-space have failed due to the influence of what I will call special interests.

As you've heard there's quite a bit of activity this year. There are actually 14 bills, 6 public hearings, 38 sponsors. I wish I could take credit for all this. I can't. I'm not sure why this has happened, but this is unparalleled in my experience to have so many bills on exactly the same issue, but it does tell you the significance of the level of support for this.

For the first time this year the public interest advocates have taken up the restoration effort. Of the many issues that we're supporting this year, make no mistake, this is a top legislative priority for both the environmental community, for the recreation community and for many of the citizens of the State. We really need to see this bill passed this year.

Our grateful thanks to Representative David Baram who has been very strong and supportive of the bill and has been working diligently and for the past few weeks with representatives of the special interest in an effort to fashion a compromise bill, which we'd hope will continue to go forward.

We've been concerned for 15 years about the closing of public lands because of liability concerns. This year we had concerns about the costs to towns to carry insurance coverage, the cost of defending lawsuits, the cost of settling nuisance cases, the cost of jury awards such as the $3 million against the MDC last year.

Open spaces are not manicured, engineered lands. They are natural spaces which is why we appreciate them. The financial burdens on towns to continuously find and remove fallen trees limbs, clumps of wet leaves and piles of acorns would be enormous and would serve really no purpose other than to address the fear of liability lawsuits. We're all looking for ways to reduce expenses to the towns and we think this is a good way to do it. And yes, there is a possibility of a lawsuit against Middlebury for a woman who slipped on a pile of acorns.

A single hiking trail may traverse the State forest, then land trust property, a field on properly and finally a municipal park. State law provides liability protection for the first three segments of the trail, but not for the last, which is on municipal property. H.B. 6557 would harmonize the protections for the trail across these four lands and provided the much-needed protection for towns that we've been seeking for the past 15 years.

It is clearly in our interests to encourage people to get outdoors and to ensure that open spaces are available to them. I'm sure you understand the reasons for that. The 8,000 members of the Connecticut Chapter of the Sierra Club ask you to vote for the public interest, putting aside the special interests which have fought this important bill for far

too long.

I'll stop there. Thank you.

SENATOR COLEMAN: Thank you.

Are there questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Thank you, Mr. Mador for coming today. And I think we all appreciate the willingness to represent the many hundreds of people who are willing to come and testify to try and streamline today's hearing. But I'd just like you to -- if you take a moment to elaborate because you have been here a long time and you have a great history of this Chamber.

When you say that you have never seen so many bills and so much support, could you just elaborate a little bit on the support? Does it include more than just legislators who are part of this assembly? Have you seen support from other government agencies, institutions and other interest groups that have come together sort of in a unique way?

MARTIN MADOR: Yeah. You've heard from some of the recreational organizations and you'll hear from additional authors this afternoon. We've spoken to a number of representatives of the towns. Some of them have provided specific testimony. Some of them are actually embodied in the statements of 123 people.

So I would say that there is widespread support for restoring these restorations, which were lost in the Conway versus Wilton decision, from a variety of towns. CCM has

told us they are in support of this. COST is in support of this. As you've heard from an earlier witness the only group that we're aware of which is actually opposing restoration of this are the trial attorneys. And we really believe they're acting in their own interests here.

So yes, there's been a wide spectrum of support for this. And the idea that there are 14 separate bills, essentially identical bills all looking for the same thing, in my brief experience in this Legislature, is unprecedented.

REP. BARAM: Thank you very much for your support and for everything you do.

MARTIN MADOR: Well, we thank you for yours as well.

SENATOR COLEMAN: Are there other questions? If not, thank you, Mr. Mador.

MARTIN MADOR: Thank you.

SENATOR COLEMAN: Amy Patterson.

AMY PATTERSON: Thank you very much. For the record I am Amy Patterson. I'm the executive director of the Connecticut Land Conservation Council and I thank you very much for this opportunity to testify today in favor of H.B. 6557.

Just by way of background CLCC works with land trusts, town conservation commissions, garden clubs and other organizations around the state to make sure that Connecticut's natural resources are protected forever. We provide training, technical assistance and funding to ensure the long term strength and viability of

the land trust and conservation community across the state.

As a former land use attorney, municipal attorney and a project manager for the trust for public land, and now as the executive director of CLCC, I have been actively working in land conservation for over 20 years. And throughout my career I've witnessed firsthand how critically important open-space is to our communities. We're so fortunate in this state to have the open-space and watershed land acquisition grant program, which has enabled land trusts and towns to protect forestland, farmland and open space that otherwise would have been lost forever, to development.

The open space grant program we consider to be the backbone of land conservation in our state and it's funded, as you know, through bonding and the community investment act. Since 1998 the Connecticut DEP has invested millions of dollars in grant funds to help towns and land trusts protect over 75,000 acres of open space for the public to enjoy, monies that have leveraged -- gone on to leverage millions of dollars in matching municipal funds in return.

And in my capacity over these years, in all of these capacities I've had the opportunity to assist many communities in their efforts to raise the match funds necessary to take advantage of the state grant program. And they've gone on to successfully purchase outdoor recreation areas for all to enjoy. And even in these tough economic times almost without exception the towns that I have worked with have gone on to approve bond referendums in order to purchase open space.

And the public is committed to protecting open space because of the obvious benefits that it

provides. In bettors our quality-of-life. It provides us with opportunities to get outside, connect with the natural environment, to exercise, recreate and just to stay healthy. But we also recognize that open space conservation contributes to our state's economy.

Open space and farmland preservation help increase the value of neighboring properties, bring patrons to local businesses, enable farmers to earn a living while also producing local food for Connecticut residents, and otherwise to help keep people employed through sustainable green and outdoor recreation related industries and tourism.

You know, I've had an opportunity to do a lot of work on the community investment act and the research that we have come up with in terms of the figures coming out of DEP and the other state agencies as well as from private industry sources are really staggering on how land conservation contributes to our economy.

And so we have a quality-of-life benefit and we also have an economic benefit that results from land conservation and yet despite these benefits and contrary to the public policy underscoring this tremendous investment that's been made by our State in land conservation. At both the local level and the state level towns are considering the closure of access to their recreation areas out of mounting fear of liability and to avoid the costs related to increased insurance premiums and the defense or settlement of frivolous lawsuits. It's not necessarily about ultimately being found liable. It's about the costs that go into making that determination through pretrial discovery and defending the lawsuits.

And this sends a message that the risks of liability from owning and operating and maintaining open-space outweigh the benefits that these lands provide to us all. Closure of recreational areas will impact the quality of our life and our economy in a most negative way. And we would respectfully therefore urge this committee to provide towns and municipal entities with the same protections from liabilities as it's enjoyed by private landowners so as to maintain recreational access for our lands, ensure consistent application in furtherance of policies at every level of government that encourage public recreation.

And to the point that I've made today to protect the enormous investment of state funds that have already been made in allowing towns and land trusts to purchase this land and protect it forever and to enable the public to enjoy it. Thank you.

SENATOR COLEMAN: Thank you.

Are there questions for Ms. Patterson?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

And thank you for your testimony today.

As a land use attorney and somebody who has dealt significantly with this issue, is there any rational basis you can detect for having a distinction between immunity for the State versus not having it for the municipalities?

AMY PATTERSON: No. And I think that's one of the most striking points here, is that we do have that distinction with no discernible rational

basis. And other states have gone on and very broadly afforded hat protection to all landowners that open up their land for recreational use free of charge.

REP. BARAM: Thank you very much.

AMY PATTERSON: Thank you.

SENATOR COLEMAN: Louis Cotto.

Fanol Bojka.

FANOL BOJKA: Mr. Chairman, members of the committee, my name is Fanol Bojka. I'm a member of the Connecticut Criminal Defense Lawyers Association. I'm here on their behalf today. I'm here to support bill, Raised Bill 1230 for a tiered sex offender system.

The current system that we have in place, there's no delineation between offenders who are more dangerous than other offenders. They either register for 10 years publicly or they don't register at all. And the alternative, they also may have to register for life depending on the sex offense.

HB6643

The best way to describe the current day situation is through personal cases of clients that I've represented. Typically what you see with -- high school students who are having relationships with each other. If a senior has a relationship, a consensual relationship with a freshman, he has technically committed a crime of sexual offense, sexual assault in the second degree. If he's convicted of that offense he faces a nine month minimum mandatory sentence and has to register as a sex offender for a ten-year period.

In reality that high school senior is no more

but certainly there are any number of occasions where an employee's wages could be garnished for any number of circumstances by a state agency or for child support.

And I don't think that there's any connection between the credit -- at least there hasn't been any demonstrated connection between your credit rating or your credit score or your credit history and the likelihood of that event happening.

SENATOR COLEMAN: Other questions? Seeing none, thank you, Representative.

REP. LESSER: Thank you, Senator.

SENATOR COLEMAN: Alan Tinti.

ALAN TINTI: Senator Coleman, Representative Fox, other members of the committee, good afternoon. Forgive me if I'm moving a little slowly today. I think I'm suffering from basketball related sleep deprivation. My name is Alan Tinti. I'm a Glastonbury resident and I'm here to present testimony in support of House Bill 6557, AN ACT CONCERNING LIABILITY FOR RECREATIONAL USE OF LAND.

I'm representing the New England Mountain Biking Association or NEMBA. I should note that our -- the written testimony that we've submitted has about 150 additional comments or endorsements by other fellow mountain bikers and other residents of Connecticut.

Based on information that we have there are about 350,000 Connecticut residents who mountain bike on natural service single-track trails and the Connecticut Chapter of the New England Mountain Biking Association represents their interests. Our organization has a wide

range of programs designed to promote stewardship of public trails and healthy recreation for residents of all ages.

NEMBA strongly urges the committee to support House Bill 6557. We think that protecting municipalities from frivolous lawsuits is critical to the economic and physical health of our communities. Municipalities should not be penalized for providing opportunities for healthy recreation. We simply cannot afford to be dragged into court because they have opened up public property to recreation. Similarly our communities cannot afford the consequences of not having outdoor natural places to run, walk and bicycle.

House Bill 6557 is important in helping to make our communities healthier and more livable. In this modern era of dwindling open space our communities are experiencing rampant obesity among old and young alike and a widespread disconnect to the natural world, commonly referred to as nature deficit disorder.

Municipal lands play an ever-increasing role in providing recreational opportunities to our citizenry and outdoor recreation such as mountain biking plays a significant role in combating these social problems. We think this legislation will play a positive role in helping to promote healthy outdoor recreation, help Connecticut's municipalities in their struggling budgets and restore basic justice to the recreational use statute in our state.

If I could add something on a personal note, I'm very proud of my own Town of Glastonbury for being in the forefront of acquiring and setting aside open space. And I think it would be a real shame in my Town had to

restrict access based on liability exposure.

And one other note, although it's not in our written testimony NEMBA also strongly supports the addition of bicycling to the list of examples of recreational purposes in the statute.

Thank you and I'll take any questions.

SENATOR COLEMAN: I was up kind of late last night too, but I don't believe what occurred.

ALAN TINTI: Neither do I.

SENATOR COLEMAN: Was it real? I thought it was a nightmare of some sort.

ALAN TINTI: I'm afraid it was.

SENATOR COLEMAN: Okay. Any questions for Mr. Tinti? Seeing none, thank you for testimony.

Senator Boucher.

SENATOR BOUCHER: Distinguished chairs, ranking members of the Judiciary Committee and members, like you I'm still in mourning after last night's inconceivable basketball situation, but I also congratulate the most marvelous UConn team that has such a legacy and has brought such honor to the state of Connecticut.

I'm here to testify in favor of House Bill 6557, particularly in that the original case did involve the town of which I live and also represent for many years, the town of Wilton.

There's no question the state of Connecticut is a very densely populated state and it's a

small state, and in good times was definitely a target for a lot of development, overdevelopment. And many of our towns and cities have done their part to try to maintain as much open space as possible.

One of the most beautiful attractions for our state is it's open spaces and it's unfortunate that through this case the limit to those open spaces and recreational land has become more and more an issue and a problem for our towns and cities. I think that the taxpayers paid for that open space. They should be allowed to use it and we should allow our families and children to be able to have as much access to it as possible.

And whatever you can do to further this along and move this bill forward is much appreciated.

Thank you so much for your time and if you have any questions I'd be happy to answer them.

SENATOR COLEMAN: Thank you, Senator. Are there questions? Seeing none, thank you for your time.

SENATOR BOUCHER: Thank you.

SENATOR COLEMAN: Michael Cullhane.

MICHAEL CULLHANE: Good afternoon, Senator Coleman, members of the Judiciary Committee. My name is Michael Cullhane and I'm the executive director of the Connecticut Catholic Public Affairs Conference. I'm here today to address two bills on your agenda, so may I note the following points?

The conference opposes Senate Bill 1033 for

HB6555

Mr. Willis.

ANDREW WILLIS: Thank you.

SENATOR COLEMAN: Susan Schmidtzser.

Am I saying it right? Schmidtzser, Susan Schmidtzser.

Sally Rieger.

SALLY RIEGER: Good afternoon. I'm Sally Rieger. I live in Simsbury and I'm here to speak today on behalf of Simsbury Land Trust, which strongly supports H.B. 6557. That law would protect municipalities from liability as long as they aren't charging for the use of their land and as long as they take reasonable precautions to make sure the areas are safe.

Our West Mountain Trail system depends on the cooperation with the Town of Simsbury. The trail is a five-mile loop. It's our most heavily used trail; provides exceptional scenic beauty along the traprock ridge, goes down into a valley with some exceptional geologic features which have educational value. And in the process of this, it crosses our land trust land, it crosses the Town of Simsbury land and it crosses private conservation easement land.

The trail is a state designated greenway and when the land trust last year asked the Town of Simsbury if they would be in favor of having the trail designated, the hesitation that the Town had about that was the question of liability. Ultimately the trail was designated, but I'm here to ask you today to please give municipalities the same protection that we the land trust enjoy from liability on our open space properties. Please support

H.B. 56 -- 6557.

Thank you.

SENATOR COLEMAN: Thank you.

Are there questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Welcome. Is the Simsbury Land Trust part of the Town or is it a separate organized entity?

SALLY RIEGER: Is a 501(c)(3) organization. It's separate from the Town.

REP. BARAM: So you would fall under the existing land use immunity statute as a private owner. Is that your understanding?

SALLY RIEGER: Yes. We benefit from that, but we maintain a five-mile loop trail that crosses town land. And we actually have another trail that, if things work out, will cross town land and then onto state land. So we need -- in order to have the continuity of those trails, we need to have the towns protect -- the town protect it as well.

REP. BARAM: Not too long ago I was visited by some residents of Bloomfield that are actually working to combine the greenway trails in Simsbury, Bloomfield, Windsor, Hartford. And it was pointed out that these trails cross a variety of different designated lands, whether they are state owned, municipal, private and land trust.

So this certainly would provide the consistency that other people who have

testified have asked for.

SALLY RIEGER: Yes, it would. And one of the wonderful things about those trails is the community cooperation that they bring together from all of those, those groups. It's nice to see people to be able to work together to put together something like that that gives so many people pleasure.

REP. BARAM: I will note also that First Selectman Mary Glassman did send in testimony asking that we do pass this, this legislation. So Simsbury is clearly on record in favor of it.

SALLY RIEGER: Thank you.

SENATOR COLEMAN: Are there other questions? Seeing none, thank you.

SALLY RIEGER: Thank you.

SENATOR COLEMAN: John Kennedy.

JOHN KENNEDY: Good afternoon, Senator Coleman, members of the committee. My name is John Kennedy. I am an officer in the Connecticut Trial Lawyers Association and a lawyer in New Haven. I speak on behalf of Senate Bill 1232 which we believe should be enacted to clarify and correct the application of Section 52-557n of the Connecticut General statutes.

As it's currently enacted the statute protects municipalities from the acts or omissions of officials which require the exercise of judgment or discretion as an official function of the authority expressly or impliedly granted by law.

At present the statute is being interpreted in a manner beyond its original meaning and

be injured since the cities benefit by doing less and not more, and by doing so, insulate themselves from clients.

Even the smallest tasks can be deemed to be discretionary if the timing or performance can be decided by a municipal employee. It's difficult to see how the law comports with the intent of the statute to shield municipal employees in their official functions. Clearly the statute was designed to protect a second guessing of municipal official decisions that involve playing and decision making, but not operational negligence. We believe the bill will clarify the law in this respect and it is good public policy.

Thank you.

SENATOR COLEMAN: Thank you.

Are there questions? Seeing none thank you for your testimony.

JOHN KENNEDY: Thank you.

SENATOR COLEMAN: Jessica Morowitz.

JESSICA MOROWITZ: Good afternoon, Senator Coleman and members of the committee.

SENATOR COLEMAN: Good afternoon.

JESSICA MOROWITZ: Thank you for the opportunity to testify here today. My name is Jessica Morowitz and I'm the legal fellow for Connecticut Fund for the Environment. I'm here today to testify in support of H.B. 6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

CFE strongly supports H.B. 6557 as an important bill that would restore to municipalities and municipal entities the same liability protection currently afforded to the State and private landowners.

H.B. 6557 is an important bill because municipalities and municipal entities are some of the largest open space land owners in the state. By ensuring that they receive the same liability protection as the State and private landowners we are encouraging them to open up this vast amount of land to the public to provide low-cost recreational opportunities. Without such protections the fear of lawsuits could result in a large amount of open space being closed off to our citizens and losing the valuable and extraordinary partnerships -- the extraordinary value these partnerships provide.

It is important to point out that the recreation act does not provide total or absolute immunity to the owner of the property as they are not protected from liability for willful or malicious actions and this bill before you does nothing to change that.

For these reasons CFE strongly supports this bill and urges the committee to vote favorably.

Thank you.

SENATOR COLEMAN: Thank you.

Are there questions. Seeing none, thanks for your testimony.

JESSICA MOROWITZ: Thank you.

SENATOR COLEMAN: Joseph Sikora.

ROBERT MOORE: Senator Coleman, Representative Fox and members of the Judiciary Committee, my name is Robert Moore. I'm here to testify on behalf of the Metropolitan District Commission in support of House Bill 6557, AN ACT CONCERNING THE LIABILITY FOR RECREATIONAL USE OF LANDS.

The MDC is a specially chartered municipal corporation that provides water, sanitary, sewer, riverfront park maintenance and other public services to its eight member towns as well as portions of other towns in the greater Hartford area.

The MDC owns over 25,000 acres of watershed and reservoir land in Connecticut. The majority of the MDC property is made available for recreational activities such as hunting, fishing, hiking, swimming, cycling and jogging. One of the most used recreational land is located in West Hartford and consists of approximately 3,000 acres of open space up Albany and Farmington Avenue. The MDC does not charge a fee for recreational use of this property, but it is estimated approximately 200,000 people visit this site annually.

Another significant recreational facility is a 1900-acre site in Barkhamsted known as Lake McDonough consisting of a 390-acre lake, four beaches and a boathouse. Over 40,000 people visit Lake McDonough on an annual basis.

In May of 2010 a jury in the case of Blonski versus the Metropolitan District, awarded $2.9 million in damages to a cyclist injured when she rode her bicycle into a closed gate at the West Hartford Reservoir. The judgment is under appeal. Without getting into the specifics it is clear that the case has

brought a renewed focus to the liability of all public entities, not solely the MDC, for injuries to individuals who use their land.

This renewed focus is not limited to the proposals that are before you today. As a public entity funded by taxpayer and ratepayer money, it's incumbent upon the MDC to evaluate the recreational use policy, assess its risks and ultimately consider and debate all options. On July 20, 2010, the water bureau of the MDC held a public hearing at West Hartford Town Hall to receive public input on whether the West Hartford Reservoir should remain open to the public, and if so, whether certain recreational uses should be restored or eliminated. The public sentiment was overwhelmingly in favor of keeping the reservoir land open.

Today MDC lands historically open to the public remain open. We have not changed our policy. However the MDC has a duty to all of its ratepayers, not just those who use their property. Each time the MDC experiences another scenario that played out in this case we are compelled to reevaluate the policy on use over and over, again.

It's impossible to predict when, if ever, the number of similar damage claims will necessitate -- result in a dramatic shift (inaudible) MDC policies. If nothing else, recent events have served to highlight the need for legislative action to provide some level of protection to avoid this undesirable policy change.

House Bill 6557 adequately protects municipalities from lawsuits while ensuring that there is no absolute immunity for injuries incurred -- within certain

improvements to those properties' swimming pools, playing fields, playgrounds and tennis courts. We urge the committee members to support House Bill 6557.

Thank you very much.

SENATOR COLEMAN: Are there questions from committee members?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Thank you for joining us today. I found part of your testimony interesting in that while you indicated that the MDC lands are remaining open, that it's still subject to ongoing review.

So my question to you is, does the MDC commissioners, board of directors have authority to close those lands should they deem it necessary to do so if there is no immunity and they are constantly -- or in the future there are other lawsuits that perhaps create a cost factor that may not be acceptable to the board?

ROBERT MOORE: It generally has the authority to close those -- access to those lands. As you know our water supply watershed -- after 911, we did a vulnerability assessment on our property to try to determine if those lands should remain open to the public to secure water supply. It's just a (inaudible) differential.

And we determined at that time that it was more important to have people to have access to the property in order to serve -- to watch out for people who might tend to violate the

water supply. So we had a double use to keep the land open.

REP. BARAM: As I understand it, your charter which defines your mission is basically focused on supply of water and sewer services. I don't believe there's any mandate that requires you to make your property available for public use.

ROBERT MOORE: The only area is the Lake McDonough area. That was provided in the acquisition of lands for the Barkhamsted Reservoir. There was a commitment to the towns to provide recreational activity due to the loss of water/land at that time. So just that one lake, but that's the lake where we do have a fee and the lake where we have protected recreation.

REP. BARAM: I see. Thank you very much.

SENATOR COLEMAN: Are there other questions?

Mr. Moore, I have a question. I think in my capacity as a member of the Planning and Development Committee I heard some testimony a few weeks ago regarding immunity for entities like MDC, I guess watershed authorities. And there was some suggestion that there was a state statute that already provided immunity to such entities.

ROBERT MOORE: The public health department can approve immunity for those entities that apply for recreational permits on their property. In this case we have done that.

SENATOR COLEMAN: In the Blonski case, was that relied upon as a defense?

ROBERT MOORE: I don't know, sir.

SENATOR COLEMAN: Okay. And other than the Blonski case can you think of any other cases within the period of the last ten years that may have been filed?

ROBERT MOORE: In the case of an injury in land --

SENATOR COLEMAN: The issue being liability on the part of MDC --

ROBERT MOORE: Right.

SENATOR COLEMAN: -- for injuries incurred on land owned by MDC.

ROBERT MOORE: We had a case in the area called Greenwood's property on the east branch of the -- west branch of the Farmington River where a mountain biker went off a trail that was not a marked trail and ended up with paraplegic injuries. That case went to court and it went to the Supreme Court and it was found in our favor.

SENATOR COLEMAN: Did you say -- correct me if I'm wrong. I thought I heard you say that was in New York.

ROBERT MOORE: There was no damage assessed to the MDC.

SENATOR COLEMAN: Was the location of the incident in New York?

ROBERT MOORE: No. It was in Connecticut.

SENATOR COLEMAN: It was in Connecticut.

ROBERT MOORE: On our west branch of the Farmington River.

SENATOR COLEMAN: Okay.

ROBERT MOORE: It was adjacent to state owned property.

SENATOR COLEMAN: Do you have any data regarding again, you said one case the amount of money damages for the impacts that may have resulted on insurance premiums or other insurance costs?

ROBERT MOORE: We have not had our insurance premiums up, that have reflected the results of this case as yet. We have a fairly large deductible and probably about $250,000 and then two insurers past that point.

SENATOR COLEMAN: I'm sorry (inaudible).

ROBERT MOORE: We have a large deductible of about $250,000. And then we have insurance and then we have additional insurance beyond that.

SENATOR COLEMAN: Insurance and reinsurance.

Any other questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Just to follow up on Senator Coleman's question. My understanding is Connecticut General Statute 25-43c is the legislation that allows the commissioner of public health to issue a permit for recreational activities. But it's also my understanding that there are geographic designations by which these permits apply because the main purpose is to protect watershed areas.

If, for instance, the MDC or a like-kind

district owned lands that were defined to be outside the watershed areas, those would not necessarily be protected by this permit. Is that correct?

ROBERT MOORE: That's correct. We do own property in Glastonbury of approximately 700 acres of which it would not be eligible for such protection.

REP. BARAM: So relying on 25-43c would not afford the MDC protection of all its lands, just those deemed to be in the watershed area.

ROBERT MOORE: That is correct.

REP. BARAM: Thank you.

SENATOR COLEMAN: Are there other questions? If not good to see you, Bob.

Janet Brooks.

JANET BROOKS: Good afternoon, Senator Coleman and members of the Judiciary Committee. I'm Attorney Janet Brooks. I've been a practicing environmental and land use law since 1981 in the State of Connecticut. And during that time I had -- I worked for 18 years as an assistant attorney general representing the DEP. During that 18 year tenure I had numerous occasions to address claims brought against the state of Connecticut for injuries from recreational use of state park and forests.

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And because of the law that extends the claims commissioner to look at the same laws available to private persons, the State of Connecticut's recreational land was subject to the same immunity as private persons. And until the way v. Wilton case in 1996 that was

also extended to municipalities.

As soon as 1996 came out -- case came out, a number of our colleagues in the attorney general's office were really intrigued to see that the Supreme Court had set up perhaps unknowingly a hodgepodge system then of immunity because it had only before it -- be the liability of municipalities.

And looking at my own hometown, Middletown with the newly designated national scenic trail the New England Trail that runs through it, to the south of me is property owned by the state of Connecticut, then a number of individual landowners, then a large parcel which abuts our property owned by the municipality then onto private land owners.

And one would have a -- there is a different set of liability and immunity as you progress on this New England Trail. And it's the Legislature's, not the judiciary's duty to set the policy and it seems that there is no consistent policy set by saying the municipalities, which after all are subdivisions of the State, should have a different set of liability and immunity than the State itself and it's for that reason that I strongly urge the passage of 6557.

Thank you.

SENATOR COLEMAN: Thank you.

Are there questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Welcome, Attorney Brooks. Could you elaborate

a little bit of the effect of the existing statute on the State in terms of immunity? Could you perhaps give us an example of something that might be immune that happens on state property, but liable on municipal property?

JANET BROOKS: Well, the -- I know that there's been no claims -- the claims commissioner has denied claims for injuries from snowmobiles in state parks where they are illegal, but where someone plowed into a fence -- and I mean, take for a moment the Blonski case, where somebody is riding a bike into a fence, the same, a scenario with a snowmobile. And that was, you know, no claim, no liability for the State.

I personally defended two claims, one was where somebody went swimming in some kind of water body that had a waterfall and she went over the waterfall, an adult and broke both kneecaps. No liability because of the immunity statute.

Let's see. Those kinds of things, seems to me, would be up for grabs once Conway v. Wilton has said that provision isn't available to the municipalities. Hiking, someone fell down a steep bank on Gillette Castle. No liability to the State. That would be something that the -- a town maintains a trail with a steep bank, that they would be vulnerable to.

REP. BARAM: And this immunity that does apply to the State is really limited to the land. If a state employee is negligent in -- we had some testimony on another bill that was before us -- but if a state employee was negligent in performing a task or there was notice of a defect, would the State then be liable in

those instances?

JANET BROOKS: Oh, I had a circumstance where somebody, a claim was that they fell in the bathhouse and it was either at Rocky Hill State Park, Rocky Neck or Hammonasset, and I forget which. And it was determined that there was a schedule for how often the squeegeeing -- I learned the verb to squeegee from that case -- and evidently, the park personnel were delinquent in squeegeeing the bathhouse.

And so in that circumstance we conceded liability and we negotiated damages.

REP. BARAM: So in your opinion based upon your experience with the State of Connecticut as well as somebody who's involved in the outdoors, do you believe that this extension of limited liability to municipalities would create consistency and parody?

JANET BROOKS: That's right. The same thing offered to private individuals, the State of Connecticut and then ultimately to the towns.

REP. BARAM: Thank you.

JANET BROOKS: Thank you.

SENATOR COLEMAN: Are there other questions?

I'd be curious to know whether or not you have any data concerning insurance carriers and by how much they're saying insurance costs would increase in municipalities. The Legislature doesn't have --

JANET BROOKS: No. I'm sorry. I don't have -- having come from a state background, I'm not familiar with the insurance rates.

perpetrator was served with the papers, he shot himself in the head. So that -- that individual won't be doing anything to any more kids.

That's all I have. Thank you for the opportunity to be here today. Oh, I'm sorry. Does anybody else --

REP. FOX: No. No. No. I just wanted to say thank you for telling us your story and that's what helps us as we try to determine the best public policy going forward. So I do appreciate it.

Are there any other questions?

Thank you very much, sir.

BRAD HOTCHKISS: Thank you.

REP. FOX: Mike Walsh.

MICHAEL J. WALSH: Good afternoon, Senator Coleman, Representative Fox and members of the committee. My name is Mike Walsh and I'm a trial attorney here in Hartford. I also serve as an officer of the Connecticut Trial Lawyers Association. And we're here to speak in opposition to House Bill 6557, which is the bill that seeks to extend recreational use immunity to municipalities. And I've been asked to speak on the historical nature of the recreational use immunity statute.

But before I do that, I'd just like to stress that every time the Legislature considers an immunity statute, the net effect of the passage of the statute is to deprive the injured party of the constitutional right to seek redress in court system.

Now you've heard today of the impact on municipalities. You've heard today of the impact through various environmental groups of the recreational use statute, but I think it's important to point out that there's a whole other constituency and that's the constituency of people who may be injured in the future as a result of municipal negligence. And these people don't know who they are yet. No one expects to be injured in the future, but they're the ones that will bear the most significant costs related to the expansion of this immunity. So I think it's important to point that out.

With regards to recreational use immunity, the statute was first passed in 1971. It's clear from the legislative history of that statute that the Legislature clearly intended for it to apply only to private property owners. There's been some discussion in the materials submitted that this was to correct a loophole and I consider a loophole to be an unintended oversight. Well, this wasn't an unintended oversight that it wasn't extended to municipalities. It's clear from the legislative history that they did not want this statute to extend to municipalities. Only private property owners.

For the next 21 years recreational use immunity was never applied to municipalities. Again, there's been some statements submitted in the materials that it always applied to municipalities up until the Conway decision. And then the Conway decision took that away from municipalities. That's not accurate. There's no reported decision at the supreme, appellate or superior court level of it ever being applied to municipalities for the first 21 years of its enactment.

Then in 1992 we have the Manning v. Barenz case, a supreme court case which did apply immunity to municipalities, the recreational use immunity. And then very quickly by Supreme Court standards in Conway v. Wilton the supreme court reversed itself, which really is an extraordinary measure for the supreme court. And they did it because they felt that the Manning case was improperly decided. That court considered many of the legal arguments that are being advanced in front of this committee for extending immunity to municipalities.

And that court, after considering all those arguments, rejected -- specifically the supreme court in that case stated, and I'll quote, to apply the Recreational Use Immunity Act to municipalities imposes too high a societal cost and serves no useful or intelligible purpose. Our analysis of Manning persuades us that the analytical underpinnings are flawed.

In the main focus of that analysis was that this is public land. Taxpayers pay for municipalities to purchase this land. The public has a right to use this land. And they focused on who's the best person to basically protect against municipal negligence and we're talking about municipal negligence here. That's what's causing the injury to these people. Should the injured party bear the risk of the municipal negligence or should the municipality, the entity that has the ability to protect against municipal negligence, should they bear the risk?

And we would agree with the Connecticut Supreme Court in saying that the municipality is in a much better position to ensure against this risk, to make sure negligence doesn't

happen and that it shouldn't be the injured party that has to bear the costs of municipal negligence.

There's other areas obviously that I'm going to defer to later speakers. I see the bell has rung. I'd just like to briefly comment on two questions that were raised previously.

First of all, with regards to the MDC case I really do believe it's the MDC case that is fueling the attention that's being given to this issue right now. And I say that because all of the supreme court cases that have come down on the issue of municipal negligence have been found in favor of the municipality. From the plaintiff's perspective, pursuing a plaintiff's action against the municipality right now is extremely difficult because the municipalities already have the doctrine of governmental immunity.

With regards to the MDC case, though, I believe there was a question about 25-43c and that's and immunity statute, which does apply to the MDC. There was a question as to whether or not it would apply in the Blonski case. I'd point out that the MDC itself maintained that it did apply. They did move, saying it did apply. The problem was they moved too late. They raised it after verdict. They didn't raise it during the trial itself, unless they were prevented from actually raising it at that time.

So I'll defer further questions. Attorney Ecker is actually the attorney who's handling that case. He's going to be up later to speak. So I'll defer further questions on that, but I think that point needs to be made.

Thank you.

REP. FOX: Thanks, Attorney Walsh.

Are there any questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

And welcome, Attorney Walsh.

MICHAEL J. WALSH: Thank you.

REP. BARAM: You don't disagree, do you, with the proposition that a municipality can restrict public members from certain lands that it may own, do you?

MICHAEL J. WALSH: I think that's a complicated question because I think there's forces at work that in some respects should or could restrict a municipality. I mean, there's democratic forces at work. It's municipal -- it's -- basically municipal land is public land.

So you know, in the first instance, I mean, can they legally do it? I don't know. I think it would depend on the property. It would depend on the nature of the property, how the municipality obtained the property. If there are any charters or any other kind of legal documents pertaining to the property. But I think even assuming they did have the control to do that in the first instance, I think there would be second and third levels of review on time.

I don't think that members of the public should just say, you know, okay. The municipality says the land is closed. It's closed. I think it's a much broader and more

complicated question than that.

REP. BARAM: Well, you raised the issue of public accountability, but my question really is, doesn't a municipality, through its board of selectmen and town council, have the legal authority to restrict the use of property?

MICHAEL J. WALSH: And I think I'd stand on my prior answer. I don't know. I think it would depend on the property in question.

REP. BARAM: Well, if it was property that was owned by the municipality without any deed restrictions or conveyance conditions, wouldn't you agree that the municipality has a right to restrict access?

MICHAEL J. WALSH: Again, I understand what you're saying and I think it's probably a little -- in some cases it's probably a little too simplistic to just say yes to that.

Let me give you an example. The MDC property, it's not technically municipal property, but the MDC property was given to the MDC pursuant to a charter. And in that charter -- and I know you've reviewed it, Representative, because you referred to it previously -- there's references to the fact that this land is being given to the MDC for, at least one of the purposes, is to encourage recreational purposes.

The MDC has also obtained a lot of federal and state money over the years. Just the recent enhancements to the MDC in West Hartford, which are beautiful, but a lot of that was pursuant to statutory authority that took into consideration recreational purposes.

So I think it's a complicated question in a

lot of cases with regards to property just to say they can close it or they can't close it. I would concede that there is some municipal land municipalities have control over that they could in the first instance just say -- or close -- I mean, I think that's probably, too, but I think there's a lot of variations on that theme.

REP. BARAM: You also pointed to the Wilton and case. And I assume you're familiar with the dissent in that case as well. Aren't you?

MICHAEL J. WALSH: I am.

REP. BARAM: And how many justices dissented in that case?

MICHAEL J. WALSH: One second. I've got the decision right here.

It was heard before Justices Peters, Callahan, Borden, Katz, and Palmer. Justice Katz wrote the decision.

REP. BARAM: Well it's not meant as a trick question. It was Justices Callahan and Peters. And you know, a quote that is often pointed to in their dissent referring to the supreme court, is that a change in personnel of the court -- it never furnishes a reason to reopen the question of statutory interpretation.

So they go through a pretty long explanation of why, under stare decisis, the court should have followed the prior precedent, you know, in the Barenz case.

So, you know, again, you know my question is that even though you point to the fact that the court in this case said, legislative

intent did not apply initially, I don't think you disagree with the fact that the Legislature still has the right to correct that statute and make it clear if it so deems it proper to do so.

MICHAEL J. WALSH: Oh, I don't disagree with that at all. I think the Legislature absolutely has the right to create and revise any statute.

REP. BARAM: Thank you very much.

MICHAEL J. WALSH: And just to follow up, if I may, if you're interested on just one issue with regards to the claims commissioner which you asked about before.

It's my understanding that with regards to the claims commissioner that if you have a claim against the State for an injury on recreational property the State would be entitled to sovereign immunity, but you can then seek permission from the claims commission to sue the State. If you get permission from the claims commissioner then sovereign immunity is waived and you can proceed with your civil action against the State.

REP. BARAM: I agree with you on that point, but I think that previous testimony indicated that the claims commissioner follows the rule of law as it applies to a private person so in this particular instance, if I got the testimony right, it seems a private landowner, except for if they charge for, you know, charge fees or if there was a willfulness, or malicious or wantoness, would be immune so the state enjoys the same immunity and the inconsistency was pointed out that the state enjoys the immunity, but its political

subdivision, the town, is not.

MICHAEL J. WALSH: Yeah, I wouldn't agree with that interpretation. I mean, I don't think the state does enjoy the immunity. Assuming the state waives the immunity and the claims commissioner -- Claims Commission grants permission to sue, the immunity is waived. They don't have the doctrine of sovereign immunity. I don't think they by default then get the benefit of 52-557(f), which is recreational-use immunity, because Conway v. Wilton has basically said that it does not apply to municipalities and I don't know of any decision in the state of Connecticut that's ever applied recreational-use immunity to the state so I don't think they would get the recreational-use immunity.

REP. BARAM: I would just add that I don't disagree with you. I'm just saying that the claims commissioner in making his or her decision would apply the law based upon the immunity that exists to the private landowner. That's what the state is governed by --

MICHAEL J. WALSH: I'm not sure on that.

REP. FOX: Are there other questions?

Representative O'Neill.

REP. O'NEILL: I'm a little puzzled by the exchange that just occurred -- and you're framing your answers very carefully it sounds to me -- and maybe I'm being unfair to you -- but you're saying you're not aware of any case, well there wouldn't be a case if the claims commissioner never waived the immunity so that you could go to court. I mean there would never be a case if when you went to the claims commissioner, they have a big rubber stamp

that says no to every person who claims that when they slipped and fell at a state park, they -- and they come in looking for their damage award or the right to sue. So are you aware of any claims that have actually prevailed against the state?

MICHAEL J. WALSH: No. I mean -- I think -- as I understand -- and I think Representative Dillon mentioned this earlier with regard to different issues -- that the claims commissioner process, it's -- it's not a well-defined process. It's set forth in 4-160 of the General Statutes and essentially, you go to the claims commissioner and you seek permission to sue, and it's not clear what the standard is by which the claims commissioner makes that decision. I think the language is something pretty vague like the claims commissioner determines if it's a valid and meritorious claim. In my experience, it's been -- typically, if you have strong facts and you have an egregious case, you typically do get permission but if you have weaker facts and perhaps a less-strong case, you don't get permission. And I should also point out that it varies based on the ideology of the commissioner, as well. We've had some commissioners that have been more inclined to grant permission to sue and some commissioners that have been less inclined to grant permission to sue.

So -- I mean to answer your question I mean, yes, if -- if the claims commissioner denied permission to sue then you never would have a lawsuit. You would never have an appellate decision applying recreational-use immunity to the state; that I agree with. But I don't know of any decision where they granted permission to sue and the recreational-use immunity statute would then apply in the

superior court to give them -- to give the state recreational-use immunity.

Did I lose you -- do I lose --

REP. O'NEILL: Yeah, you did. Because I think the way -- if I understood Representative Baram's approach to this thing and the way this would get applied is the commissioner -- one of the -- part of the standard that I believe is part of the statute is that if a private party would be liable then the state should be liable. I mean I think we look at that when we get the cases here from the claims commission, because again, if I'm not mistaken about the process -- and someone can correct me if I'm wrong -- but that the claims commissioner can't really grant the permission to sue. He recommends it and then the Legislature grants permission to sue. So -- and I don't -- I don't remember, we may have, in fact, granted permission to sue when the claims commissioner recommended that we do so in a certain kind of case where somebody slipped and fell in a state park, but that's the point at which the recreational immunity statute would get applied because it's part of the analysis as to whether or not when you apply the private-party standard -- and recreational immunity is part of the private-party standard that would be available to a private party -- then when you do that a commissioner can say well a private party wouldn't be liable therefore the state should not allow a suit to proceed and would never make a recommendation.

I guess my first questions based on what I understand of the process, do you know of cases where -- and it sounds like you're saying you did -- but do you know of actual cases where the commissioner recommended that

an individual who was injured in an recreational property, a state park, was granted permission to sue.

MICHAEL J. WALSH: No. I don't know any cases in that situation, but I guess the thing I'm having difficulty with is the premise that the claims commissioner would just look at a claim against the state, for example, the state park, and analyze it the same way that that someone would analyze a claim against a private property owner and the reason for that is the case law is -- so clearly separates the public land and the private land, because the whole -- the whole dynamic is changed when you're talking about public land. The -- in the Conway decision, I think, highlights that so I guess that's where we -- I guess I have a little difficultly with the proposition that the claims commissioner just say, okay, we have a recreational-use immunity that applies to private land owners, I'd apply it to the state. I think under Conway v. Wilton I think that probably wouldn't be the proper analysis.

REP. O'NEILL: Well, -- but Conway v. Wilton didn't involve the state, did it?

MICHAEL J. WALSH: No. It applied -- but it applied to public land and the analysis of Conway v. Wilton basically said, look, when you're talking about public land, it makes no sense to shift the burden from a policy standpoint to the injured party. When you're talking about a private landowner, you have one landowner, okay, and if that one landowner wants to make his property available to -- to the members of the public then if you don't shift the burden to the injured party then it's the single landowner that's going to bear the risk of the negligent injury. And what Conway says is well, when you have public

land, that risk can be spread among the public, the public owners of the land. It's much easier to spread that risk among a large entity, for example, a municipality, that's what they were doing in Conway.

And so that's why the Conway decision made a big distinction between public land and private land and that's I think if a claims commissioner was looking at this -- and I don't know of any reported precedent -- and was trying to make a decision, you know, do I apply the recreational-use immunity statute to this injury on the state property, I would submit that the more appropriate analysis would be for him to look at Conway v. Wilton as guidance even though it's municipal land and not to apply it. Make a decision based on the merits basically on a negligence type analysis.

The other issue is -- remember the recreational-use immunity statute only applies to private landowners who don't charge a fee. So the argument is with public land -- I mean members of the public are paying taxes and by virtue of paying those taxes, the public entity or the municipality or the state is entitled or able to buy property so granted it's not a specific fee or specific use but there is an issue here that again is distinguished from the private landowner that just basically makes the property available.

REP. O'NEILL: But -- just to be clear, you don't know of any case where the state of Connecticut has been successfully sued going through the claims commission process and that the plaintiff has prevailed and won a judgment based on having been injured on state-owned land.

MICHAEL J. WALSH: No, I'm not aware -- I mean there might be a case out there, but I'm not aware of it.

REP. O'NEILL: Thank you.

Thank you, Mr. Chairman.

REP. FOX: Thank you.

Are there other questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Just quickly, so if I understand your testimony, you're saying that your interpretation of the Wilton case is that taxes constitute a charge or a fee and that the emphasis or discussion of public land would apply to the state so, therefore, the claims commissioner, if such a claim came to him or her, would be bound by that Supreme Court case and should allow a claim against the state if he finds any kind of negligence.

MICHAEL J. WALSH: No. I -- I think there's a few things in there that I -- that I take issue. First of all, I don't think the claims commissioner would be bound by Conway v. Wilton and I think Conway v. Wilton turns on the issue of taxes. I think Conway v. Wilton did turn on the issue of public property. I think that was an important thing to Conway v. Wilton and the decision clearly looked at who should bear the risk. Should it be the injured party -- and remember these are injuries caused by municipal negligence -- should the injured party bear the risk of municipal negligence or should the municipality bear the risk of municipal

negligence and the Conway decision said it should be the municipality. But I think the point I was trying to make with regards to Representative O'Neill was if the claims commissioner is trying to decide what law to apply to this situation where a claim comes (inaudible) injured on state land, I think the question I think he'd be faced with is do I apply the recreational-use immunity statute or do I apply Conway v. Wilton. What's the appropriate analysis for me to apply here.

And I think -- I think -- although, I don't think he'd be bound by it -- I think Conway v. Wilton, being that it it's public land, is probably the closer analogy than the recreational-use immunity statute.

REP. BARAM: Then I guess what you're suggesting to us is if there's going to be a change of analysis by the claims commissioner then this committee and perhaps the Legislature needs to understand that the state could be open to claims that heretofore it was not liable for under the old -- under the old, you know, legal precedent.

MICHAEL J. WALSH: Yeah. I think the only point I'd make is -- I mean I think the reason this is was all raised in the context of 6557 was as to whether or not there should be parity between claims against the municipality and claims against the state and I can tell you that -- from experience, claims against the state are always treated differently in every single context of personal injury law and it is because the state has something that is unique and different than every other defendant. The state has the doctrine of sovereign immunity and it applies to no one else. The municipalities have the doctrine of governmental immunity, but the doctrine of

sovereign immunity is specific to the state and you're never going to have a parity situation with regards to a situation involving the state and a situation involving anybody else. So I mean (inaudible) launched us into this discussion, but quite candidly, that's just not going to happen because of the claims commissioner and everything else.

REP. BARAM: Thank you.

REP. FOX: Are there other questions?

Thank you very much.

MICHAEL J. WALSH: Thank you.

REP. FOX: Steve Ecker.

STEVEN ECKER: Good afternoon. So my name is Steve Ecker. I am the plaintiff in the Blonski case right now, although that's not what really brings me here, on appeal. I was also the lawyer for Amy Conway a bunch of years ago, coincidently. I have an affiliation with the Connecticut Trial Lawyers Association, although I don't purport to be representing that body. I don't think this is really about special interests so much as it's about good public policy. I feel personally pretty strongly that House Bill 6557, which I'm speaking in opposition to is bad public policy and I'd be -- appreciate the opportunity to explain why.

The -- there's a lot of misinformation that's sort of spinning around this -- this chamber and I say that with all due respect and it certainly isn't coming from -- your side of this bench, but there is just a tremendous amount of myths that have no business informing public policy in my opinion. One of

those myths has already been gone over, which is the idea that this is somehow a restoration of an immunity. I mean, that's not true. There was a four-year period between Manning and Conway in which there was immunity. That was the four-year period. Every -- for all other times back to 1929 there's cases certainly in the 80s there are cases, Supreme Court cases, where there's no question -- there's municipal immunity intended under that statute. That's one myth. Another myth that I think is very important is this idea that there are -- there's a problem here. That's a pretty important myth. I mean there's been a very good public relations campaign that's brought a lot of very credible and important organizations to this -- to support this bill. I feel bad for those folks because they're misinformed and they're misinformed because this has nothing to do with Sierra Club and those environmental bodies enjoying their -- where they hike. Nothing is going to get shutdown and there's no risk of immunity -- I'm sorry -- of liability here to any of them.

I mean, you know, there's the Blonski case. I think that's about it. I understand there was a settlement, not a -- not an adjudicated case. There was a settlement in a case in Waterbury and that's because Waterbury happened to have their precise policies and regulations that led to that liability, but generally speaking, you know, there's immunity under -- under the 52-557(n) for all discretionary acts and if you look at the cases in this area, one after another after another after another are thrown out on governmental immunity grounds. These are discretionary acts to keep the (inaudible) for something else and they're thrown out.

The other -- the people in support of this

have not come up with a single example other than Blonski and I think that's telling. You know, for all of the research that they've done and all of the arguments that they've come up with, not a single example other than Blonski. That brings me to Blonski because you all heard from a gentleman today, who is the chief administrative officer, and there are just a couple of things I'd like to point out. I mean, the fact is that they had an immunity and they didn't plead it. We don't know why they didn't plead it. Under 25-43(c), it clearly applied here according to the MDC. After the verdict, they moved the court and said, oh, Judge, we forgot we had this immunity, could you please eliminate the jury verdict. And the Judge said well it's a little too late. So I don't say that to embarrass the MDC, but you know, maybe it was a strategy decision. For whatever reason, they didn't plead their immunity. They don't need an immunity because they have one under that statute.

Now, I understand Representative Baram said, well, in some other situations, maybe they might it. Well, you know, maybe in some other situations they might need it, but it's certainly not what brings us here today, you know. And the gentleman who spoke earlier, you know, I feel an obligation to be honest with you all. If nothing else, I'm going to be honest here today. You know, the gentleman from the MDC was asked whether he was aware of whether -- why that hadn't been plead as defense or whether it had been plead as a defense -- I don't want to misstate the question -- but I know what the answer was, I don't know. So the chief administrative officer of the MDC is telling the Judiciary Committee of the Connecticut Legislative that he doesn't know about whether the defense was

-- was plead. You know, maybe that's true. I don't know. But it's -- it causes me concern about everything.

You know, the fact is -- and I understand my time is up and I'll stop here -- but in terms of the public policy, this is what I would just, you know, ask of you folks, which is this, if we're going to do public policy, let's do it and that means let's figure out whether there's a problem here, whether there's any increased costs at all to municipalities as result of the -- this legislation. Are the insurance rates higher? Are they facing liabilities other than the MDC case? Is there a problem here? Are the bike riders and these folks who love the outdoors, as we all should, are they at risk of having the government shutdown with respect to recreation? You know, I seriously, seriously doubt it. On the other side, there are costs that don't get mentioned. You know, if there's a immunity here, the cost of this injury to Ms. Blonski or whomever -- it could be our son or daughter -- they don't go away. Those costs don't disappear because there's an immunity. The costs remain. The only issue is who pays them.

So there's three -- so there's a couple of options. One is that the -- the tort (inaudible), that is the negligent party would pay them and then they would pass it on to the other people who use their services. It's like loss spreading. And generally the tort law things that's a good idea because it's -- it's -- you put the cost on the party that causes the injury and it causes deterrents. It creates deterrents. That is, it makes them act more carefully. If the city of New Haven, where I live, is told well it doesn't matter what the public parks are, you know, like

because you can't be held liable. You know, if there are good people in charge, they will keep maintaining the swings, and the bleachers, and the tennis courts and everything else, but maybe they will respond the way the rest of the human race responds when they're told there is no accountability and that would be a problem.

So, you know, we have the problem that if the municipality isn't liable then the cost will fall one of two places, either the individual themselves and they will have to bear the entire costs of someone else's carelessness or -- and/or the health -- the medical health care cost system. I mean they'll have insurance it will be paid for by, you know, Aetna or Blue Cross/Blue Shield or somebody else and those rates will go up. These costs don't disappear and it's -- I respectfully submit that a good public policy would look at that entire picture and ask where the costs are best born looking at the broader picture.

So I could talk forever and I apologize for going over, but thank you for your indulgence.

REP. FOX: Thank you.

Are there questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

Welcome, Attorney Ecker.

STEVEN ECKER: Thank you.

REP. BARAM: I have a question. I'm puzzled about one part of your testimony, which relates to your Myth 2. You indicate that there is no

risk of liability and you pointed to the statutes 52-557(n). So my question is why was this suit brought in the first place if there's no risk of immunity, why -- why did you sue the MDC?

STEVEN ECKER: Well, the -- there are exceptions under that statute that were designed by this body as what has turned out to be extremely narrow exceptions to liability for municipalities. One of those exceptions is what's called the proprietary function exception. When a municipality is acting more like a business then it is like a government then they're liable. It's -- it's one of the narrow exceptions, as I said. The jury in this case was asked, I believe -- the question in this case -- one of the questions was is the tortious conduct here, is the negligence, if you will, intimately connected -- or intricately, it might have been -- I know it's an "I" word -- connected to the proprietary function and the jury came back and said yes it was and the reason -- the basis for that in the evidence was that there was testimony in the Blonski case that the gate was put up in order to protect the water supply. A supply of water is a proprietary function under Connecticut law, and therefore, the negligence affected the -- you know, the -- the proprietary function.

So there was an exception under the statute and I don't mean to suggest that there aren't any exceptions. Now, one of the other provisions of that statute is very important not only its discretionary function, but for any -- for the condition of natural land, there's no liability so that, you know, if it's just the open fields, there's the open forest, there's no liability anyway. That's why I say that I think the environmental

groups would such a good-faith concern about maintaining those things open shouldn't be worried. You know, usually what this about, what this liability issue is about for, I believe, in nine times out of ten cases, are tennis courts and basketball courts, parks, bleachers and things like that. You know, and as the representative from MDC pointed out, when a case was brought with respect to a mountain biker, that case was thrown out on summary judgment.

So there's not much liability here, really, and you know, if there is let's -- let's hear the evidence about it. I mean, I would just ask those -- those folks, the municipalities to come in and prove it like the doctors have to do. You know, you're not supposed to be able to just make this stuff up.

REP. BARAM: Well, I guess I'm still puzzled because you -- I think you admit that the court in your particular case did not consider the recreational land use immunity statute because it had been deemed not applicable to this particular entity.

STEVEN ECKER: That's correct.

REP. BARAM: So the exception that you talk about has nothing to do with the statute, that has to do with other theories of negligence whether it was, you know, notice of a defect or proprietary as you redefined it, but the statute that we're talking about today had no applicability because the Supreme Court had already ruled that it had no applicability to special districts or state subdivisions.

STEVEN ECKER: But what I'm saying -- I disagree with the statement -- I mean, what I'm saying is that under 52-557(n), which is the statute

for the liability of municipalities.

REP. BARAM: I'm sorry. I'm not --

STEVEN ECKER: There's an exception in that -- there's an exception in that statute for -- in other words, it says, look, municipalities shall not be liable for discretionary functions like, you know, whether you have a gate or not, unless there's -- it's in connection with the proprietary function and the reason that the MDC is liable here under these unique circumstances, the -- and I say that with some confidence because it hasn't happened before in the last 15 or 20, 25 years, is because they happen to be engaged in both the proprietary function -- I'm sorry -- in discretionary conduct and a proprietary function. So you know, they lost out. Again, they had another completely different immunity available to them under 25-43(c)(e) and they didn't plead that as a defense.

So I'm not sure why the citizens of the state of Connecticut should pay for their decision not to plead the defense. It's there.

REP. BARAM: Well, I guess -- I guess I'm still -- I won't belabor it. I'll just indicate that I'm still puzzled, because clearly if 52-557(f) and (g) were applicable, there's a possibility that the MDC would had not have been liable unless one of the exceptions to that provision prevailed such as wanton, willful neglect or --

STEVEN ECKER: That's --

REP. BARAM: -- (inaudible) other defect --

STEVEN ECKER: That's true. Although, we don't know whether -- maybe they wouldn't have plead

that. I mean, this body can only do so much for the MDC. You can provide them with yet another cumulative, additional, unnecessary immunity and see if maybe they will plead that in their special defense. You know, and I'm not harsh on -- I'm just -- these are the facts. The immunity was available to the MDC. It's right there in the statute. They are aware of it because they plead it in prior cases. I could demonstrate that to a certainty. They didn't plead it. So -- so the idea here it seems is like -- well, let's supply them with another immunity. I don't understand that.

REP. BARAM: Well, thank you very much.

STEVEN ECKER: Thank you.

REP. FOX: Are there other questions?

Representative O'Neill.

REP. O'NEILL: I just have to ask. I mean what did they plead. I mean if they didn't plead any of the immunities, which would be, you know, pretty strong defenses, what -- what was their defense?

STEVEN ECKER: Well, they -- they did plead -- as I recall, they plead the municipal immunity. They plead a defense under 52-557(n) saying it was a discretionary function and it wasn't proprietary. So they plead that. And they also plead the recreational use statute.

REP. O'NEILL: Except that for a long time the recreational use statute hasn't applied to entities such as them.

STEVEN ECKER: Right. And one of the things they're asking the Supreme Court to do is

reverse Conway. But those were their main defenses. And their main defense was they weren't negligent. I mean, you know, like -- maybe they didn't plead the other immunity because they thought they were going to win. You know, lawyers sometimes do have a -- they have assume they're going to win so they don't plead everything they could plead. I honestly and truly do not know what their thinking was or whether there was any thinking. I'm assuming that it was strategetic because I know that they did -- they were aware of the available immunity and they -- that they didn't put in the special defense, but they did plead some. They just didn't plead 25-43(c).

REP. O'NEILL: Thank you, Mr. Chairman.

REP. FOX: Are there other questions?

Representative Aldinolfi.

REP. ALDINOLFI: Thank you.

You might have cleared something up for me but I want to make sure. You mentioned that if somebody was walking through the forest, open space, I don't know whether that's considered a recreational facility or not, like we have a Roaring Brook Trail in Cheshire and a lot of people hike up that hill to get to the top of the waterfall and look at it and it's a rough hill to walk up and you can fall. I've done it a number of times. Thank God I didn't get hurt bad. But you're saying that -- that those people, the municipality is immune right now. They don't need this new law to protect in a case like that. What this new law is doing is protecting them -- well you mentioned a swing set, something like that.

Am I correct or am I misinterpreting it?

STEVEN ECKER: That's -- that's -- no, that's exactly right. You know, 52-557(n)(b) says notwithstanding the provisions of Subsection A, which is what provides some liability, political subdivision of the state employee, et cetera, shall not be liable and the -- and then there's ten -- ten different exceptions -- places where they're not liable, one of which is for the condition of natural land or unimproved property.

REP. ALDINOLFI: Okay.

STEVEN ECKER: So -- you know, the problem is if a municipality improves recreational property, makes a tennis court, makes a -- anything, to say, come in and play here, then the theory is it should do so safely.

REP. ALDINOLFI: Because most of the people that I've listened to here today seem to be more worried about the hiking trails and stuff like that.

STEVEN ECKER: Precisely.

REP. ALDINOLFI: But right now, as the law is -- is written now, we have a linear trail in town and -- for having handicap access, it had to be 10-feet wide and it had to be blacktop. Now, (inaudible) event you have (inaudible) you get a crack that's six inches high through the winter and somebody trips and gets hurt, breaks a leg or something, under this new law, the town would not be liable for that?

STEVEN ECKER: Right. As I understand under the proposal, the town wouldn't be liable for any negligence, you know, any negligence at all unless it was willful and willfulness usually

means, you know --

REP. ALDINOLFI: I mean, if they let it go for a couple weeks without fixing it I think it's negligence.

STEVEN ECKER: Right. But under the proposed bill, they could let it go for six years. It wouldn't matter. Unless there was proof that they tried to hurt someone, there would be immunity and, you know, I still think we can ask the government to provide recreational facilities that are safe and that that's a reasonable request on the part of the citizens. We're not asking them for a favor. When we ask private landowners, that is a favor, but with the government it's different.

REP. ALDINOLFI: Thank you. You cleared something up for me. Thank you.

STEVEN ECKER: Thank you.

REP. FOX: Are there other questions?

Thank you very much.

STEVEN ECKER: Thanks.

REP. FOX: Tim Linehan.

TIMOTHY LINEHAN: Good afternoon. My name is Tim Linehan. I chair the Connecticut chapter of the Appalachian Mountain Club. I feel a little like I'm walking into the lion's den here coming in after the last two speakers. I want to start off partway down my written testimony. I'm a rock climber in Connecticut and I can tell you that over half the rock climbs in the state of Connecticut are on public land and almost all of them have been closed since Conway v. Wilton.

I worked with the Access Fund and the Ragged Mountain Foundation several years ago talking with municipal landowners to discuss their concerns and they've expressed -- sorry -- potential liability as a key reason why their risk managers were advising them to restrict access to and activities on the land that they manage. And the Conway decision specifically was referenced as a reason for the closures to rock climbing. That affected both MDC property, New Britain Water Company, the Town of Meriden, the Town of -- I think -- it's Watertown. There's a park out there that is sometimes open, sometimes closed. But it all hinged around liability issues.

And one can understand a municipality's desire to protect its taxpayers from increased insurance premiums and deductibles, and some of the expenses that don't get counted in the conversation so far are just the discovery process that folks have to go through with the 52-557(n), I think was referred to. There is fact-based stuff and I'm not an attorney and I'll defer to some other folks on that. But that's come up several times in the conversations that we've had over the last few months in getting ready for these proceedings. But the AMC volunteers lead over 1100 hikes, cross-country ski trips, flat water and white water paddles, bike rides, rock climbs, trail maintenance, work parties, river clean-ups, and a series of seminars. And continue to all ow access to the natural resources on municipal land is crucial to maintaining the number and variety of activities that our chapter offers to the residents of Connecticut.

And if I can make one quick comment on the historical aspects of Conway versus Wilton.

After Manning, it's my understanding that there were separate attempts in the Legislature to strip municipalities of the protections that were extended to municipalities -- liability protections that were extended to municipalities by the Manning decision and the Legislature chose not to act on any one of those three sets of hearings -- public hearings like this that took place -- and it wasn't until there was a changeover in the personnel of the court -- that Representative Baram referred to -- that essentially, the Supreme Court reversed itself. So there is a legislative history to this. It's more than just the lead in to the recreational-use statute. There was also several public hearings here after Manning and prior to Conway that also had a direct bearing on that.

REP. FOX: Are there any questions?

Thank you very much.

TIMOTHY LINEHAN: Thank you.

REP. FOX: John King.

JOHN C. KING: (Inaudible) sat here right before you called me, of course I dropped all my papers.

Senator Coleman, Representative Fox, members of the Judiciary Committee, my name is John King. I'm an attorney with Updike, Kelly & Spellacy and I'm here representing the Connecticut Catholic Conference -- Connecticut Catholic Public Affairs Conference in support of Raised Committee Bill Number 6555, AN ACT CONCERNING CIVIL ACTIONS AGAINST THE STATE AND MUNICIPALITIES FOR THE SEXUAL ASSAULT OF CHILDREN. Under current law, including the

Are there other questions?

Seeing none, thank you, Attorney King.

JOHN C. KING: Thank you.

REP. FOX: Eric Hammerling.

ERIC HAMMERLING: Good afternoon, Senator Coleman and members of the Judiciary Committee. My name is Eric Hammerling and I'm the executive director of the Connecticut Forest and Park Association. I'm here today in support of H.B. 6557. I am slightly dismayed that Representative Baram isn't in the room because this is a time during my talk that I wanted to complement him for the outstanding that he's done. Ah, good. Thank you for your outstanding efforts, Representative Baram. Since the public hearing last July where the MDC considered closing its recreational lands Representative Baram has worked diligently on this issue and has really worked to try to broker a compromise that would increase the protection against the liability for municipalities -- excuse me -- municipalities on recreational lands in a reasonable way. Representative Baram has been a problem solver who has met on numerous occasions both with advocates in support of restoring recreational liability protection to municipalities as well as representatives from Trial Lawyer Association to try to come up with a balanced approach on this issue.

I do feel compelled at this time to depart from my text and to respond to a couple of things that were raised by an earlier speaker as myths and misinformation. I certainly take exception to that. The assertion was made that towns won't close lands. Well, actually, after the Conway v. Wilton decision, at least

25 towns closed, restricted or held off on acquiring open space due to liability concerns. The assertion was made, where's the problem? Well -- and then the acknowledge of well, there is this little MDC situation, but where's the problem. I don't really understand that -- that logic. If there is a case, if there is a problem, well, there is a problem. There was a question on the restoration of immunity and suggesting that there is restoration because the Recreational Land Use Act of 1971 was never meant to include municipalities and the Conway decision didn't affect -- there wasn't a restoration of immunity associated with that. Well, there was the Manning, which very specifically recognized municipalities under the Recreational Land Use Act and so those four years, I don't know why they cease to exist in his analysis and that's why we say, it is a restoration.

There was an assertion that the MDC blew it in their defense by not pleading with 25-43(c) and I think Representative Baram very eloquently some of the ways in which 25-43(c) is insufficient and in this instance, too, it only impacts municipal water companies. It doesn't affect other municipalities so it really isn't the broad-base reform on recreational liability that we're working so hard for. There are also -- it has been the assertion that 6557 would be providing total immunity to municipalities. Well, actually, again, as it's been pointed out, municipalities would still be liable for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity and this bill goes even further by adding swimming pools, playgrounds and tennis courts that would be held to the current standard. And -- so we're not talking about

complete immunity. We're talking about limited immunity.

And then lastly, I think it is very important from a public policy perspective to understand the consistency argument, which is just so critical. If you were walking on a trail -- and actually, one of the trails that was mentioned earlier, the trail in Cheshire, that is actually improved land. That's improved land. It would not apply in Subsection (n) of the statute or -- and I think it was being misapplied in the testimony that was made earlier. I guess -- let me just conclude with -- with my last thought on this, there is a lot of public support for rationalizing and reforming liability in the case of recreational lands. There are have been fourteen bills put forth in the Legislature. This is the fourth public hearing that's being held on this. There have been thousands of recreational users that have expressed an interest in doing something about this issue and if you think about the policy priorities associated with the economic and health benefits associated with recreation and the approximately 150,000 acres of municipal lands that could be affected if this is not fixed, I think that is -- that should be more than enough of a priority to have this effort moved forward.

So I thank you for your time and having an outstanding hearing today. So thank you.

SENATOR COLEMAN: Any questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

I would be remiss if I didn't thank Eric

Hammerling for his kind comments and I wanted to convey the same to you. It's been a pleasure working with you to try to work out an acceptable bill that tries to take into account everybody's concerns, and hopefully, we will find a way to get this enacted. And I thank you for all your help.

ERIC HAMMERLING: Thank you. That's certainly the hope. I think what you have put forward on what the Judiciary committee is going to be considering really is an outstanding compromise which does get to that -- that balanced goal and is going to ensure and safeguard the protection and enjoyment of recreational lands for all citizens of Connecticut. Thank you very much.

SENATOR COLEMAN: Are there other questions?

Seeing none, thank you, Eric.

Billy Caron? Donna Jacobson?

Evelyn Miller.

EVELYN MILLER: Hello, Senator Coleman and members of the Judiciary Committee. My name is Evelyn Miller. I am a survivor of molestation, incest, beatings and rape. I know it's a lot to put into one sentence, but that's how to describe my childhood. SB 1033

I came from a family of 11 children, four brothers, six sisters. We were very well-known in our town. My first remembrance of -- was at the age of four when I was molested by one of my brothers. My molestation was almost daily. At the age of nine, my father wanted to oral sex. My mother was told. And at that age, the age of nine, I was called a slut and a whore and beaten by my

Flakos or Flakos? Mary Sanders? David Kozak? Michael Tangoray? Gary Pike? Mike Stockman? LaResse Harvey, I see. Jean Ellen -- yes, that's what I was going to say. Joe Adamaitis? Joanne Bower? Maria Ludwig?

A VOICE: It's Marla and I don't (inaudible)

SENATOR COLEMAN: Marla, okay. Ron Thomas? Okay Bruce Donald you may proceed, sir.

R. BRUCE DONALD: Thank you. Senator Coleman, Representative Fox and members of the Committee, my name is Bruce Donald. I'm the president of the Farmington Valley Trails Council, a Connecticut 501(c)(3) formed in 1992. We advocate and raise funds for as well help maintain multi-use trails in the Farmington Valley of Connecticut. On behalf of our board of directors and our over 1,400 members across Connecticut I would like to affirm our support for H.B. 6557 and thank you for your consideration of this legislation.

Let me give you some brief background information on the Farmington Canal Heritage Trail and the Farmington River Trail that pass through 13 communities in Connecticut. The whole system is over 70 percent completed, i.e., paved at this time. It's very heavily traveled but bicyclists, pedestrians, commuters and tourists. A laser counter that we put on the trail in southern Simsbury showed at night in 2008 2,378 visitors. That's two years ago. We know for a fact that it's more than that now.

That's -- and -- and again just one section of the trail as well. It's a growing destination, an important part of the economy and a regional showcase for tourism. I would also add it's a safe off-road connection of

many town centers creating point-to-point transportation corridors.

Municipalities rarely own the land underneath these trails. These are former railroad lines. In most cases it's owned by the state and leased back to the municipality. They are not exempt from negligence nor should they be. However they own the improvements on the land, these municipalities, the paving, the bollards, the gates, the fencing, amenities, pavilions, whatever else is put up within those borders.

These certainly qualify as structures and should be entitled to immunity under the recreational land use act. The worry is that the president of the MDC case will dump more suits on municipalities that must be defended whether they're frivolous or not. And there's also a very real chilling effect on new adopters. There's no question the towns that are looking to build these facilities, and I should -- I -- I will name Plainville as one and Bloomfield as one, for the first time are starting to imagine taking on additional liability in legal bills and it really would be a disaster for the state if, in a difficult time for sourcing funding, building the remaining gaps in one of the best trail systems in New England grounds to a halt with only 70 percent of it built.

Senator I -- I mentioned Plainville on purpose. Plainville and Bloomfield are among the towns that currently are looking to build links. Plainville is really the last -- last town in the state for the Farmington Canal Heritage Trail that runs from New Haven to Northampton, Massachusetts and Plainville -- I mean for one thing it's difficult to find money right now but for another if you're in a

conundrum right now about what type of liability you're looking at when you actually build it, we have another issue as well.

So anyway that's all. I wanted to keep it short.

SENATOR COLEMAN: Are there questions?

Seeing none, thank you for your testimony.

R. BRUCE DONALD: Thank you, Senator.

SENATOR COLEMAN: Geoffrey Meissner, Susan Masino, David Cooney.

DAVID W. COONEY: Senator Coleman, Representative Fox, members of the Committee I'm David Cooney. I live in Bloomfield and practice law here in Hartford. I'm president of the Connecticut Trial Lawyers Association. I'm here to testify in opposition to Raised Bill 6557 and in support of Bill 1232 which would be an amendment and a clarification of 52-557n.

What I really want to do is to talk about a case. Maybe some of this discussion into a real life experience. This goes back about 20 years ago, a little more than that, to a client I represent, a five year old boy. A municipality and recreation department decided that at various recreational facilities to hold toys and sporting equipment, things like that. They were going to have these big steel containers. You think about steel -- the garbage -- you know where you throw the garbage in, that sort of thing, with a steel roof on top. So they decided that's where they're going to keep sporting equipment at playgrounds where young kids would be playing.

The way this thing was designed has a steel top just the way many garbage dumps have. It would just sort of lean back like this. No mechanism to hold it in place. It would just sort of fall back as far as it would go but it was pretty much upright.

So my client is five years old. He's there with his older sister at a summer rec program. He's playing with some of the other kids. He's directed to go over to this box. He's looking for some sporting equipment. They said go over there and get it. He goes over there, has to stand on something to reach in to get it and as he reaches in the wind blows. The unsupported steel roof, on what's essentially garbage dumpers, falls down and amputates his thumb.

He's rushed to Yale-New Haven Hospital. They put his thumb back on but despite the best efforts of one of best hand surgeons in Connecticut it didn't take and two weeks later they had to amputate it. Eventually, when he was about seven years old, the doctors decided that the only way that he could have a thumb, and as we all know thumbs are -- they come in mighty handy, no pun intended, the only way that they could fashion a thumb for him was to take off, to amputate, his master toe, his big toe, and put that onto his hand so he would have something approaching a thumb. Not the thumb like we have but something so he at least had some minimal abilities (inaudible).

The boy I'm talking about is Keith Manning. You've heard this Manning case going around all the time. This is a true story and Keith Manning's case was thrown out of court because in theory this was something where the town should have immunity. Under the existing law Keith would not be able to win this case

because under 52-557n what I would suggest were pretty stupid decisions by recreational director and by the camp counselors to allow little kids to be going around something that is just unbelievably dangerous. That's okay. I mean under existing law the town would be let off the hook under 52-557n.

Under Raised Bill 6557, again, Keith would have been out of luck. I just bring that to the Committee because we're talking all these abstract notions of what's going to happen. This is something that did happen and he was turned out of court and he got nothing and he has to live with a deformed hand which will never work properly for the rest of his life.

Thank you.

SENATOR COLEMAN: Thank you.

Are you -- are there any questions?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman and to my friend Attorney Cooney.

A few quick questions. In a case like that given the then existing statute as it existed, could you have made a claim for negligent supervision or product liability in terms of how the storage bin was created and made? Was the land use issue the only basis for going forward?

DAVID W. COONEY: First you could not make a claim under product liability because there was no sale of a product which is the first step in terms of making a product liability claim. I mean in the claim, in the lawsuit, that was brought on Keith's behalf there were claims of

negligent supervision, absolutely. We claimed that the camp counselors were negligent and not properly monitoring the kids' activities, not helping them, you know, when they had to get something out of this -- this trap. And we claim, you know, all sorts of things. I mean we didn't make a claim under the recreational minimum statute. We said that the town employees were negligent by selecting and locating where kids were playing a dangerous (inaudible).

And second by having counselors there who just were not thinking. They just were not making intelligent decisions in terms of how to -- to watch kids. And so it's not as though we claimed the recreational language statute, we say they're negligent. The town then raised this defense and I'll -- I'll never forget. I was in a pretrial in court before Judge Satter who was a member of this Committee back in the early '60s and early '70s and he's a -- a Superior Court judge. And the issue was raised in a pretrial and Judge Satter said, you know, that's absolute nonsense.

I was on the Judiciary Committee. I was in the legislature when this law was passed in 1971 and we clearly said, and it's clearly stated throughout the legislative history, that the recreational land use immunity statute was not intended to (inaudible) to municipalities (inaudible).

And despite that the Supreme Court in the Manny versus Borenz chose to completely ignore the legislative history. They just ignored what everyone on this Committee as (inaudible) in 1971 said as far as what the intention of the law was and the legislature clearly said back then what we're trying to do here is to give an incentive to private land owners to

open up land for recreational purposes. We don't have to give that incentive to towns in the state because that's their responsibility and the function of the state and the municipality.

I don't know if that answers your question.

REP. BARAM: It does and obviously you -- you've shared that story before and it happens to be a -- a Bloomfield story as well.

DAVID W. COONEY: That's true.

REP. BARAM: The recreational director Hal Barons was our long-time director of parks and recreation. I -- I would just point out that I think that the kind of incident you talk about with a, you know, a storage apparatus is a little bit different than the type of immunity most of the people are concerned with and as you -- you know as -- as we have discussed there probably is the ability to carve out, you know, an exception for, you know, some kind of a -- of an apparatus like that because I don't think anybody in the wildest imagination intended for a storage facility to be part of this immunity which is why the statute, or the bill that's before the Committee, has a number of carve outs already for things that, in all fairness, people felt should be municipal responsibilities by pools and -- and swimming pools and -- and playgrounds and tennis courts and that type of thing.

But I -- I do think that the general concept of -- of immunity for areas that parties, members of the public use and recreate it would be an impossibility for towns to police these areas and the cost I think would be prohibitive.

And so at any rate I know that we've been working together and I hope we can still do that.

DAVID W. COONEY: And I do too. Just one last comment, Representative Baram. As I indicated I'm here both to oppose 6557 but I'm -- I -- I really am talking as much about my support for Raised Bill 1232 which really is -- Attorney Kennedy indicated earlier today would make municipal (inaudible) a lot more sensible. I mean in -- in the case I'm talking about with Manny versus Borenz there could have been lots of other cases like this. I mean where you have individual workers (inaudible) making bad decisions. And our Supreme Court isn't throwing out every single one of them.

So I think the focus today has been primarily 6557 but I would urge the -- the Committee to carefully look at Raised bill 1232 and I would urge the Committee to vote that forward.

Thank you.

SENATOR COLEMAN: Are there other questions from other members?

If not, thank you, David.

DAVID W. COONEY: Thank you.

SENATOR COLEMAN: Pat Flakos? Mary Sanders?

MARY SANDERS: Good evening. I'd like to thank the Chairs and the members of the Judiciary Committee for hanging in there with us and being here all day and listening to so many critical issues. I didn't realize there was going to be such a packed agenda and learned a lot today myself. I'm here to speak on Senate

SB1230

LARESSE HARVEY: Yeah and she was seen -- you know she was guarded by guards (inaudible).

REP. DILLON: And -- and maybe this wasn't something that you came across, but I know that when you look at some of the information that was collected by the commission over the past six years, they identified a number of risk groups, that would be juveniles, immigrants, gays, people convicted of nonviolent crimes, very often, technicals or minor drug offenses. There were questions about whether, for example, a gay or transgender would be put in segregation and whether they would have any ability to choose that, to ask for that, if they believed that they were at risk.

Were you aware of any policy like that?

LARESSE HARVEY: No, I was a first-time offender so I was (inaudible) to -- to that information but I was -- I thank God for that counselor when he -- he believed me and so I was moved and I never was in contact with that female again. So I -- you know, sometimes it takes just one person to help.

REP. DILLON: That's right and thank you so much.

LARESSE HARVEY: Thank you, Representative Dillon, for putting this in because it's very important. It's the first time I ever spoke about this in public.

SENATOR COLEMAN: Other questions?

Seeing none, thank you, LaResse.

Jean-Ellen Trapani.

JEAN-ELLEN M. TRAPANI: Good evening everyone. My

HB6557

name is Jean-Ellen M. Trapani and I support Raised Bill Number 6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS, speaking as a private citizen. I'm an avid kayaker and also enjoy hiking and walking. I travel all over this beautiful state to do so. Hoping to understand if my enjoyment of Connecticut was shared by other people in Connecticut, I found a Statewide Comprehensive Outdoor Recreation Plan, SCORP, 2005-2010 prepared by the Connecticut Department of Environmental Protection and dated September of 2005, on the DEP's website.

On pages four and five from the executive summary, it says "Connecticut residents participate in a wide array of outdoor recreational activities. This SCORP, therefore, undertook an assessment of residents' demand for 30 land-based, water-based and winter sport outdoor recreational activities. The citizen demand survey results show that almost all households, 93.8 percent, participate in land-based recreational activities, 85.3 percent of households participate in water-based activities and 54.2 percent participate in winter activities. The survey results verify that a very high percentage of Connecticut residents participate in a wide range of outdoor recreational activities. The top ten activities in descending order of individual participation rates are: walking, running, hiking, beach activities, visiting historic sites or museums, swimming in fresh water or salt water, swimming in pools, biking, bird and wildlife watching, sledding, camping and canoeing/kayaking/tubing."

The frequency with which residents engage in these activities varies widely. For example, a walker or runner likely practices that

activity more frequently than a visitor to a historic sites and museums and makes such trips. To capture the variation within the frequency in which the various activities are engaged in to get a more accurate picture of recreational demand, a measure called the "Use Frequency Index" was developed through the SCORP. Loosely defined, the UFI is a product of the percentage of residents practicing an activity times the measure of the frequency of participation. Chapter 7 of this SCORP presents UFIs for the 30 measured activities, first on a statewide basis, but also by county and by socio-economic category of municipalities. The 12 most popular activities listed with their respective UFIs to give a sense of their relative participation intensities are running/walking/hiking; swimming in pools, beach activities, swimming in fresh/salt water, biking, visiting historic sites and museums, sledding, basketball, volleyball, motorboating, canoeing, kayaking, tubing, golfing, camping.

Going back to the main webpage, which describes the report, it says, "The SCORP is a planning document which assesses both the demand for and the supply of outdoor recreational facilities statewide. The National Park Service, which officially approved Connecticut's new SCORP in September of 2005" -- it got approved on the date -- "Using the data and insights obtained through the preparation of the SCORP, both the state and municipalities will be able to more effectively provide and improve outdoor recreational opportunities. The approval of the Connecticut SCORP by the National Park Service allows the state to be eligible to participate in the Land and Water Conservation Fund Program through which the Department of

Environmental Protection receives funding to acquire, develop and improve outdoor recreational properties. Twenty-five percent of the federal funds received will be passed on to Connecticut's municipalities through a competitive grant application process in order to develop additional recreational facilities at the local level."

So I'm just offering this as some research. Research which has evidence that there is very wide-spread demand for outdoor recreational opportunities. The entire report is on, of course, the website and I've presented you all with a written copy of my testimony so you don't have to take any notes at all. Thank you very much for the opportunity to speak to you.

SENATOR COLEMAN: Thank you.

Are there questions?

Seeing none, thank you very much.

JEAN-ELLEN M. TRAPANI: Thank you.

SENATOR COLEMAN: Joe Adamaitis.

A VOICE: I'll put his picture up here so you could see what he looks like and I can read his testimony.

His name is Joe Adamaitis and he's a lifetime resident of Connecticut and a recent graduate from Johnson & Wales University in Providence, Rhode Island. He would like to share with you his experience of racial profiling. As you can see, he's a young, white male.

SB 1230

About a year ago, I decided that I would like to grow a garden on one of the plots of land

Apparently not. We'll await your testimony -- your written testimony.

JOANN BOWER: Thank you.

SENATOR COLEMAN: Marla Ludwig.

MARLA LUDWIG: I'm here, but (inaudible.)

SENATOR COLEMAN: Okay. Thank you.

Ron Thomas.

RONALD THOMAS: Good evening, Senator Coleman and members of the Judiciary Committee. My name is Ron Thomas, manager of state and federal relations for the Connecticut Conference of Municipalities. I know it's been a long day for you all and I appreciate your being here to listen to my testimony. I'll just summarize a few things. One is that you have several bills before you that would increase municipal liability exposure. We ask that you consider these bills in the context of the financial cliff that cities and towns are about to fall over and that there have been numerous layoffs in towns and cities including police, fire, road personnel, as well as teachers.

I'd also like to focus on Bill 6557 concerning recreational use of lands and you've heard everything you need to know about the bill at this point. I would just say that there's an interesting group of people who are seeking reform. Oftentimes, we don't agree on anything so I think that's remarkable in itself. And I think that you should consider the fact that it's indisputable that because of Conway v. Wilton, municipalities have either closed down or stopped construction on

or halted acquisition of recreational lands. That's just a fact and I'd be happy to provide you with some information that CCM has on this.

I should note, too, while this bill is extremely helpful. CCM thinks, you know, we believe there should be the same sort of immunity for towns that exist for the state and this bill provides a partial relief, but we think that there should be -- we should enjoy the same immunity as the state does.

I will just stop right there and answer any questions that you might have, but thank you for the opportunity to talk about these bills.

SENATOR COLEMAN: Are there questions for Ron?

Representative Baram.

REP. BARAM: Thank you, Mr. Chairman.

And thank you for your testimony. I think it would be helpful for us to receive a list of towns that have either closed land or halted any acquisition of new land and I just wanted to ask you, so CCM's position is actually is that the proposed is -- is too liberal, if you will, because it carves out the various exceptions for things like swimming pools, tennis courts, which would create more liability for the towns than the private landowner.

RONALD THOMAS: That's our position exactly. We're not opposing the bill and we -- we think that it has a lot of good intentions. We just want, again, parity with the state. And we'd be happy to supply you with that information because we do have it, and again, the list that we have is not complete, because you

know, we're only getting information that the towns have been reporting. We won't get information on plans that (inaudible) that sort of thing. But I'd be happy to supply you with that.

REP. BARAM: Thank you very much.

RONALD THOMAS: Thank you.

SENATOR COLEMAN: Are there other questions?

Seeing none, thanks for your testimony and patience.

RONALD THOMAS: Thank you. Thank you.

SENATOR COLEMAN: Mr. Thomas was the last person to sign the list in order to address the committee. Are there any others in the audience who care to speak to the committee this evening? If so, please come forward.

SB1230

Please identify yourself.

MONGI DHAOUADI: My name is Mongi Dhaouadi. I am the executive director of the Council on American Islamic Relations in Connecticut. CIAR is a civilized organization for Muslims in America and we have a chapter in Connecticut.

SENATOR COLEMAN: Would you spell your first and your last name for me so I can accurately record it.

MONGI DHAOUADI: First name is M-o-n-g-i. Last name is D-h-a-o-u-a-d-i.

SENATOR COLEMAN: Thank you.

MONGI DHAOUADI: I would like to speak in favor of

JOINT

STANDING

COMMITTEE

HEARINGS

JUDICIARY

PART 20

6248-6487

2011

STATEMENT

INSURANCE ASSOCIATION OF CONNECTICUT

Judiciary Committee

April 4, 2011

SB 1231-An Act Concerning Notice Of An Action Regarding A Defective Highway, Bridge, Sidewalk, Road Or Railing
SB 1232-An Act Concerning Municipal Immunity For The Negligent Acts Or Omissions Of Employees, Officers And Agents
HB 6555-An Act Concerning Civil Actions Against The State And Municipalities For The Sexual Assault Of Children
HB 6557-An Act Concerning Liability For The Recreational Use Of Lands

The Insurance Association of Connecticut, IAC, is opposed to the following bills: SB 1231, SB 1232 and HB 6555. The IAC supports the concept contained in HB 6557.

The IAC is opposed to SB 1232 and HB 6555 which seek to unnecessarily alter the sovereign immunity landscape and subject cities and towns to protracted litigation. SB 1232 seeks to needlessly narrow the sovereign immunity for municipalities. Currently, public employees enjoy immunity from negligent acts or omissions which may occur through the exercise of judgment or discretion but not ministerial acts. SB 1232 seeks to delineate between negligent acts and omissions which involve the exercise of judgment or discretion in the planning or decision-making level from those acts performed at the operational level. Acts that fall within the planning or decision-making level would still enjoy immunity, however, any act that is considered an operational level function would not be entitled to the protections afforded by sovereign immunity. There is no demonstrated need to distinguish these acts. Why should the exercise of judgment or discretion be treated any differently at the operational level than a similar act that was done during the planning and decision making phase? Sovereign immunity was adopted to encourage town employees to act in the best interests of the town. To remove such protections shall unjustly hamstring municipalities.

SB 1231 unreasonably will change the trigger and extend the amount of time when a party must notify a town of a potential claim involving an injury allegedly caused by a highway defect. Currently, the trigger for the date of such a notice is the date of loss. However, SB 1231 seeks to change the trigger to when a police report regarding the incident is filed. There are no requirements when such a report must be filed, nor is there a requirement that a report even be filed. It is not clear what a "filed" police report even means. It is important to note that the police report itself does not establish negligence or any other cause of action. It is just one piece of evidence in a party's case. It does not make any more sense to toll the notice provision for a police report than for a medical report, private investigator report, witness statement or any other piece of evidence that might be used in a case. There is nothing to preclude a plaintiff from noticing the town of a potential claim absent a report. Even in those situations where a police report takes an extended period of time to complete, like in fatalities or accident reconstructions, the plaintiff should have enough preliminary information to provide notice to a municipality of a potential claim. SB 1231 will unnecessarily create different notice requirements for every single highway defect claim in which the police are involved.

The IAC supports HB 6557 which seeks to expand sovereign immunity for public entities that permit recreational use of their lands. The Recreational Land Use Act currently only provides immunity to private landowners, utilities and corporations who open their land to the enjoyment of the public. Municipalities should also enjoy the immunity provided the private sector. Municipalities maintain a vast amount of open space suitable for recreational use. Granting such an entity the same level of protection as the private landowner benefits the public and the municipalities.

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LINE 13

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Martin Mador, Legislative Chair

Judiciary Committee
April 4, 2011

Testimony in Support of
HB 6557 AAC Liability For The Recreational Use Of Lands

I am Martin Mador, 130 Highland Ave., Hamden, CT 06518. I am the volunteer Legislative Chair for the Sierra Club-Connecticut Chapter. I hold a Masters of Environmental Management degree from the Yale School of Forestry and Environmental Studies.

In addition to my own testimony, I have submitted statements separately from 123 Connecticut residents in support of HB 6557. These statements were forwarded to the Sierra Club within the past week specifically for submission to the Committee. I have printed them together in order to save paper.

Ensuring that town-owned open space is open for hiking, boating, cycling, and other "passive" recreation is the reason we are here today. Connecticut towns and agencies such as the MDC lost their liability protections for allowing use of open space without charge in 1996. The state Supreme court that year in Conway vs Wilton ruled that towns were not "landowners" for purposes of the 1971 Recreational Land Use Act. Not that they were ineligible for protection somehow, just that they had not been included. So some towns have closed their open space lands, some have considered doing so, and all towns are paying a price. The MDC considered closing their lands following a$3M judgment last year.

Fifteen years of legislative efforts to restore the immunity have failed due to the influence of what I will call "special interests".

For reasons I cannot fully explain, there are no fewer than 14 bills filed this year, all calling for restoration. These 14 bills have had 6 public hearings in 3 committees. There are currently 38 legislative sponsors: 3 senate democrats, 6 senate republicans, 19 house democrats, and 10 house republicans. The Environment Committee JFSed SB 831 to Judiciary by a vote of 26-0. Planning and Development JFSed SB 43 to the floor by a vote of 19-1.

This year, for the first time, the public interest advocates have taken up the restoration effort. Of the many issues we support, this is a top legislative priority. Our grateful thanks to Rep. David Baram, who supports the bill, and has been working diligently for the past few weeks with representatives of the "special interests" in an effort to fashion a compromise bill.

You will receive written testimony from several hundred supporters today. Over twenty people will sign up to testify. In addition, written testimony on essentially the same bill as HB 6557 is available on SB 831 in Environment, and SB 43, HB 5254, SB 90, SB 507 in P&D.

The citizens of Connecticut have been waiting for fifteen years to remedy this unfortunate 1996 court decision. We have been concerned for 15 years about the closing of public lands to the public because of liability concerns. This year, we add concerns about the costs to towns to carry insurance coverage, the costs of defending court suits, costs of settling nuisance cases, costs of jury awards ($3M against the MDC last year). Open spaces are not manicured, engineered lands. They are natural spaces, which is why we appreciate them. The financial burden on towns to continuous find and remove fallen tree limbs, clumps of wet leaves

and piles of acorns would be enormous, and would serve no purpose other than fear of liability lawsuits. We are all looking for ways to reduce town expenses in this time of fiscal crisis.

A town whose mayor is risk-averse may decide to close town open space lands. There is no requirement that such land remain available, unless conditions were attached at the time the property was acquired by the town.

HB6557 restores the liability protections towns enjoyed until Conway. It simply provides the specific legislative language the court found lacking in the original law.

A single hiking trail may traverse a state forest, then land trust property, a field owned privately, and finally a municipal park. State law now provides liability protection for the first three segments, but not the last. HB 6557 would harmonize the protections for the trail across these four lands.

HB 6557 would not alter the limit on liability for "wilful or malicious failure to guard or warn against a dangerous condition, use, structure or activity" .(Sec. 52-557h)

Encouraging people to get outdoors and enjoy the natural world is a high priority. Outdoor recreation contributes to personal health and well-being; provides satisfaction for our genetically-driven biophilic need to connect with the natural world; contributes to the economy through sales of equipment and outings, and thus creates local jobs; and enhances awareness of natural places which helps preserve them.

It is clearly in our interest to encourage people to get outdoors, and to ensure that open spaces are available to them. The 8,000 members of the Connecticut Chapter of the Sierra Club ask you to vote for the public interest, not for the special interests which have blocked this important bill for far too long.

Connecticut Chapter
645 Farmington Ave.
Hartford, Connecticut 06105
www.connecticut.sierraclub.org
Martin Mador, Legislative Chair

MARTIN MADOR

Judiciary Committee
April 4, 2011
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HB 6557 AAC Liability For The Recreational Use Of Lands

Attached is the original testimony of 123 Connecticut residents in support of HB 6557 as forwarded to the Sierra Club for submission to the Committee. It is submitted unedited, but printed together in order to save paper.

Barbara O'Neill
Kristen Volinski, Avon
Julie McNeill & family, Avon
Sue Durant, Avon
Kristen Grant, Avon
Kathleen Miller, Bethlehem
Anne Farnum, Bloomfield
James R. Bradley, Bloomfield
Andrew King, Bloomfield
Becky DeAngelo, Branford
Beatrice Wallerstein, Branford
Chris Rocanello, Bristol
Marcia Wilkins, Brookfield
Steve Morrell, Burlington
Chris Hindman, Canton
Cathy Hinckley, Chaplin
Lin Napolitano, Cheshire
John P. Carey, Clinton
John A. Pagnani, Psy. D., Colchester
Jeanne R. Jones, Colebrook
Chris Vonkeyserling, Cos Cob
Phoebe Griffith, Cos Cob
Jane Herschlag & Herbert Herschlag, Danbury
Anna Zancan, Danbury
Edwin A. Rosenberg, Danbury
Jennifer Frank, East Granby
Bob Ballek, East Haddam
Sarah Donovan, Easton
Karen LaPlante, Enfield
Brian Kerrigan, Essex
Christine Brown, Fairfield
Andrew M. Crowe, Fairfield
Stephen J. Clubb, Farmington
Jo Sharon, Glastonbury
Dennis Desmarais, Glastonbury
Luther Weeks, Glastonbury
Lauren Russell, Greenwich
Lissa Bentley, Greenwich
John D. Kelly, Guilford
Emily Anhalt, Guilford
Morgan Dysinger, Hamden
David Bruhn, Hamden
Richard Walser, Hamden
Chris Marchand, Hamden
Mary Tyrrell, Hamden
Lydia Williams, Madison
Laura Jarett, Madison
Theodore Strickland, Madison
Ethan Giller, Madison
Geoff Giller, Madison
C. Thomas Paul, Madison
Don Rankin, M.D., Madison
William H. Walling, Madison
David James, Meriden
Ginny Chirsky, Meriden
Annaita Gandhy, Middletown
David Minnick, Middletown
William J. Earls, Middletown
Mike Wallace, Monroe
Lois Spence, Monroe
Don Parker-Burgard, Monroe
Michael Sheehan, Moosup
Michael Lefebvre, Morris
Molly McKay, Mystic
Walter Grant, Mystic

Mr. Robin Fryer, New Canaan
Lee Grimes Evans, New Canaan
Emily Nissley, New Canaan
Alanna Rathbone, New Canaan
Kerri Ahern, New Fairfield
Timothy J. Robinson, PhD, New Haven
Louise Fabrykiewicz, New London
Tom O'Brien, New Milford
Mady Kenny, Newington
Rick Kuzoian, Newington
Chris Thomas-Melly, Newington
Robert E. Batson, Newington
Madeline Jeffery, North Stonington
Jennifer Eazarsky, Norwalk
Roberta Paro, Norwich
Louise Brodman, Old Greenwich
Rise Siegel, Orange
James H. Ewen, Orange
John Hughes, Pawcatuck
Mark DeVoe, Plainville
Jake DeSantis, Redding
Douglas P. Taber, Redding
Victoria Yolen, Ridgefield
Susan Baker, Ridgefield
Ellen Burns, Ridgefield
Benjamin Oko, Ridgefield
Roberta Immordino, Sharon
Bill Dyer, Shelton
Ralph Riello, South Meriden
Noah Toth, Southbury
Allen Horner, Southington
Dan Wilensky, Southington
Sue Kienle, Southington
Peter Picone, Southington
Lee Chevron, Stamford
Roger Chaffin, Storrs
Roswell and Gretchen Hall, Storrs
Marty Deren, Suffield
Bob Carr, Thomaston
Tim Ryan, Trumbull
Cathy Rubin Jim Levola, Voluntown
Luda Gooper, West Hartford
Claire L Zick, West Hartford
Peter Herrmann, West Hartford
Jim Sutton, West Hartford
Sonia Plumb, Herb Emanuelson, Alex Emanuelson, West Hartford
Richard Stanley, West Simsbury
Dave Muller, Weston
William N. Wallace, Westport
Sheila C. O'Neill, Westport
Clarinda Higgins, Westport
Diane Cady, Westport
Tracey McDougall, Wethersfield
Royal Graves, Wethersfield
Michael and Susan Cutlip, Willimantic
Ellen Kapustka, PhD, Wilton
Doug Miller, Winsted
Sandra Cox, Woodbury

I am in support of the state lands remaining open fpor recreation, it would be a crime to close them because of liability issues.
Barbara O'Neill
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The municipal lands open to the public are an essential part of my life in Connecticut. I use these lands at least 3-4 times a week spring through fall. In the winter I use that trails as the weather allows.

These trails and lakes are real Connecticut gems. They are a great place to see wild life as well. I have had to stop to allow bear, deer, turkeys, quail, and even a few a slow moving turtles cross the trail. I have even seen blue heron and a bald eagle perched in the trees near the river. Needless to say I am very thankful to the FVTC and MDC for all of their efforts in maintaining this open space. If these lands were to close due fear of law suits, my physical, mental, emotional, and spiritual health would be harmed. Please keep them open. Not just for me but for the health of our entire community.
Sue Durant
1 Muirfield Lane
Avon, CT 06001
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In this day of rising childhood and adult obesity it is unfathomable that anyone would consider reducing access to public lands for recreational purposes. My family and I have been enjoying the forests and rivers of this area for decades and our outdoor recreation is a key piece of our lives together. One of the reasons my family and I decided to settle in this area is our access to the public lands and forests in the area, including the MDC property in West Hartford. Consider the economic impact of making our towns that much less desirable a place to live.
Kristen Grant
434 New Rd.
Avon, 06001
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I decided to write a testimony for the proposed bill because the land in and around my hometown will always be extremely important to me. The parks, rivers, and trails are a defining feature of our little slice of New England. I once had a friend from Maine come to visit, and the first thing she said was, "It looks like National Geographic here!" Losing these resources would be tragic for residents, who depend on them for making memories with their families, exercising and bonding over nature (as corny as that may sound, I've done it many times).

I've grown up with this open land, and every time I'm home from school I depend on it to remind me how lucky I am to live in such a beautiful setting. In college I am pursuing a career in Environmental Studies because I grew up skipping rocks, picnicking, biking, and running in the public spaces that define a good deal of my childhood, and I want to make sure it is always available for communities, who always benefit from it. It would be a shame for any section of this well-loved land to be removed from public use, and Connecticut would certainly change for the worse.
Kristen Volinski
Boston College Class of 2014
Avon, CT
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Our family have spent many wonderful weekends going for hikes on public land, including Hublein Tower in the spectacular fall, People's Forest and our annual New Year's Day hike around Fisher Meadow to name just a few of the places. This is precious family time, all the harder to pull off as the children get older and get pulled in so many ways with their activities, but nevertheless snatched and so far, looked forward to by all, especially the family dog!

I can't imagine not being able to enjoy these hikes, one of the few activities both my husband and I participate in together! We live near the trail and I use it several days a week when it is not snow covered. I really appreciate the trail and I include it in one of the huge positives of my neighborhood in Avon. In an instant you are one with nature, a truly blessed thing to have on your doorstep.

We are in favor of town liability protection.

Julie McNeill & family
30 Charing Cross
Avon, CT 06001

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I walk every morning with my dog through the small woodlands and the remaining fields where I live. This is my way to stay balanced, joyful and whole. I teach young children in a public school. These morning walks inform my whole day with a good positive healthy outlook on life. Many discovers or musings from these walks I share with my students. I have encountered fox, deer, black bear, skunk, pileated woodpeckers, box turtles(long ago), red eft newts, stag horn beetles, wooly caterpillars, star nose moles.....the list goes on and on. Often my students learn and study, and create art and stories from these finds. The wealth of these natural places is is irreplaceable. We must keep them in our human lives to remain whole and balanced. We must keep them in our environmental lives to sustain us. We are not a singular entity, we are part of a system. We must protect the land we are a part of.

Kathleen Miller
544 Carmel Hill Rd. N
Bethlehem, CT 06751

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Connecticut's open spaces provide a vital and reinvigorating environment for state residents. I hike and bike the local trails in the greater Hartford area and find that they provide me with an ever-renewing appreciation of nature. And what better way is there to get good exercise? Without such spaces, cycling and hiking would be dull and unadventurous. But with them, I feel refreshed when I return, ready to continue my work. These areas must be preserved not only for humans but also for the vast variety of wildlife that makes them their homes.

Andrew King
3 Rundelane
Bloomfield, CT

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I think that it makes good sense and serves justice to restore liability protection to towns and agencies like the MDC. Access to public land is a privilege for all to enjoy. It provides an opportunity for exercise and the enjoyment of nature to walkers, cyclists, etc. Mishaps will occur, some are perhaps preventable if due caution is taken by those making use of the land; others, like losing one's footing (normally causing no serious injury) are bound to happen. In the first case, primary responsibility rests with victim; in the second, hopefully the victim's

expenses will be covered by private insurance and any distress will be accepted as a part of life.

Publish and, where possible, post safety rules and liability disclaimers. On one occasion, I forgot my bicycle helmet and was turned away by guards at the West Hartford reservoir. There was no argument from me although when I was growing up no one would have expected, let alone demanded, that I have one.

James R. Bradley
7 Westview Drive Apt G
Bloomfield, CT 06002

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I am writing today express my strong support for S.B. 831 before the Environment Committee restoring liability protection to municipalities. Municipalities and municipal entities like the MDC must have total immunity from liability lawsuits filed by citizens using MDC property for recreational, or any other, purpose.

I have lived in this area for most of my 61 years, and have used MDC reservoir property and woodland trails year round over that span of years. It has been a place that I treasured. Access to these areas greatly contributed to my quality of life at all stages: as a young child in a young family, as a teenager, as an adult, and now as an elder. The reservoir was, and is, a place where friends can go to meet for a beautiful, peaceful walk and great conversation. It's a place where we can commune with nature; ponder life's questions deeply, and make important choices and decisions; where we can regenerate and renew ourselves - releasing the heavy stresses of everyday life.

This beautiful area has always been openly available to everyone for free. Myself, and the family and friends that I've shared experiences on MDC property with, always understood clearly that we were responsible for our own actions; and that we used this precious resource at our own risk. It is a shame, and a sign of weakening of our character as a community, that some people no longer feel they should take responsibility for their own actions, even when that attitude means that they rob the greater community of a crucial asset. It was a grave mistake for the court to award damages to an irresponsible biker. It is untenable for the MDC to be exposed to liability from anyone who is reckless, or even just unlucky; and who then refuses to be responsible for their own actions. Without legislation to provide total immunity from lawsuits, I believe the MDC will have no choice but to close off citizen access to their properties.

And that would be a great loss to residents of all the surrounding towns. Hundreds of thousands of citizens each year used MDC property to commune with nature, and for active recreation. These properties are an irreplaceable jewel and a tremendous asset to all these people. Given our high stress, fast paced lives, they are also an essential asset. Nearby spots where we can meet friends, enjoy nature, regenerate, and gain perspective are rare. The fact that these beautiful areas have been open to all - young and old, all income levels, all races, nationalities and creeds - also makes them a major foundation for peaceful connection among the diverse peoples of our communities. It would be a great tragedy, and a significant diminishment of our quality of life, to lose all the value that these beautiful areas provide. And it would be an additional tragedy to provide further support to the forces of irresponsibility and greed.

Anne Farnum
14 Stratford Park
Bloomfield, CT

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I cannot imagine living without the joys of the outdoors. Fields and streams, hills and dales....walking outdoors daily lifts my spirits. The early spring when the earth wakes up again, the days' ends in early summer when the chatter among the many birds is music to our ears, glimpsing occasional wilder animals (a fox this a.m.)...Roaming amongst the wonders that nature provides is a joy and a treat. And it keeps my doctor happy too.

Thank you for ensuring access to these wonderful areas.

Beatrice Wallerstein
88 Quarry Dock Rd
Branford, CT

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This bill is important for New Haven Inner City Outings. We take the kids hiking on open space owned by many groups, including municipalities. It would be a shame to not have the ability to explore these areas, further limiting options for exposure to nature for these children.

Becky DeAngelo
489 Leetes Island Rd
Branford, CT

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The use of these public and other lands is HUGE to the quality of life not only for myself, but my family and friends and most of the people I know. Please correct this absurdity and do what is right by the majority of citizens who responsibly use these areas. Thank you,

Chris Rocanello
55 Beths Ave. Apt. 69
Bristol, CT

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As a citizen concerned about public use of open space in our state I urge the legislature to restore liability protection for the towns and quasi-public agencies. The present absence of liability protection will inevitably lead to more lawsuits eventually resulting in local closings of the property to the public. This situation defeats the purpose of setting aside parcels for the public to enjoy. Potential donors may view the restrictions as a reason not to donate their land in the future.

Connecticut can be proud of the success of its open space program. There is no good reason not to restore full liability protection. The present state is detrimental to the program and will lead to its decline.

Please do vote for full liability protection for all towns and quasi-public agencies.

Thank you.

Marcia Wilkins
56 Flax Hill Road
Brookfield, CT 06804

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The great outdoors should be protected from lawsuits and liability from the not so great lawyers and individuals who may be injured due to their negligence. Riding a bike the wrong way on a bike path is the riders fault, not the MDC. Slipping on acorns should not be a reason to sue, does the injured party think acorns do not fall from trees or that they should be all picked up

by the town. We all need to take a breath and breeze in the outdoor air and take responsibility for our actions. The outdoors should be available to those that like to ride bikes, hike, walk, swim, fish, boat, run, etc and the towns and districts should not be liable for an injury, as long as it is not an obvious lack of care or maintenance. I walk my neighborhood street for a four mile walk picking up other people's garbage along the way. Should I have the right to sue all those littering or the town if I get injured?
Steve Morrell
41 Middle Croft Rd
Burlington, CT 06013
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I'm the owner and co-pubhlisher of Natural Nutmeg Magazine, a local monthly health and wellness publication based in Avon with distribution throughout CT. I received your email on the legislative alert, I'm somewhat familiar with the case involving the W. Hartford biker but honestly have not heard much about this since that judgement. Many of us here at the magazine are long time users of many of the MDC properties in Hartford and surrounding areas and would hate to see that opportunity be taken away. Unfortunately, we are unavailable to attend the public hearing however we wanted to offer a paragraph written by my Editor in Chief, Deb Percival, from all of us here at Natural Nutmeg. If there is anything else we might be able to do, please let us know.
Chris Hindman
31 Meadow View Ct
Canton, CT 06001
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I greatly value the opportunities to explore new areas via hiking or kayaking or just bird watching, dog walking, the out of doors should belong to us all and we should all be responsible for the way in which we use it.
Cathy Hinckley
Palmer rd.
Chaplin CT
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It is very important to be able to continue to enjoy access to open space such as forests, meadows, trails, parks, and rivers of Connecticut. This availablility for walking and hiking is a stress reliever, as well as, a benefit to my overall health at the age of 59. As a resident of the state of Connecticut I want this availability open to all citizens. The liability protection is important in supporting this option to good health. The health of our Connecticut community is at risk. Please support this protection for our municipalities.
Lin Napolitano
975 Moss Farms Road
Cheshire, CT 06410
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Of course it is extremely important to keep open spaces in Connecticut. Is this something that needs heady discussion? Doesn't common sense dictate. Sometimes these judicial decisions seem void of good ole common sense. We, and I mean all of us, are merely guardians of these open lands. We must keep them open and available for us and our future. Once these spaces are unavailable it is just the beginning of the end. Down the road they will be developed and lost

forever. For us, the animals, trees, nature, they must be shown how important it is to protect these areas and the people that allow us access.
John P. Carey
54 Jefferson Cir
Clinton, CT
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I deeply enjoy the peace and relaxation of walking, snowshoeing, and cross country skiing on public access land owned by the towns in Connecticut. I have always understood doing a privilege and was at my own risk. It has come to my attention that there have been some lawsuits by people who do not want to use the privilege at their own risk. My suggestion is that they stay away from public access recreation with the trial lawyers who who are way to willing to sue anyone for a third of the take. Sadly, such irresponsible legal actions hurt responsible people who gratefully enjoy the privelege to use the land. Kindly restore town liability protection, just as the state, land trusts, corporations and other private landowners have had for years before it is too late. Towns and the MDC should be able to keep their open space available for the public to enjoy without fear of the greedy closing it down through lawsuits that make them money. This will save money on insurance premiums and the costs of litigation.
John A. Pagnani, Psy. D.
32 Hungerford road
Colchester, CT 06415
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I am writing to affirm your and the Sierra Club's sentiments that public lands must continue to be available to the public of our great state. I urge the legislature to enact the act referred to above in order to protect local municipalities from law suits of liability.

As one who has protected a large parcel of family land in New Hartford by selling it to the town with covenants, I have proven how much I believe in public access to undeveloped forests.

Please urge the legislature take the future of our children into account. Otherwise, they may live in a world devoid of the natural world.
Jeanne R. Jones
22 Millbrook Road
Colebrook, CT 06021
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Having open space in my town has been a very important aspect of my life. Furthermore, having access to that open space is a vital part of my health and well-being, both for physical reasons and for mental & emotional reasons. I am a regular user of the parks in my town: I ride my bicycle almost every day in warmer weather. Being able to do so in parks instead of on the more hazardous roadways has meant safety to me as well as cardiovascular health. In the winter and in rainy or cold weather, I enjoy hiking for my health, and again, being able to walk on trails in town parks is preferable to walking alongside roads where the pollution from motor vehicles is ever present. In addition to my safety and health, this access to open space enriches my life in so many more ways...I enjoy keeping track of the seasonal changes in the landscape and in watching the migration of birds through our region. Having exposure to nature in all of its many moods keeps me connected to the earth and its rhythms, and helps remind me how important it is to care for it.

Please ensure that the open spaces in our towns can remain available to the public!
Phoebe Griffith
31 Sinawoy Rd
Cos Cob, CT
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Please support legislation which restores legal protection to municipalities for their open space and parklands.

The proper balance of open space and parkland in our town is an essential component in growing and maintaining the Town's Grand List. As you know, since property tax is the main life blood of our municipalities, the Grand List is the medical record of the financial health. Acquisition and maintenance of parkland is one of the cheapest remedies for a town in these financially strapped times.

Not only does open space bolster the residential values, but it mitigates the infrastructure expense of land base "build out". Every acre developed into residential use requires a direct increase and further investment in the public infrastructure and services of schools, sewers, fire and police, etc.

Open space/ parkland requires one of the lowest carrying cost to a municipal budget of all public service components. Even the capital investment cost of purchase is often avoided or reduced by gift or public subscription. The largest financial concern of public open space/ parkland is the legal liability of "slip and fall" suits. Many municipalities avoid acquisition of such properties to reduce the exposure to serious million dollars settlements. Even the simple legal defense costs in a successful defense become a major expense and budget consideration.

It is unconscionable that the only real barrier to beneficial, public open space is an unnecessary liability. Falling on acorns? Skating on thin ice? Twisting an ankle on a hiking path? Private properties are protected against a silly lack of personal responsibility and common sense. Public parkland cannot be treated as an "attractive nuisance".

Please pass legislation which holds municipalities harmless and makes users responsible for their own actions.
Chris Vonkeyserling
P.O.Box 35
Cos Cob, CT 06807
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As an old-timer (I am now 86, and no longer as active as I once was), I occasionally get out into open spaces, and particularly need access to the state's trails in its parks and other walking/hiking routes. To me it is wrong to deny younger people the opportunity to enjoy the outdoors and to learn the benefits of healthful activities. I hope that towns and other agencies will be given liability protection so open space is not kept closed. Sincerely,
Edwin A. Rosenberg
24 Silcam Drive
Danbury, CT 06811
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My children and I have spent many hours and clocked many miles in the woods, fields and trails of Connecticuts open spaces.They are a living classroom that can open ones eyes and mind to history, science, art and the music of nature.I home-schooled my youngest son and these open spaces were the classrooms of choice.There is not a building that could have inspired the

learning and the love of earth and sky that was acquired during our adventures outdoors.These experences will last a life time for my family and myself.
Anna Zancan
18 Southern Blvd
Danbury, ct
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I feel that it is essential that towns and agencies, such as the MDC in the Hartford area, are afforded the same protections as andowners of open space. We need these spaces for public use and enjoyment, not for litigious people. Recreational use of public lands is here for the many, and should not be subject to unfair litigation by the few. Their funds should be for the maintenance of the public lands, not to eather insurance company coffers or lawyers coffers.
Jane Herschlag & Herbert Herschlag
47 Saddle Rock Road
Danbury, CT 06811
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I think it is important to protect municipalities who allow access to their recreational lands from litigation, so that these areas will remain open and available to the public. There are many land areas that provide a wide variety of healthy, passive recreation activities that are safely enjoyed by many people. We are a "fat" society that really needs to get outdoors. Please keep these land areas open for us to use and enjoy. Please revise the law to give the municipalities the protection they need from frivolous lawsuits. That woman bicyclist should never have won that case.
Jennifer Frank
7 Valley View Drive
East Granby, CT 06026
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I want to express my 100% endorsement of this bill which will relieve public entities from liability and the need for expensive insurance and litigation fees for lawsuits which basically only benefit the lawyers and insurance companies, while ultimately resulting in restricted access to open space for those of us who enjoy open space.
Bob Ballek
88 Ray Hill Rd.
East Haddam, Ct 06423
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My name is Sarah Donovan, and I have lived in Easton Connecticut for 22 years. In Easton we have a great deal of watershed and town owned protected open space. One of the joys of living in Easton is exploring these areas of natural beauty. Yes, one must pay attention when one is walking in the woods, but even so sometimes accidents happen. It is crucially important that the state legislature specifically protect towns and quasi agencies, such as the Town of Easton and Aspetuck Land Trust from law suits stemming from persons taking known and calculated risks of using open space areas. This would be especially important in our town, where some generous individuals have offered property or preservation easements to the Town, and have been turned away because of the town's concern about liability issues. Let's make it as easy as possible to preserve open space in Connecticut!
Sarah Donovan
103 North Park Avenue

Easton, CT 06612
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The Town of Enfield has valuable open space and recreational space. A greenway has been established along the Scantic River and is hiked regularly by residents and non residents alike. This land is a combination of private, State and Town owned properties. These places are enjoyed because of the natural state of the area. Whether it is bird watching, dog walking, or searching for wildflowers, anyone can enjoy the wildlife in their natural and relatively untouched environment in most of these open space areas. It is important that the liability protection be restored to municipalities to avoid any unnecessary liability issues. Hiking, walking, biking, canoeing and other outdoor activities are all activities that one chooses in an uncontrolled environment that includes certain risks. When one chooses these activities, they should be ready to accept the risks associated with these environments. It is impossible for towns to maintain all of the properties in pristine condition. These properties should be open to all that choose to take the risks associated with the activities. Without legislative protection towns may choose the liability is too great and will close access to open space which would be devastating. The legislature should pass H.B. 6557 and protect municipalities from liability for the recreational use of lands.

Karen LaPlante
Chair, Enfield Conservation Commission
166 N. Maple St.
Enfield, CT 06082
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The $3M judgement last year is having far reaching effects. I organize and run two whitewater slalom races in Connecticut each year, one of them is on the Farmington River between Collinsville and Unionville, called the Punchbrook Slalom. We have contacts within water control to help us with flows at these races. I just found out that because of the lost judgment at MDC that they will no longer be taking requests to adjust water levels.

Quote from my contact at MDC:

> On an unrelated note, I had a long conversation with Tim Anthony (MDC water control). He's been hearing from the MDC higher-ups that the era of adjusting water levels for events is basically over because of the liability factor. The West Hartford Reservoir (mountain-biking) suit has made them very paranoid.

This has to stop. People not taking responsibility of injury for their own enjoyment of the outdoors. Lawyers are making the money, without using common sense of the future effects, over frivolous suits that will effect everyone to the point that there will no longer be anywhere we can go to hike, bike or paddle all because some idiots could not watch where they were walking or biking.

Who looses in the end because of an acorn and law suits? We all do!

Brian Kerrigan
3 Waterside lane
Essex, CT 06426
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The town of Fairfield, where I live, owns a lot of open space. Residents consider this land to be one of the most valuable assets of our town. We all know this abundance of open space is a significant reason our property values remain high. Not only does my family use it -

we walk the beach, we walk in the woods, but TONS of my friends use this land to get out in nature without having to drive miles and miles. It seems like everyone in town has hiked on town-owned land, either to relax, to get exercise or to walk their dog. My children have fished in the rivers and played in the woods at a time when these resources are becoming scarcer and scarcer. At a time when obesity is becoming a national epidemic, we need the ability to exercise out of doors and most people don't own gigantic 2+ acre properties where we can do this in our own backyard. Nor would necessarily we want to. Being with others as part of a caring community is vital to mental health.

There are risks to everything in life. When taking a walk on town-owned land, there is a risk of having an accident. Provided one is warned of an unnatural or unusual risks, provided the town has not set traps designed to intentionally injure people, treat us like adults and let us accept that risk in exchange for the benefit of being able to enjoy the land. Let's not let lawsuits run amok and spoil the ability of everyone else to enjoy the bounty of nature for free.

Christine Brown
159 Hollydale Road
Fairfield, CT 06824

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Thanks for asking me to support liability protection for public open lands. I love being able to walk various trails in Connecticut - enjoying the beautiful scenery our state has to offer. I am very concerned that a few non-civic minded people who through no fault of anyone in particular, have the need to "blame" and then seek financial restitution from someone else (in this case, the town, state or federal government). We all need to take responsibility for our own actions. I have slipped on acorns while walking through the woods - my biggest concern was hoping that no one else saw me being so clumsy. In a natural environment, one would expect acorns to be on the ground and should take that into consideration when walking. Public lands should be covered for liability from those bringing forth a frivalous lawsuit. We have worked very hard over the years to set aside these lands for our collective enjoyment - it would be a shame to prohibit the public from using those lands because of the threat of potential lawsuits.

Andrew M. Crowe
103 Colonial Dr.
Fairfield, CT 06824

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As a resident of the state and a user of the MDC property I believe it is imperative that this property remain accessible to all.
There are too few properties that remain open space and that can be used as a recreational space.

Keep the access to the MDC property open. I have enjoyed access to this area for many years and hope to do so in the future.

Stephen J. Clubb
97 Farmington Chase
Farmington, CT. 06032

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For several years I worked in Farmington and enjoyed walking several times a week during lunch hours in the MDC, it was a wonderful experience, healthy physically and mentally. I would hope that similar experiences would continue to be available to everyone. Unfortunately, I can also understand why it would be difficult for the MDC to provide access to the public

without open space liability protection. Please extend them this protection.
Luther Weeks
334 Hollister Way West
Glastonbury, CT 06033
****

As a parent of two young girls, it would be a disappointment at many levels if we find that many of our favorite outdoor destinations close their doors to the public. My wife and I take advantage of the forests, trails, streams, and parks throughout the year as an opportunity to build stronger family bonds between our children, undistracted from the buzz of our normal hectic lives. Outdoor activities like hiking and biking have helped to strengthen our children's bodies and minds at a time when many of their friends remain indoors, parked in front of the television. The beautiful vistas and scenic routes we've experienced as a family have given us all a greater appreciation of what Connecticut has to offer, making us all better stewards of this state's land.

And lastly, the open spaces we've frequented at places like the MDC properties have helped us instill the lesson of personal accountability with our children. Upon learning of the $3M judgement, we made a point to help reinforce the message to our children that the road of life is full of bumps and potholes. When one of those obstacles knocks you off your bike or causes you to take a tumble on the trail, the best thing you can do is to dust yourself off, and then pay more attention to the road ahead next time around.

Please provide the towns and quasi agencies the protection that they need to keep their doors open to such an important part of our lives.

Thanks.
Dennis Desmarais
252 Wood Pond
Glastonbury, CT 06033
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Sadly my health no longer lets me hike, but my daughter and her seven- year-old and their dog have hiked every trail and dirt road within a thirty mile radius and they would be really distressed if any of them were closed. Hiking is one of their favorite things to do together. I just looked through our photos on the computer and there are a lot of "views from the top of the hill".
Jo Sharon
93 Curtis Rd.
Glastonbury CT
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Open space in Connecticut provides my husband and I with a sanctuary from the day to day, and also serves as the forum for our relationship with nature. I relish the contrast between our city-driven weekdays and our weekends where the trails in Connecticut keep us connected to the important things. Please keep these trails available to the public. They make a huge difference in our lives.
Lauren Russell
Greenwich, CT
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It is very important to my health and well being to have access to open spaces. I hike (with my 6 year old child) and I bike, and restriction of access to spaces for these activities would impact me (and many people) negatively. I believe that we should be allowed to enjoy

and reap the benefits of our natural resources. Getting out in nature is one of the best ways to stay healthy. Please ask the legislature to restore town liability protection!
Thank you,
Lissa Bentley
8 Putnam Park
Greenwich, CT 06830
****

As a long-time resident of Guilford, CT and a Connecticut business owner, I support the legislative efforts to extended to municipalities and other government or nongovernmental organizations the protection from liability enjoyed by private landowners when making private or municipal lands accessible to the public for recreational purposes. One of the most valuable assets that the Town of Guilford and other communities offer to their citizens is access to a wide array of parks, woodlands and land trust properties. Most users understand and accept the risks involved in a walk in the park or a bike ride along a woodland trail. It would be a shame to lose access to these areas as a result of those few people who refuse to take responsibility for their own actions. Please support "H.B. 6557 An Act Concerning Liability for the Recreational Use of Lands" and ensure that we can continue to enjoy the open space that is so important to our quality of life here in Connecticut.
John D. Kelly
617 Durham Road
Guilford, CT
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Thank you very much for martialling support for H.B. 6557. I walk and run the trails in Guilford, CT several times a week and also ride my horse on trails in Durham, CT. Today during my run in the woods, I saw a Fisher Cat for the first time in my life. It was much more exciting than any "virtual" experience. Do we really want to become a society deriving our pleasures exclusively from flickering electronic screens? Access to the beautiful open spaces of CT enhances the experience of all residents and also draws newcomers and tourists to the state. Local government can and must protect collective interests threatened by the greed of irresponsible individuals and the trial lawyers' lobby.
Emily Anhalt
117 Orcutt Drive
Guilford, CT 05437
****

I strongly support the proposed legislation to protect towns and water authorities from liability if they allow public access to their land free of charge. As an avid hiker, I appreciate the opportunity to hike through Connecticut's forests and fields along wonderful trails, almost all on both public and private property. It's a unique system here in Connecticut that we can walk through the woods without barriers of property boundaries. Nothing is risk-free, and if we want more people to enjoy the outdoors, and if a landowner allows free access, then I feel strongly that there should be no liability on the part of the landowner for accidents or mishaps.
Mary Tyrrell
Hamden, CT
****

Open spaces are the least expensive means to ensuring a good quality of life for all of

Connecticut residents. As a board member of the New Haven Land Trust, I've been committed to preserving open spaces even in urban settings. The Farmington Canal trail is another example of a relatively low cost, high return means of improving peoples lives.

Protecting landowners of open space from liability in exchange for public access is a sensible and necessary policy. It is a public benefit without a public cost. I strongly urge the legislature to restore protections for towns so they too can continue to offer this valuable resource to its residents.

Richard Walser
64 North Lake Drive
Hamden, CT 06517

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As a resident of Hamden, CT, I would like to submit my full support for H.B 6557, An Act Concerning Liability for the Recreational Use of Lands.
It is imperative to restore protections to CT municipalities against frivolous litigation regarding citizen use of public open spaces.

Our children are at great risk of being denied access to the many wonderful opportunities these spaces provide.

Thank you.

Chris Marchand
171 Hubbard Road
Hamden, CT 06517

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I am a long term resident of Hamden, Ct. Over the years my family and I have enjoyed the varied parks, pathways, and hiking trails that are available to us in my town. We frequent the Farmington Canal, the Quinnipiac Trail, and Sleeping Giant State Park. We enjoy running and hiking on these trails which provides much needed exercise and having access to them encourages us to get outside and enjoy quality family time together. Last year we bought a few kayaks and brought them to Lake Wintergreen for some excursions on the water which is exhilarating and allows us to be closer to nature. I could not image not having these outlets available to us and we deserve the opportunity to use them. It would be a shame if we were limited due to the reckless use and law suits from a few residents. Cleary the positive attributes which these areas provide to the majority of the residents outweigh the few negative issues that may arise.

David Bruhn
62 North Woods Road
Hamden, CT. 06518

****

I want to pledge my immense support for H.B. 6557. After living in Vermont for the first 18 years of my life, I am constantly searching for the same feelings of peace and serenity that I found in nature there. It is in nature that I am able to find true balance in such a chaotic world. Living in New Haven has made me yearn for time in the woods more than ever because I cannot just step out into a backyard of wilderness anymore. It is vital that we act to protect Connecticut's forests, meadows, trails, parks, and rivers. If I did not have the opportunity to escape into a long weekend of backpacking, an afternoon of hiking, or a day spent in our fresh rivers, I would feel miserable and trapped. It is incredibly imporant to my health and mental

well-being that I am able to get away from the fast pace of city life that is overwhelmingly impersonal, harsh, and unnatural. Please, please support this bill and protect what is left of nature in Connecticut. Thank you for your time.
Morgan Dysinger
1730 State Street
Hamden, CT 06517
****

As a Connecticut resident and happy canoer, of course I appreciate our open spaces. In addition, as the owner of a small business, I know how much our open spaces contribute to tourism in our state. Many of my customers come from New York and other urban areas to enjoy our trails and streams and wildlife. And I know many of our family's out-of-town guests come to visit because of the easy access to nature in our state. It would be short-sighted not just environmentally but economically to lose any opportunity to preserve our open spaces.
Laura Jarett
Madison, CT
****

Please approve and pass on the HR 5657 bill that will help towns be protected when letting people use their hiking trials and open space. The state wants to protect at least 20 % of its land in open space. Why should the people not be able to go on this open space.
C. Thomas Paul
813 Summer Hill Road
Madison, CT 06443
****

The ct legislature must act to help protect the public's access to public land. We have a growing childhood obesity problem in this state and the state must do everything it can to combat this. Ensuring that children have access to open space to get out and exercise and have fun is an important way to do that. And it will help instill in a new generation of children the joys of the outdoors and the importance of being good stewards of our environment.
Thank you from a Mother of two small children
Lydia Williams
31 Soundview Avenue
Madison, ct 06443
****

It is most important to close the loophole that subjects municipalities to liability from trail use when private landowners, utilities, corporations and the State of Connecticut enjoy limited liability protection when they make their land accessible for the free use and enjoyment of the public. Walking and riding paths provide a major source of enjoyment for those who wish to pursue outdoor recreation. We should encourage the use of open trails as they have proven to be an asset to the appreciation and support of our natural resources.
William H. Walling
15 Tamarac Drive
Madison, CT 06443
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The fair and free use of open space is an important part of what makes Connecticut such a wonderful state. Growing up, I made extensive use of the trail systems and would hate to see

them closed for public use due to a legislative loophole. Please do what you can to preserve this fine tradition of natural splendor.
Thank you,
Ethan Giller
Madison, CT
****

One of the things I love about living on the Connecticut shoreline is that I know, at any moment, I can go for a walk in a beautiful forest, or for a run along the beach, or for a kayak ride right next to my house. It's nice, when life gets a big overwhelming, to be able to simply take a short car ride and see my troubles dwarfed beneath the calm presence of a forest of oak trees, or the slow-moving waters of a river. Without access to spaces such as these, my life would be a lot more stressful (indeed, studies have indicated that natural places have a measurable effect on stress and happiness levels in people). It's important that these natural spaces be kept open to the public as our technological world gets more and more fast-paced.
Geoff Giller
88 River Edge Farms Rd.
Madison, CT 06443
****

This recreational liability issue is very important to me being an avid outdoors enthusiast. I have enjoyed and continue to enjoy hiking, biking and Cross county skiing on many pubic, private and state lands. I grew up living across from the MDC reservoir in West Hartford and we enjoyed the available land and used it like our back yard. I continue to use the reservoir to this day for mountain biking and walking and hiking. These resources are municipal land and should remain open for all to enjoy. The same liability should be included in these lands as private land since I know that all those who enjoy the land must be responsible for our actions and risks. We do not pay a fee so we do not accept special treatment as far as liability goes and it is assumed to use at your own risk. I enjoy hiking and biking at other state forests and municipalities throughout the state and It would be a shame if these great nature preserves were closed due to poor decisions from our legislators. Please continue working with State Legislators to restore recreational liability protection to municipalities. This is the same liability protection enjoyed by private landowners and the state of Connecticut, and the same protection that municipalities had enjoyed for 25 years before a court case (Conway v. Wilton) took it away. This world is getting to risk adverse and litigation happy, people need to take charge of their own actions and consequences and assume responsibility for their choices and sometimes unanticipated negative results. You cant protect everyone from any unforeseen mistake.
Theodore Strickland
25 laurel Crest Rd
Madison, Ct 06443
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Towns and "quasi" Towns organizations absolutely need the same legal protection against lawsuits afforded private and state property when it comes to recreational and educational use of trails on their land.

The recent lawsuit regarding a woman striking a gate on a trail and then awarded 3 million dollars in damages defies common sense and reveals a major weakness in our present system of laws designed to protect property owners of such offensive action.

Folks need to exercise and interact with the natural world for spiritual wellbeing. Without appropriate laws this will be denied folks as land not covered by legal protection will be closed to the public.

Please pass this needed and appropriate House Bill.

Don Rankin, M.D.
8 Warpas Road
Madison, Ct 06443

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I am writing in support of H.B. 6557. If private landowners, corporations, land trusts, and the State, all have liability protection under regulations adopted in the 1970's, it's seems foolish to exclude municipalities from those same protections, after all most people enjoy open space on a local level, and only occasionally venture out to more exotic destinations. Some of our most prized land is owned publicly, expressing a long held American value in the natural world. That freedom is healthy not only for the body, but is well recognized as emotionally and spiritually re-creative as well. We need to preserve what natural outdoor opportunities we have. In fact, in this highly technical age, we need to encourage more outdoor activities, not add to the obstacles that keep us bottled up inside.

Let's vote for a healthy, vibrant citizenry, poised for future challenges, connected to it's heritage. In doing so we will encourage a respect not only for our world, but consequently for it's institutions, and populace as well.

Incidentally; gratefully my family has grown up in an urban setting, bordering rural areas where the opportunity to roam still exists, as it did while I was young. This is a priceless gift we would like to see continue. We are involved in both enjoying and protecting natural resources. We know this comes at a cost, and believe a way can be found to equitably preserve this valuable freedom for present and future generations.

Let's brainstorm!!

David James
11 Carl St.
Meriden, CT

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For years I had been surrounded only by office cubicles, and no windows to look out of to take a break to notice a tree blooming, see a bird or to know whether or not I would be walking out into a storm. I knew no other world beyond the Merritt Parkway traffic in my long commutes from Meriden to Norwalk and Stamford and I never even knew which river was running from one town to another. My only awareness of wildlife was when traffic was at a stand still for hours due to a deer or other animal that had been killed along the roadway that morning. It never even occurred to me what might be driving the wildlife out of the woods.

Imagine 20 years of just coming and going in that environment with no awareness to the wonders of just getting outside to take a walk. Then something wonderful happened – I discovered there was an entire "outside" world available to me that included activities I hadn't even considered I could take part in.

Now, at 65 years old I can tell which bird is singing, and even name a few trees. I have learned to swim and sweep row allowing me to race down the Housatonic River; I learned to paddle a canoe and kayak adding the ability to race down the Quinnipiac River. Today, I own my own kayak take walks on our beautiful trails and know the difference between a hawk and an

eagle.

All this, so simple, right there in front of me – all FREE – Now that I have discovered all these wonderful avenues that add quality to my life, relieve my stress and simply but me in a better frame of mind everyday; I can't imagine not having access to launch my kayak or to be able to walk along a trail.

Ginny Chirsky
President, Quinnipiac River Watershed Association
127 South Vine Street
Meriden, CT 06451

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As a walker, trail runner and mountain biker - and as a veteran, tax payer and long-time resident of Connecticut - I consider free and open access to publicly-owned parks, forest and trails one of the best part of living in the state and want that free and open access to be available for my children, grandchildren and succeeding generations. That access is gravely threatened by what I consider frivolous lawsuits from people injured on public lands while conducting activities that would be considered somewhat risky if done in their own backyard. As a mountain biker, I have fallen many times on public trails - it's part of riding a bike - and I have likewise fallen while practicing in my own yard. I have twisted an ankle running on public trails - and done the same in my own yard. Walking or riding a bike, whether on woodland trails or a paved road, carries a slight element of risk, and to engage in such an activity should be to understand that risk, to accept it - and to take responsibility for it. And to allow a court to award damages to someone engaging in such activity - as the award to the biker injured in West Hartford - seems to say "No one is responsible for anything..." and to countenance the most dangerous of activities in the belief that if the perpetrator is injured he or she has a right to sue someone, anyone, for an injury they brought on themselves. There are cases, of course, where a municipality or government body might be at fault - if persons are injured when a badly-bolted grandstand collapses, they may have cause to sue, because they expect that such equipment will be well-maintained - but to allow people to sue for twisting an ankle while walking a public trail or falling off their own mountain bike or running into a gate across a trail is essentially a threat to the rights of every American to have access to public land. If someone falls off a grandstand while intoxicated at a UConn game, is that UConn's fault? If someone cuts a foot on clamshell at Hammonasett Beach, or if they are badly sunburned, should the state be liable? If the courts permit these kinds of awards - even to accept hearing them perhaps - the reaction may well be the closing of such lands to anything, the closing of parks, of high school ballfields. The possibilities are all too real - and too horrible to contemplate.

William J. Earls
1233 Millbrook Road
Middletown, CT 06457

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I was appalled to hear that we have such a system in place that enables people to sue for such irresponsible reasons and one that reuires defending the very activities we need for our betterment. It is even more shocking to think there is a possibility that we may not have access to these wonderful spaces.

My family and I would be devastated if we were unable to enjoy access to our forests, meadows, trails, parks and rivers. These are God-given spaces where we can connect with nature

to renew our spirit and energies. I wish to share my view that outdoor activities such as hiking, walking, biking, canoeing, swimming are essential to not only to my family's health but the health of our entire community.

Through these activities we are able to benefit from the fresh air and gain the exercise we need in an enjoyable manner. Further, it offers family opportunities for cementing relationships to have excursions together and it is far healthier than going to an indoor gym! Fresh air and oxygen is a rare commodity these days and every resident should have access to forested areas to relax and recharge. Nature has supplied us all we need to maintain a healthy life and we know the many benefits of exercise to human health.

As a nation we have been pressing for improvements to our healthcare system. Putting these areas out of bounds to us would be working in complete opposition to this. It would be tantamount to condemning my family and an entire society to lethargy, ill-health and depression. I have a grandchild and would hate for her to grow up without knowing the wonder of these activities. I would fight tooth and nail to preserve access of these precious spaces and sport.

Annaita Gandhy
28 Brainard Avenue
Middletown, CT 06457

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Connecticut is a state of many blessings. The natural beauty of our woods, waterways and views from both hill tops and onto Long Island Sound are among the many simple but inspiring wonders of our state.

Another of our blessings is our setting within the North East megalopolis, which allows us easy transport to major urban areas along the East Coast, as well as the cities within our borders. These urban areas provide world class culture, education and medical facilities.

Living where we do, in the midst of a very busy corridor of traffic and commerce, and with all the blessings of the natural world surrounding us, we are especially blessed. The natural wonders, in a variety of settings, provide their own respite and sanctuary from the busyness of life. Open space legislation provides numerous settings, many within close proximity, for Connecticut residents to enjoy the outdoors and draw inspiration from these many places.

Regretfully, I now learn that some previous legislation may serve to diminish or prohibit these wonderful opportunities for recreation. I strongly urge support of HB 6557, An Act Concerning Liability for the Recreational Use of Lands, so that the citizens of Connecticut may use the open spaces to their fullest.

Thank you for your attention to my concern.

David Minnick
46 Tavern Circle
Middletown, CT 06457

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I am writing to please ask you to support H.B. 6557 An Act Concerning Liability for the Recreational Use of Lands. We need to restore town liability protection.

One of my towns' greatest assets is its parklands. Many of them are adjacent to water company lands, therefore becoming even more valuable for an afternoon's escape from the rigors of everyday life. To not be allowed to use these properties for recreation due to fear of litigation is ridiculous, and a waste of God's resources. To have these lands on which to hike, bike, just stroll for an afternoon is a valuable tool to refresh one's soul, to get away from the un-

natural setting that most of us now live in. We need this kind of break.

Towns, go through great trouble to procure and maintain their parklands, with the additional benefit of increasing property values and quality of life. They should be able to offer their lands for recreation without having to worry about the constant threat of lawsuits.

Please support this bill.

Lois Spence
29 Partridge Dr
Monroe, CT

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I live in Monroe, a town with three parks that I visit regularly, mostly to take walks through the woods. Occasionally I visit a park in neighboring Trumbull, again to walk through the woods. Having access to these parks is one of the reasons why I plan to stay in Monroe. In fact, when I moved here with my family eight years ago, walks through the woods in these beautiful parks helped ease the pain of having left a wonderful community in Illinois. As I climbed a hill on a trail through Webb Mountain Park on my first visit there, I remember thinking how lucky I was to have woods like this in my very own town! Without access to these places, a large part of the appeal of living in this area would simply be gone.

Don Parker-Burgard
274 Wheeler Rd.
Monroe, CT 06468

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Having had a serious heart attack it is essential that I maintain a regular exercise regimen. There is no better place than in nature to pursue this. I know this is true for other heart patients that I have spoken with. We cite the combination of healthy exercise and the relaxation that occurs as very beneficial when compared to indoor gyms, etc. As more and more individuals and families take to the trails, I believe we will see a healthier population with reduced health care costs as a result. Protecting these space from frivolous lawsuits is essential.

Mike Wallace
66 Easton Rd
Monroe, CT

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Please help restore reasonable protections from liability to those landowners who are willing to provide access to and across their lands for passive public recreation such as hiking, and canoe/fishing access.

Michael Sheehan
11 Florence Street
Moosup, CT 06354-1909

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I believe it is fair to offer the same legal protections to municipalities as we do to private land owners, corporations, and even the state owned land when it comes to opening up land for the public to use free of charge. If liability protection is not offered, a legal entity has no sensible choice but to restrict access. I believe it is UNFAIR to limit access to recreational resources to the public due to the recklessness and lack of personal responsibility of a select few.

The government should realize that to essentially deprive citizens of outdoor recreation activities would be myopic. The health benefits that people reap from outdoor activities are

huge, and healthy people don't need state funded medical care AND healthy people can work and pay TAXES.
Michael Lefebvre
25 Curtiss Hill Rd
Morris, CT
****

I feel it is very important that this bill pass. In Connecticut, we are blessed with many beautiful areas to enjoy the outdoors – forests, meadows, trails and parks where we can hike, bike, canoe, or simply be there to enjoy the beauty. Many of these places are on publicly-owned lands, and as the law stands right now, the organizations that own or are in charge of these lands are at great risk of lawsuits.

There is a time when we should be responsible for our own safety, and this situation is a good example.

Some of the lands could become closed if this liability situation is not corrected, and H.B. 6557 would grant that protection.

I urge you to do everything possible to get this bill passed.
Molly McKay
8 Riverbend Drive
Mystic, CT 06355
****

Protecting the citizens of Connecticut from unnecessary accidents is important. But towns and quasi agencies need protection from law suits where the citizen should have taken responsibility for his/her own actions.

In order to protect the nature trails that are so valuable to Connecticut, legislation is needed to protect them from questionable law suits. These trails are a valuable tool for Connecticut citizen's appreciation of the beauty of the woodlands, wetlands, and meadows. They are also necessary for our next generation to become familiar with the forests, fields and wetlands that are necessary for our survival. Please support legislation helping the nature lovers of Connecticut.
Walter Grant
13 Alden St.
Mystic, Ct.
****

I enjoy walking and jogging in open space in Connecticut that is owned by MDC and local authorities and open for the public to enjoy. In addition some of this space is used for events in which I love to participate: cross country running. I am taking part in such an event at the MDC reservoir this Saturday April 2nd. I fear that if these landowners, who receive no compensation for opening it, are not protected from liability they may not be able to continue making the space available to the public.
Mr. Robin Fryer
1408 Ponus Ridge
New Canaan, CT 06840
****

I feel it was a wise law which was passed in 1971 to protect landowners of open space from liabiltiy if they allowed the public access and did not charge for it. However, the 1996 court

ruling, which left these protections in place for private landowners, but, on a technicality, removed protections for towns was short-sighted and wrong. We need to res tore liability protections for towns so that they will be able to keep their open space available for we, the public, and our chilkdren and grandchildren to enjoy! This will save towns money on both insurance premiums and the cost of litigation.

It is so vital to keep town land available to the public for active and passive recreation. In New Canaan where I live, we have organized to fight battles to save our parkland as parkland and not let it be developed. We had a townwide referendum, led by "Hands Off Waveny" when the town wanted to clearcut a lovely wooded area for a big school administration building, and Hands Off Waveny won! That's how much walkers, joggers, birders, and open space advocates care about preserving nature here. Later, a group of us united by the solgan, "Keep Waveny a Park" also organized meetings and a letter writing campaign which stopped Waveny Care Center's attempt to take 18 acres of our glorious Waveny Park for a high- end senior residence complex.

We've lived in New Canaan since 1992 and we' and our kids have derived tremendous pleasure and fitness benefits from jogging, walking, playing soccer, and even sledding in Waveny Park, as well as Irwin Park. We've enjoyed seeing the wildlife, such as deer, there, and the birds. We've picked and eaten wild raspberries. We've explored the trails, as well as the multi-colored fields, with their bluebird houses, thanks to the Audubon Society.. We've picniced in Waveny Park on the fourth of July, and watched the fireworks in the night sky.

It is so vital for all of us to be able to continue to relish our town parks and for children to be exposed to the beauties of nature, so they will grow up to value and protect it! Please support HB 6557! Many thanks.

Lee Grimes Evans
160 Old Kings Hwy.
New Canaan, CT 06840

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I can not be at the hearing on 4 April H.B. 6557 when the Judiciary Committee will be meeting. I want a bill that would protect municipalities against liability when they 1) offer free access to their recreational lands and 2) take reasonable precautions to ensure that recreational areas are safe.

Emily Nissley
New Canaan, CT

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Please note that I support this bill to restore liability protection for Municipalities so that they are protected in the same fashion as the State of Connecticut, private landowners, utilities and corporations. Please keep our trails open for public use and protect the municipalities at the same time.

Thank you for your support in passing this bill.

Alanna Rathbone
18 Tommys Ln
New Canaan, CT

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Easy access to open spaces was one of our reasons for moving to CT. Knowing that in 10 or 15 minutes we could be hiking with our kids was paramount. We are strong believers in

the powers of the combination of being outdoors and exercising as a means to be healthy, both mentally and physically. There is no greater feeling of satisfaction than the one we get after a hike through some of Connecticut's beautiful open spaces. Especially today, when physical activity is waning and obesity is increasing, our state should be leading the charge in getting people outdoors.
Anything that hinders that is a mistake.
Kerri Ahern
37 Newfane Road
New Fairfield, CT
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I have lived in the New Haven area for 22 years, and, as a year-round hiker, I have appreciated more and more the importance of maintaining and granting free access to our unrivalled trails and parks. But, inevitably, in light of the Conway v. Wilton ruling of 1996 and the MDC trial within the past year, new restrictions have reduced access to outdoor facilities, for fear of lawsuits and increased insurance premiums. Aside from the disappointment that one hiker may feel at a padlocked gate, the effects of such policies are disastrous for the State's tourism, recreation, and other related industries.

Of greater importance, however, is the harm that such short-sighted actions inflict upon our citizens. According to the Centers for Disease Control and Prevention the obesity rate in Connecticut doubled between 1986 and 2007; the statistics and projections are especially dire for children who live here, with not only obesity, but type two diabetes, arthritis, and cardiovascular diseases expected to reach epidemic proportions unless current trends are reversed. The CDC has detected a "positive correlation" between the time children spend staying inside with TV and video games, and their unhealthy weight gain. The last thing we want to do now is to deny access to the trails, bike paths, swimming pools, and athletic fields for those who need them the most and are least able to demand them. In addition to the human toll that such restrictions will take, the cost to and strain upon our health care system will be staggering. I urge the Legislature to take the initiative to amend current liability laws.
Timothy J. Robinson, PhD
265 College Street, Apt. 11D
New Haven, Connecticut 06510
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I join with countless others throughout the State of Connecticut to remind you how important it is to keep in tune with our natural environment in innumerable ways. Please take what ever steps necessary to ensure that towns and the MDC will be able to keep their open space available for all to enjoy.
Thank you.
Louise Fabrykiewicz
281 State St
New London , CT 06320
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As a parent I consider it my job to get my child off the couch, out of the car, and out of doors as often as possible. As a family we try to walk and ride our bikes whenever we can. For years Connecticut has lagged behind much of the rest of the country in it's support for non-motorized transportation and recreational opportunities; but lately it's been getting better.

Greenway trails, bike lanes, and sidewalks are springing up all over the state, even out here in western Connecticut.

If municipalities are not protected from liability, I'm afraid that these positive developments will grind to a halt. I strongly support H.B. 6557.

Tom O'Brien
134 Wellsville Ave
New Milford, CT 06776

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As Connecticut succumbs more and more to urbanization the ability to experience the outdoors becomes increasingly more precious and, at the same time, more threatened. It is imperative that people retain ready access to hiking and bike trails, canoeing facilities, etc. The "no child left indoors" commitment would be seriously compromised. We need it for our physical, emotional and mental health. Exercise outside a gym is of far greater benefit, plus it does not have the same financial burden. Entire families can spend time together sharing a most marvelous experience. Walking the trails can provide ready lessons of respect for nature, stewardship, and connection with the state's history. Restoring town liability protection is imperative to maintaining quality of life for ourselves and future generations.

Mady Kenny
53 Crestview Drive
Newington, CT 06111

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Continued access to our forests, trails, parks, and rivers is a must. Personally I have enjoyed the MDC property in West Hartford for the last 45 years. As a youngster my parents brought me and my siblings there to run through the woods and hike by the lake. Many years later I took my own children, and now they have their own fond memories. My wife & I go most summer weekends to bike or hike. The time we spend there is special. What a loss this would be if we were prohibited from the grounds.

Rick Kuzoian
95 Knollwood Road
Newington, CT 06111

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I grew up spending a lot of time outdoors, in the yard, up the street at the edge of a swampy area, in parks, and on outings to more exotic outdoor locations: woods, beaches, mountains... you name it. When I am outside being active, I am undistracted by media, work to do, phone calls. I have a chance to let my mind wander freely without distraction - not necessarily thinking, not focused on an outcome, just letting the thoughts come and observing them. Some people might call this daydreaming, others meditating. It helps me center myself. Sometimes I find the answers to dilemmas. While I am in this state I am often actively engaged in physical activity - walking. My physical, emotional and mental selves come together and I feel very integrated and serene.

I treasure the open space and natural resources available to me, where I can indulge myself in this relaxation. And I feel very sorry for those who have never been introduced to it. I am also concerned that with every space and parcel of land that is developed for use, the natural spaces are dwindling. Through your message I understand that some of the places I like to go may not be available to me, because of concern over liability. That would be a shame. I support

your efforts to protect landowners from lawsuits, and thank you for bringing this to my attention.
Chris Thomas-Melly
190 Eagle Dr,
Newington, CT
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I wholeheartly endorse the action that the Sierra Club is taking to protect all parties in providing open spaces for hiking, biking, water sports and other recreational activities. This should be a no-brainer for any rational person but with the legislative bodies we have in CT, it is always an uphill fight. We need to provide as much outdoor recreational as possible for our communities but especially for our children and grandchildren. Hopefully, this year, we can have a start to make CT a better place to live and play.
Robert E. Batson
681 North Mountain Road
Newington, Connecticut 06111-1411
****

Please add my name to the supporters of HB 6557 bill to return liability protectionn to municipalities for their recreational lands.

HB 6557 passage will encourage more CT towns and cities to protect open lands for recreation and to use the money that would have had to go to insurance into purchasing new lands for recreation and protection.
Madeline Jeffery
657 Pendleton Hill Road
North Stonington, CT 06359
****

Last weekend, while on a jaunt through the forest, I joked with my fellow hikers that I was there for my treatment and my prescription refill. I am part of a hiking group that explores, photographs, plays, challenges, and teaches each other through our wanderings in the woods. It is a joyous time that cleanses our breath, settles our minds and nourishes our souls, while engaging our bodies in a healthy way. I know for many of us, it recharges us and reconnects us for the days ahead. I am grateful for all my trail moments and it is very important to me that access to open space remains available in Connecticut.
Jennifer Eazarsky
41 Wolfpit Ave. 4B
Norwalk, CT 06851
****

As someone who has lived in small cities all of my life, it has been important to me to have access to open space and recreational opportunities provided by the cities I have lived in or visited. I have used playgrounds, basketball courts, tennis courts, walking and running trails, picnic tables, softball/baseball fields, strolled on boardwalks, enjoyed concerts on greens and on the newly recreated Parade in downtown New London. My ability to use these municipally owned common spaces has improved my quality of life in ways that are difficult to measure.

I can say that in addition to enjoying myself while using municipally owned and maintained open/recreational space, every time I see other people using these common spaces like the wonderful Mohegan Park in Norwich it lifts my spirits. Providing access to open/recreational space helps contribute to equality. Those of us who do not own acres of

property need places to be in the great outdoors. In case you are not yet aware of this, the more equality a community or society has, the healthier the population is, the more trust there is and many other positive measures (www.equalitytrust.org.uk).

As you know, municipalities are struggling with providing all sorts of services. I would like to see them not be subject to lawsuits that might make them curtail access to open space. Please help them and all of us out by supporting HB 6557, An Act Concerning Liability for the Recreational Use of Lands.

Roberta Paro
246A Yantic Street
Norwich, CT 06360

****

Without question, hiking, biking and getting any kind of exercise outdoors is critical for quality of life - for me, my family, my dogs and my friends. I walk everyday in a park or at the beach for 30 minutes to an hour. Especially during the winter, those walks surrounded by the bounty of mother nature keep my spirits happy and my body invigorated. I know this is true for the many people I see on those daily walks. These walks during the winter morph into canoeing and kayaking during the summer - good to use different muscles to stay young at heart and in good shape - staying healthy as an aside necessitates fewer visits to the doctor and creates less of a drain or dependency on medical insurance - better for the economy. Good health is good for the soul and good for the economy. We need to maintain accessible open space for the general good of all citizens.

Louise Brodman
15 Edgewater Drive
Old Greenwich, CT 06870

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I highly advocate maintaining access to trails for hiking, etc. Maintaining open space is important to the health of our environment. Being able to hike, walk, bike, canoe in these areas is important to our health and enjoyment of nature. Seeing the beauty of nature is an inspiration, a form of meditation, exercise....all positive.

Rise Siegel
43 Wellington Dr.
Orange, CT

****

The inability of towns to be protected from liability arising from public access to open space will essentially shut down all access to town owned open space and eliminate future acquisitions. Many Ct. towns have been proactive in obtaining the remaining open spaces for the future public enjoyment, watershed and wildlife preservation. The benefits to these acquisitions are well documented, and without liability protection, future acquisition will cease to the public's detriment. It is imperative that An Act Concerning Liability for the Recreational Use of Lands, become law to restore town liability protection, just as the state, land trusts, corporations and other private landowners have had for years.

James H. Ewen
615 Lambert Rd
Orange, Conn. 06477

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Publicly owned land should be open to the public. Unfortunately, if towns and other public entities are susceptible to large judgements against them simply by allowing people access to property then, obviously, the public will soon discover it has greatly reduced access to open space. This loss would be very unfortunate for those of us who love simply being outdoors doing healthy things. But to add insult to injury, no pun intended, it will be our tax dollars which will pay out egregious judgments for one person's lack of foresight or care or accident beyond human control, such as where falling acorns choose to place themselves. Shirley there must be a middle ground available where towns could show reasonable prudence in their oversight of open spaces in exchange for freedom from liability. Thank you for taking the time to listen to my point of view.

John Hughes
52 Lathrop Ave
Pawcatuck, CT 06379

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The State of Connecticut has a goal of setting aside 20% of its land as open space lands. The Town of Plainville has endeavored, through State Open Space Acquisition Grants, to help meet that goal. As a small community, we realize the importance of Open Space for quality of life issues. We feel that quality of life creates a positive environment for economic development as well. As we struggle with the state of the economy, it becomes evident that we must do what we can to remove barriers to the use of open space. Development for passive recreation is clearly an expensive undertaking in itself. In addition, reluctant risk management personnel have been the naysayers of public use of public land for good reason: the litigious nature of our society. If public lands can be used at the public's own risk, the quality of life issues we as planner's promote will become easier to program. Economic development potential can increase for towns such as Plainville who can then develop passive recreational uses without fear of litigation and increased costs associated with insurance premiums.

Of course, we realize that owners of public lands set aside for public use must exercise diligence to maintain the facilities in a safe and reasonable fashion; failure to do so should not be tolerated.

Passage of this legislation is good for the Town of Plainville and the State of Connecticut. Thank you for the opportunity to respond.

Mark DeVoe
AICP, Director, Planning and Economic Development
One Central Square
Plainville, CT

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Municipalities' lack of protection from personal injury lawsuits is an arbitrary vestige of a small sample of events. The disparity versus the protections enjoyed by states, land trusts, and individuals is intellectually indefensible. H.B. 6557 is a simple fix to this legislative anomaly. Anyone who claims differently must have a personal stake in the issue and therefore be conflicted.

Jake DeSantis
30 Mark Twain Lane
Redding, CT 06896

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I am writing in support of the Sierra Club's and other's efforts to legislatively restore town liability protection (through H.B. 6557), just as the state, land trusts, corporations and other private landowners have had for years. A successful legislative effort in this regard will enable Connecticut towns to keep open space available for the public to enjoy. The towns also will save money on insurance premiums and the costs of litigation.

Douglas P. Taber
11 Parsons Lane
Redding, CT 06896

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When the public uses municipal lands,and a frivolous lawsuit is filed by a person using those lands, it could cost the State thousands of dollars of which the state does not have. By indemnifying the State with liability protections we could keep these open spaces open and available to our residents.

Victoria Yolen
9 E Farm Lane
Ridgefield, CT 06877

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I find it difficult to believe, in the face of all the evidence of the health and mental benefits that we enjoy when we have access to open space (not to mention the country's obesity epidemic) that anyone would not want to support a town's ability to keep these places available to the public. As a member of the Ridgefield Open Space Association, I spent considerable time and effort convincing the townspeople to vote to save the 458 acre Bennett's Pond property, which is now part of the state park system. The people now deserve to enjoy this area that cost them tax dollars to acquire. We should not be punishing the many in this way to prevent possible lawsuits by the very few.

On a personal level, I spend as much of my free time as I can in open space, and it would diminish my quality of life significantly not to have this right.

Please vote to pass this legislation now.

Susan Baker
163 High Ridge Ave.
Ridgefield, CT

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As a long time open space advocate in my community, I urge you to support H.B. 6557 to protect towns from liability on open space lands. The importance of the recreational use of open space cannot be overstated. It provides needed exercise, escape from the pressures of our lives, and allows the public to appreciate the wonders of nature. Public support for the preservation of open space land largely depends on the public's ability to use it for recreational purposes. If towns are forced to close their open spaces to avoid liability, public support for the acquisition and protection of future parcels will effectively end.

Thank you for your time and consideration.

Ellen Burns
President Ridgefield Open Space Association
297 Great Hill Road
Ridgefield, CT 06877

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The Town of Ridgefield has 2500 acres of open space with over 40 miles of trails. This land has been collected over many years through purchase and donation for the enjoyment of all. To have it threatened with closing because of the threat of liability would be a tragedy.
Benjamin Oko
Chair, Ridgefield Conservation Commission
11 barlow mountain road
Ridgefield, Ct.
****

I moved to CT a year ago and was delighted to be able to hike along some of the most beautiful scenery in this country. Hiking, biking, and sharing a walk with a friend along the rivers and lakes in this state is a wonderful and unforgettable experience as well as essential to my mental and physical health. In a month my son will be flying to CT from California. He, at 24 years old, deserves to be able to walk the woods in this state not only in May but next year, in 10 years, and even when he is 60, 70, and 80 years old if he so chooses. Please do all that you can to make sure that legislation to preserve unfettered access to our natural resources in this great state of Connecticut is funded adequately and without restrictions dominated by fear o liability issues. Our generation, my son's generation, and the generations to come MUST be able to continue to enjoy their beauty with total freedom. Mother Nature is a gift to all of us as well as a healing and healthy place. Her meadows, rivers, lakes, parks, and nature trails are meant to be seen, appreciated, and used without fear of liability issues that threaten their access at this time.
Roberta Immordino
52 No. Main Street
Sharon, CT 06069
****

At the Chariman of the Shelton Trails Committee, I want to lend my voice to the support of extending existing liability protection for free use of open space to municipalities. In the past 10 years, Shelton has expanded our trails network from 1 to 15 miles through the work of volunteers, grants and city funding. City officials are resisting further expansion due to the award of millions of dollars to a woman bike rider. We need the same liability protection afforded to the Shelton Land Trust and individuals get that permit the public free use for passive recreation.
Bill Dyer
20 Beverly Ln
Shelton, CT 06484
****

In a time where economic stress and political turmoil are the order of the day, here in the nutmeg state, and across this increasingly polarized nation, there is one certainty that I can think of to combat tension within our society. I call it "unplugging". You may call it anything you like. For me, unplugging is the ability to hike, bike, or paddle through a world where cell phones, bank statements, and political angst are carried away on the wings of serenity. While I greatly enjoy my rambles through the White Mountains of New Hampshire, or slicing through whitecaps and the invigorating spray of mother ocean on my countenance, practicality (and budgetary considerations) require that I unplug closer to home more often than not. As a working member of CFPA (family hike leader and Trail Manager for the Ragged Mountain Preserve), The

QRWA, and the New Haven Hiking Club, and as a citizen of this state, I am appalled at the attempts to close down the MDC properties to the public, especially as a salve to bureaucracy, and thanks to some technicality that should be easy to clear up. I will not speak on my thoughts of the rider who, through her own irresponsible behavior, would endeavor to keep all others from enjoying the same trails she did, or the foolish decision to enable her actions with a monetary award. It is not the avid outdoors-men and women for whom I speak today, they understand the value of this fight. It is for the uninitiated and the as-yet-to-discover folk who will come to find the value in unplugging themselves from their labors, laptops, and largess, and hopefully, when they are ready, these properties will be there for them to discover the beauty and serenity that is around them, and that, through avarice and greed, might be taken away from them before they realize the value.

Please do not allow what little Shangri-La we have left be taken away by bureaucratic inaction.

Ralph Riello
South Meriden, CT
****

Please preserve public access to areas, such as the West Hartord Reservoir, in the interest of the communities health, family, and well being. Access to these lands are important to our community, and me personally. I first started mountain biking over 18 years ago with my soon to be wife at the West Hartford Reservoir. We've enjoyed biking, running, and cross-country skiing there year round every year since, even though we've moved a half dozen times. This has kept us active and healthy in an era, where public health is a challenge. For the hundreds of people that utilize this property daily, you could not conceive of a better health initiative, even if you gave away free gym memberships. My two sons have enjoyed the property since they were born, whether being towed on our bikes, on their trikes, and now their bikes. It's truly a special place that will hold memories for the rest of my life, my children's lives, and their children, in addition to keeping them healthy.

Thank you,
Noah Toth
112 Meadow Brook Rd
Southbury, CT 06488
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With regard to the public hearing on Monday, April 4 regarding HB 6557, "An Act Concerning Liability for the Recreational Use of Lands," affording the protections to landowners through this bill is important to me because, as a runner, I have been directly impacted when landowners such as the MDC are hit with liability judgements that others are not. Because of lack of protection, the MDC, rightly so, had closed access to their resevoirs to runners and running events; there has been consideration to continuing this use restriction. This is sad when so peaceful and natural a place like a resevoir is cut off to people seeking to do healthful things because of worries about litigation. I would like this bill approved so that all landowners are protected, not just private owners and towns.

Allen Horner
216 Belleview Avenue
Southington, CT 06489-3734
****

My family and I enjoy getting out for biking, hiking, and exploring. We're always looking for fun and educational experiences for the kids to get them unplugged from computer and video and get them some physical fitness.
Dan Wilensky
Southington, CT
****

I live in Southington CT and over the last several years our town has made a big commitment to the purchase of Open Space for the benefit of our citizens.
It would be a shame if a technicality put a stop to such positive progress.
Please implement a bill that protects towns from liability and protects our open spaces.
Thank you
Sue Kienle
46 Quail Hollow Dr,
Southington, CT 06489
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Dear Judiciary committee: the ability for landowners to have peace of mind when they allow recreational opportunities on their land is paramount to the enhancing the quality of life for Connecticut's citizens that enjoy outdoor experiences. Please restore the limited liability rules for landowners and landholders that allow recreation on their properties. With escalating costs associated with litigation, we must do everything we can to help keep the land available to recreationists by limiting the liability for landowners that graciously allow folks to enjoy the outdoor experience on their lands. Please restore the protection from liability to landowners and thus encourage more land to be available for outdoor experiences for our citizens.
Peter Picone
157 Meriden Waterbury Road
Southington,CT 06489
****

I have been hiking and camping since working to restore town liability protection, just as the state, land trusts, corporations and other private landowners have had for years.
When we succeed, towns and the MDC will be able to keep their open space. I support H.B. 6557 An Act Concerning Liability for the Recreational Use of Lands.
Lee Chevron
223 Foxwood Rd
Stamford, CT 06903
****

One of the things I appreciate most about living in NE Connecticut is the easy access that I have to woodland trails and public lands. I have always stayed fit by jogging, walking, and biking and find that in my 60's this requires increasingly more dedication on my part to maintain. Having public trails nearby that are easy and quick to access makes it possible. This will be one of the main reasons for me to continue living here when I retire.
Roger Chaffin
Department of Psychology U-1020 University of Connecticut
Storrs, CT 06269-1020
****

To say we are appalled by the idea of someone suing because they slipped on an acorn is

putting it mildly. They'd better never come to our yard, which is littered with acorns in the fall!

We hope the legislature will show common sense and return protection from such frivolous lawsuits to the towns and agencies affected.

Roswell and Gretchen Hall
62 Crane Hill Rd
Storrs, CT

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As a lifelong resident of Connecticut and a land owner I must tell you how I cherish open land. I hike my land daily with my dogs and Grandchildren. I encourage others to walk their dogs or hike and even ride ATVs. Land is to be enjoyed by all. I regularly seek other places to hike, most recently along the Scantic River and the Metacomet Trail. Open spce is good for my soul, it removes me from the daily tension of running a business and raising a family. Without this my life would bleak, my health and job performance would suffer. I encourage you to help keep land open for all people. We have not inherited this land, merely borrowed it from our children.

Marty Deren
1077 Halladay Ave W
Suffield, CT. 06078

****

Over the years my family and used and enjoyed public lands for ice skating, hiking, playing ball, and sledding - Use of public lans and any doing any sort of activity has an inherent risk. No city or town should be liable for the proper use of their lands.

Bob Carr
43 Pine Hill Rd,
Thomaston, CT

****

I cannot fathom why this simple legislation to save access to our open spaces is so difficult for Hartford to get done. Conservationists have long supported the public's use of our natural resources. People need to be more active and fit- and trails and woodland areas are an inexpensive and attractive way to get exercise. Even Conservatives have long complained that superfluous and excessive lawsuits are a waste of taxpayers resources-- so who is left to oppose such a simple, practical law to protect our towns?

In my area, The Pequonock River Trail runs from Bridgeport all the way to Newtown- it serves thousands of people every week. It is a lovely, shaded rail-to-trails environment fit for joggers, bikers, and dog walkers. It would be inconceivable to have access denied to us because of naturally occurring items like fallen branches or acorns posed a risk to the town of a lawsuit. Please pass this protection now.

Tim Ryan
530 Church Hill Rd.
Trumbull, CT 06611

****

We support HB 6557. People who use public or state lands should be responsible for themselves. They should not expect others to shoulder the responsibility for their ignorance or negligence.

Cathy Rubin Jim levola

138 Pendleton Hill Rd,
Voluntown, Ct 06384
****

I've been hiking beautiful trails of West Hartford Reservoir few times a week for many years.

It's extremely important to restore recreational liability protection to municipalities. Residents of Connecticut and beyond should have free access to MDC recreational lands. Please close the liability loop hole and keep the trails open for all of us to enjoy.
Luda Gooper
43 Sequin Rd,
West Hartford, CT
****

I strongly encourage the legislature to restore town liability protection so that Connecticut town's can continue offering access to open spaces. Having access to open spaces, such as the resevoir in West Hartford, is very important for the health and well-being of residents. For example, in West Hartford, the walking path around the resevoir allows thousands of residents to have a safe place to walk, run, and bike away from cars and traffic. It is a place that families can bring children to enjoy fresh air, trees and water and without access to this trail, there are limited places for people to enjoy the outdoors. I personally use several of the local town paths, parks, and open spaces to run, walk, and bike. I think it is crucial for town's to be able to continue providing access to these types of open spaces.
Claire L Zick
77 Beverly Road
West Hartford, CT
****

I would say that I live in West Hartford not far from the RT44/MDC reservoir, and have walked and hiked those MDC trails year-round for 40+ years, and would be very unhappy if they were to become off limits. Having such pleasant outdoor areas nearby enhances the attractiveness of living in the Hartford area.
Peter Herrmann
35 Wiltshire Lane
West Hartford, CT 06117-2748
****

My family and I feel that it is extremely important that we continue to have free access to our Town and State parks, forests, waterways and other open spaces. Free access is a physical and mental health issue as well as a "quality of life" issue. This access allows us to use these wonderful elements in our Towns and State to walk, hike, bike, boat and enjoy all that nature has to offer us. Any diminishment of these rights of free access to Town and State open space properties will certainly lessen the attractiveness of living in the State of Connecticut.

When individuals enter and use Town and State open spaces, they must understand that they will be held responsible for their own actions and their own safety. In your position as Legislative and Political Chair of the CT Sierra Club, please take whatever steps are necessary to help convince our Lawmakers that H.B. 6557, An Act Concerning Liability for the Recreational Use of Lands should be enacted.
Jim Sutton

25 Northbrook Drive
West Hartford, CT 06117
****

It is of the upmost importance that public access to recreation on municipal lands be maintained. Recreational access is one of the benefits of living near to such a large parcel of land. For example, I have chosen to live in West Hartford because of the proximity of MDC lands to my home. It not only brings up the value of my home, it keeps me and my family healthy as we use the lands 2-3 times a week. On sunny days the parking lots are full of people and families who take advantage of this wonderful opportunity to walk and bike the trails. Even on rainy days you will find people out and about getting fresh air and exercise. It seems especially important with America facing an obesity crisis that open places to exercise be a part of our community structure. Please see to it that recreational liability protection to municipalities is maintained.

Sonia Plumb, Herb Emanuelson, Alex Emanuelson
West Hartford, CT
****

I urge you to restore liability protection for all Connecticut towns and quasi-public agencies such as the MDC, just as state and private landowners have.

I hike or ski on trails and roads on a variety of public and land trust owned open space areas almost every day in and around the Farmington Valley. I feel fortunate that these special places exist where I can get outside to appreciate nature, birdwatch and exercise in peaceful, undisturbed settings. These daily outings are not an option for me - they are mandatory for my mental and physical health and a connection to the natural world. In our densely populated and ever-sprawling state, it would be an injustice to deny public access to any of our open space resources.

Each one is cherished by its local citizens. I have been recreating in the MDC woodlands for over forty years and cannot contemplate West Hartford without access to that beloved sanctuary.

It would be tragic if any municipal or MDC owned lands were closed due to liability issues. Please restore liability protection to our towns and public agencies.

Thank you.

Richard Stanley
5 Sherwood Ln
West Simsbury, CT 06092
****

I fully support the initiative to extend protection to towns for use of open space, akin to what is already in place for other landowners of open space.

I am a Selectman in Weston. Our community places a premium on maintenance of open space and public access thereto. If litigation were a threat, our ability to continue ensuring access to our town's beauty, enshrined in our Plan of Conservation and Development and in the minds and hearts of the people who have moved to our town, would be called into serious question.

Dave Muller
221 Weston Rd.
Weston, CT
****

I deem this bill most important so as to continue to make available the vital recreational opportuntiies to our citizens on state lands.
William N. Wallace
7 Sprucewood Lane
Westport, Ct 203259 5765.
****

The Board of Directors of The Friends of Sherwood Island State Park support H.B. 6557 to protect against liability when they offer free access to recreational lands, and take precautions that recreational areas are safe.
Sheila C. O'Neill
President, Friends of Sherwood Island State Park
Westport, CT
****

After a busy day with people and worldly affairs, I need to find my inner balance by being with nature. Access to the woods or water, by biking, swimming, paddling or hiking brings me to a point of inner peace so I can better cope with the people-world again. These activities provide me with a fun way of exercising and maintaining my health. I also learn a lot by observing nature and researching more about the flora and fauna that I see. Because I know more, I care more and want to preserve these areas and access for the community. I feel that such outdoor experiences in as natural an area as possible makes me a better person. I sometimes wonder that, if we had more access and educated more people about enjoying the outdoors, maybe the world would be a happier, calmer place.
Clarinda Higgins
9 Madeline Ave
Westport, CT 06880
****

It is of utmost importance in my life to have access to local forests, trails, parks and rivers. Hiking is the greatest joy and peace. Please protect these with voting for HB 6557 An Act Concerning Liability for the Recreational Use of Lands.
Diane Cady
21 Danbury Av
Westport, CT. 06880
****

My family which includes my husband, and two children ages 8 and 11 enjoy hiking, walking and cross-country skiiing in many of our states' public lands. We frequent resevoirs, rails to trails paths, and many other open spaces owned by municipalities or quasi-public agencies. We spent this past snowy winter cross-country skiiing in a myriad of beautiful parks and preserved lands.

I am very concerned that if municipalities are not immune to lawsuits that many of these wonderful open spaces will be closed to public use. Every year we lose acres of woodland, forests and fields as they are developed for housing or industry. It is especially important that we preserve the open space that we do have.

I urge you to support legislation that would protect our open space by allowing municipalities imunity from lawsuits.
Tracey McDougall

45 Nott Street
Wethersfield, Connecticut
****

I am writing to document my strong support for H.B. 6557 An Act Concerning Liability for the Recreational Use of Lands. I use public lands regularly for walks in the woods. This provides me with exercise and a peacefulness I do not get in more populated venues. I urge the committee to support this legistlation and allow the public the continued use of these lands.

Royal Graves
21 Prospect Street
Wethersfield, CT 06109
****

My wife and I are in our early 70's and enjoying our retirement in Connecticut. An important part of our retirement is the access to walking and cross country skiing trails and other outdoor activities in our state. We understand that there is currently no protection for liability for towns and quasi agencies in regard to open space that is so needed by ourselves and others who enjoy the great outdoor environment in CT. We do hope that the legislature will restore the town liability protection that will enable us (and others living or visiting our state) to have access to the open spaces that will contribute a great deal to the quality of life that we have in Connecticut. Please restore town liability protection.

Michael and Susan Cutlip
42 Carey St.
Willimantic, CT 06226
****

Please keep up the Sierra Club's efforts to insure that open spaces are maintained in our towns. Development has eaten up so much land and we need to do whatever is possible to preserve the rest...for ourselves, our children and our grandchildren. These spaces are necessary for the enjoyment they provide to individuals and families, as well as for the health benefits derived from walking, hiking, cycling, boating and other activities.
Thank you for your efforts on behalf of Connecticut residents.

Ellen Kapustka, PhD
50 Ruscoe Road
Wilton, Connecticut
****

As avid outdoor people, my wife and I cherish the availability of open spaces and the ability to get out and hike public lands. I am a nature photographer and would be very disappointed if I was not able to have access to public lands where I find a great deal to photograph. If liability protection is not given to towns and the MDC then I will be disappointed at not having the freedom to walk the land in search of that one fabulous photograph.

I personally believe that individuals should take responsibility for their own actions and not look for legal recourse just because they slipped and fell on an acorn.Our society is far to letigous and this need to change. If people were more responsible for their own actions, then we would not need liability protection for our towns and the MDC.

I encourage the legislature to restore liability protection to towns and quasi public agencies. And I also suggest that individuals consider being more responsible for their own actions.

Doug Miller
143 Holabird Ave.
Winsted, CT 06098
****

The MDC is very important to my physical health as well as hundreds of others of us that walk these trails. It would be a huge mistake to close them down.

Sandra Cox
21 Clubhouse Drive
Woodbury, Ct 06798
****

Testimony of Attorney Robert A. Izard, 15 Sunfield Lane, West Hartford, CT

I am a partner at Izard Nobel, LLP in West Hartford. I am a plaintiffs' lawyer. My family and I have enjoyed the MDC's Farmington Ave. reservoir area for running, mountain biking, walking, hiking and cross-country skiing for over twenty years. We have had our fair share of crashes and injuries. We have never thought of and never would sue the MDC.

I strongly support passage of HB 6557, and it seems to me that the failure to pass the bill will result in 2 possible outcomes, both of which are bad.

One possibility is that the MDC will close the reservoir to recreational use, which would be a tragedy. The MDC reservoir area, which is only 5 miles from the capitol, is essentially a great park, uniquely situated so close to an urban area. I have traveled to most major cities in America as a result of my work, and none of them have such a unique and special park type environment so close to downtown. It is what makes living in this area special, and the last thing we need to do is to make our area less attractive to potential businesses and residents. We should encourage public use of this sort, not discourage it.

The other possibility is that the MDC will increase rates to pay for increased insurance – in other words, the cost of the risk of recreation by a few will be transferred to taxpayers. We are not talking about necessary health or education; we are talking about non-essential voluntary leisure and entertainment activities. While I believe in the social network as much as anyone, I don't think it is fair that the public should bear the cost of recreation.

If people aren't willing to bear the risk of their own injuries in the MDC property, the easy answer is to stay home.

The failure to pass HB 6557 would effectively mean that those who are risk averse can take away a great benefit for others who recognize that there are risks in life, which is just not fair. I strongly encourage you to pass HB 6557.

TESTIMONY OF
THE CONNECTICUT RECREATION & PARKS ASSOCIATION
And
THE GREATER DANBURY CHAMBER OF COMMERCE
THE MILFORD CHAMBER OF COMMERCE
THE NORTHWEST CONNECTICUT CHAMBER OF COMMERCE

BEFORE
THE LEGISLATURE'S JUDICIARY COMMITTEE
10:00 AM, MONDAY, APRIL 4, 2011
ROOM 2C, LEGISLATIVE OFFICE BUILDING
HARTFORD, CONNECTICUT

Good morning. My name is Marshall R. Collins. I am appearing in my capacity as Counsel for Government Relations for the Connecticut Recreation & Parks Association ("CRPA") as well as the three referenced Chambers of Commerce.

CRPA is a non-profit 501(C) (3) organization dedicated to the promotion, development, and improvement of all recreation and parks services within the State of Connecticut. CRPA has approximately 700 members, who represent almost all 169 towns in Connecticut.

CRPA and the three Chambers of Commerce strongly support HB 6557 AAC Liability For The Recreational Use Of Lands.

HB 6557 provides reasonable and necessary limitations on municipal liability for the recreational use of lands. The legislation is long overdue.

Open Space has many benefits, including improving water quality, protection groundwater, preventing flooding, improving the quality of the air we breathe, providing vegetative buffers to development, and producing habitat for wildlife.

Providing and encouraging recreational access to open spaces has other benefits: hunting and fishing has become an economic building block in our national economy generating more than 1.6 million jobs and more than $2 billion annually in salaries, wages, and business earnings. In 2006, more than $70 billion was generated in sportsmen-related retail sales. With the ripple effect this translates to more than $190 billion in total economic activity.

Our parks and open space provide students young and old with an opportunity to learn about our nation's unique historical cultural heritage. Our public lands are outdoor classrooms where the learning

experience never ends, regardless of whether the lesson is about wildlife, history, geology or the environment. Children and families are able to connect to preserved landscapes in a hands-on manner they simply cannot receive by reading a textbook or watching a documentary.

There are intangible and invaluable benefits in preserving public lands and telling the stories of our state's natural and cultural heritage. Our state and local parks, trails, and greenways provide day-to-day getaways for children and families.

A study by Penn State University showed significant correlations to reductions in stress, lowered blood pressure, and perceived physical health to the length of stay in visits to and usage of parks.

Please help us continue to provide our citizens and visitors opportunity to enjoy these municipal resources that we have invested considerable resources towards preserving and making accessible for all.

Municipalities should be afforded the same legal protection that has been given to private landowners for the very same reason that their immunity was granted initially.

Therefore CRPA and the three Chambers of Commerce respectfully ask that you favorably report HB 6557.

This completes my testimony. Thank you for your consideration.

TESTIMONY JUDICIARY COMMITTEE
H.B. 6557

AN ACT CONCERING LIABILITY FOR RECREATINAL USE OF LANDS

The City of Middletown Water Department **strongly supports H.B. 6557,** which will extend to municipalities equal standing with regards to protection from liability for use of recreational lands.

The City of Middletown Water Department, as it has for over a 100-years, has hosted the Mattabassett Trail over Higby Mountain. This trail has been maintained and has be open to recreational use on the perimeter of the reservoir area for generations Most recently the City of Middletown worked cooperatively with the Connecticut Department of Transportation on the recent Route 66 Improvements through the reservoir area. As part of the Route 66 Improvements, the DOT created a traffic crossing on Route 66 to allow continuity of the trail and redirected trail on Water Department property, to encourage its future use. At the time of CT-DOT's construction on Route 66, the Middletown Water Department was, and remains, concerned over increased liability exposure, and expressed our concerns to CT-DOT relative to their newly redirected trail and crossing, which encouraged additional use of the City of Middletown owned property.

These trails have provided the public the opportunity to enjoy some of Connecticut's most outstanding vistas, particularly during the fall leaf season. However, under Section 52-557F Lands owned by private water companies are provided with

limited immunity from lawsuits, however, lands owned and made available by municipal water departments and other regional water authorities do not enjoy the same necessary protections.

The City of Middletown Water Department, therefore, strongly supports the proposed legislation which would allow for the continued historic use of the Mattabassett Trail through Mount Higby Reservoir.

The Middletown Water Department is a municipally owned and operated water department of the City of Middletown, CT and currently services approximately 45,000 customers in the corporate boundaries of Middletown.

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LINE 8

Janet P. Brooks
Attorney at Law, LLC
1224 Mill St., Bldg. B, Suite 212
East Berlin, Connecticut 06023

April 4, 2011

Judiciary Committee
Connecticut General Assembly
Legislative Office Building
Hartford, CT

Re: Public hearing on April 4, 2011 for R.B. No. 6557

Dear members of the Judiciary Committee:

I write in support of R.B. No. 6557. I have practiced environmental and land use law in Connecticut since 1981. For 18+ years I was an assistant attorney general in the Environment Department of the Attorney General's Office. There I had numerous occasions to defend the state from claims of injury from persons using state park lands. Statutory law provides immunity to the State of Connecticut from claims arising from recreational activities on state land, as it does for private owners of land. In claims alleged against the State of Connecticut, the Claims Commissioner, in accordance with General Statutes § 4-160 (a):

> may authorize suit against the state on any claim which, in the opinion of the Claims Commission, presents an issue of law or fact under which the state, *were it a private person*, could be liable.

(emphasis added.) The State of Connecticut provides immunity to all owners of land (individual, state, corporate) who allow access to their property for recreational activities. With the issuance of *Conway v. Wilton*, 238 Conn. 653 (1996) the Connecticut Supreme Court reversed earlier precedent and construed the recreational liability statute providing immunity to landowners to *not* include municipalities. This bill would reestablish a municipality's immunity for recreational activities on open space land.

The purpose of granting immunity is to encourage landowners to make property available for recreational activities. It makes no sense to encourage private landowners and the state, while excluding municipalities, which are, after all, subdivisions of the state. This can be clearly understood by looking at ownership of the land comprising the newly designated national scenic trail, the New England Trail. I live next to municipal open space land through which a portion of the New England Trail runs. To the south are portions owned by the state, private individuals and a local land trust; to the north are portions in private ownership. No public policy is served by zigzagging the immunity from liability based solely on whether the land is owned by a municipality.

Thank you for your consideration of my comments.

Sincerely,

Janet P. Brooks

Janet P. Brooks

Tel. (860) 316-5230 Fax (860) 256-8214
Website: www.attorneyjanetbrooks.com
E-mail: jb@attorneyjanetbrooks.com

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LINE 14

Testimony on H.B. 6557 Before the Judiciary Committee

April 4, 2011

My name is Sally Rieger. I live at 9 Stodmor Rd., Simsbury 06070, and I am speaking today on behalf of the Simsbury Land Trust. Simsbury Land Trust strongly supports H.B. 6557. This law, which protects municipalities from liability as long as they are not charging for use of their land and as long as they take reasonable precautions to ensure that recreational land is safe, is important to Simsbury land Trust's trail system. Our West Mountain Trails, a five mile loop that is probably the most heavily used of our trails, provides exceptional scenic beauty along a traprock ridge and also has exceptional geologic features with educational value. A designated State Greenway, the West Mountain Trails cross town-owned land as well as Simsbury Land Trust land. Giving the Town of Simsbury the same legal protection from liability that the land trust already enjoys will help keep this well-loved loop trail open for the public to enjoy. Please support H.B. 6557.

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LINE 17

The Metropolitan District
water supply • environmental services • geographic information

BOB MOOVE

Senator Coleman, Representative Fox and members of the Judiciary Committee, I am here to testify on behalf of the Metropolitan District in support of House Bill 6557, An Act Concerning Liability for Recreational Use of Lands.

The Metropolitan District ("MDC") is a specially-chartered municipal corporation that provides water, sanitary sewer, riverfront park maintenance, and other public services to its eight member towns – Bloomfield, East Hartford, Hartford, Newington, Rocky Hill, West Hartford, Wethersfield and Windsor – as well as portions of other towns within the Greater Harford area.

The MDC owns over 25,000 acres of watershed and reservoir land in Connecticut. A vast majority of the MDC property is made available for recreational activities, such as hunting, fishing, hiking, swimming, cycling and jogging. One of the MDC's most-used recreational land is located in West Hartford, and consists of approximately 3,000 acres of open space off Albany Avenue. The MDC does not charge a fee for recreational use of this property, but it is estimated that approximately 200,000 people visit this site annually. Another significant recreational facility is a 1,900 acre site in Barkhamsted known as Lake McDonough, consisting of a 390 acre lake with four beaches and a boathouse. Over 40,000 people visit Lake McDonough on an annual basis. Of particular note is the number of children from MDC member towns that use the facility for camping and daily outings.

In May, 2010, a jury in the case of Blonski v. Metropolitan District awarded $2.9 million in damages to a cyclist injured when she rode her bicycle into a closed gate at the West Hartford reservoir. The judgment is under appeal. Without getting into specifics, it is clear that the Blonski case has brought a renewed focus on the liability of all public entities, not solely the MDC, for injuries to individuals who use their land to recreate.

This renewed focus is not limited to proposals before and potential action by the Legislature. As a public entity funded by tax payer money, it is incumbent upon the MDC to evaluate the recreational use policy, assess its risks, and openly consider and debate all options. On July 20, 2010, the Water Bureau of the MDC held a public hearing at West Hartford Town Hall to receive public input on whether the West Hartford Reservoir should remain open to the public and if so, whether certain recreational uses should be restricted or eliminated. The public sentiment was overwhelmingly in favor of keeping the reservoir land open.

Today, MDC lands historically open to the public remain open. We have not changed our policy. However, the MDC has a duty to all of its rate payers, not just those who use our property. Each time the MDC experiences another scenario as that played out in the Blonski case, we are compelled to re-evaluate our policy. It is impossible to predict when, if ever, the number of similar damage claims will of necessity result in a dramatic shift in MDC policy. If nothing else, recent events have served to highlight the need for legislative action to provide some level of protection to avoid this undesirable, yet foreseeable, policy shift.

555 Main Street Post Office Box 800 Hartford, Connecticut 06142-0800 telephone: 860-278-7850 fax: 860-724-2679
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Although the MDC would have preferred an initial proposal sponsored by Representative Baram- House Bill 5315 – we understand that there are competing interests and that compromise is needed. House Bill 6557 adequately protects municipalities from frivolous lawsuits, while insuring that there is no absolute immunity for injuries occurring within certain improvements to this property – swimming pools, playing fields, playgrounds and tennis courts.

The MDC does not support House Bill 1232. This bill appears to erode what little protection municipalities presently enjoy under the doctrine of governmental immunity. It is a step in the wrong direction, and will lead to more litigation and costs, not less.

We urge committee members to support House Bill 6557.

CONNECTICUT TRIAL LAWYERS ASSOCIATION

150 Trumbull Street, 2nd Floor
Hartford, CT 06103
p) 860.522.4345 f) 860.522.1027
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Hearing Date: 4/4/11
Bill No.: 6557

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LINE 2

TO: MEMBERS OF THE JUDICIARY COMMITTEE

FROM: THE CONNECTICUT TRIAL LAWYERS ASSOCIATION

RE: OPPOSITION TO HB6557, AAC LIABILITY FOR THE RECREATIONAL USE OF LAND

It is the position of the Connecticut Trial Lawyers Association that adding municipalities, political subdivisions of the state, nonprofit municipal corporations and railroads to the recreational land use liability law is against public policy, unwarranted and **provides an undue burden on injured victims who sustain their injuries on public lands through no fault of their own.** The Connecticut Constitution guarantees in section 10 that "***All courts shall be open, and every person, for an injury done to him in person, property or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.***" These proposals close the doors of the courts to injured people, merely because of where that injury occurred.

The original intention of the narrow immunity provided to private land owners in the recreational land use statute was to offer them an incentive to open their lands to public use, as they were under no compulsion by law to do so. There is no need to likewise encourage municipalities, as they have always historically made their open space open to the public, as it is the public's land.

The Connecticut Supreme Court, in Conway v. Wilton, 238 Conn. 653, laid out how including these municipalities in this statute would be against public policy, since municipalities, through taxes, spread the costs of negligence among residents, thereby shifting the burden of municipal negligence away from the injured party, who under this bill would be not only hurt but also held footing the entire bill for their recovery!

In fact, the Conway court stated *"[t]o apply the act to municipalities imposes too high a societal cost and serves no useful or intelligible purpose."*, emphasis added.

Finally, the addition is unwarranted as well because municipalities already enjoy a powerful defense under the doctrine of governmental immunity.

PLEASE OPPOSE HOUSE BILL 6557
CONCERNING AND EXPANDING RECREATIONAL LAND USE

The Connecticut Trial Lawyers Association respectfully objects for these additional reasons to House Bill 6557, which seeks to extend the recreational use immunity set forth in C.G.S. § 52-557f to municipalities, non-profit municipal corporations, and political subdivisions of the state. The extension of recreational use immunity to municipalities runs contrary to the legislative history of the statute, and the established rulings of the Connecticut Supreme Court. Further, it is logically inconsistent with the broad scheme of protection afforded to municipalities by the doctrine of governmental immunity, a doctrine that has been tested by over 100 years of judicial decisions and now codified at C.G.S. § 52-557n. **The proposed immunity imposes too high a societal cost, and deprives injured victims from access to the courts for injuries sustained on public land through no fault of their own.**

1. **The recreational use immunity statute was never intended to extend to municipalities, and the Supreme Court has rejected such extension.**

The Connecticut Recreational Use Immunity Statute, codified at C.G.S. § 52-557f, was first enacted in 1971. The Connecticut statute tracked a model act promulgated in 1965 by the Council of State Governments. It is very clear from the legislative history that the purpose of the statute was to encourage **private** landowners to open their land for public recreational use. *Conway v. Wilton*, 238 Conn. 653, 666-673 (1996). As noted by the *Conway* Court:

> "The legislature was not contemplating immunity for governmental entities. At the time the act was enacted, the legislature was interested in increasing the availability of land for public recreational use...The legislature's sole motive was to encourage **private** citizens to donate their land... *Conway, supra* at 673.

For the first 21 years following the enactment of the statute, the immunity was not applied to municipalities in any reported decision of the Connecticut Supreme, Appellate or Superior Courts. Immunity was applied to municipalities for a short period of time following the *Manning v. Barenz* in 1992. Very quickly thereafter, the Supreme Court undertook the rare and extraordinary measure of reversing its own precedent, and overturned the *Manning* decision in the case of *Conway v. Wilton*, 238 Conn. 653 (1996).

The *Conway* decision is particularly relevant in that the Supreme Court undertook a comprehensive analysis of all of the legal and societal arguments advanced by the municipalities in favor of extending the immunity. Many of the same arguments are being offered in support of this legislation. After full consideration and analysis, the Supreme Court rejected each of these arguments, and refused to extend the recreational use immunity to municipalities.

The *Conway* Court focused on the uniquely public nature of lands owned by municipalities. Municipalities make land available through taxes, which in effect constitute an implicit charge for the use of the land. *Conway, supra* at 674. The land is owned by the public – municipalities can not deprive the public of the right to use public land. Municipalities are able to insure against the risk and costs of injuries caused by municipal negligence by spreading the costs of that insurance among all residents, thereby shifting the burden of municipal negligence away from the injured party. Municipalities should be required to bear the risk of their own negligence, since the municipality is uniquely in a position to take steps to avoid and correct its own municipal negligence and the negligence of its employees.

As stated above, it is this reasoning which led the *Conway* Court to conclude:

> ***[T]o apply the [recreational use immunity] act to municipalities imposes too high a societal cost and serves no useful or intelligible purpose. .. Our analysis of Manning persuades us that its analytical underpinnings are flawed... Conway, supra at 674-676.***

New England Mountain Bike Association

RE: Comments Supporting HB 6557, a bill that would protect municipalities that 1) offer free access to their recreational lands, and 2) take reasonable precautions to ensure that recreational areas are safe.

Testimony to the Judiciary Committee Delivered by

Al Tintl

Connecticut Chapter
New England Mountain Bike Association

(800) 57-NEMBA

WWW.NEMBA.ORG

Dear Members of the Judiciary Committee,

Thank you for allowing the New England Mountain Bike Association to present testimony in support of HB 6557.

Nearly 350,000 Connecticut residents mountain bike on natural surface, singletrack trails[1], and the Connecticut Chapter of the New England Mountain Bike Association (NEMBA) represents their interests. Our organization has a wide range of programs designed to promote stewardship of public trails and healthy recreation for residents of all ages.

NEMBA strongly urges the committee to support HB 6557. Protecting municipalities from frivolous lawsuits is critical to the economic and physical health of our communities. Municipalities should not be penalized for providing opportunities for healthy recreation: they simply cannot afford to be dragged into court because they have opened up public property to recreation. Similarly, our communities can not afford the consequences of not having outdoor, natural places to run, walk, and bicycle. HB 6557 is important in helping to make our communities healthier and more livable.

in this modern era of dwindling open space, our communities are experiencing rampant obesity among old and young alike, and a widespread disconnect to the natural world, commonly referred to as nature deficit disorder. Municipal lands play an ever increasing role in providing recreational opportunities to our citizenry, and outdoor recreation such as mountain biking plays a significant role in combating these social problems.

This legislation will play a positive role in helping to promote healthy outdoor recreation, help Connecticut's municipalities and their struggling budgets, and restore basic justice to the Recreational Use Statutes in our state.

[1] Outdoor Recreation Participation Study (Leisure Trends Group for the Outdoor Industry Foundation, 2004)

Support for NEMBA's Testimony comes from over 150 residents of Connecticut and a few others from out of state who could not attend the Judiciary Committee's public hearing on HB 6557. Many of these individuals wish for NEMBA to include their own testimony to this Committee and have signed on to NEMBA's testimony in favor of HB 6557.

Kyalera Mistretta-Tucker
Darien CT
As a resident of Lower Fairfield County, I believe access to municipal lands is vital to residents' happiness and mental health. Many in my area depend upon recreation on municipal lands for their physical and mental health. For many people who spend their days working indoors and surrounded by technology, recreation on municipal lands is a vital outlet and escape from modern world. The farther a person moves away from nature, the farther they move from humanity.

Brian Campanelli
Southington CT
In such a small state as Connecticut any reduction in open space is a huge loss to the community. Most of my outdoor life is spent on trails be it biking or hiking. No company or municipality should have to worry that users will cost them money.

Robert Berry
Glastonbury CT
Hello. My name is Robert Berry, from Glastonbury, CT. I support HB 6557 not only because I am a mountain biker and occasional hiker, but also because I am a clinical exercise physiologist. Clinical exercise physiologists work with patients who have chronic diseases such as diabetes, heart disease, hypertension, and hyperlipidemia. All of these conditions respond favorably to increased physical activity, i.e. exercise. I am often asked what the best kind of exercise is, and I always answer, "The one that you'll do." The more opportunities that you have to engage in physical activities, the more likely it is that you will find one that you enjoy and will continue to practice.

In an era where our health care system is failing under the crushing burden of chronic disease, it is imperative that more opportunities be made available for people to easily incorporate physical activity into their lives..If someone has to travel long distances to engage in physical activity, the odds of them successfully integrating that behavior into their lifestyle are drastically reduced. The role of government should be to find ways to make physical activity more accessible to people, not less so. Supporting HB 6557 will help ensure that Connecticut residents have access to these opportunities for physical activities.
Sincerely,
Robert Berry
Registered Clinical Exercise Physiologist
Fellow, American Association of Cardiovascular and Pulmonary

Tim Murphy
East Hampton CT
I am a resident of East Hampton, CT, and enjoy getting out in the woods for hiking, biking and cross country skiing. What I have seen over the past 20 years in East Hampton is a major loss of forested land due to the creation of new housing developments. With the loss of the private land for recreation opportunities throughout Connecticut, it becomes more important for municipalities to be able to fill this void. Therefore I urge the committee to support HB 6557.

David L. Metzger
Bloomfield CT
I am David L. Metzger. I live at 22 Jerome Avenue, Bloomfield CT, 06002. I am a lawyer. I believe entities and individuals who permit people to come onto their land for recreational purposes should not be subject to lawsuits by those who have enjoyed the use of the land for recreation. I am especially concerned about areas that have trails or where trails cross private land, as it is important to the survival of long

established trails that private land owners, including the MDC, municipalities and other governmental entities, continue to permit trail use.

John Haug
Branford CT
I ride municipal or state lands 100% of the time. I support legislative efforts such as this so citizens can continue to have access to multi use lands for recreational purposes. Hiking, running, and riding are low impact on the environment and beneficial to people for both the interaction with nature and for healthy exercise. The state and municipalities should be protected from frivolous lawsuits.

Dan Surkis
Farmington CT
Protecting our resources and quality of life is win-win. Thanks for listening.

Chris Ragali
Bristol CT
I am in full support of NEMBA's testimony regarding HB 6557. We need to do what we can to help protect municipalities from frivolous lawsuits so that we can all continue to enjoy the great outdoors

Art Roti
Granby CT
With all the challenges we face today it is important that all forms of outdoor recreation be supported. Mountain biking is a popular and healthy way to see the outdoors. Children love the idea of being able to ride their bikes and walk in the woods where there are no cars to avoid. Furthermore, families can also enjoy these activities. Finally, I find mountain biking a great way to alleviate stress so it is very important to me that lands remain open to these activity. I support this bill to give immunity to municipalities.

Paul Sarazin
North Windham CT
As a member of NEMBA and the mountain bike community it is essential that the trails remain open for public use. The unfortunate incident in West Hartford should be used as an example on how the public sector and the MDC can now. Move forward together and be mutually protected against frivolous law suits. Many mountain bikers maintain and police the

Trails they use which is a benefit to the MDC. It would be a crime to eliminate an area that helps keep Americans fit and healthy.

Frank M. Strazar
Wilton CT
Protecting municipalities that allow for recreation is important to me because they offer a breath of fresh air, relaxation and stimulation through all forms of physicality, while also providing emotional tranquility and community awareness. It is imperative that the committee support HB 6557 in order to maintain the opportunities these resources provide to us as individuals and to our public en masse.

Jonathan Yeich
South Windsor CT
I believe it is important for municipalities that allow for recreation to be extended liability protections and be protected from frivolous lawsuits.

Mark Lurie
Newtown CT
I feel this legislation is not only important for mountain biking but also very important for anyone wanting to do any sort of physical activity on public lands. Towns should not be held liable for frivolous law suits who allow the public to recreate on their land. Otherwise it will create an environment where there will be where for people to enjoy the outdoors and get exercise.

Eric Schonenberg
New Fairfield CT
I support protecting municipalities from frivolous liability when allowing recreation. Isn't it obvious? We need more recreation in this country. Obesity, kids inside too much. Let's move in the direction of more recreational opportunities.

Rich Coffey
Stamford CT
My Name is Rich Coffey and I live in Stamford, CT. My son and I have been mountain biking for 6 or 7 years and are passionate about the sport. Not only has biking in the parks given us both a greater

appreciation of the incredible beauty of our state's rivers and forests but it has also instilled a fine-tuned awareness of the cycles of nature and the sensitivity of the environment. Having the opportunity for this type of "immersive" recreation has actually been a key factor in my son's choice of career -- environmental science!

Supporting this bill is extremely important to us as everyone's access to municipal lands is critical to the economic, mental and physical health of our communities. I see firsthand the joy in both old and young alike of folks hiking, biking, biking and fishing as they reconnect to the natural world.

Protecting municipalities from frivolous lawsuits is critical -- they simply cannot afford to be dragged into court because they have opened up public property to recreation. Municipalities should not be penalized for providing opportunities for healthy recreation: they should be encouraged and rewarded for promoting outdoor, natural places to run, walk, and bicycle.

HB 6557 is important in helping to make our communities healthier and more livable and help Connecticut's municipalities restore basic justice to the Recreational Use Statutes in our state.

James Smith
Ledyard CT
As a recreational rider I use various state and local town areas for riding. I find it appalling that people who ride bikes in general Mountain Biking will try to gain by suing a town or municipality due to their own negligence. The minute you get on a bike you are riding at your own risk. Having broke my neck while riding on State property I would have never thought to take action against the state. I decided to ride the bike I took the risk and that is my responsibility. Do not let people take action against the state or local towns.

Michele Stryeski
Bristol CT
I am in support of this bill because it will able a harmonious balance between municipalities and the riding community. The cycling community is passionate. We love to be outdoors, we love our sport. We are trying to live a healthy lifestyle, and we have limited places to ride. As more communities are being developed, are trail system is dwindling.

Today there is tension between municipalities and the riding community. Let's face it, we all know that there is a litigious public, and the municipalities should not be liable for our actions. Mountain biking is a sport that contains an element of risk; we should be able to take that risk on our hands and make responsible decisions. If we are not careful and hit that tree, or fall off a rock, or crash into a gate we should take ownership. It is not a town's fault that the rock was larger then we anticipated and the proper skill set was not present.

Municipalities preside over many miles of beautiful single track. If they are held responsible for our actions, I do not blame them for discouraging or prohibiting any riding. But let's close that loophole, let riders act as responsible adults and please keep the trails open to public use without the consistent fear of when the next lawsuit will arise.

I support house bill 6657, because it will allow me to continue my healthy, active outdoor lifestyle.

Ryan Tucker
Darien CT
I support the HB 6557 legislation. Protecting municipalities from frivolous lawsuits is critical to the economic and physical health of our communities. Municipalities should not be penalized for providing opportunities for healthy recreation: they simply cannot afford to be dragged into court because they have opened up public property to recreation. Similarly, our communities can not afford the consequences of not having outdoor, natural places to run, walk, and bicycle. HB 6557 is important in helping to make our communities healthier and more livable.

Rick Brodsky
Newtown CT
Public land needs to be protected from frivolous lawsuits. Please help protect the public's ability to access these wonderful

natural resources. The government should not be held liable for frivolous lawsuits.

Peter Gill
Conway, MA
While I am not a resident of the State of CT, I believe this is an important topic. In supporting HB 6557 the committee will help protect communities in CT from frivolous lawsuits that might come out of recreational activities on public property. In supporting this bill committee members will also send a message to cities and towns in other states that face similar situations.

Scott Oberg
Meriden CT
My name is Scott Oberg. I have lived in CT all my life and currently live in Meriden. I am an avid mountain biker and outdoor enthusiast and I am supporting NEMBA with their efforts in supporting HB 6557.

Alan Feldman
Sharon MA
I believe mountain biking or any action sport is inherently dangerous and done so at "your own risk". I do not believe municipalities that allow biking or skating or any sport on their land should be held liable. Much like surfing, you can't sue a town for allowing surfing on its beaches if you're hurt as far as I know. I don't want to open a can of worms here but I value my right to bike in public forests that allow it and believe it is at my own risk if something bad happens.

George Bussmann
Branford CT
I support NEMBA's testimony regarding mountain biking on municipal property because to limit recreational activities on municipal property would greatly reduce the places, hikers, bikers, walkers etc., could enjoy the out of doors in this state.

Tim Hopkins
Simsbury CT
I live in Simsbury Connecticut and am an avid mountain biker. The lands such as the West Hartford Reservoir are a vital resource for this important recreation. To hold the water commission or other public services liable for accidents incurred through pursuit of this recreational activity on "public lands" will be a huge loss for the community.

Alan Tinti
Glastonbury CT
As a NEMBA and CFPA member and a Glastonbury resident, I strongly support NEMBA's testimony on behalf of passage of HB6557, "AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS".

Don Heckler Jr.
Berlin CT
As an avid mountain biker, I am in favor of extending liability protections to municipalities that allow for free and public recreation. I am definitely in support of HB 6557.

Alexander Sokolow
Killingworth CT
Now more than ever obesity is a problem in the United States. Health care costs continue to rise. Taking away or hindering recreational opportunities by punishing those that open their land to public use does not help the cause. I urge the committee to support HB 6557 and support the greater good.

Todd A. Simonds
Colchester CT
I support any legislation that would indemnify landowners (whether public or private) who allow recreational use of their land. Many recreational activities including hiking, biking, and rock climbing have inherent risks, and those who participate in these activities are well aware of the risks. Managing these risks and dealing with the consequences of any unfortunate events should be a matter of personal responsibility.

Marc Dupuis
Danielson CT
I would like to show my support for NEMBA's testimony (below). I firmly believe that the litigation should not be directed at, or the responsibility of, the municipalities and the more access we have to our public lands, the better off we all will be.

Laura Leigh Caissy
Fairfield CT
Mountain biking and hiking is a healthy passion which I have embraced in my

midlife. Without it I feel I would be depressed and would reconsider residency in Ct. My husband and I would most likely move if the option to enjoy these freedoms did not exist.

Dan Cassella
Wallingford CT
It's my hope people don't look at public municipalities as just another pay day and will see them for what they are, a way to enjoy the outdoors with family an friends in a healthy way.

Derek Monahan
Bristol CT
I support NEMBA, CFPA and all organizations advocating HB 6557, An Act Concerning Liability for the Recreational Use of Land. In this age there are few things we need more than physical fitness, and there are thousands in CT who take great happiness in getting their exercise in the natural environment provides by our great state's forests and mountains. Mountain biking, hiking, running: these are just a few examples of the activities many of us can enjoy practically in our own backyards. We don't need millions of dollars to build parks, buildings or buy equipment. All we need is to be able to use what is already here. Please ensure our continued freedom to enjoy the woodlands of our home by protecting the landowners who make them available to us. Thank you.

Tom Carruthers
Bethel CT
I, Tom Carruthers at 7 Vera Drive in Bethel CT support this testimony. Mountain Biking is a life sport enjoyed by millions of Americans and it's how we help maintain our weight and healthy life styles to avoid obesity and cardiovascular decease. It is also how we maintain healthy minds. By restricting trail access you limit the number of opportunities. The majority of Mountain Bikers are respectful individuals who care about the wear and care of the trails they use and take responsibility for their actions. I applaud you in advance by voting for open access and to not close down trails. Thank you for listening.

Scott Birmingham
East Granby CT
My name is Scott Birmingham of East Granby, CT I am in support of the bill to reduce the liability to municipalities so that they will allow access to recreational activities such as mountain biking without fear of frivolous lawsuits such as the extremely publicized suit involving MDC at the West Hartford Reservoir on RT.4. This not only hurts the towns financially but also reduces the space for which people who are involved or would become involved in healthy activity reduced space and opportunity to pursue those physical outlets. Please support HB 6557.

Ed Perten
Milford CT
As a NEMBA member, I strongly support their support of HB 6557. Use of public recreation facilities is extremely important to both individuals and the greater community at large. NEMBA has taken responsibility to build and maintain sustainable trails for the public to enjoy. This helps to relieve stress, to maintain physical fitness, to develop a sense of camaraderie and a sense of community. It would be a shame to loose this by not having places to ride due to concerns about liability. I strongly urge you to keep public facilities open to the public to use for their mountain biking and other recreation interests. Thank you for your time and consideration.

Diana Petersen
Middletown CT
I support NEMBA's testimony. I am an avid cyclists and hiker. It is very important for individual's to have access to outdoor open spaces, forests and parks to help maintain their health and to be an example for the younger population.

John Lockwood
West Simsbury
My name is John Lockwood. I reside at 15 Homestead Road in West Simsbury, CT. I am an avid cyclist, hiker, snowshoer, and nature photographer. I am a member of the New England Mountain Biking Association (NEMBA), the International Mountain Biking Association (IMBA), and the League of American Bicyclists (LAB). In fact, the LAB recently named Simsbury to their list of

Bicycle Friendly Communities, the first town in Connecticut to ever receive this designation.

I am writing to strongly urge the Committee to support HB6557 in order to reinstate municipal liability protection for activities on recreational facilities. Failure to pass such legislation will lead to municipalities and non-profit municipal corporations throughout Connecticut to reexamine their public access policies in light of the Conway v. Wilton court decision, and the recent Superior Court decision involving the Metropolitan District Commission property in West Hartford.

Connecticut is a beautiful, but heavily populated state. While the state is encouraging (and funding) municipalities to acquire open space, it would be senseless not to give the towns some protection from legal liability for the public's use of such land. Municipal lands play an important role in providing recreational activities for the residents of Connecticut.

In addition to supporting this bill, I would urge the Committee to ensure that "bicycling" and "mountain biking" continue to be included among the recreational activities to be covered. Through the work of organizations like NEMBA and IMBA, mountain bikers have become active and important stewards of our wilderness trails. These groups have provided thousands of hours of volunteer time in CT to build, maintain and repair trails in an environmentally responsible manner. In addition, these groups provide programs and materials to educate all trail users on how to act responsibly and preserve the open spaces we all use.

Again, I urge the Committee to support these bills. Thank you for your consideration of this important issue.

Bob Ballek
East Haddam CT
I support this bill 100% as it is absolutely essential to relieve public entities from the burden of this liability, which really only benefits lawyers and insurance providers who want to make money on the threat of costly litigation.

Allyson Shimizu
Seymour CT
Protecting municipalities that allow for recreation is important because it allows for physical activities that are healthful and also affordable. I cannot pay for a gym but I can always afford to go for a walk or bike ride!

William Higgins
Enfield CT
I am one of over the 300,000 Connecticut residents who mountain bike on natural surface and singletrack trails responsibly. I am also a member of the Connecticut Chapter of the New England Mountain Bike Association (NEMBA). I along with NEMBA strongly urge the committee to support HB 6557. This Bill protects municipalities from frivolous lawsuits.

Steven McAllister
Stratford CT
I am an avid trail enthusiast and trail maintainer. Activities include hiking, snowshoeing and mountain biking, etc. I endorse NEMBA's efforts regarding HB 6557.

Jon Petersen
Middletown CT
I support NEMBA's testimony. Something really needs to be done to protect municipalities from frivolous lawsuits. The recent award to the bicyclist who was injured at West Hartford Reservoir is just wrong. It sets a precedent to open up lawsuits on most of the trails we ride on. And once that happens, they will close these trails for recreational use.

Its about time people start being responsible for their own actions. Just because you get hurt, this does not give you the right to sue for no reason.
Close the loopholes!

Elizabeth Krajewski
Coventry CT
I strongly support NEMBA's testimony to support HB 6557 and protecting municipalities from frivolous lawsuits.

Stefan Heline
Hebron CT

As an avid and responsible mountain bike enthusiast, I support the NEMBA testimony allowing the recreational use of public lands without the need to subject municipalities to additional liability. Those of us who choose to participate in these recreational activities understand the hazards and risks and accept them as is. Responsible mountain bikers use common sense and judgment when participating in the sport. Thank you for your consideration.

Mark Toce
Plainville CT
I'm happy to hear that HB 6557 will specifically include bicycling as part of the definition of public recreation. As this is my primary form of outdoor recreation, I would be extremely disappointed to lose access to State and municipal lands. I fully support NEMBA's position on this bill.

Robert Caporaso
Griswold CT
Frivolous lawsuits are making our communities struggle to support healthy outdoor activities in our state. Please support HB 6557

Bill Kelly
Vernon CT
It is important to keep these trails open not just for us adults but also for the kids growing up. It is a great family recreation and if we take it away it is one more notch in chopping down the family values tree and gives kids and teens more time to get into mischief!

Jesse Gannelli
Tolland CT
I believe land that is owned/purchased with tax dollars that the public pays should be open for the people to use for recreation.

Michael Francoer
West Hartford CT
My name is Michael Francoeur, and I live in West Hartford, CT – and I support NEMBA's testimony. The reservoir is one of West Hartford's best resources for its residents and the residents of surrounding areas, and is used for recreation by countless individuals – walking, running, and biking, and not allowing these activities would be a travesty.

Simon Garstin
Vancouver BC
My name is Simon Garstin, Age 20, and I live on Vancouver Island (west coast of Canada). The reason I am emailing is because I do feel strongly about allowing and encouraging outdoor recreation of all forms due to its socio-economic benefits (they are endless and many many paragraphs could be written on the subject). To have access denied to ride your bike on land because someone is suing the landowner is incredibly wrong on so many levels.

Fabian Esponda
North Haven CT
Municipalities must be afforded protection from lawsuits! We need places to ride, protect these organizations from lawsuits resulting from people recreating on their property!

Tuiri Rostad
Norfolk CT
I'm all for ending frivolous lawsuits of any nature. Life comes at you fast and there are no promises.

Amy Frey
West Hartford, CT
Using lands such as the reservoirs is a privilege and we need to take responsibility for our own actions. We need to, as citizens, exercise good judgment and not hold others responsible for our own mistakes. Endorsing this case would mean that every time someone hurts themselves in a public space, the threat of a suit hangs over a community or public resource, and our ever-more litigious society will become even more-so.

Vianna Zimbe
Glastonbury CT
Please continue to allow cyclists and mountain bikers access to the public lands in Connecticut. The opportunity to get out for exercise and fresh air is priceless. I live in a suburban area and the Manchester Water / Case Mountain and Gay City State park are two of many favorite places to escape into the peace of the woods and to hone my mountain biking skills.

Philip Parker
Manchester, CT
I love hiking and biking on municipal lands!

Russell Kelly
Somers CT
My family and I are avid recreationalist enjoying public lands on foot, horseback, mtn bike and skis. It is important to me to have access to the many properties made available by municipalities. It saddens me to see this resource threatened by frivolous lawsuits and I support legislation that will extend protections to those municipalities from such lawsuits. I am in support of HB 6557.

Cathy Rubin & Jim Levola
Voluntown CT
People who use the outdoors, no matter whose property it is, should be responsible for their own actions and not expect others to pay them compensation for their ignorance and negligence.

John Laughran
Windsor CT
I've had the benefit of hiking and biking on municipal properties that would not have been available if they were closed to the public. Please support the protections.

Jamie Mastrio,
Formerly of Wethersfield
Seasonally of Old Lyme.
Wilbraham MA
Please do something about this and other frivolous lawsuits. I think the award is excessive and should have been thrown out of court. If nothing else, please pass legislation to limit the amount of awards... It is one thing to pay someone's medical bills, it's another to make them rich for a mistake that they made! Where is the personal accountability??

Walter Beach
West Suffield CT
I grew up in West Hartford during the 70's and early 80's. I have fond memories of my father taking me for long walks on the many trails in the West Harford Reservoir. I would hate to see it closed to the public because of one unfortunate accident. From what I've seen in the media and read online this accident was the result of the riders carelessness not neglect or anything else that could be attributed to the MDC. When are we going to stop blaming others for our own mistakes? While I hope the person who was injured makes a full recovery I fail to see how and why she was awarded such a large some of money.

David Harkins
Longmeadow, MA
I like to go biking on the public trails and particularly enjoy the trails on the MDC property.

Dan O'Neill
Kent CT
I am a biker, and a life-long citizen of CT... and I vote. It is my wish to protect the limited spaces we have to ride on and to increase the miles, both on and off road, that we can freely use. As a biker I respect these spaces and take full responsibility for my riding; the owners (including municipalities) of the lands on which I ride owe me nothing--in fact, I owe them my respect and gratitude. It is really that simple. Politicians and civic leaders who support the same issues I do will always have my support; those who do not are on their own.

Stephanie Zoltewicz
Manchester CT
I support the legislation because I am an avid mountain biker and enjoy the trails here in CT and want to continue to do so for many more years!

Alfred Caputo
West Hartland CT
I support NEMBA's testimony because I believe we should be individually responsible for our own actions, and their outcomes.

Judy Chirico
Stafford Springs CT
I support NEMBA's testimony. I support extending liability to towns and municipalities who allow mountain biking on public property. There is limited open space for mountain biking and it is a wonderful means for staying in shape and promoting good health.

Jeffery Winnick
Simsbury CT
People need to take responsibility for their own actions. Riding is not unlike driving you need to follow rules of the recreational area as you do on the road in your car. Riding distracted is the same as driving distracted, and both have their consequences.

Karen Kaminski
South Windsor CT
I am a mountain bike rider that uses public land trails. They are important to myself and my family as a way to enjoy the outdoors and get much needed exercise. Humans were not meant to be sedentary. Nature is important to our health and well being. I hope we can continue to use and have access to these public lands and that our children will be just as privileged.

Clifford Kenyon
Manchester CT
As someone who owns a home in Manchester which abuts a recreation area used for mountain biking, I support this bill which will extend protections to municipalities that allow for public recreation.

Cara DeFrancesco
Bridgeport CT
I support NEMBA because I know the majority of us (mountain bikers) out there take care of the properties we ride on (trail maintenance, making sure we do not litter, etc.) and also understand the nature of our sport - sometimes, the bike doesn't always remain under us and it has nothing to do with who owns the land! It would be a tremendous shame to lose access to the lands we ride on. There is nothing more exhilarating or joyful as riding a mountain bike through a beautiful section of woods, along a river, away from the sound of vehicles.

Scott Kluger
West Hartford CT
Unfortunately, I cannot attend the hearing, but want to give NEMBA my full support during this time. I believe as long as warning signs are posted in recreational areas about riding at one's own risk, or not riding in certain areas of the park, a municipality should have absolutely no liability.

Thomas J Rasmussen
Weatogue CT
I used to be a hot shot punk in my youth, abusing alcohol and cigarettes until I found a MT Bike. Thirty five years later (at 68 years young) my bike is keeping me out of trouble and healthy. No smokes or booze. Please do not limit places I can enjoy this sport. Thank you.

Angel Johnstone
Manchester CT
Please do not allow a frivolous lawsuit (or your fear of one), degrade the freedoms of your citizens to use the few remaining spots of nature to renew their minds, bodies and spirits.

Kris Kline
Ellington CT
It is time people are responsible for there own actions. We need to close the loopholes that allow this "golden ticket lawsuit" mentality.

Gina L. Block
Higganum CT
As someone who grew up exploring the woods of Connecticut, I think the loss of the MDC property at the West Hartford Reservoir would be an absolute travesty. This great trail network is home to thousands of walkers, hikers, and bikers in the state. We should be fostering healthy, active lifestyles- both in children and adults across Connecticut. Taking away such valuable public spaces detrimental to active communities. It is a shame that this is even up for debate. I hope to continue using these trails... and perhaps someday my children will be able to enjoy them as well.

Bob Forster
Wilton CT
Mountain biking trails are an important recreational resource for the state. People have to be responsible for there own actions and judgment not the towns that open their resources to the public

Anthony Conti
Glastonbury CT
If people and/or organizations are nice

enough to share their land; we should respect that and not hold them accountable for mistakes made by the receivers of the land owner's generosity

Jeff A. Murray
Rocky Hill CT
It's a shame that thousands of people would lose the access to recreation areas due to one person's negligence and a current law that does not protect municipalities. I support bill HB 6557 which will allow people to enjoy the outdoors while at the same time close the current loophole in the law and give immunity to landowners.

Eric Bischof
West Hartford CT
I'm writing in support of the current proposed legislation to protect municipalities who make their land available for public use. My family uses the trails around the West Hartford Reservoir area for walking and running on an almost weekly basis during the summer. I would really hate to see this great recreational area be closed to public use. Access to this land is a huge asset to those of us who live in West Hartford and enjoy the way of life that this town has to offer. I wish they would make MORE of it available!

People--and kids especially--need access to areas like the MDC's Reservoir so that there are alternatives to the sedentary lifestyle that more and more Americans are engaging in.

Ryan O'Hara
Vernon CT
I believe it is important of our next generation of children to be able to play in the woods on their bicycles. It is healthy and fun. Without having space that is permitted for people to do so would be tragic.

Larry Settembrini
Trumbull, CT
We need to protect our land access and take responsibilities for our actions while participating in outdoor activities. A frivolous lawsuit should not put the entire outdoor community at risk for access. It is too important to our well being, our families and our futures. We need access to the land and we have to respect the landowners who have generously allowed us access to their property.

John Arch
Coventry CT
I John Arch from Coventry Ct. believe it is critical to protect municipalities from liability pertaining to recreational activities on properties where permission has been granted in good faith and where it is understood that this is a privilege and not a right. The laws as they are currently written are in my opinion are an open invitation to frivolous law suits and will eventually close access to valuable resources available to the surrounding community that enhance our quality of life.

Larry Wright
East Hartford CT
We use the East Coast Greenway bike trail, Case mountain trails and the rails to trails between Manchester, Ellington and Bolton quite a bit. I would hate to see these have to close due to a single incident. I support this new legislation!

The following individuals have signed on to NEMBA's Testimony:

William Gombos
Middletown CT

Paula Burton
Sandy Hook CT

Bryan McFarland
Deep River CT

Glenn F. Vernes
Middletown CT

Peter Westerholm
Wilton CT

Scott Byrne
New Hartford CT

David Stowe
Amston CT

Joanna Brooks
Shelton CT

Robert S. Mazzawy
S. Glastonbury CT

Colin Michael McAdoo
Lake Oswego OR

Joshuaine Toth
Southbury CT

Justin and Jessica
Olewnik
Farmington CT

Richard Sequeira
Fairfield CT

Jonathan Kleinberg
Manchester CT

Doug Shuckra
Unionville CT

Eli Miner
Pawcatuck CT

Guy Somers
Shelton CT

Robert Wheeler
Bloomfield CT

Steve Koller
Plainville CT

Daren Casey
Plainville CT

Steve Tudisco
Hartford CT

Dr. Andrew J. Kuhlberg
Canton CT

Alfred g. Higley
Farmington CT

Josh Gianni
Torrington CT

Kevin McCormick
Bristol CT

Shawn Craver
Willington CT

Jim Marinelli
Torrington,CT

Ray Foss
Lisbon CT

Claudia Spaulding
Cheshire CT

Jason Efland
Windsor CT

James Brick
Southington CT

Jay Krajewski
Coventry CT

Mark Higby
Granby CT

Jackj Fleming
Kennebunkport ME

Barry Spaulding
Cheshire CT 06410

Chris LaSalle
Wallingford, CT

Jonas Ciemny
Groton MA

Damien Drobinski
Hamden CT

Eric VanOstrand
Amston CT

Mary Pelletier
Manchester CT

Neil Montlick
Windsor CT

Bob Spooner
East Hampton CT

Brian Towles
Easthampton MA

Jennifer Dickinson.
East Glastonbury CT

Jeffrey Zweig
West Hartford CT

Conrad Peters
Glastonbury CT

Linda Gannelli
Tolland CT

Mark DiPoppo
Windsor Locks CT

Jaime J. Rotatori-
Trajcevski
West Hartford CT

Evan West
Bozeman MT

Dean Romine
Bozeman MT

Joshuaine Toth
Southbury CT

Alison Hall
Tolland, CT

Ron Michaels
Orange CT

Nick Hage
Cycling Sports Group
Bethel CT

Judy Strom
Danbury CT

Melissa Dewey
Hartford CT

Mary Lynn Gemma Hadix
Vernon CT

Frank Sousa
West Hartford CT

Harley Erickson
Willimantic CT

William Lakel
Woodbury CT

Ed Blasco
Danbury CT

Charlene Smith
Bolton CT

Wesley Pomeroy Jr.
Watertown CT

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LINE 11

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Brooklyn, New York

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Meriden

April 4, 2011

Senator Eric Coleman, Co-Chair
Representative Gerald Fox, Co-Chair
Members of the Judiciary Committee
Connecticut General Assembly

RE: Proposed H.B. No. 6557 AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

Dear Co-Chairs Coleman and Fox, and Committee members,

Bike Walk Connecticut is a statewide membership based organization committed to ensuring that bicycling and walking are attractive, safe, and reliable modes of everyday transportation in Connecticut.

Bike Walk Connecticut has formally endorsed the campaign to reform the state Recreational Land Use Act to provide municipal and quasi-public owners of land the same limited immunity from liability as currently is extended to state and private owners who make their land open to free recreational use and enjoyment by the public. We are writing today respectfully to request that the Judiciary Committee demonstrate the same support by voting favorably to pass H.B. 6557.

We believe on any given day under any circumstances, there is no rational basis for a state recreational land use law/policy that provides municipal and quasi-public landowners any less express statutory provision of limited immunity than any other owner of land. But these days we now are given are under circumstances that clearly should compel your votes in favor of these bills, along with other initiatives like it that serve to increase, not threaten to deny, opportunities for residents and guests to burn calories while enjoying the magnificent Connecticut outdoors.

On behalf of the Board and our membership, thank you truly for your attention to this letter. We respect the many demands on your time and energy, and are grateful for all that you are doing promoting the health and vitality of the people and State of Connecticut.

Sincerely,

Georgette Yaindl
Executive Director

Office at: 56 Arbor St., Suite 310A Hartford, CT 06106
Mail to: PO Box 270149 West Hartford, CT 06127
860-904-2420 www.bikewalkct.org

changing the culture of transportation through education and advocacy

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LINE 18

Recreational Liability Hearing Testimony, 4/4/2011, 10am, Room 2C

-Rick Tillotson, Connecticut Forest and Park Association Trail Manager, (860) 738-7438

Good morning.

I would like to take a few moments to tell you about the experiences that people from Connecticut have while on property that would pertain to this legislative agenda.

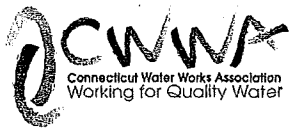
My own background is as a volunteer firefighter, EMT and Trail Manager for one of Connecticut's blue blazed trails. From time to time I have assisted with locating lost hikers in Connecticut or responding to an occasional outdoor injury. These happen. Not often but they do. In each of the events that I have participated in, not one of those involved has attributed any blame to anyone but themselves. The vast majority of the time my outdoor responsibilities have been keeping trails clear of fallen branches and such and providing hikers with information about particular views, trail history or birds, plants and animals in the area.

As more and more electronic alternatives press for the attention of our children it becomes more important to make them aware of the entertainment and enjoyment received by those who would tarry along a trail next to a river or through the woods. Those who would pause to examine a plant as it slowly uncurls from fiddlehead to fern. To feel the texture of a tree's bark. To compare the scents of different wildflowers. To observe a Chickadee flit branch to branch. To be fortunate enough to see the majestic sight of a Bald Eagle. To invent games of their own and exercise their imagination as well as their bodies.

It used to be that our backyards were nature preserves. Building lots and yards were larger then. Nowadays children simply don't have a readily available sampling of nature within their grasp. Today most families have to travel to find that. To restrict that further by closing access would in many cases completely eliminate that exposure that will shape our children's views as they become adults. How can they be expected to become stewards of these resources if they have such limited experience to draw from? How will the needs of such sanctuaries ever become important to them if they themselves are not brought up with access to such places?

So the cost of removing this access is indeed high. How do we avoid that? We have to ensure that we provide appropriate legal protection for the owners of these areas so that they are not afraid of the consequences of allowing people onto them. Yes, nature is beautiful. But nature itself cares not for whomever would trip over a tree root or fall into a stream. Living and dying are both aspects of all natural things. Injuries and healing are part of that too. We all need to accept that nature is, well, nature. That as custodians we will minimize risks as well as can be expected but risks can never be eliminated. There will be skinned knees. There will be sprained ankles and broken bones. Yes, there will even be worse. We, as those who would partake of the offerings of nature's bounty, have to accept those conditions. We cannot place blame on those municipalities or organizations who would allow us to hike, bike, jog or otherwise wander through their properties. So please consider providing that protection. Only then can we ensure that the bounty of nature's beauty will remain available to all who would wish to enjoy it.

Thank you for your time.



Testimony
Elizabeth Gara
Connecticut Water Works Association (CWWA)
Before the
Judiciary Committee
April 4, 2011

The Connecticut Water Works Association (CWWA) ***strongly supports*** the following bill that will bring parity to the recreational land use act by extending protection from liability to municipalities, political subdivisions, special districts and metropolitan districts:

- **HB-6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS**

Recognizing the importance of allowing access to private and public lands for recreational use, the Recreational Land Use Act adopted in 1971 to limit the liability of landowners who allow the public to access their properties for recreational activities free of charge. Unfortunately, a 1996 Connecticut Supreme Court decision, *Conway v. Wilton*, stripped Connecticut's municipalities of this protection, exposing towns and cities to increased liability costs. In addition, recent court decisions, which have resulted in multi-million dollar damage awards, have raised serious concerns about whether the cost of making these lands available to the public for recreation is too high.

Connecticut's water companies, as stewards of the state's water resources, have long supported efforts to preserve watershed lands as open space and provide recreational access when it is consistent with efforts to protect public water supplies. Open space land preservation is critical to protecting Connecticut's water resources, ecological habitats and natural beauty. It can also provide citizens with wonderful opportunities for outdoor recreation, such as hiking, biking and boating, on some of the most beautiful and pristine lands in the state

Recognizing the value of preserving water company lands as open space, the state has initiated several successful programs, including the Open Space and Watershed Land Acquisition program, conservation easements on Class I and Class II watershed land, and tax credits to encourage private water companies to donate or sell at a discount open space lands for preservation. These programs have helped to preserve hundreds of acres of pristine land as open space which has directly benefited the citizens of Connecticut as well as future generations. Many of the communities that received these lands intend to open them for recreation but may be concerned about the potential liability.

Under Section 52-557f, lands owned by private water companies are provided with limited immunity from lawsuits but lands owned by municipal water departments and regional water authorities do not have the same protections. The legislature should extend to municipalities,

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political subdivisions, special districts and metropolitan districts the same liability protection it does to private landowners against lawsuits arising from recreational activities. This will encourage water companies to continue to provide opportunities to access water company lands for recreational activities.

CWWA therefore urges lawmakers to support legislation which revises the state's recreational liability act to give municipalities, political subdivisions, special districts, metropolitan districts and quasi-municipal agencies certain protections from liability from personal injury lawsuits if they open their property to the public for free recreation.

The Connecticut Water Works Association, Inc. (CWWA) is an association of public water supply utilities serving more than 500,000 customers, or population of about 2½ million people, located throughout Connecticut. Membership in the Association is open to all Connecticut water utilities: investor-owned, municipal and regional authorities. CWWA is committed to working with the state to develop policies that will ensure that Connecticut has a safe, ample supply of water to meet present and future needs.

1245 Farmington Ave., Suite 103 ♦ West Hartford, CT 06107 ♦ Tel. 860-841-7350 ♦ gara@gmlobbying.com

006394

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LINE 2

RECREATIONAL
EQUIPMENT, INC.

April 4th, 2011

Chairmen, and members of the Judiciary Committee:

Thank you for allowing me to testify before you today. My name is Tessa Bondi, Outreach Specialist for Recreational Equipment, Inc. in West Hartford. Recreational Equipment, Inc. (REI) is a national retailer of outdoor gear and clothing. Our company is structured as a consumer cooperative meaning that, REI is owned by our 4.4 million active members worldwide, and we share our profits with our members, employees and the communities that we serve.

One of the ways we give back to our communities is through our annual giving program. We have been a part of the West Hartford community since 2007 and we are active in giving back through local grants and the organization of stewardship projects throughout the greater Hartford area. In 2010 alone, REI West Hartford donated $20,500 to 3 local non-profits involved in promoting volunteerism in the outdoors-Riverfront Recapture here in Hartford, the Farmington River Watershed Association (FRWA) in Simsbury, and the Connecticut Forest and Park Association (CFPA) were our recipients last year. Additionally, we promoted and rallied volunteers for various volunteer opportunities in the outdoors throughout the region.

REI operates retail stores across the country, 2 in Connecticut, and our mission is to "Inspire, Educate and Outfit for a lifetime of outdoor adventure and stewardship".

I live in West Hartford, and I am an active outdoor enthusiast who enjoys the various public recreational amenities that our community and state provides. I'm here today to speak in favor of House Bill 6557 which I believe helps ensure access to our public recreational places in Connecticut. As a business person it's critical that our customers have places close to home in which to enjoy the outdoors and the products that we sell. According to the Outdoor Industry Association, outdoor recreation nationally generates $730 billion in economic activity and generates over 6 million jobs. In New England, the association reports $23 billion in economic activity and 270,000 jobs attributable to outdoor recreation.

RECREATIONAL
EQUIPMENT, INC.

Industry research also shows that having recreation opportunity nearby is very important for the ability to recreate, but it also ensures a high quality of life which allows people to be active and healthy. Close-to-home recreation is an essential way in which to expose people to the outdoors. With participation in many outdoor activities in decline, and with soaring inactivity and obesity rates especially among our young people, it has never been more important to ensure people have access to the outdoors and abundant recreation opportunities.

HB 6557 provides the immunity for municipalities under the Recreational Lands Use Act that helps ensure access to recreation areas. This bill restores this necessary immunity to municipalities and is consistent with the way in which the law views private landowners and the state. Last year the Metropolitan District in West Hartford considered closing a recreational area that attracts more than 200,000 visitors a year and is within a 1.5 miles of our store for lack of this immunity, and we believe similar concerns would play out across the state without the protection afforded in H.B. 6557.

Thank you.

Tim Linehan
166 Georgetown Drive
Glastonbury, CT 06033

Good morning Chairman Coleman, Chairman Fox, members of the Judiciary Committee. My name is Tim Linehan. I chair the Connecticut chapter of the Appalachian Mountain Club. On behalf of the chapter's 8,000 members I'm here to speak in support of:

Proposed Bill	Title	Position
H.B. 6557	An Act Concerning Liability For The Recreational Use Of Lands	Support

We encourage the legislature to extend to municipal landowners the same limited liability protections that are available to the State and to private landowners.

During the past year CT-AMC volunteers led over 1,100 hikes, backpacks, cross country ski trips, flat water and white water paddles, bike rides, rock and ice climbs, trail maintenance work parties, river clean-ups, and a variety of seminars on conservation and environmental initiatives. Continued access to the natural resources that are located on municipal land is crucial to maintaining the number and variety of activities that our chapter offers to the residents of Connecticut.

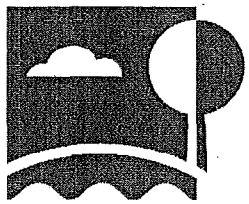
The potential for liability concerns to result in the closure of municipal properties to recreation is not speculation; it has already taken place. Rock climbing provides a specific example. More than half of the 80 cliffs listed in the 1982 edition of *Traprock – Connecticut Rock Climbs*, a guidebook to rock climbing in our State, are located on municipal land; all but a few have been closed. The result has been a loss of more than 370 individual rock climbs – including several routes that appear in lists of classic North American rock climbs.

A few years ago, in an attempt to regain access to these areas, the AMC, the Access Fund, and Ragged Mountain Foundation met with several municipal landowners to discuss their concerns. Potential liability was cited as the key reason why risk managers advised otherwise supportive municipal agents to restrict access to and activities on the lands they manage; the *Conway* decision was specifically referenced as a reason for recreational closures.

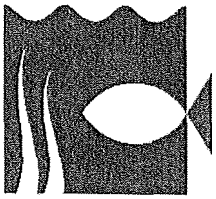
One can understand a municipality's desire to protect its taxpayers from increased insurance premiums, deductibles, and the expenses associated with legal defenses and responses - particularly when these costs would need to be absorbed by smaller towns. It's unfortunate that there are already restrictions on recreational access to some of our State's most notable natural resources. It would be a tremendous loss to the quality of life in Connecticut if *more* areas were closed to recreation due to increased liability concerns following the significant judgments of the past year.

The members of Connecticut AMC urge you to eliminate the risk of these potential future closures by providing municipalities with the same *limited* liability protection that is already available to other landowners.

Thank you.



Connecticut Fund
for the Environment



Save the Sound®
A program of
Connecticut Fund for the Environment

Testimony of Connecticut Fund for the Environment
Before the Joint Committee on Judiciary

In Support of H.B. 6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS

Submitted by Jessica Morowitz, Legal Fellow
April 4, 2011

Connecticut Fund for the Environment ("CFE") is Connecticut's non-profit environmental advocate with over 5,700 members statewide. For over thirty years, CFE has fought to protect and preserve Connecticut's health and environment.

CFE strongly supports H.B. 6557, An Act Concerning Liability for the Recreational Use of Lands. H.B. 6557 is an important bill that would restore to municipalities and municipal entities the same liability protection currently afforded to the State and private landowners.

H.B. 6557 is an important bill because municipalities and municipal entities are some of the largest open space landowners in the state. By ensuring that they receive the same liability protection as the State and private landowners such as individuals, corporations, nonprofits, and private utilities, we are encouraging them to open up this vast amount of land to the public to provide low-cost recreational opportunities. Without such protections, the fear of lawsuits could result in a large amount of open space being closed off to our citizens, and losing the extraordinary value these partnerships provide. Moreover, when a municipality incurs costs defending or settling such lawsuits, those costs are ultimately paid for by all of us.

In 1971, the General Assembly passed the Connecticut Land Use Recreation Act ("the Recreation Act"), Conn. Gen. Stat. § 52-557f *et seq.*, which recognized the importance of encouraging landowners to open up their land to the public for recreational purposes by

protecting landowners from liability for personal injury lawsuits as long as they do not charge a fee for access to the property. When originally enacted, municipalities and municipal entities were thought to be included in the definition of "owner" under the statute. After a 3-2 Supreme Court decision in *Conway v. Wilton* in 1996, however, municipalities were no longer considered "owners" under the statute and therefore did not receive the liability protection afforded by the Recreation Act.

H.B. 6557 is a simple bill that amends the definition of "owner" to explicitly include municipalities, political subdivisions of the state, municipal corporations, special districts and water or sewer districts. It is important to point out that the Recreation Act does not provide total or absolute immunity to the owner of the property, as they are not protected from liability for willful or malicious actions, and this bill does nothing to change that.

For the above stated reasons, CFE strongly supports H.B. 6557, An Act Concerning Liability for the Recreational Use of Lands. CFE thanks the Committee for its attention to this important matter, and urges the Committee to vote favorably on this bill.

Connecticut Fund for the Environment and Save the Sound
142 Temple Street • New Haven. Connecticut 06510 • (203) 787-0646
www.ctenvironment.org • www.savethesound.org

Good morning .....

I would like to take a few moments to tell you about the experiences that people from Connecticut enjoy while on property that would pertain to this legislative agenda.

My own background is as a volunteer firefighter, EMT and Trail Manager for one of Connecticut's blue blazed trails. From time to time I have assisted with locating lost hikers and responding to an occasional outdoor injury. These happen. Not often but they do. In each of the events that I have participated in, not one of those involved has attributed any blame to anyone but themselves. The vast majority of the time my outdoor responsibilities have me keeping trails clear of fallen branches and such and providing hikers with information about particular views, trail history or birds, plants and animals in the area.

As more and more electronic alternatives press for the attention of our children it becomes more important to make them aware of the entertainment and enjoyment received by those who would tarry along a trail next to a river or through the woods. Those who would pause to examine a plant as it slowly uncurls from fiddlehead to fern. To feel the texture of a tree's bark. To compare the scents of different wildflowers. To observe a Chickadee flit branch to branch. To be fortunate enough to see the majestic sight of a Bald Eagle. To invent games of their own and exercise their imagination as well as their bodies.

It used to be that our backyards were nature preserves. Building lots and yards were larger then. Nowadays children simply don't have a readily available sampling of nature within their grasp. Nowadays most families have to travel to find that. To restrict that further by closing access would in many cases completely eliminate that exposure that will shape our children's views as they become adults. How can they be expected to become stewards of these resources if they have such limited experience to draw from? How will the needs of such sanctuaries ever become important to them if they themselves are not brought up with access to such places?

So the cost of removing this access is indeed high. How do we avoid that? We have to ensure that we provide appropriate legal protection for the owners of these areas so that they are not afraid of the consequences of allowing people onto them. Yes, nature is beautiful. But nature itself cares not for whomever would trip over a tree root or fall into a stream. Living and dying are both aspects of all natural things. Injuries and healing are part of that too. We all need to accept that nature is, well, nature. That as custodians we will minimize risks as well as can be expected but risks can never be eliminated. There will be skinned knees. There will be sprained ankles and broken bones. Yes, there will even be worse. We, as those who would partake of the offerings of nature's bounty, have to accept those conditions. We cannot place blame on those municipalities or organizations who would allow us to hike, bike, jog or otherwise wander through their properties. So please consider providing that protection. Only then can we ensure that the bounty of nature's beauty can stay readily available to all who would wish to enjoy it.

Thank you for your time.

Rick Tillotson
Winsted, CT

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LINE 15

Frank Chiaramonte
First Selectman
Town Of Harwinton
Before the
Judiciary Committee
April 4, 2011

RE: *SUPPORT* – HB-6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS

I urge lawmakers to ***support*** **HB-6557,** which would extend the Recreational Land Use Act to municipalities to encourage towns to continue to make open space lands available for recreation.

Our town prides itself on providing opportunities for residents and visitors to enjoy our recreational facilities. The town maintains a Conservation/ Recreation Area which provides hiking trails, a pavilion with picnic tables, a pond that is stocked with trout each spring, three tennis courts, a playground, and a sand volleyball court.

We are concerned, however, that increased liability costs may force us to consider limiting access to these facilities. Faced with trying to budget for increased costs in the areas of education, road repair, health care, labor costs and more, towns like Harwinton may have very few options for reducing costs.

Increased liability concerns will also be an important factor in determining whether we should move forward with any new recreational facilities or the purchase and protection of open space lands. Open space lands and ponds and other water resources can be difficult to monitor to ensure the safety of recreational users. Many small towns simply don't have the resources to ensure that trails are always free from fallen limbs or debris that may pose a safety risk to hikers and bikers.

As a result, many communities are considering or have already begun to restrict access to open space lands. To address these concerns, we urge you to **support HB-6557 - AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS,** which extends limited liability protections that are enjoyed by private landowners that make their land available to the public without charge to municipalities.

Thank you for the opportunity to comment. If you have any questions, please contact me at 860-485-9051 or 1stselectman@harwinton.us.

TESTIMONY to co-Chairs Senator Eric Coleman, Representative Gerald Fox and members of the Judiciary Committee, Monday, April 4, 2011.

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My name is Sidney F. Van Zandt of 3 Front St., Groton, CT.

I would urge you to support **H.B. # 6557** that will protect municipalities that 1) offer free access to their recreational lands, and 2) take reasonable precautions to ensure that recreational areas are safe.

A successful lawsuit against the MDC resulting from a biking accident in 2010 has aroused fears that municipalities may need to restrict or end public access to open space parcels that they hold.

My concern is that existing open space, if it is no longer available for recreation because of liability issues may get placed on the auction block to the highest bidder. In addition, any future hope of promoting protection of open space through purchase by municipalities would be threatened. Open space is not only a vital recreational asset and a refuge for wildlife, it protects our underground water supplies and retards harmful runoff into our waterways. Once it is claimed by development, it is gone forever.

Besides the MDC there are 169 towns in this state. You represent some of them. If you take a moment to visualize each parcel that is owned by your town that includes woodlands and fields with trails, to baseball fields, to kiddy parks you will realize how valuable these parcels are to the greenbelt, wildlife corridors, places of recreation that makes your town and all the others a special place to live. That also includes the village green which is the center of the place you call home.

I was a founder of the Groton Open Space Association, (GOSA) in 1967 which spearheaded the fund drive with the help of the Ct. Forest and Park Assoc. to raise the funds for the Town's portion of an open space grant that in 1970 Saved the Haley Farm, now a state park. GOSA was also involved in helping to save Bluff Point from massive development pressures, now Bluff Point State Park and Coastal Reserve. Bluff Point and Haley Farm have been joined by a pedestrian and bike bridge over the Amtrak rail line, and they total over 1,000 acres. Our organization has recently purchased -- with the help of DEP & LIS funds and local supporters -- two parcels in Groton of 76 acres (May 2008) and 63 acres (December 2010) for open space. We have been promoting protection of green belts since 1967 for wildlife habitat as well as supporting crosstown hiking trails, most notably the Bluff Point to Preston Bike/Hike Trail.

In our town GOSA, the Avalonia Land Conservancy, the State and Town Open Space lands have helped to provide a corridor from the Mystic River to the Thames River. Unfortunately key parcels along this corridor belong to the town, and they could conceivably become unavailable for liability reasons.

If you extrapolate this example to every one of the 169 towns in Connecticut, the loss of liability protection has a huge potential effect. Liability protection is provided to municipalities in the abutting states of Massachusetts and Rhode Island. I urge you to restore recreational liability protection for Connecticut municipalities by giving your support to: **H.B. 6557**

Sidney F. Van Zandt, Vice-President
Groton Open Space Association
P.O. Box 9187, Groton, CT. 06340
Tel: 860-572-5715
svanzandt3@aol.com

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LINE 10

Testimony of Beth Bryan Critton, submitted April 4, 2011

Proposed Bill before the Judiciary Committee; public hearing held on April 4, 2011	
H.B. 6557 AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS	Support

Co-Chairs Coleman and Fox, and members of the Judiciary committee:

My name is Beth Critton. I live at 39 Cumberland Road in West Hartford, Connecticut. I offer this testimony in support of H.B. 6557 regarding liability for the recreational use of lands.

I am a land use and environmental attorney. I am also past chair of the Connecticut Chapter of the Appalachian Mountain Club (CT-AMC) and am active in many outdoor recreational organizations. As a hike leader for CT-AMC, I have led hikes on over 500 miles of blue-blazed trails (maintained by the CFPA) and the Appalachian Trail in CT.

I was inspired to start hiking after one of my sons completed a hike of the 2,181 mile Appalachian Trail (AT). But his hiking accomplishments did not begin in Springer Mountain, Georgia, where the AT starts. They began in Westmoor Park and at the Metropolitan District reservoir in West Hartford, Connecticut - in the very places that this proposed legislation deals with. That is why I am submitting testimony. I believe that Connecticut must do everything reasonably possible to foster opportunities for all of us - and most important, for our children and grandchildren - to get outdoors. Restoring municipal recreational immunity is critical to this goal.

My interest in outdoor recreational liability began in the 1990s, when I worked as assistant corporation counsel for the Town of West Hartford. In 1992, the Connecticut Supreme Court, in Manning v. Barenz, 221 Conn. 256 (1992), held definitively that Connecticut's recreational immunity statutes, Conn. Gen. Stat. §§ 52-557f through 52-557i, inclusive (adopted in 1971), included municipalities. In 1996, the Supreme Court overruled Manning in Conway v. Wilton, 238 Conn. 653, a 3-2 decision that narrowly interpreted the word "owner" in the statute, finding it did not include municipalities.

In April, 2010, I helped to organize and spoke at a statewide conference on recreational liability. My research for the conference made me aware that neighboring states - specifically, Massachusetts (ALM GL 21, §17C) and Rhode Island (R.I. Gen. Laws §§ 32-6-1 to 32-6-5, inclusive) - include municipalities within the scope of their recreational immunity statutes as Connecticut did before the Conway decision.

Since Conway, municipalities and quasi-municipal agencies have become increasingly fearful of liability relating to outdoor recreation. This has had a chilling

effect on decisions ranging from municipal open space acquisition to municipal participation in the creation of rail-trails. After Conway, most municipalities with cliffs closed their cliffs to rock climbers, sending Connecticut climbers and their dollars to other states with open climbing venues.

Fear of liability has been shown to be justified by several widely reported recent cases (a $ 2.9 million verdict against the Metropolitan District Commission relating to a bicycle accident and an $ 8 million settlement by the City of Waterbury relating to a snow-tubing accident). Many municipalities and the MDC are considering further limitations on recreational activities on their lands.

I am aware that lobbyists for special interest groups are advising legislators that "municipalities already enjoy a powerful defense under the doctrine of governmental immunity." However, since Conway, municipalities have no protection under the recreational liability statutes.

With regard to Conn. Gen. Stat. § 52-557n, subsection (b)(1) protects municipalities and employees from liability resulting from "[t]he condition of natural land or unimproved property." But once a trail, bike path, climbing route, or similar recreational "use-way" has been established, the property arguably is no longer "natural land or unimproved property" and arguably a municipality would not have immunity protection under § 52-557n(b)(1).

Conn. Gen. Stat. § 52-557n(b)(4) provides protection from liability with respect to "the condition of an unpaved road, trail or footpath, the purpose of which is to ***provide access to*** a recreational or scenic area, if the political subdivision has not received notice and has not had a reasonable opportunity to make the condition safe." Nothing in § 52-557n(b)(4) provides any specific protection with regard to unpaved roads, trails or footpaths that ***are*** the recreational or scenic area. The section makes no reference to, and therefore arguably provides no immunity relating to, bike paths or rock-climbing routes.

In addition, other municipal immunity statutes, such as Conn. Gen. Stat. § 52-557n(a), which governs claims of negligence for which there is no specific statutory immunity, are sufficiently complex that they engender extensive and expensive litigation regarding whether the municipality was acting in a discretionary or ministerial capacity and other issues. The most straightforward and effective way to reduce or eliminate the high costs associated with such litigation is for the legislature to overrule Conway v. Wilton by amending Conn. Gen. Stat. § 52-557f to make clear that the recreational immunity it provides for private property owners and the State (through Conn. Gen. Stat. § 4-160(c)) is also provided to municipalities and similar entities.

The same special interest group has submitted testimony that, because municipalities have historically made their open space available to the public, there is no need to encourage municipalities to do so now. But the reality is that, with

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Testimony of Beth Bryan Critton, submitted April 4, 2011

Proposed Bill before the Judiciary Committee; public hearing held on April 4, 2011	
H.B. 6557 AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS	Support

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Since Conway, municipalities and quasi-municipal agencies have become increasingly fearful of liability relating to outdoor recreation. This has had a chilling

diminishing revenue, with fewer employees, and with increasing, justifiable fear of liability, municipalities have a powerful incentive not to acquire open space and, if they acquire it, not to make it accessible to the public through trail systems.

Restoring recreational immunity to municipalities and similar entities by overruling Conway v. Wilton through the amendment of Conn. Gen. Stat. § 52-557f to include municipalities will:

(1) Encourage municipal acquisition and preservation of open space; promote free public access to those open spaces; and foster an appreciation of the natural environment;

(2) Improve Connecticut's public health, economic viability (tourism, recreation-related businesses) and quality of life;

(3) Meet the need for free, local recreational opportunities, which is particularly important for the many Connecticut residents for whom the "stay-cation" has replaced the vacation;

(4) Reduce costs to municipalities and municipal taxpayers relating to increased insurance premiums and to the defense or settlement of frivolous lawsuits; and

(5) Provide consistency by placing municipalities on the same legal footing as private property owners and the State, which, pursuant to Conn. Gen. Stat. § 4-160(c), has rights equal to the "rights and liability of private persons in like circumstances." In this time of tightening municipal budgets and staff reductions, it is unfair to hold municipalities to a standard higher than the standard applied to other property owners, including the State.

As a lawyer and outdoor recreation enthusiast, as a mother and a grandmother, and as a municipal taxpayer, I respectfully ask the legislature to amend Conn. Gen. Stat. § 52-557f to restore recreational immunity protection to Connecticut municipalities and similar entities.

These are my own views and do not represent those of my employer.

Respectfully submitted,

Beth Bryan Critton

Beth Bryan Critton

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LINE 10

April 4, 2011

My name is Jean-Ellen M. Trapani and I support Raised Bill No. 6557, ***AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS,*** speaking as a private citizen. I am an avid kayaker and also enjoy hiking and walking. I travel all over this beautiful state to do so. Hoping to understand if my enjoyment was shared by other people in Connecticut, I found a Statewide Comprehensive Outdoor Recreation Plan (SCORP) 2005 – 2010 prepared by the Connecticut Department of Environmental Protection and dated Sept. 2005 on the DEP's website (http://www.ct.gov/dep/cwp/view.asp?a=2707&q=323864&depNav_GID=1642) . On pages IV and V from the Executive Summary it says:

Connecticut residents participate in a wide array of outdoor recreational activities. This SCORP therefore undertook an assessment of residents' demand for thirty landbased, water-based and winter sports outdoor recreational activities.
The Citizen Demand Survey results show that almost all households (93.8%) participate in land-based recreational activities, 85.3% of households participate in waterbased activities, and 54.2% participate in winter activities. The survey results verify that a very high percentage of Connecticut residents participate in a wide range of outdoor recreational activities. The top ten activities in descending order of individual participation rates are: walking/running/hiking, beach activities, visiting historic sites or museums, swimming in freshwater or saltwater, swimming in pools, biking, bird and wildlife watching, sledding, camping, and canoeing/kayaking/tubing.

The frequency with which residents engage in these activities varies widely. For example, a walker or runner likely practices that activity more frequently than a visitor to historic sites and museums makes such trips. To capture the variation in the frequency with which the various activities are engaged in, and thus to get a more accurate picture of recreational demand, a measure called the use frequency index (UFI) was developed for this SCORP. Loosely defined, the UFI is a product of the percentage of residents practicing an activity times a measure of the frequency of participation. Chapter 7 of this SCORP presents the UFIs for the thirty measured activities, first on a statewide basis, but also by county and by socio-economic category of municipalities. The twelve most popular activities, listed with their respective UFIs to give a sense of their relative participation intensities, are: running/walking/hiking (95.3), swimming in pools (63.7), beach activities (62.0), swimming in freshwater or saltwater (54.7), biking (40.9), visiting historic sites and museums (36.7), sledding (26.8), basketball/volleyball (22.2), motor boating (21.8), canoeing/kayaking/tubing (20.8), golf (20.2), and camping (20.0).

Going back to the main web page which describes the report, it says:

The SCORP is a planning document which assesses both the demand for and the supply of outdoor recreational facilities statewide. The National Park Service officially approved Connecticut's new SCORP in September 2005. Using the data and insights obtained through the preparation of the SCORP, both the state and its

municipalities will be able to more effectively provide and improve outdoor recreational opportunities for Connecticut's residents and visitors. The approval of Connecticut's SCORP by the National Park Service allows the state to be eligible to participate in the Land and Water Conservation Fund Program, through which the Department of Environmental Protection receives funding to acquire, develop and improve outdoor recreational properties. Twenty-five percent of the federal funds received will be passed on to Connecticut's municipalities through a competitive grant application process in order to develop additional recreational facilities at the local level.

I am hoping that you will consider this information as evidence of very wide-spread support by the citizens of this state for access to outdoor recreational opportunities. The report also discusses the physical, educational, pyschological and economic benefits of outdoor recreation. It also lists recommendations, strategies, and priorities. I'd like to urge you to read this document or at least the Executive Summary.

Thank you for giving me the opportunity to speak today.

Rivers Alliance of Connecticut

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LINE 12

TESTIMONY FOR THE JUDICIARY COMMITTEE
PUBLIC HEARING, APRIL 4, 2011

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To: The Chairmen: Sen. Eric Coleman and Rep. Gerald Fox
And to the Members of the Committee
RE HB 6557 AAC LIABILITY FOR THE RECREATIONAL USE OF LANDS

Rivers Alliance of Connecticut is the statewide, non-profit coalition of river organizations, individuals, and businesses formed to protect and enhance Connecticut's waters by promoting sound water policies, uniting and strengthening the state's many river groups, and educating the public about the importance of water stewardship. Our 450 members include almost all of the state's river and watershed conservation groups, representing many thousand Connecticut residents.

Thank you for this opportunity to comment on this important bill. For several years, Rivers Alliance has received questions from members and others in the public as to risk of lawsuits arising from outdoor activities. People were nervous about supporting river cleanups, shoreline hiking, paddling outings, and so forth. In response we invited Attorney Beth Critton (who is testifying today) to explain how to lower the risk of litigation without sacrificing enjoyment of the countryside. Her presentation was so well-received, and there were so many follow-up questions, that the next year, in April 2010, we and other groups, including American Canoe Association, Appalachian Mountain Club, Connecticut Forest & Park Association, Farmington River Watershed Association, and, Sierra Club, offered a day-long conference on the issue of recreational liability.

The single most urgent conclusion that emerged from that conference, attended by some 150 leaders of outdoor recreation, was that Connecticut state law needs to be amended to provide greater protection to municipalities that provide free access to their open spaces. Note, this was prior to the decision in the MDC case. That shocking case dramatically highlighted the problem that was already discouraging outdoor recreation.

In the present grim economic circumstances, one of the few extra benefits that towns can offer residents is the chance to enjoy the countryside. But if this benefit comes at the price of unique legal liability (not imposed on the state or on individual property owners), then towns and utilities must seriously consider shutting out the public. This Committee has the authority and the expertise to remedy this problem. Please, please do so.

Margaret Miner, Executive Director

Margaret Miner

7 West St., Suite 33, P.O. Box 1797, Litchfield, CT 06759 860-361-9349 FAX: 860-361-9341
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Testimony
Bart Russell, Executive Director
Connecticut Council of Small Towns
Before the
Judiciary Committee
April 4, 2011

- **HB-6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS**

The Connecticut Council of Small Towns (COST) ***strongly supports*** **legislation** which would extend the current law which provides private landowners with protection from lawsuits arising from recreational use to municipalities and political subdivisions.

Many of Connecticut's rural and suburban towns have spent considerable resources to purchase and maintain open space lands for the benefit of current and future residents. Open space lands are a vital part of the charm and character of Connecticut's small towns. Preserving open space lands provides residents with many opportunities for healthy outdoor recreation, such as hiking, biking and boating. Open space land preservation is also critical to protecting the state's natural resources.

Unfortunately, municipalities are increasingly exposed to enormous liability for injuries occurring on recreational lands, as evidenced by recent court decisions that have awarded multi-million dollar damage awards to plaintiffs. As a result, many communities are considering or have already begun to limit recreational activities on municipally owned lands.

The state's Recreational Land Use Act currently provides protection from lawsuits to private landowners that make all or a portion of their land available to the public without charge. However, the protection enjoyed by private landowners does not extend to municipalities under the 1996 Connecticut Supreme Court decision in *Conway v. Hilton*. In this decision, the state Supreme Court held that municipalities and their employees are not "owners" under the Recreational Land Use Act and are not entitled to immunity from liability provided by that Act for injuries sustained on land they make available to the public without charge for recreational purposes.

This legislation would correct this loophole by amending the state statute to provide some protection from personal injury lawsuits for towns and cities that allow people free access to recreational lands that are reasonably maintained. **We therefore urge your support for HB-6557.**

1245 Farmington Ave., Suite 101 • West Hartford, CT 06107 • Tel. 860-676-0770 • www.ctcost.org

RE: HB6557 AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

Submitted by: **The Connecticut Bicycle and Pedestrian Advisory Board**

Dear Co-Chairs Coleman and Fox, and Committee members,

The Connecticut Bicycle and Pedestrian Advisory Board voted to support HB6557.

The Connecticut Bicycle and Pedestrian Advisory Board has formally endorsed the campaign to reform the state Recreational Land Use Act to provide municipal and quasi-public owners of land the same limited immunity from liability as is currently extended to state and private owners who make their land open to free recreational use and enjoyment by the public. Municipalities and municipal water companies own over 150,000 acres of open spaces that support recreational activities across the state. As a group, municipalities and municipal water companies are the second largest landowners in the state, ranking only behind the state itself.

The budget issues that our towns face, when coupled with the justifiable fear of liability, provide an incentive to close open spaces and to not acquire new space. The continuing need for open spaces can be seen on most any weekend when indeed it is the availability of parking that sets the limits on their usage. These open spaces are key and very popular recreational facilities that significantly contribute to making Connecticut a place where people want to live.

The Complete Streets bill which was signed into law as PA 09-154, *An Act Improving Bicycle and Pedestrian Access*, created our Board. Our responsibilities, as defined by this law, include, but are not limited to, "examining the need for bicycle and pedestrian transportation, promoting programs and facilities for bicycles and pedestrians in this state, and advising appropriate agencies of the state on policies, programs and facilities for bicycles and pedestrians." Our Board looks forward to continuing its work toward a more bicycle and pedestrian-friendly Connecticut. We urge you to support this bill.

Thank you for your consideration of this important and much-needed legislation.

Geoffrey L Meissner
67 West St, Plantsville, CT 06479-1137
Phone: (860) 426-2218 | Email: geoffmeissner@gmail.com

April 1, 2011

Re: H.B. 6557 – A bill to protect municipalities offering access to recreational lands.

I rise to support the passage of H.B. 6557. I give my support to this bill based on the three different roles in which I find myself. I am a director of the Connecticut Forest and Park Association, I am an avid hiker and camper, and finally I am father of a 15 year old son. Let me take each of these in turn.

CFPA has been acting to the benefit of Connecticut outdoors and Connecticut citizens since 1896. I am extremely proud to be associated with the strong environmental legacy and the ongoing stewardship which in which CFPA continues to engage. CFPA's mission is to connect Connecticut citizens to the land. In a real sense, our Connecticut outdoors is a legacy that is invested in all of us to protect and to pass on to future generations. Much of this outdoor land is contained in state lands and forests. But in addition a good deal is owned by local municipalities for the benefit of each of 169 towns in Connecticut. It behooves us to support these towns to ensure that our great outdoor areas continue to offer Connecticut citizens their advantages without restriction. This bill will go a long way to helping mitigating risk associated with this access.

I have always had a strong love for the out of doors. It is a place of peace and oneness with the world that leaves me with a sense of spiritual well being every time I venture out on one of the trails. I consider myself fortunate to have had the opportunity to walk all of Connecticut's blue blazed trails, as well as many of the trails that local communities have created. All citizens deserve to share the joys that the outdoors provide. Indeed, this is a birthright of all Connecticut citizens. While not everyone will take advantage of this, it strikes me that the towns have recognized the spiritual, ecological and health aspects of providing access to a wooded path to their citizens. This one of the best ways to put these resources in within reach of the largest number of citizens. To this end, anything that can be done to help out those towns is vital.

Finally, my son Tad is a wonderful 15 year old. He has grown up in the woods, since birth, hiking and camping. We went to the woods often, regardless of the weather, the time of day, or the season of the year. The out doors has taught Tad confidence in himself. He has learned how to take care of himself, to sleep with comfort under the stars and to take comfort in the feel of nature around him. The woods relieve stress, improve scholarship, and has centered him as a thoughtful and forward looking young man. The parklands and forests of Connecticut are a classroom and laboratory for the growth of our youth. We need to continue to make them available to as many kids as possible in order to achieve a better citizenry for Connecticut. I consider to be no higher reason to support access for all our youth to all the out door spaces our state is blessed with.

Please support and pass this bill.

Thank you for listening,

Geoffrey Meissner
Plantsville, CT
860-426-2218
geoffmeissner@gmail.com

The Farmington Valley Trails Council

P. O. Box 576, Tariffville, Connecticut 06081

860-202-3928 info@fvgreenway.org *www.fvgreenway.org*

Bruce Donald
President

Preston Reed
Founder

Board Members:
Nancy Anstey
Jim Cassidy
Kathy Cole
Stephen Cole
Ron Coleman
Barbara Collins
Dolph Fusco
Mary-Jane Gately
Joy Himmelfarb
Richard Kramer
Jerry Ledger
Scott Myrick
Steve Noble
Allen Ryan
Dwight Weed

Testimony of R. Bruce Donald, President, Farmington Valley Trails Council, Inc.

Legislation before the Judiciary Committee April 4, 2011
HB 6557: AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS. **- IN SUPPORT**

Chairs and Members of the Judiciary Committee:

My name is Bruce Donald and I am the President of the Farmington Valley Trails Council, (FVTC) a CT 501(c)(3) formed in 1992. We advocate and raise funds for as well as help maintain multi-use trails in the Farmington Valley. On behalf of our Board of Directors and our over 1,400 members across Connecticut, I would like to affirm our support for HB 6557 and thank you for your consideration of this legislation.

I would like to give you some background information on the Farmington Canal Heritage Trail (FCHT) and the Farmington River Trails that pass through thirteen communities in CT. The whole system is over 70% completed (paved) at this time. It is very heavily traveled by bicyclists, pedestrians, commuters and tourists. A laser counter on the FCHT showed 234,778 gross user visits occurred in just one section of the trail in 2008. It is a growing destination, an important part of the economy, and a regional showcase for tourism. I would also add it's a safe off-road connection of many town centers creating point-to-point transportation corridors.

Municipalities rarely own the land underneath the trails, in most cases it is owned by the State and leased back: and they are not exempt from negligence, nor should they be. What they own are the improvements: the paved trail, bollards and gates, fencing, and other amenities within their borders. These certainly qualify as "structures" and should be entitled to immunity under the Recreational Land Use Act. There have been a few injury suits recently that I am aware of, and the worry is that the MDC case will dump more suits on municipalities that must be defended whether frivolous or not, eating up taxpayer dollars. There is also a very real chilling effect on new adopters - there is no question that towns looking to build these facilities for the first time are imagining taking on additional liability and legal bills, and it would be a disaster for the State if, in a difficult time for sourcing funding, building the remaining gaps in one of the best trail systems in New England ground to a halt.

Sincerely,

R. Bruce Donald
President

Town of Simsbury

933 HOPMEADOW STREET P.O. BOX 495 SIMSBURY, CONNECTICUT 06070

Mary A. Glassman - First Selectman

April 1, 2011

Sen. Eric D. Coleman / Rep. Gerald M. Fox

Re: H.B. 6557

Dear Sen. Coleman, Rep. Fox and Distinguished Members of the Judiciary Committee:

On behalf of the Town of Simsbury, I write in support of H.B. 6557 which would restore recreational liability protection to municipalities.

The bill would protect municipalities that offer free access to Town recreational lands while protecting the public by holding municipalities liable for willful or malicious failure to guard against, or warn against, a dangerous situation.

Restoring recreational liability protection to municipalities is particularly important to the Town of **Simsbury which has nearly 6,600 acres of open space or 30 percent of the town's total 35 square miles dedicated to open space.**

Since the court case of Manning vs. Barenz was overturned, towns in Connecticut have closed many recreational facilities and decided not to pursue open space purchases because of the concern of municipal liability. In addition, municipalities currently incur significant costs defending themselves against personal injury lawsuits.

It is also only fair that recreational liability protection be extended to municipalities because liability protection, such as what is being considered, is currently given to state-owned land. Protection is also afforded private, corporate, and utility company landowners who host recreational activities on their property without charging a fee. Towns and cities should be given the same protection such as currently in place in Massachusetts and Rhode Island.

Parks and open space contribute to the quality of life, as well as to local real estate values. Continued liability exposure will only cause municipalities to consider limiting recreational opportunities and to forgo future open space acquisitions.

I urge the legislature to restore the recreational liability protection to towns in Connecticut.

Sincerely,

Mary A. Glassman

Mary A. Glassman
Cc: Board of Selectmen/Sen. Kevin Witkos/Rep. Linda Schofield

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8:30 - 4:30 Tuesday through Friday

Testimonies in support of H.B. 6557 submitted on behalf of Susan Masino (Chair, Safe Routes to School Committee, Tootin' Hills) and Joan Hill (Columbia, CT Open Space Committee)

To the Judiciary Committee:

As the Chair of the Safe Routes to School Committee at Tootin' Hills School in West Simsbury, I cannot emphasize enough the importance of this initiative.

We have been working on a comprehensive program to encourage children to walk or bike to school – it involves surveys, maps, education and outreach - and town land is an essential part throughout this network. Small easements and major parcels provide access and trails that dramatically reduce the distance to school. Otherwise, buses are the only option – even for children within less than a mile radius from school.

Besides getting to school, these critical town land puzzle pieces help kids get off busy roads (we have NO sidewalks in our school district). They can use this network to go to friends' houses, get to Stratton Brook Park, and link to other major recreational trails such as the Rails-to-Trails network and ultimately the East Coast Greenway.

People are horrified when they realize that this glitch in the law has not been resolved yet, and will be delighted to learn that it is finally taken care of this year. Thank you for your support.

Susan Masino, Chair
Safe Routes to School Committee
Tootin' Hills School
West Simsbury

Dear Judiciary Committee:

As a member of the Columbia Connecticut Open Space Committee, I would like to speak in favor of this legislation to provide the same liability protection to municipalities as is currently afforded private landowners who open their lands to recreational use at no fee.

Our town is increasingly reluctant to take on the responsibility of Open Space due to fears over liability. Only recently has our town even considered protecting land for future generations to enjoy. Please help to keep our municipal lands open and growing, by passing this legislation.

Joan Hill
23 Cards Mill Rd.
Columbia, CT 06237

TESTIMONY IN SUPPORT OF H.B. 6557 SUBMITTED BY BARBARA DONAHUE

I am writing in support of HB 6557, which would restore recreational liability protection to municipalities --- the same liability protection that is enjoyed by private landowners and the state of Connecticut, and the same protection that municipalities had enjoyed for 25 years before a court case (*Conway v. Wilton*) took it away.

I am 81 years old and have been walking, biking, cross-country skiing or running in the MDC Reservoir for most of those years. I've seen families, young couples, oldsters, school running teams and countless other groups and individuals enjoying the fresh air and opportunity for exercise that the Reservoir has offered us all this time. I've seen accidents. But not once have I seen anyone prepared to sue the MDC because of an accident. Typically, people who use the MDC land for recreation are prepared for exercise, with decent shoes, helmets, if needed, etc. It would be a crying shame to stifle their chance for exercise and enjoyment because of one law suit.

Thank you.

Barbara Donahue / bfdonahue@sbcglobal.net

Kathy Connolly

www.PagesOnPages.com

60 North Cove Road
Old Saybrook, CT 06475
phone 860.388.0710
kathy@pagesonpages.com

To: Judiciary Committee

From: Kathy Connolly

I wish to state my support for H.B. 6557. I believe that municipalities should have the same protection as the state and individuals from liability by recreational users of municipal lands. Passage of this bill will help maintain public access to recreation on municipal lands, which is critically important to people of all ages in our cities and towns.

Please vote in favor of HB 6557.

TO: Judiciary Committee
FROM: LETTER IN SUPPORT OF HB6557

Dear Members of the Judiciary Committee,

My husband and I would like to express our strong support for the passage of HB6557. The idea that areas for public recreation might be closed by cities and towns due to liability fears is very unfortunate and surely jeopardizes the quality of life citizens have in our state.

We personally value these recreational areas and believe that especially in these difficult economic times that our citizens are in even more need to have access to locations which are FREE. With the passage of this bill, the threat that some recreational areas might be closed will be averted and our citizens will be provided with the deserved opportunity to use these lands for the purpose that they were intended.

Thank you and sincerely,

Ellen and Lewis Lukens
46 Pine St.
Middletown, CT. 06457

Statement of Brooke Samuelson, Chester, CT

To deny the public access to municipal lands because of the Conway v. Wilton court case is an affront to all those individuals who have used municipal lands safely for many years.

A trail user who ignored the trail signs and **obvious** safety barriers should not be entitled, via a dubious court judgment in her favor, to deprive the public of the opportunity to get outdoors and exercise, and to enjoy the wonderful recreational lands offered to the public free by municipalities.

The best barrier against personal injury lawyers is protection of these municipalities from frivolous negligence lawsuits via H.B. 6557.

I hope the Judiciary Committee sees the forest for the trees, and grants protection, so that the public can continue to enjoy access to outdoor recreation on municipal lands, free of the fear of absurd lawsuits cutting off that access.

Anything short of that protection allows the guilty party to win the battle, and punishes both the public and the municipalities. Thank you.

TESTIMONY OF DAVID KOZAK IN SUPPORT OF H.B. 6557

April 2, 2011

Dear Members of the Connecticut General Assembly Judiciary Committee:

I write in support of H.B. 6557 as private citizen of the State of Connecticut and not staff to the Connecticut Department of Environmental Protection (DEP) where I have worked for the past 19 years within its Coastal Management Program assisting the State's 36 coastal municipalities acquire public access to Connecticut's coastal waters held in public trust by the State of Connecticut for the benefit of its citizens.

The majority of public access sites along Long Island Sound and its tidal rivers is gained through municipal acquisition or approval of land use permit applications to develop waterfront sites, consistent with the policies of Connecticut's Coastal Management Act (CCMA at CGS Sec. 22a-92 et seq.). My experience working with developers of waterfront sites, and municipal agencies charged with reviewing these applications for consistency with the requirements of the CCMA, is that they are reluctant to either provide or require such access if they believe that injury to the public on those lands could subject them to liability claims. Prior to the Connecticut courts' 1996 decision (in re *Conway v. Town of Wilton)* that Connecticut's Recreational Land Use Act liability limitations do not apply to municipalities, I referred both municipal land use commissions and coastal waterfront developers to the liability immunity offered through this Act. Often, this provided sufficient assurance to both the municipality (when they took title to the public access site) and the developer, (when they retained title to the site), that Connecticut law defended them against liability claims resulting from public recreational use of coastal public access sites gained through municipal coastal site plan review decisions.

However, post *Conway v. Town of Wilton,* with municipalities no longer interpreted as being covered by the Act, cities and towns along Connecticut's coastal waterways they find themselves in the precarious position of requiring shoreline public access pursuant to the policies of the CCMA but no longer being protected by State statute from potential liability claims resulting from injury at waterfront sites secured through municipal permit decisions. Please help correct this situation by supporting H.B. 6557 so that Connecticut's citizens may continue to benefit from the creation of new coastal public access sites gained through municipal implementation of the CCMA so that they may access the State's coastal waters held in public trust by the State of Connecticut.

Respectfully,
David Kozak
151 Cliffmore Road
West Hartford, CT

Connecticut Association of Conservation and Inland Wetlands Commissions, Inc.

deKoven House Community Center
27 Washington Street
Middletown, CT 06457
860 344-8321
www.caciwc.org

TESTIMONY TO THE CONNECTICUT GENERAL ASSEMBLY, JUDICIARY COMMITTEE
Monday April 4, 2011

The Connecticut Association of Conservation and Inland Wetlands Commissions, Inc (CACIWC) is pleased to submit testimony today on the following bill:
HB 6557 AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS

CACIWC appreciates the Committee's decision to hold a public hearing today on this bill and recognizes the extreme challenges facing the Connecticut General Assembly in their attempts to respond appropriately to the serious economic crisis before us. CACIWC strongly supports this bill's goal of harmonizing recreational liability protection to all of Connecticut's governmental entities. As part of its mission, CACIWC works to support its member conservation and inland wetland commissions in their efforts to preserve important Connecticut habitats and help sustain the esthetic natural beauty of our great state.

However, increasing concern over municipal recreational liability exposure and associated costs has inhibited efforts of these local commissions and their staff to acquire and manage forest lands and other open space parcels and to establish and maintain trail systems for bicycling, birding, hiking, and jogging. CACIWC believes that the continuing efforts of these municipal agencies, commissions, and staff to preserve local open space parcels are crucial to sustaining Connecticut's natural habitats and resources, scenic landscapes, and fragile ecosystems. History has shown that the loss of these spaces, and the recreational opportunities that they provide, has been costly in terms of our economic, environmental, and human health. CACIWC, therefore, urges the Judiciary Committee to pass HB 6557 and extend recreational liability protection to Connecticut's municipalities.

CACIWC is a non-profit organization working to protect Connecticut's wetlands and watercourses and other natural resources by providing information and educational opportunities for the 2000+ volunteers and staff that carry out the responsibilities of Connecticut's Conservation Commissions and Inland Wetlands Commissions. CACIWC, representing approximately 200 member commissions, works with municipalities and environmental groups to promote public support for the judicious management and conservation of Connecticut's natural resources. For additional information contact Alan Siniscalchi, President at board@caciwc.org, or visit our website at www.caciwc.org.

TOWN OF OXFORD

S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
Phone: (203) 888-2543 Fax: (203) 888-2136

Office of the First Selectman

March 30, 2011

Members of the Judiciary Committee
Connecticut State Legislature
Room 2500, Legislative Office Building
Hartford, CT 06106

Subject: H.B. 6557

Dear Members of the Judiciary Committee:

I wish to sign on to testimony submitted on behalf of supporters of the Sierra Club.

As the First Selectman of Oxford, Connecticut, a community of just under thirteen thousand residents and the fastest growing town in the State of Connecticut, preservation of open space is a major goal for our rural town. While understanding the need to preserve open space, we would also appreciate the protection of legislation for recreational liability. Keeping our parks, trails, beach and boat launch area and recreational facilities open will depend heavily on the outcome of the passage of fair and reasonable legislative protection.

Sincerely,

Mary Ann Drayton-Rogers
First Selectman

Testimony of Starr Sayres, Board of Directors, Connecticut Forest & Park Association, regarding H.B. 6557

My name is Starr Sayres, Vice President of the Connecticut Forest & Park Association (CFPA), an organization that has dedicated itself to conserving Connecticut's forests parks and trails for 116 years. The Association counts among its proud accomplishments its efforts to secure enactment of the original Landowner Liability Law in 1971.

As we have become increasingly aware with recent public attention to the recreational land liability controversy in Connecticut, the citizens of our state place high value upon ready access to neighborhood multiuse trails and recreational areas. Last July, over 700 people attended a public hearing in West Hartford to voice their dismay over the possible closing of MDC property to public use. This strong response affirms earlier findings in a 2005 DEP Statewide Comprehensive Outdoor Recreation Plan Study (SCORP), which revealed that over 93% of Connecticut households participate in land-based recreation.

There is significant evidence that average everyday hardworking folks measure the quality of their lives in part by their ability to enjoy time with their families engaged in outdoor activities. The State of Connecticut and its 169 municipalities are the chief providers of outdoor recreational resources in the state. To remove public accessibility to these wonderful outdoor resources at the local town and municipal levels would represent a very real erosion of that which is prized by the vast majority of Connecticut households.

Additionally, the degree to which our youth have direct personal and intimate experience of the outdoors speaks broadly to the development of a lifetime conservation ethic. I venture that many of our municipal recreational areas serve as the preeminent classroom for the creation of stewards of the future.

While sympathizing with the concerns of towns and municipalities following recent liability lawsuits, I submit that we either choose to live life with mistrust and fear, cowed by the actions of the few, or we conduct ourselves with courage, upholding the traditions of a free society as we make judgments and decisions. It is clear to me that by restoring the protection already enjoyed by private landowners to municipalities, we enshrine free public access to the bounteous lands we hold in common. I urge members of the Judiciary Committee to consider in favor of H.B. 6557 restoring liability protection for municipalities.

Thank you.

Legislation before the Judiciary Committee April 4, 2011

HB 6557: AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

Dear Members of the Judiciary Committee,

My name is Terri Peters. I am a citizen of Connecticut, a taxpayer and a walker. Walking relieves stress and keeps me healthy. I prefer to walk in areas where I will not be hit by a car such as town or municipal open space. I actually watch where I walk so as not to trip and get hurt. I cannot fathom, that this simple activity could be taken away from me because of the actions of careless individuals looking for easy money through ridiculous lawsuits.

If Connecticut's towns and municipalities close their beautiful lands and open spaces to recreational activity because they fear they may get sued if something like an acorn falls off a tree presenting a tripping hazard, then our state becomes a place where I don't want to live anymore. I'm sure there are other people like me who wouldn't want to live in a state that places priority over protecting wasteful, stupid, get-rich-quick and lawsuit-happy citizen's right to sue instead of protecting the right of towns and municipalities to offer open space for recreational enjoyment of their hard-working citizens.

If this legislation doesn't pass, more time and resource-wasting lawsuits will get filed, open spaces will be closed off and the exodus of hard-working taxpayers moving out of Connecticut will surely follow.

My personal feeling is that the people who sue a landowner because their own actions caused them to hurt themselves, should be provided a full-body, 6-ply suit made of bubble wrap to wear when they venture outside. The last thing these people should receive is a million dollar settlement reward.

It's obvious that this legislation needs to be passed, let's get on with it.

Most sincerely,

Terri Peters

Terri Peters
670 Wallingford Rd.
Durham, CT 06422

TOWN OF WESTBROOK
CONSERVATION COMMISSION
866 BOSTON POST ROAD
WESTBROOK, CONNECTICUT 06498
(860) 399-3046 • Fax (860) 399-2084

JOINT COMMITTEE ON JUDICIARY HEARING
Monday, April 4, 2011
Raised Bill No. 6557

AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS

The Westbrook Conservation Commission strongly supports House Bill No. 6557, An Act Concerning Liability for Recreational Use of Land, as means of restoring liability protection for Westbrook and other municipalities that have followed Plans of Conservation and Development and invested in open space acquisition for preservation and protection of natural resources and community recreation.

With State of Connecticut encouragement (e.g. the State policy of preserving 21% of the state's land as open space) and assistance (e.g. CT DEP's Open Space and Watershed Land Acquisition Matching Grant Program), the Town of Westbrook has acquired over 170 acres of open space land that is being managed for protection water resources (rivers, aquifers and Long Island Sound) and community recreation. A primary reason for resident support for acquisition of open space is the availability of forests and fields for outdoor recreation, as described in HB No. 6557 Section 1 (4).

Now, with the settlement of the MDC liability law suit, we are concerned that public access to the trails and vistas of Westbrook's open space will need to be restricted. Passage of An Act Concerning Liability for Recreational Use of Land would eliminate the need for such restriction and support the state's "21%' open space policy by providing municipalities with the liability protection afforded state and private landowners.

Statewide many municipally owned open space lands are adjacent to, or are planned to be connected to, state or private (e.g., land trust) open space land that are protected against recreational accidents. For example, Westbrook's planned Menunketesuck River Greenway will connect to Cockaponset State Forest trails greatly increasing the recreation investment value of adjacent town owned open space. This on-going project will be threatened or stopped if the town is not protected from recreational liability. Access to town owned open space from adjacent state or private property will be restricted (think STOP sign) and town residents will be reluctant to support further open space acquisition unless the town is protected from potential exposure to costly personal injury lawsuits, for example the MDC law suit.

The Westbrook Conservation Commission urges the Joint Committee on Judiciary to support Raised Bill No. 6557 An Act Concerning Liability for Recreational Use of Land.

The Westbrook Conservation Commission, established, pursuant to CT General Statutes Sec. 7-131a, by Town Meeting July 18, 1966, is a research and advisory commission for other municipal land use boards and the community. The Commission is responsible for identifying, prioritizing and recommending lands for open space acquisition, and for developing appropriate standards and limitations for their use. For further information please contact Tom ODell, Chairman, at 860-399-1807; todell@snet.net.

WRITTEN TESTIMONY

160 Fairfield Avenue
Apartment 2
Hartford, CT 06114

April 4, 2011

Members of the Judiciary Committee,

I apologize for being unable to attend the public hearing today, but I must stay at work. I am writing to lend my support to HB 6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS. Earlier in the year I testified in favor of SB 831, a similar bill, and I'm aware that there are several items before the general assembly this legislative session. From what I understand, each seeks to reform the municipal loophole in the recreational liability statutes. None of these proposed bills have distinguished themselves as a front runner, thus I support them all at this stage in the process.

The impetus behind the introduction of these bills was a collision between a careless cyclist traveling the wrong way on a paved path and a clearly marked gate in the Metropolitan District Commission (MDC) -owned West Hartford Reservoir. Surprisingly, a jury awarded this cyclist almost three million dollars, identifying a glaring loophole in Connecticut law that allowed careless users of public recreation amenities the right to sue even if for all rational purposes that person was at fault. This loophole does not exist for the State or private landowners who do not charge for trail use on their property.

As a mountain biker, hiker, canoer, cross country skier and general lover of the outdoors, I am firmly in favor of my tax dollars or water rate being spent securing beautiful tracts of Connecticut for public enjoyment. And, I think it is great that the Metropolitan District Commission, unlike other water companies, leaves large portions of its land open for recreational purposes. Two of Hartford's great assets are its parks and its proximity to miles of uninterrupted mountain forests. It would be reprehensible if the City or the MDC were forced to limit their public access because of the spectre of lawsuits. More directly, it is simply unfair to limit access to public lands, such as parks, whose express purpose is to provide recreational opportunities to the public. While I believe that individuals deserve the ability to seek restitution for injuries if an entity was willfully negligent, municipalities or quasi-public agency ought to be shielded from lawsuits that can be described as frivolous at best and opportunistic at worst.

If the July public hearing in West Hartford hosted by the MDC, the supportive resolutions by the city councils of Hartford and surrounding towns and statements by numerous elected officials are any indication of support, it is nearly universal. So, committee members, I urge action on this or related legislation this session to fix the problems with Connecticut's municipal recreational liability law.

Thank you,

Brendan Mahoney

SOUTHBURY LAND TRUST, INC.
68 ½ Bennett Square • P.O. Box 600 • Southbury, CT 06488-0600
Telephone: (203)264-4441 • Email: email@southburylandtrust.org

TO: MEMBERS OF THE JUDICIARY COMMITTEE

FROM: TOM CRIDER, PRESIDENT OF THE SOUTHBURY LAND TRUST

TESTIMONY IN SUPPORT OF H.B. 6557
AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

Town-owned parks and open spaces are high on the list of things that make Connecticut a nice place to live. If they are closed to the public, we will lose the enjoyment of these treasured assets.

Current law puts towns in jeopardy as long as they keep parks open.

It is unreasonable to endanger towns in this way while private landowners and the State of Connecticut are protected from the same kinds of liability. It not only doesn't make sense, it exposes taxpayers in towns like ours to having to defend against lawsuits and paying millions of dollars in settlements.

Even a small town like Southbury has hundreds of miles of hiking and nature trails in parks and other open space areas. Although these trails are monitored regularly, it's unrealistic to expect the kind of vigilance that would eliminate every possibility of someone tripping over a branch or slipping on a wet rock.

Unless HB 6557 is passed, liability concerns will discourage towns from keeping parks open and from acquiring more open space for public enjoyment.

We strongly urge passage of this bill.

WINDHAM REGION COUNCIL OF GOVERNMENTS

Chaplin Columbia Coventry Hampton Lebanon Mansfield Scotland Willington Windham

Chairman Coleman
Chairman Fox
Members of the Judiciary Committee

April 1, 2011

RE: Testimony for **H.B. 6557: AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.**

Dear Chairman Coleman and Chairman Fox,
and members of the Judiciary Committee,

The Windham Region Council of Governments (WINCOG) is writing in support of legislation restoring **Municipal Liability for Recreational Activities** as noted in HB 6557.

We support **restoring the liability protection to Municipalities** that is currently afforded to state, private, utility, and corporate landowners who make their land open for the free use and enjoyment of the public. This liability protection was available to municipalities for 25 years before it was removed in a controversial court case in 1996, Conway v. Wilton.

WINCOG, along with many other RPO's, Towns, The CT Forest and Park Association, COST and numerous other groups, is asking the General Assembly to leverage the strong public interest in this case into **fixing the Recreational Liability Statute for municipalities once and for all.**

Thank you for your consideration in moving this bill forward.

Sincerely,

Mark N. Paquette
Executive Director, WINCOG

cc: WINCOG Board of Directors

WINCOG. 700 Main Street. Willimantic, CT 06226. Phone: (860) 456-2221. Fax: (860) 456-5659. E-mail: director@wincog.org

Christopher Zurcher
101 Bishop St. 2R • New Haven, CT • 06511 • ph 203 886 5905
cjzurcher@yahoo.com

Wednesday, March 30, 2011

Dear Marty,

The below is my testimony in support of HB 6557 for the hearing Monday, April 4, before the legislature's Judiciary committee.

A woman is suing Middlebury because she slipped on acorns on a greenway? Hello? Does this not scream litigiousness? Please!

I support H.B. 6557 An Act Concerning Liability for the Recreational Use of Lands because I have enjoyed walking, riding my bicycle and hiking and, when I was younger, cross country skiing, on public lands such as the West Hartford Reservoir, a few miles from where I grew up in Farmington.

It is important for us all to be able to continue to enjoy access to the forests, meadows, trails, parks, and rivers in our state. Hiking, walking, biking, canoeing are all important to our quality of life and our health.

Thank you and please let me know if you have any questions.

Sincerely,

Christopher Zurcher, Editor and Publisher
Environmental Headlines
PO Box 8281
New Haven, CT 06530
(203) 886-5905

PAGE 13
LINE 13

RE: HB6557 AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS.

Dear Co-Chairs Coleman and Fox, and Committee members,

My name is Charles Beristain and I live in West Hartford. I belong to the following organizations: Bike Walk Connecticut - founding member (www.bikewalkct.org), A principal behind Save Our CT Trails (www.saveourcttrails.org) and Save The MDC Trails (www.savethemdctrails.org), New England Mountain Biking Association (NEMBA), International Mountain Biking Association (IMBA), MDC Recreation Committee, and Connecticut Bicycle and Pedestrian Advisory Committee.

It is impressive that there are 14 identical or very similar bills on this recreational liability issue working their way through the legislative process, with the sponsorship of 35 Legislators, Senators and Representatives, Republican and Democrat. There have been three public hearings so far (Planning and Development and Environment) with strong public support. Over 150 written testimony items in support of passage from organizations and individuals have been placed online by these committees. Over 70 businesses and organizations have signed on in support of passage of this bill (the list is included in the CFPA testimony). In the initial stages of getting grass roots support, we had over 6000 individuals sign up in support of "fixing the holes in the liability law".

The Trial Lawyers Association was the only organization to talk against passage of this bill. No one else has come forward to talk against passage of this bill. I am not a lawyer, but there are arguments being used against municipalities receiving liability protection that do not pass a common sense test.

In the Trial Lawyers Association testimony, one very important topic is not addressed, which is the liability protection that is afforded to the State of Connecticut (CGS section 4-160). The State has the same limited liability protection as private landowners, except under CGS section 4-160 rather than 52-557n. I have yet to figure out what is it that is so different about a Municipality that it should be singled out and excluded from coverage provided to the State, Private Landowners, Corporations, and Utilities.

Also in the Trial Lawyers Association testimony, they suggested that Municipalities already had adequate protection with existing law. Yet the fear of liability exists and municipalities have closed half of the rock climbing sites since Conway v Wilton and the fear of liability rose to an even higher level after the two recently reported cases ($2.9 in the MDC cycling verdict and $8 million verdict against the City of Waterbury from a sledding accident). I have been riding at the West Hartford Reservoir about 200 days a year for the past 12 years and I know almost every nook and cranny. In the MDC incident, the subject was traveling at a high rate of speed riding the WRONG way on a blacktop section. There is a bike lane with at least 4 painted signs showing it as a bike lane with direction of travel arrows. The subject was not riding in the bike

lane but riding in the lane that walkers, runners, joggers and baby strollers use. In addition, because the subject was "racing", she was not looking forward, but riding with her head down. In the verdict the MDC was sited because there were no warning signs about the big yellow gate across the road. Does it make sense that municipalities should put warning signs on one way streets/paths to warn wrong way drivers/cyclists that there may be danger ahead?!

Also in the Trial Lawyers Association testimony, they suggested that because municipalities have in the past made their open space available to the public, there is no need to encourage them to do so in the future. But with the budget issues our towns are having and with the justifiable and increasing fear of liability, municipalities will have an incentive to close open spaces and not acquire new open spaces unless you pass liability reform now.

Open spaces are very important to Connecticut Communities, They provide places for recreational activities, support many different businesses that employ people and pay taxes and make Connecticut a place where people want to live.

Charless Beristain/West Hartford
cberistain@saveourcttrails.org
860.521.7188

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LINE 17

State of Connecticut

HOUSE OF REPRESENTATIVES
STATE CAPITOL

REPRESENTATIVE BILL WADSWORTH
TWENTY-FIRST ASSEMBLY DISTRICT

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HARTFORD, CT 06106-1591

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MEMBER
APPROPRIATIONS COMMITTEE
HUMAN SERVICES COMMITTEE
TRANSPORTATION COMMITTEE

State Representative Bill Wadsworth
Judiciary Committee
Public Hearing Testimony
Monday, April 4, 2010

Good Morning Senator Coleman, Representative Fox, Senator Doyle, Representative Holder-Winfield, Senator Kissel, Representative Hetherington and Judiciary Committee Membership:

I would like to thank the Judiciary Committee for raising House Bill 6557, An Act Concerning Liability for the Recreational Use of Lands.

As the State of Connecticut closes in on the goal to preserve twenty one percent of its land for open space it is important to reinforce that commitment with additional protection in other areas. One of the other areas that should be considered is including municipalities, quasi-public agencies and certain special districts as owners of land entitled to immunity under the Recreational Land Use Act. This additional protection will provide confidence to municipalities, quasi-public agencies and certain special districts to retain and acquire open space for preservation. If the threat of litigation is part of the decision making strategy, then the aforementioned entities may postpone or abandon the purchase of additional open space, close off access to parks, playgrounds and open space or begin to schedule use.

There is also a monetary component to this issue. Spending money on safety equipment and maintenance, obtaining additional liability insurance at additional cost and defending against frivolous lawsuits at considerable cost are just a few of the financial exposures that are possible. Municipalities, quasi-public agencies and certain special districts that are self insured are exposed to an unknown liability.

The public has the right to utilize public land without restriction.

I thank the Committee for considering proposed House Bill 6557 and I ask that it be given a favorable report. One of the main purposes of open space is to provide access to the public for passive recreational use and this access would be seriously curtailed or eliminated if municipalities, quasi-public agencies and certain special districts are at risk for providing that use.

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LINE 8

State of Connecticut

HOUSE OF REPRESENTATIVES
STATE CAPITOL

REPRESENTATIVE GAIL LAVIELLE
ONE HUNDRED FORTY-THIRD ASSEMBLY DISTRICT

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MEMBER
APPROPRIATIONS COMMITTEE
EDUCATION COMMITTEE
TRANSPORTATION COMMITTEE

Testimony
In Support of HB 6557
An Act Concerning Liability for the Recreational Use of Lands

Judiciary Committee
April 4, 2011

Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington, and members of the Judiciary Committee, thank you for the opportunity to testify in support of HB 6557, An Act Concerning Liability for the Recreational Use of Lands.

This bill would restore to municipalities the same limited immunity from liability that is extended under the Recreational Land Use Act to other types of owners of land who make their property available without charge to the public for recreational purposes.

Restoring this protection to towns and cities is particularly important at a time when there is so much focus both on health and wellness initiatives and on reducing automobile usage by facilitating the use of non-motorized modes of transportation like biking and walking.

In my district, which includes most of the Town of Wilton and the eastern portion of the City of Norwalk, several such initiatives are underway. The Wilton YMCA, which recently received a grant for programs designed to combat childhood obesity, is working with the Town of Wilton to develop a wellness zone that would facilitate bicycle and pedestrian access throughout the town's central areas. Wilton and Norwalk are also collaborating with Ridgefield, Redding, and Danbury on the development of the Norwalk River Valley Trail, a multi-use trail which would extend from Norwalk to Danbury and provide links to rail stations, parks, and other town facilities. Segments of the trail will include municipal land.

The existing law restricts the freedom of towns to pursue initiatives like these. As our towns and cities continue to grapple with increasing costs and declining revenues, they should not have to cope with the uncertainties of exposure to unlimited and unknown liability that are currently a consequence of making municipal land available for public use.

One of Connecticut's greatest attractions as a place to live is its natural landscape. Protecting open space and making it available to the public for recreation is a priority for many of our towns, and this legislation would help them achieve it.

I would like to submit one suggestion to the Committee: that "walking" be added to the list of activities in the definition of "recreational purpose", because municipal land is often located in urban areas where the term "hiking" may not apply.

I thank you for raising this bill, and I respectfully request that the members of the Committee support it.

Written testimony from *Andrew May 35 Owen St Hartford, CT. 06105.;* **in favor of passage of H.B. 6557,** "An Act Concerning Liability for the Recreational Use of Lands.".

Good Morning, I hope this correspondence finds you all doing well as you do the good work of honorably serving the people of Connecticut to the best of your ability. I write this testimony today as a volunteer of the Connecticut Chapter of the Appalachian Mountain Club (CT-AMC)-. An organization with over 8,000 members in Connecticut. As the Northeast's premier outdoor recreation group, we love to hike, paddle, bike, and run in pristine wilderness areas throughout the Region; yet, we also need access to local areas to get in shape, refresh our spirits, practice our passion, and, most importantly, introduce young people to the wonder and rejuvenating effect that the outdoors provide.

According to the *CDC*, daily participation in school physical education among adolescents dropped 14 percent over the last 13 years-from 42% in 1991 to 28% in 2003. In addition, less than one-third (28%) of high school students meet currently recommended levels of physical activity. Not only as an organization but also as a society we cannot afford to do anything to limit access to outdoor activity.

This legislation does not give municipalities blanket immunity from negligence; it does offer them the same protections rightfully extended to state and private land owners. This legislation, therefore, has the potential to help municipal entities, help environmental groups, help families, and help children. There are always unintended consequences but I cannot foresee any downside occurring from passage of this common sense legislation.

006433

HB 6557

Thompson Trails Committee
P.O. Box 899
N. Grosvenordale, CT 06255

March 28, 2011

To the Connecticut General Assembly,

The Town of Thompson Trails Committee requests that the Connecticut General Assembly fix the Recreational Liability Statute to legislate strong safeguards to provide immunity against personal injury lawsuits for municipalities that 1) allow free access to their land for recreational use, and 2) use reasonable care in maintaining it for non-motorized recreational purposes.

It is particularly important in our town, which contains Connecticut D.O.T. and D.E.P. owned land with trails, U.S. Army Corps of Engineering recreational land, and borders two other states (Massachusetts and Rhode Island) with connecting trails. Liability protection for municipal land will enhance access and safe parking opportunities and make us good partners with other agencies.

The existing Statute (Conn. Gen. Stat. Section 52-557f et seq.) provides strong liability protection for private landowners and private corporations such as utilities, and it includes liability protection for municipalities that was supposed to be equally strong when it was passed in 1971. However, court interpretations of the statute (in cases such as Conway v. Wilton and the May, 2010 jury award of $2.9 million to a mountain biker injured at the MDC Reservoir in West Hartford) have made it clear that the statutory immunity against liability for municipalities is not strong enough.

Fixing the Recreational Liability Statute is critical to protect and encourage municipal landowners to make open space accessible to the public for approved recreational use. Increasing outdoor recreation opportunities in Connecticut promotes public health and brings in tourism dollars.

Sincerely,

Karen Durlach
Chairperson, Thompson Trails Committee
Town of Thompson

CONNECTICUT Land Conservation Council

Testimony of Amy Blaymore Paterson, Executive Director, Submitted April 4, 2011

Co-Chairs Coleman and Fox and Members of the Judiciary Committee:

The Connecticut Land Conservation Council (CLCC) joins the Connecticut Forest & Park Association and a statewide coalition of organizations and municipalities in strongly supporting **HB No. 6557, An Act Concerning Liability for the Recreational Use of Lands.** Thank you for this opportunity to testify.

CLCC works with land trusts, town conservation and open space commissions, garden clubs and other organizations to help make sure that Connecticut's natural resources are protected forever. We provide training, technical assistance and funding to ensure the long term strength and viability of the land trust and conservation community across the state.

As a former land use and municipal attorney, project manager for the Trust for Public Land and now as the Executive Director of CLCC, I have been actively working in land conservation in Connecticut for over twenty years and throughout my career have witnessed firsthand how critically important open space is to our communities. We are so fortunate to have the State Open Space and Watershed Land Acquisition grant program which has enabled land trusts and towns to protect forestland, farmland, and open space that otherwise would have been lost forever to development. The open space grant program – funded through bonding and the Community Investment Act account – has become the backbone of land conservation in our state.

The CT DEP has given millions of dollars in grants to towns to help protect over 75,000 acres of open space for the public to enjoy – monies which have leveraged millions of matching municipal dollars in return. I have had the opportunity to assist many communities with their efforts to raise the match funds necessary to take advantage of state and federal grant programs and to go on to successfully purchase outdoor recreation areas for all to enjoy. Even during these tumultuous economic times, residents have consistently voiced their support for land protection by approving open space bonding referenda at the polls.

The public is committed to protecting open space because of the obvious benefits that it provides. Land conservation provides us with opportunities to get outside and connect with our natural environment; to exercise; to recreate; and to just stay healthy. Protecting our forests and fields makes for a cleaner and healthier environment – it enhances our quality of life.

Connecticut residents also recognize the value that open space conservation contributes to our state's economy. Open space and farmland preservation help to increase the value of neighboring properties; bring patrons to local businesses; enable farmers to earn a living while also producing local food for Connecticut residents; and otherwise help to keep people employed through sustainable "green" and outdoor recreation related industries and tourism. In short, land conservation makes our towns more attractive for people to live and for businesses to operate.

Yet despite these benefits and contrary to the public policy underscoring the tremendous investment made in land conservation at both the local and state level, municipalities are considering the closure of access to existing recreation areas out of mounting fear of liability and to avoid the costs related to increased insurance premiums and the defense or settlement of frivolous lawsuits -- thereby sending a message that the risks of liability from owning, operating and maintaining open space outweigh the benefits that these lands provide to us all.

CLCC respectfully urges the Committee to support this bill to provide municipalities and municipal entities with the same protections from liability as private landowners in order to maintain recreational access to municipal lands; ensure consistent application and furtherance of policies - at every level of government - that encourage public recreation; and protect state investments of the Open Space & Watershed Land Acquisition Program as well as other state grant and municipal funds used to protect open space.

H.B. 6557 Support
Will Manzer

April 1, 2011

The Honorable Eric Coleman
The Honorable Gerald Fox III
Chairs, Judiciary Committee
Legislative Office Building
Hartford, CT 06106

Dear Senator Coleman and Representative Fox:

As the Chief Executive Officer of Eastern Mountain Sports and the Chair Elect of the Outdoor Industry Association's Board of Directors I am deeply concerned about the diminishing close to home recreation venues in the markets we serve. My company and the Outdoor Industry Association are actively involved with multiple alliances which include state parks, forests and conservation groups both at the state and national level. We are proud to have a long standing relationship with the Connecticut Forest and Park Association.

Eastern Mountain Sports has been a contributor to the economic landscape in Connecticut since 1979. We currently operate 7 stores in the state of Connecticut and employ roughly 125 people.

It is rarely understood at the state and national level what the true economic impact is of outdoor recreation. The Outdoor Recreation Economy contributes $730 billion annually to the U.S. economy and supports nearly 6.5 million jobs. In New England, the Outdoor Recreation Economy contributes $22, 941 million and 271,196 jobs. In today's difficult economic environment our fear is that we will seek short term solutions at the expense of longer term economic advantages.

Of course, there are many other side affects to a national trend that increasingly puts less and less emphasis on healthy and active outdoor lifestyles. Consider that today's youth spends roughly 7 hours a day behind an electronic screen of some kind and 4 minutes a day recreating in the outdoors. Obesity is rising at alarming rates and it is estimated that in the United States we spend over $200 billion annually on obesity related health care problems. While close to home recreation that gets folks outdoors isn't the only answer it is certainly a step in the right direction.

1 Vose Farm Road
Peterborough, NH 03458-2122

Phone (603) 924-9571
Fax (603) 924-9138

www.ems.com

Access to outdoor venues in recent years for families, young people and outdoor enthusiasts has increasingly become more elusive rather than more available. It is for this reason that we strongly urge the passage of HB 6557. Allowing municipalities and specific special district entities like the MDC the same liability protections that private landowners enjoy is extremely important. Passing this bill will send a clear message encouraging towns and quasi-municipalities like the MDC to keep their lands open to all. By restoring recreational liability protection to municipalities, the current access barriers surrounding our close to home recreation areas would be effectively eliminated.

It is my understanding that this bill is scheduled for a hearing Monday, April 4, 2011. I strongly urge and respectfully request that this letter be submitted in testimony as my support and my company's support for the passage of HB 6557.

Thank you,

Will Manzer
Chief Executive Officer
Eastern Mountain Sports

1 Vose Farm Road
Peterborough, NH 03458-2122

Phone (603) 924-9571
Fax (603) 924-9138

www.ems.com

Town of Manchester
Water and Sewer Department
Interoffice Memorandum

DATE: April 4, 2011

TO: Judiciary Committee

FROM: Edward J. Soper, Administrator
Manchester Water Department

RE: HB-6557, AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LANDS

The Town of Manchester encourages the adoption of the above-referenced legislation that would limit our Water Department's exposure to liability related to activities that are part of its passive recreation program.

The Water Department owns approximately 4,000 acres of pristine watershed where ratepayers and citizens can hike, explore, exercise and just relax; free-of-charge. Much of this acreage was obtained through the Open Space and Watershed Land Acquisition program(s). The permitted activities are passive in nature so not to cause erosion or cause other degradation to the purity of the water supply. The Water Department has developed and maintains a system of trails for this specific purpose. These trails are widely used by grateful participants on a daily basis.

The Water Department would like to continue to promote the passive recreation program. We are understandably concerned that the potential for large damage awards could limit or curtail the program our citizens currently enjoy. We therefore would like the same immunity that is afforded to private water companies and landholders who permit such activities on their property.

Thank you for this opportunity to express the stance on this important topic.

Conserving Connecticut since 1895

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T 860 346-2372
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email· info@ctwoodlands.org
web site: www.ctwoodlands.org

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LINE 17

Testimony of Eric Hammerling, Executive Director, Connecticut Forest & Park Association

Legislation before the Judiciary Committee on April 4, 2011	**Support/ Oppose**
H.B. 6557: AN ACT CONCERNING MUNICIPAL LIABILITY FOR THE RECREATIONAL USE OF LANDS.	Support

Co-Chairs Coleman, Fox, and Members of the Judiciary Committee:

My name is Eric Hammerling and I am the Executive Director of the Connecticut Forest & Park Association, the first conservation organization established in Connecticut in 1895 and a leading advocate for the original Recreational Land Use Act of 1971. CFPA has offered testimony before the Legislature on issues such as sustainable forestry, state parks and forests, trail recreation, natural resource protection, and land conservation every year since 1897.

I'd like to start by acknowledging the leadership and extra efforts of Representative David Baram for his work to bring forward H.B. 6557. Since the public hearing in West Hartford where the MDC considered closing its recreational lands last July (and over 700 people attended to keep access to those lands open), Representative Baram has worked diligently to broker a compromise that would increase the protection against liability for municipalities on recreational lands in a reasonable way. Representative Baram has been a problem-solver who has met on numerous occasions both with advocates for protecting and increasing recreational opportunities and with leaders from the trial lawyers association, the only organized opposition to this common sense reform. Much thought and work has gone into H.B. 6557, and we urge the Committee's support.

CFPA cares passionately about preserving access to municipal lands because municipalities and municipal water companies own over 150,000 acres (estimated) that support public recreational activities across the state. Considered as a group, municipalities are the state's second largest landowners behind the State, and at CFPA we work closely with many towns because over 50 miles of the 825-mile long Blue-Blazed Hiking Trail System (built and maintained by CFPA volunteers) traverse municipal properties.

There are many reasons why we urge you to restore recreational liability protection to municipalities:

1. **Municipalities were once considered to be owners.** For 25 years, municipalities were considered to be "owners" under the Act as was reinforced in *Manning v. Barenz* (1992). However, when the ruling in *Manning v. Barenz* was reversed by *Conway v. Wilton* (1996), it showed that municipalities were no longer considered to be owners unless the Legislature clarified this in the Statute.
2. **Municipalities will close access to recreational areas.** Shortly after *Conway v. Wilton*, at least 25 towns closed, restricted, or held-off on acquiring open space due to liability concerns. In the wake of the $2.9 million MDC jury verdict, $8 million Waterbury sledding settlement, and other cases, it is no surprise that municipalities are either considering closures or over-scrutinizing openings of recreational lands.
3. **Municipalities will be discouraged from developing or opening new recreational areas.** In his testimony before the Environment Committee in February, the First Selectman of Harwinton stated:

   > Increased liability concerns will also be an important factor in determining whether we should move forward with any new recreational facilities or the purchase and protection of open space lands. Open space lands and ponds and other water resources can be difficult to monitor to ensure the safety of recreational users. Many small towns simply don't have the resources to ensure that trails are always free from fallen limbs or debris that may pose a safety risk to hikers and bikers.

4. **Economic benefits from recreation.** In New England alone, the outdoor recreation industry contributes $22.9 billion to the economy and supports over 270,000 jobs. In addition, real estate values are bolstered by proximity to recreational areas. What happens to those benefits and values when areas like the MDC are closed?
5. **Other New England states have done this.** All 50 states have recreational liability statutes and our neighboring New England states Massachusetts (Ch. 21§17C(b)) and Rhode Island (Gen.§32-6-2 (3)) include municipalities as owners with the same liability protection as other landowners. This means that Connecticut residents will go out of state (and recreational visitors will diminish) if there are more recreational opportunities offered elsewhere.
6. **Policy consistency.** It does not make sense to single-out municipalities to not receive liability protection if the goal of the Recreational Land Use Act is to encourage public recreation free of charge on all lands.
7. **H.B. 6557 does not offer total/absolute immunity.** Municipalities would still be liable "for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity," and in the case of swimming pools, play grounds, and tennis courts they would be held to the current standard.
8. **We all pay for these lawsuits.** It does not make sense to put municipalities in the position of having to spend money to defend and settle claims for recreational injuries that they cannot possibly prevent. Under current law, despite having some sovereign immunity protection, municipalities are forced to defend every lawsuit. Every property owner pays the price for these claims and settlements as well as for increased insurance premiums and deductibles.
9. **Where will the children play?** One of the reasons for our nation's youth obesity crisis (and perhaps attention deficit disorder as well) is the large number of children who are addicted to TV and electronic games. Kids need safe outdoor areas for free play, and municipal lands are often the only lands available.

RESTORE RECREATIONAL LIABILITY PROTECTION FOR MUNICIPALITIES 9.24.2010

In Connecticut, municipalities have protected over 75,000 acres for open space/recreation, and over 1,000 miles of recreational trails wind through a mix of state, municipal, and private lands. However, due to recreational liability concerns, municipalities are considering restrictions to recreational access on their lands. Potential exposure to costly personal injury lawsuits has made municipalities skittish on recreational liability. Towns should not have liability for recreational accidents as long as they do not charge and negligence is not involved. We ask the General Assembly to fix this problem once and for all.

Recreational Liability In Connecticut

With passage of the Connecticut Land Use Recreation Act in 1971 (C.G.S. § 52-557f et seq.), the General Assembly recognized the importance of encouraging landowners to open their lands to the public by protecting landowners from personal injury lawsuits. For 25 years after the passage of the Act, towns were considered to be included under the Act as landowners.

Why doesn't the Recreational Liability Law include Municipalities?

Ever since a 3-2 Supreme Court decision in Conway v. Wilton (1996) which overturned previous holdings of the court, municipalities (including entities such as the MDC, a "nonprofit municipal corporation") are no longer considered "owners" for this purpose and therefore are not covered under the Statute. Fortunately, the statute still provides strong protection for private, corporate, and utility landowners who host recreational activities on their lands without charging a fee. Similar liability protection is available to the State when an incident related to recreational use occurs on state-owned land (C.G.S. § 4-160). Given the existing protections for private, corporate, utility, and state landowners, omitting municipalities from protection does not make sense.

Why Must the General Assembly Fix the Recreational Liability Law for Municipalities?

- There are many recent examples where recreational liability lawsuits have had a chilling effect on municipalities providing recreational activities on municipal lands:
  - In July, 2010 the MDC revisited its recreational access policies and considered closure of its lands to the public in response to a $2.9 million jury verdict found for a mountain biker who crashed into a gate at the West Hartford Reservoir;
  - In August, 2010, Waterbury lost an $8 million verdict to a person who crashed into a metal bench while snow tubing at Fulton Park. In response, Middlebury is considering the closure of its most popular sledding area near Town Hall;
  - The town of Litchfield is opposing the opening of the Litchfield Greenway bicycle trail until issues of liability can be clarified; and
  - The town of Sharon is concerned about its exposure to liability as it considers a canoe/kayak access point along the Housatonic River.

- Under existing statutory and common law protections against liability, municipalities are still forced to incur expenses associated with settling or defending personal injury lawsuits. Irrespective of whether these lawsuits have merit, the expenses are paid for by ALL OF US.

- It would be poor public policy for the state to encourage municipalities to conserve land, provide bonding/funding for that purpose, and then support policies which lead to municipalities closing their lands to recreational access due to liability concerns (e.g., the State has held the policy of preserving 21% of the state's land area for over a decade).

- Therefore, the more personal injury lawsuits that are brought against municipalities, the greater the risk that the municipalities will close, restrict, or decide not to open recreational lands.

We ask the General Assembly to preserve public access to municipal lands for recreational purposes by restoring to our towns the liability protection that is available to State and private landowners!

SUPPORTERS OF RESTORING RECREATIONAL LIABILITY PROTECTION FOR MUNICIPALITIES

American Heart Association
Appalachian Mountain Club - CT (AMC-CT)
Benidorm Bikes
Berlin Bicycle
Biker's Edge
BikeWalkCT
Central Connecticut Regional Planning Agency (CCRPA)
Central Naugatuck Valley Council of Governments
Central Wheel Bike Shop
City of Hartford
Clarke Cycles
Collinsville Canoe & Kayak
Connecticut Association of Conservation and Inland Wetlands Commissioners (CACIWC)
Connecticut Conference of Municipalities (CCM)
Connecticut Forest & Park Association (CFPA)
Connecticut Fund for the Environment
Connecticut Horse Council (CHC)
Connecticut Land Conservation Council (CLCC)
Connecticut Recreation and Parks Association
Connecticut Water Works Association
Council of Governments of the Central Naugatuck Valley
Council of Small Towns (COST)
Eastern Mountain Sports
Farmington Canal Rail-to-Trail Association
Farmington Valley Trails Council
Fleet Feet Sports
Friends of CT State Parks
Hartford Track Club
Harvey & Lewis Opticians
Horst Engineering & Manufacturing Company
Housatonic Valley Association (HVA)
Housatonic Valley Council of Elected Officials
Internat'l Mountain Biking Association (IMBA)
League of American Bicyclists
Lebanon Rails to Trails Committee
Litchfield Hills Council of Elected Officials
Lyman Kitchens
Manchester Cycle Shop
Mindful Path, LLC
New England Mountain Biking Association - CT Chapter (NEMBA - CT)
New England Ski and Scuba
New Haven Urban Design League
Northwestern Connecticut Council of Governments
Old Goat Running Club
Pedal Power
Plainville Greenway Alliance
Preston Parks and Recreation Department
Ragged Mountain Foundation
REI
Rivers Alliance of CT
Road Runners Club of America - CT Chapter
Sartorius Sports
Savethemdctrails.org
Sierra Club - CT Chapter
Sporthouse Inc.
Storrs Center Cycle
Suburban Sports
The Alliance for Biking and Walking
The Beat Bike Blog
The Bicycle Cellar
The Bike Shop
Thompson Trails Committee
Thread Rolling Company
Tolland Bicycle
Town of Middlebury
Town of Oxford
Yankee Pedalers Bicycle Club
Upper Housatonic Valley National Heritage Area
Windham Region Council of Governments

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LINE 8

RON THOMAS

TESTIMONY

of the

CONNECTICUT CONFERENCE OF MUNICIPALITIES

to the

JUDICIARY COMMITTEE

April 4, 2011

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 90% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

There are several bills before you today that would increase municipal liability exposure during the most devastating municipal fiscal crisis since the Great Depression. Towns and cities have made uncomfortable budget cuts and are girding for additional cuts. These include layoffs of police officers, firefighters, road personnel and teachers.

SB43
SB1230
SB1231
SB1232
HB6555
HB6641
HB6557

In Connecticut's central cities, the situation is increasing grave and dire. Deep cuts in services and massive layoffs have occurred in these communities – with promised cuts and layoffs to come. Municipalities must still provide the services residents depend on for education, public safety and infrastructure maintenance, regardless of the economy.

The proposals before you represent attempts to get at the perceived "deep pockets" of towns and cities.

With towns and cities about to fall over a fiscal cliff, we urge you to protect residential and business property taxpayers and take no action on these bills. Now is the time for mandates relief, not for imposing new unfunded state mandates!

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CCM urges the Committee to include a funding source to reimburse municipalities for costs associated with S.B. 1230.

H.B. 6641, "An Act Concerning the Use of Credit Reports in Employment Decisions"

CCM urges the Committee to amend this bill, if it is to proceed.

H.B. 6641 would prohibit employers from obtaining credit reports on applicants, except under certain conditions.

CCM is concerned that existing exceptions do not seem to include municipal employees whose positions require them to handle cash (such as tax collection staff or treasury/accounting staff) or people who hold positions of public trust, such as police officers or firefighters. The bill should be amended to include exceptions in those instances.

H.B. 6557, "An Act Concerning Liability for the Recreational Use of Lands"

CCM appreciates the intent behind this proposal – to provide some liability relief to municipalities for certain cases involving injuries as a result of recreational activities on certain lands made available as open space. However, the proposal does not go far enough in providing needed relief. CCM supports S.B. 43, which the Planning and Development Committee favorably reported. S.B. 43 overturns *Conway v. Wilton*.

S.B. 43 would codify municipalities under the protections of the Recreational Land Use Act (CGS 52-557f et. seq.), which provides partial immunity to owners of recreational land made available to the public without charge. That is, they are liable only for injuries occurring on such land when there is a "willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity."

Such protections provided by S.B. 43 should be provided to municipalities for the following reasons:

- As a result of *Conway v. Wilton*, some municipalities have closed, stopped construction on, halted acquisition of, or restricted the use of recreational facilities;

- Even with the partial immunity offered by the Recreational Land use Act, municipalities have spent significant dollars and made significant efforts to make recreational areas safe for their citizens;

- Many other states provide some form of immunity from liability to municipal and other public landowners when they make their land available without charge for recreational use;

- Some recreational activities are inherently risky. Municipalities and other public agencies cannot prevent injuries to people who undertake them, and municipalities should not be held responsible for those injuries;

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CONNECTICUT

GEN. ASSEMBLY

SENATE

PROCEEDINGS

2011

VOL. 54

PART 22

6915-7208

Moving to Calendar page 11, Calendar 513, House Bill 6557; Madam President, move to place that item on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

On Calendar page 12, Calendar 535, House Bill 6226; Madam President, move to place the item on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to Calendar page 13, Calendar 560, House Bill 5368; Madam President, move to place the item on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Continuing on Calendar page 13, Calendar 567, House Bill 6157; Madam President, move to place the item on the Consent Calendar.

Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the items placed on the first Consent Calendar begin on Calendar page 10, Calendar Number 478, House Bill 6488; Calendar 480, House Bill 5256.

Calendar page 11, Calendar 513, substitute for House Bill 6557.

Calendar page 12, Calendar Number 535, substitute for House Bill 6226; Calendar 555, House Bill 6259.

Calendar page 13, Calendar 560, substitute for House Bill 5368; Calendar 567, substitute for House Bill 6157.

Calendar page 14, Calendar 574, substitute for House Bill 6410; Calendar 578, House Bill 6156.

Calendar page 15, Calendar 591, House Bill 6263; Calendar 594, substitute for House Bill 5508; Calendar 595, substitute for House Bill 62 -- 5263.

Calendar page 16, Calendar Number 606, substitute for House Bill 6581; Calendar 609, substitute for House Bill 6501.

Calendar page 17, Calendar 610, substitute for House Bill 6224; Calendar 613, substitute for House Bill 6453.

Calendar page 18, Calendar 614, substitute for House Bill 5068; Calendar 628, substitute for House Bill 5008; Calendars 633, House Bill 6489.

Calendar page 19, Calendar 635, substitute for House Bill 6351; Calendar 640, House Bills, 6559.

Calendar page 20, Calendar 642; House Bill 6595.

Calendar page 21, Calendar 645, substitute for House Bill 6267; Calendar 648, substitute for House Bill 5326; Calendar 650, substitute for House Bill 6344.

Calendar page 22, Calendar 651, substitute for House Bill 6540.

Calendar page 23, Calendar Number 655, substitute for House Bill 6497; Calendar 657, substitute for House Bill 6262; Calendar 658, House Bill 6364; Calendar 659, House Bill 5489.

Calendar page 24, Calendar 660, substitute for House Bill 6449.

Calendar page 36 -- correction -- Calendar page 33, Calendar Number 390, substitute for Senate Bill 1181.

Calendar page 36, Calendar Number 481, House Bill 5472.

Calendar page 37, Calendar Number 584, substitute for House Joint Resolution Number 34; Calendar 585, substitute for House Joint Resolution Number 54; Calendar 586, House Joint Resolution Number 65, Calendar 587, House Joint Resolution Number 66.

Calendar page 38, Calendar 588, House Joint Resolution Number 80; Calendar 589, House Joint Resolution Number 63; Calendar 590, House Joint Resolution Number 35; Calendar 620, substitute for House Joint Resolution Number 45.

Calendar page 39, Calendar Number 621, substitute for House Joint Resolution Number 47; Calendar 622, House Joint Resolution Number 68; Calendar 623, substitute for House Joint Resolution Number 69; Calendar 624, substitute for House Joint Resolution Number 73.

Calendar page 40, Calendar 625, substitute for House Joint Resolution Number 81; Calendar 626, House Joint Resolution Number 84.

Madam President, I believe that completes the items placed on Consent Calendar Number 1.

THE CHAIR:

Thank you.

SENATOR LOONEY:

Thank you, Madam President.

THE CHAIR:

Mr. Clerk, please call for a roll call vote, and the machine will be open.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber. The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Senator Gomes?

If all members have voted; all members have voted? The machine shall be locked.

And, Mr. Clerk, will you please call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number 1.

Total number voting	36
Those voting Yea	36
Those voting Nay	0

Those absent and not voting 0

THE CHAIR:

Consent Calendar passes.

The Senate will stand at ease for a moment.

(Chamber at ease.)

SENATOR LOONEY:

Madam President?

THE CHAIR:

Yes, Senator.

The Senate will come to order.

SENATOR LOONEY:

Yes. Madam President, the Clerk is in possession of Senate Agenda Number 5 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Madam President, the Clerk is in possession of Senate Agenda Number 5, dated Wednesday, June 8, 2011.

Copies have been made available.

THE CHAIR:

Senator Looney.