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**TESTIMONY ON S.224
SUBMITTED TO THE SENATE COMMITTEE ON NATURAL RESOURCES AND
ENERGY
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Good morning. Thank you for inviting me to speak to you today.

My name is Pat Suozzi. I am the President of the Federation of Vermont Lakes and Ponds.

The Federation of Vermont Lakes and Ponds is a coalition of over 50 volunteer lake associations and many individual members. From its inception in 1972, the Federation has been dedicated to fostering water quality standards and preserving Vermont lakes, ponds, watersheds, and aquatic ecosystems.

Our members work tirelessly to protect Vermont's lakes and ponds, donating thousands of volunteer hours each year to the hard work of managing greeter programs, reducing phosphorus and pollutants from entering the lakes, educating lake users and lakefront property owners about best practices for lake protection, collecting data, and much, much more as well as working closely with the Agency of Natural Resources (ANR) staff who provide scientific and technical support for this work

There are many threats to the state's freshwater resources, including: the changing climate, rising phosphorus levels, and the one I want to talk about today: the spread of aquatic invasive species.

Aquatic invasive species (AIS) are a serious threat to Vermont's waters. Aquatic invasives disrupt native ecosystems, can impede recreational uses of waterbodies, damage fisheries, can reduce property values, and can damage human health by increasing the incidence of toxic cyanobacteria blooms.

*To preserve and protect Vermont's lakes, ponds, and their watersheds
for the benefit of this and future generations.*

Most alarming, infestations of zebra mussels can raise mercury levels. Recent research from the University of Minnesota has shown that lakes infested with zebra mussels have higher levels of mercury in walleye and yellow perch than those without zebra mussels.

And if that is not enough to worry about, another very scary aquatic invasive plant, called hydrilla, has already infested southern parts of the Connecticut River and could well reach us in the not-too-distant future. Hydrilla forms dense mats on the water surface shading out all other plant species and making areas where it grows unnavigable.

Today I want to talk to you about two parts of S.224, which both aim to help in the fight to prevent the continued risk of aquatic invasives in Vermont's waters.

I'd like to begin with the "Wake Boats: Use of Waters" section, starting p. 5, line 16.

The home lake rule described here aims to limit the movement of wake boats around the state, requiring them to stay on one lake unless properly decontaminated.

It has been suggested in this room and elsewhere that wake boats are just a minor threat for spreading invasives because of their relatively small numbers in the state. However, we don't actually know how many wake boats are present in the state nor do we know how many may be coming in from out of state. So far there have been no concerted efforts to collect this data.

Some of the guessestimates come from greeter program data. But this data is not accurate for several reasons: wake boats are not easy to identify visually, so if a greeter did not ask if a boat was a wake boat it wouldn't be recorded. And greeters had no reason to ask, since the home lake rule had not been implemented so many did not ask.

Finally, many of the programs are only staffed a few days a week due to lack of adequate funding while the accesses are always open, so we simply don't know how many wake boats are moving around the lakes.

Without such reliable data, any suggested numbers are really just guesses.

However, there are some things that we do know about wake boats and wake sports.

We know that interest in wake sports is growing and that the market for wake boats is projected to grow by well over 5% per year over the next 10 years.

We know that industry is manufacturing and marketing more powerful boats with more and larger ballast tanks.

We know that the typical wake boat has multiple closed ballast tanks – even on a smaller boat there can be 5 or more.

And most importantly, we know that those ballast tanks cannot be fully emptied and therefore can carry residual water in their tanks when moving between waterbodies.

And we know that currently Vermont has only a few decontamination stations on some of the Lake Champlain accesses, run by Lake Champlain Basin Program stewards that have the capability to effectively decontaminate wake boats.

Finally, we know that zebra mussel larvae (veligers) and fragments of milfoil can survive in small amounts of that residual water in those ballast tanks for weeks.

Even if the wake boat numbers are small now, wake boat use is likely to increase. And because each wake boat carries multiple tanks that cannot be inspected or cleaned by the inland lake greeter programs, every wake boat multiplies by many times the threat of carrying invasives over a regular ski or fishing boat.

By limiting the movement of wake boats, the home lake rule will help to reduce this risk.

The Home Lake Rule is particularly important to protect our most pristine lakes. Lakes like Caspian, Seymour, Echo, the Averill Lakes, Maidstone – lakes with no aquatic invasives and low phosphorus levels. These are the kinds of lakes that are becoming rarer and rarer in other parts of this country.

However, the home lake rule is just as important for the other lakes that are eligible to host wake sports. While some of these lakes may already have milfoil, they certainly don't want zebra mussels or any other aquatic invasive. The lake associations at lakes such as Lake St. Catherine and Lake Dunmore have worked long and hard for decades, have written grants and raised hundreds of thousands of dollars and devoted thousands of hours of volunteer time to controlling the milfoil infestations in those lakes in order to maintain healthy aquatic habitats. These lakes and other lakes like them, along with our pristine lakes, need and deserve the protection that the home lake rule would provide.

The Home Lake Rule is not a perfect rule—no rule ever is—but it is a necessary and decisive step that affirms the State of Vermont’s commitment to protecting its public waters. The rule is workable and enforceable, and with limited, targeted refinements, it can be implemented effectively.

Those speaking after me will address wake boats in greater detail and explain how this rule provides a practical framework for safeguarding our lakes.

The other section of the bill I’d like to discuss begins on p. 8, line 9 “Fish & Wildlife Access Areas.”

The changes addressed in this section also will help with reducing the risk of aquatic invasives by adding lake protection as a priority in the Fish & Wildlife rules for the use of the public accesses.

As you heard last week, the current Fish and Wildlife public access rules do not include lake protection as a priority. These rules were developed in 2006. Well, a lot has changed in the last 20 years. For one, greeter programs were just getting started as aquatic invasive infestations were rising. Since then, the threat of aquatic invasives has become more critical, and while the number of greeter programs has grown, use of the lakes has also grown and therefore the need for more and greater efforts to stop the spread of invasives has grown.

A few years ago, to strengthen the requirement for boats to be inspected and cleaned before entering the waters of the state, the legislature added to statute the requirement that all boats must be inspected and washed (if a washer is available) and if a greeter deems it necessary or the boater will be in violation and subject to a fine of up to \$1000 (10 VSA 1454). Yet, the Fish and Wildlife rules still treat boat inspection as merely voluntary, rather than a necessary priority for using the state’s waters. Work that is essential to helping to reduce the threat of aquatic invasives is treated in the rules as a “special use” in the same category as an occasional social event.

Despite claims to the contrary, this bill does not give greeter programs unlimited authority. Instead, it provides long-needed clarity that protecting our lakes and preventing the spread of these invasives are core state priorities, moving beyond lip service to meaningful action.

As an aside, greeter programs generally take up very little space at the public accesses. Of the 35 programs, only 5 currently have boat washers and most are set up on adjoining private land.

We do have some suggestions for modifying the language on p. 10, lines 17-19 to remove reference to wake boats since these programs are intended to inspect and clean all vessels and aquatic gear entering or leaving the waters of the state and as noted above and as you will hear more later, wake boats are a special case that cannot currently be cleaned even by those greeter programs that have boat washers.

Suggested language for p.10 lines 17-19:

(e)(1) Fishing access areas may be used by approved aquatic nuisance inspection stations under section 1424b of this title for the inspection and cleaning of vessels, trailers and aquatic gear entering or exiting the lakes as required under section 1454 of this title.

Some concern was also expressed about potential conflicts. We feel strongly that any potential conflicts among uses of the accesses should be resolved by working together in a good faith effort to balance priorities. To that end, in order to ensure that any conflicts or perceived conflicts that might arise from this change can be resolved through discussion and compromise, we suggest that the language regarding conflict resolution in this bill be strengthened by changing p. 11, lines 11-12 to read:

“.... the aquatic nuisance control station shall work with the Fish and Wildlife Department to resolve any conflict so that lake protection activity and the other authorized uses can be accommodated.

These changes in language should clarify that there is no expectation that large decontamination stations could just be set up by a greeter program without reference to Fish and Wildlife or other uses of the access area. Rather, we hope that this would allow for a more nuanced discussion of priorities and that all of us: the lake associations who do the work of lake protection, and the various divisions within the Agency of Natural Resources would work together to accommodate both the access needs for the public and the health and cleanliness of the waters they access.

These changes to the Public Access rules were not prompted by the recent Joe's Pond request as has been implied. In fact, the changes contemplated in this bill have been in discussion for well

over a year. However, since it was mentioned last week, I'll use it as an example. The request by the Joe's Pond Association to set up a boat washer was refused outright by Fish and Wildlife because it might take up two parking spaces.

That immediately raised the question: Why do parking spaces take priority over lake protection and aquatic invasive prevention?

The answer is that lake protection is not a priority in the current Fish and Wildlife rules, whereas parking is. This bill would change that and would show in practice that lake protection is a priority – at least enough of a priority to merit some discussion about how to balance the needs to have a certain number of parking spaces and the needs of the public to be able to access waters that are healthy. We would hope that such discussions and decisions arising from them would be based on a scientific understanding of a healthy aquatic ecosystem and reliable data.

The protection of the state's public waters and the reduction of the risk of aquatic invasive species spread are priorities of the state as clearly stated in Title 10, Chapter 50:

I quote in part:

"It is the policy of the State of Vermont that the water resources of the State shall be protected...." AND

"It is the policy of the State of Vermont to prevent the infestation and proliferation of invasive species..."

Management of the public access areas and of the public waters of the state is delegated to the Agency of Natural Resources for the benefit of the citizens of Vermont. This includes the responsibility of the Agency to manage the public waters to protect and ensure a healthy aquatic ecosystem.

It follows then, that the Agency in all of its rules – both the Use of Public Waters rules that the Department of Environmental Conservation oversees and the use of public accesses that the Department of Fish and Wildlife oversees, should clearly align with the policies of the state.

Sometimes priorities may conflict but, if the Department of Environmental Conservation, the Department of Fish and Wildlife, the Lake Associations and lake and access users work together and have those sometimes complicated conversations, and use science and reliable and valid data as the foundation for decisions, I believe we can do much better to balance the ability of the public to access the waters of the state with the necessity of protecting these precious freshwater resources for us now and for future generations.

For these reasons I urge you to pass S.224 with the suggested changes.

Thank you.