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Paul V. Muething, *President*
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Charles Luken, *Vice President*
Mark Mallory
Amy Murray

c/o Office of the City Solicitor
City of Cincinnati
801 Plum Street, Suite 214
Cincinnati, Ohio 45202
Phone (513) 352-3334
FAX (513) 352-1515

**The Ohio House of Representatives
Finance Subcommittee on Transportation
The Honorable Tom Patton, Chair**

Testimony

**Paul V. Muething, President,
Cincinnati Southern Railway Board of Trustees**

February 15, 2023

Chairman Patton, Ranking Member Skindell, and members of the House Finance Subcommittee on Transportation, thank you for this opportunity to provide testimony regarding legislation before you seeking to amend the “Ferguson Act” of 1869.

Today, the Cincinnati Southern Railway is the only municipally owned railway in the United States. It includes 337-miles of track between Cincinnati and Chattanooga, Tennessee. In order for such railway to be constructed, the Ohio Legislature passed the “Ferguson Act” in 1869. As part of that legislation, the Board of Trustees of the Cincinnati Southern Railway (CSR) was established to ensure the greatest possible benefit from the CSR to the City of Cincinnati.

Since 1881, the CSR has been leased to a third-party known as Cincinnati, New Orleans, & Texas Pacific Railway (CNOTP). That entity is currently controlled by Norfolk Southern. Under the terms of the existing lease, the parties needed to come to an agreement on terms to extend the lease no later than June 30, 2022.

The CSR Board of Trustees wanted to be in the best possible position to renegotiate our lease with CNOTP, so we engaged valuation experts beginning in 2019. After making our first offer to extend the lease, Norfolk Southern made it clear that they would prefer to buy the CSR and were willing to pay a premium to do so. Both of the CSR Board’s experts confirmed that selling the CSR to Norfolk Southern for \$1.6 billion is a fair deal for both the Board and the City of Cincinnati.

The sole focus of our negotiations with Norfolk Southern was to ensure that the City of Cincinnati receives the highest possible revenue from the CSR in perpetuity. Under the existing provisions of the Ferguson Act, any sale proceeds received must be immediately applied to existing debt. The changes before you allow the \$1.6B to be held in a trust fund, invested, and only used to rehabilitate, replace, and modernize existing infrastructure. Based on conservative estimates, we expect annual returns to more than double the \$25 million the City of Cincinnati currently receives in rent. The City of Cincinnati projects a funding gap at least \$525 million for existing infrastructure and city facilities. The proposed state law changes will allow this increased revenue to directly address the deferred maintenance of the city's most used assets.

While the CSR Board of Trustees feels strongly that this transaction is in the best interest of the City of Cincinnati, it ultimately is not our choice to make. The Ohio Legislature had the foresight when enacting the Ferguson Act to ensure those most impacted by a sale of the CSR have a chance to vote upon it. Accordingly, the City of Cincinnati electorate must approve any sale of the CSR.

Thank you for hearing my testimony today. I have the pleasure of serving with former Mayor Mark Mallory who also served in the Ohio House and Senate, former Mayor Charlie Luken, who also served in the United States Congress, former Cincinnati City Council member Amy Murray, and Paul Sylvester on the Board of Trustees of the Cincinnati Southern Railway. On behalf of the entire Board, we appreciate Governor DeWine's, the Ohio Legislature's, Mayor Aftab Pureval's, and Norfolk Southern's support in making this transaction a reality.