Testimony by

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To the

Ohio State Senate Transportation Committee

Wednesday, May 22, 2024

In Support of Senate Bill No. 250

Chairwoman Kunze, Vice Chairman Reineke, Ranking Member Antonio and members of the Senate Transportation Committee, thank you for allowing me to provide this testimony in support of Senate Bill No. 250. My name is Jerry Vest, and I am Senior Vice President of Government & Industry Affairs for Genesee & Wyoming Railroad Services, Inc. I have been involved in the management of freight railroads since 1986 and have worked for both large and small rail freight companies. Genesee & Wyoming has nine affiliated short line freight railroads and one affiliated regional freight railroad in Ohio. Please see Appendix No. 1.

To begin, it would be helpful to explain how U.S. freight railroads are classified. The federal Surface Transportation Board defines freight railroads by three "Classes":

> "Current thresholds establish Class I carriers as any carrier earning revenue greater than $1.032 billion, Class II carriers as those earning revenue between $46.3 million and $1.032 billion, and Class III carriers as those earning revenue less than $46.3 million."[1]

[1] See *https://www.stb.gov/reports-data/economic-data/#:~:text=Current%20thresholds%20establish%20Class%20I,See%2049%20C.F.R.*

In the U.S. there are six Class I railroads, with three owning rail lines in Ohio: CSX, Norfolk Southern and Canadian National. According to the American Short Line and Regional Railroad Association, in 2017 there were two dozen Class II "Regional" and 579 Class III "Short Line" railroads across the U.S. [2]. Currently in Ohio there are two "Regional" railroads, Wheeling & Lake Erie Railway and Columbus & Ohio River Rail Road, and per the latest Ohio state rail plan, and thirty-four smaller "Short Line" railroads in the state[3].

While there are clearly many individual freight railroads in the U.S., they all work together to operate as a single network, allowing customers to ship across North America in a seamless manner with their shipments "interchanged" across railroads. However, Regional and Short Line railroads are significantly smaller than the Class I railroads. According to the American Short Line and Regional Railroad, the average regional railroad generates only $79 million a year in revenue, and the average short line $4.75 million.[4] The Class I railroads annual revenues are in the tens of billions of dollars.

The unique differences of the smaller freight railroads in Ohio, along with their value to the Ohio state economy, are nicely captured in the current Ohio state rail plan:

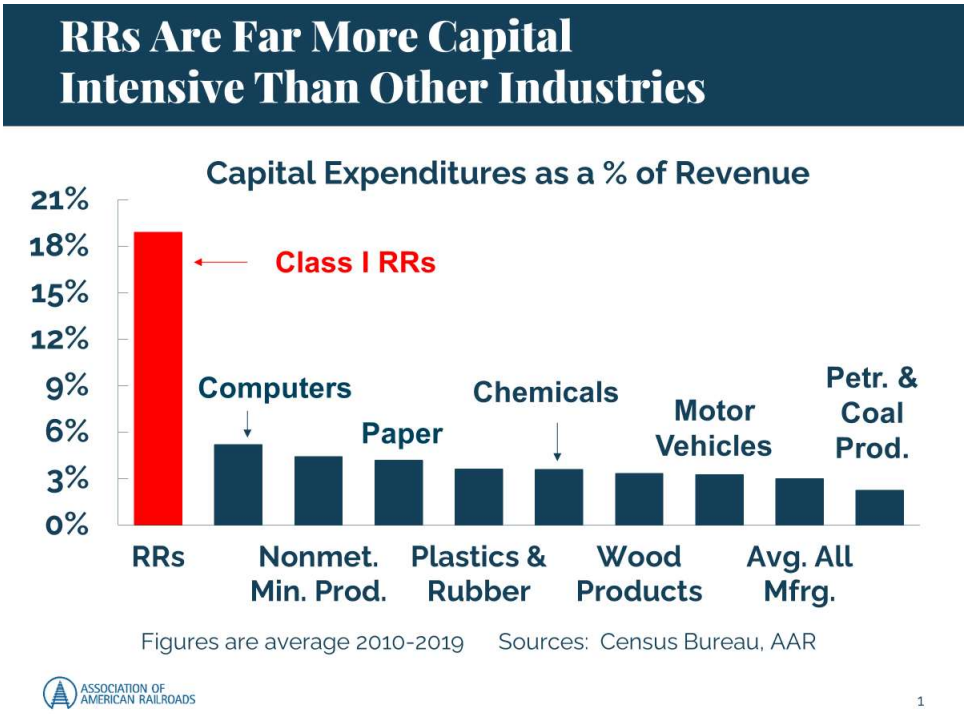
[2] "Short Line and Regional Railroad Facts and Figures", American Short Line and Regional Railroad Association, 2017, pg. 12.
[3] See *https://dam.assets.ohio.gov/image/upload/rail.ohio.gov/Documents/State%20of%20Ohio%20Rail%20Plan%20Final.pdf*, page 2-4.
[4] "Short Line and Regional Railroad Facts and Figures", American Short Line and Regional Railroad Association, 2017, ppg. 13-14.

> "Major railroads marketed unproductive branches to short line operators. These railroads were able to provide service on the formerly unprofitable rail lines because they have lower cost structures. Local railroads provide "first mile" and "last mile" connections to railroad customers. They are important for economic development within the state."[5]

Let me move on to the topic at hand, Senate Bill No. 250 and railroad safety. Following the derailment in East Palestine on February 3, 2023, there was a quick and important focus by the railroaders I work with to understand what went wrong and what could be done to prevent a similar accident. This is typical of railroaders, and I believe one of two ways our industry has made tremendous strides to improve rail safety over the decades. The other is to continuously reinvest in our infrastructure. It is important to point out that the rail freight industry is one of the most capital-intensive industries in the U.S. For you on the Ohio State Senate Transportation Committee, you can appreciate the expenses of properly maintaining this network across all railroads when you think of a similar organization with many miles of linear transportation right-of-way, the Ohio Department of Transportation. You know well how expensive it is to maintain such a network.

[5] See https://dam.assets.ohio.gov/image/upload/rail.ohio.gov/Documents/State%20of%20Ohio%20Rail%20Plan%20Final.pdf, page 2-4

The Association of American Railroads undertook an interesting comparison of the U.S. rail freight industry with other capital-intensive industries. Its results were summarized in the following slide:



This AAR study was based on Class I capital expenditures as a percentage of their revenues. For the short lines I have reviewed for this statistic, we often spend an even greater percentage of our revenues on capital improvements.

While we all wait for the final National Transportation Safety Board report on the East Palestine derailment, much of the reporting associated with the event suggests that it was due to a failed tapered axle roller bearing on a freight car. This

in turn led to the State of Ohio mandating wayside defect detectors every ten miles on all rail lines operating in Ohio.[6]

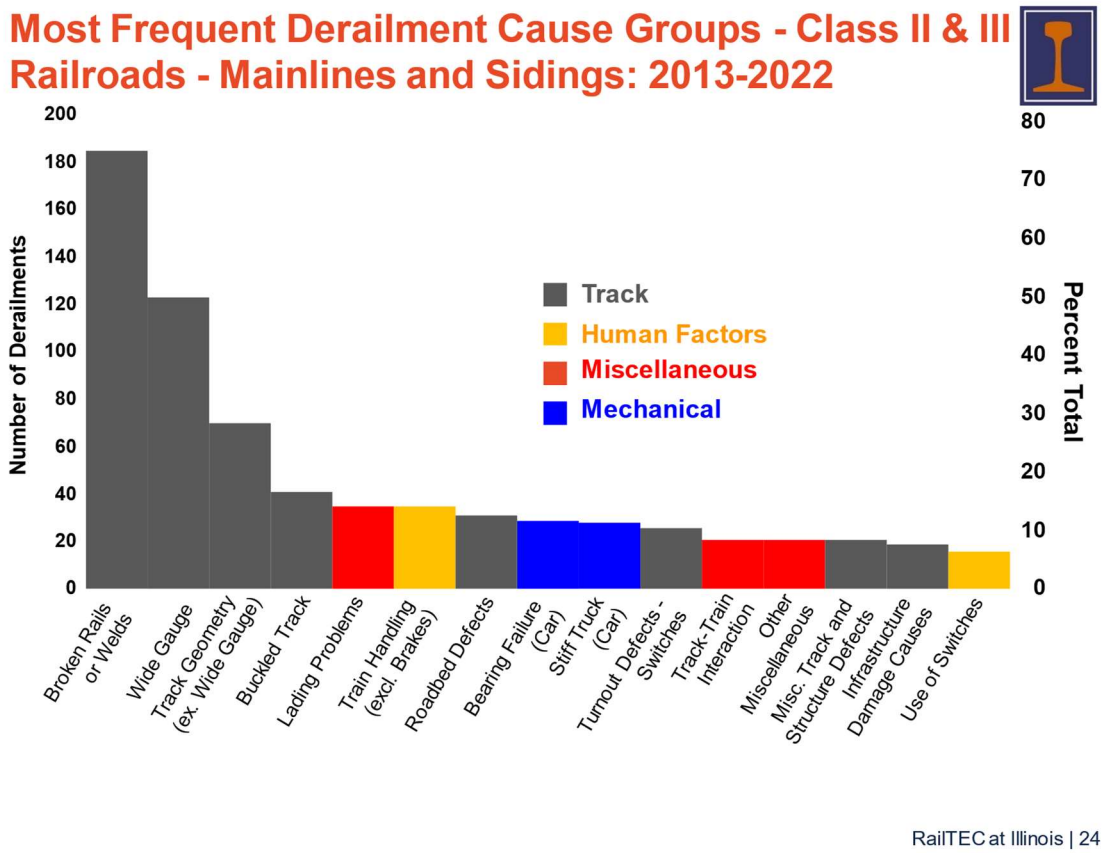
Since enactment of the law many of the smaller railroads in Ohio, working with rail labor representatives, have developed a proposed refinement of the existing law that helps tailor the application of the requirement to recognize the unique characteristics of smaller freight railroads while maintaining the original intent of the current law. The proposed refinement is based on the operating differences between smaller freight railroads and Class I railroads. These differences are generally slower operations, with smaller trains, operating shorter distances; the characteristics that are typical in providing "first and last mile of service". In such a different operating environment, the risk of derailments due to failed wheel bearings is dramatically lower than a typical main line Class I operation.

A recent analysis by the rail civil engineering program at the University of Illinois at Urbana-Champaign directly supports this refinement. Utilizing the Federal Railroad Administration database of reportable accidents, this large study looked at the underlying causes of accidents, including understanding the causes of these accidents based on Class of the railroad involved. This is a very valid approach to the analysis since the FRA legally requires and enforces reporting of

[6] Ohio Revised Code, Section 4955.50 Wayside detector systems, Effective: June 30, 2023, Legislation: House Bill 23 - 135th General Assembly

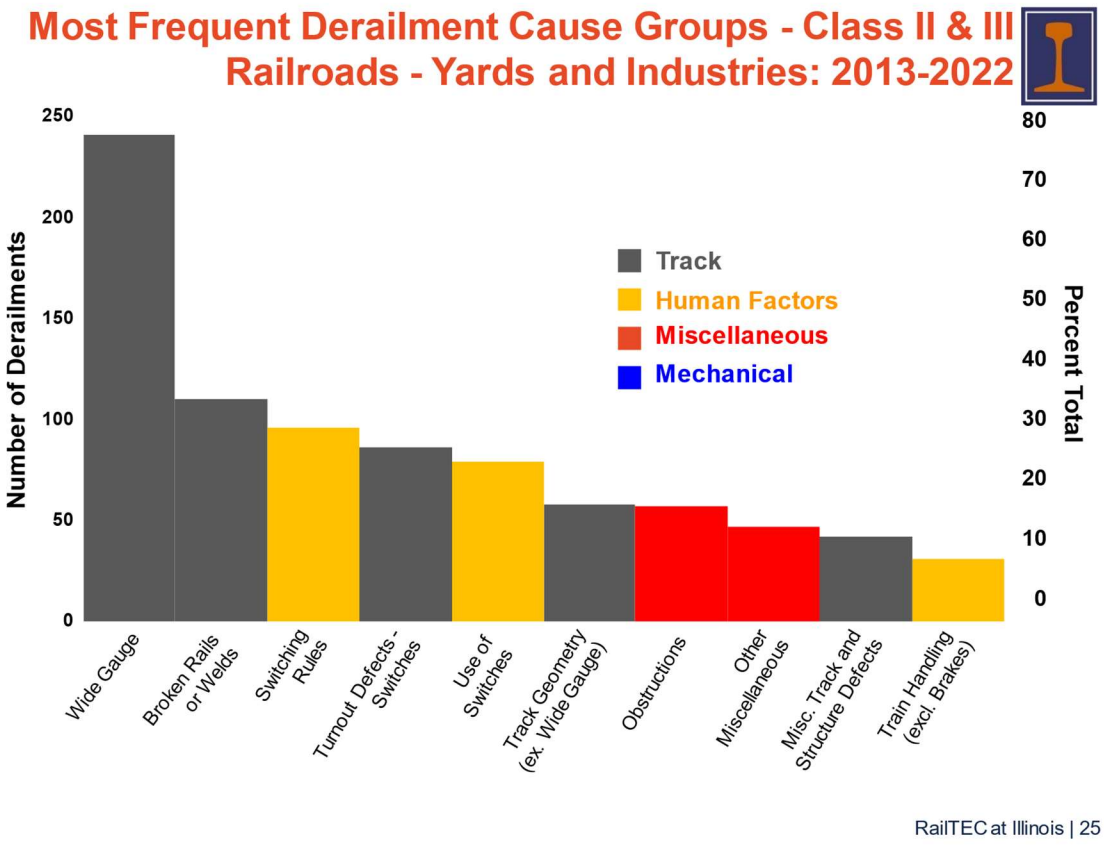
all accidents currently with an expense of $12,000 or greater[7]. This rather modest threshold ensures that all accidents of any consequence were considered in the study. The study covered all reportable accidents over the period of 2013 to 2022.

The results of this study are very informative. As the chart below highlights, for the main lines of Class II and III freight railroads, six of the top ten causes for derailments were associated with track failures. Failed wheel bearing comes in as the eighth cause of derailments, at a significantly lower incident rate than the leading track causes of derailments.



[7] See: https://railroads.dot.gov/safety-data/forms-guides-publications/guides/monetary-threshold-notice#:~:text=The%20new%20reporting%20threshold%20for,%2C%20published%20December%209%2C%202020.

A similar review of derailments on Class II and III yard and industrial tracks is even more significant, with five of the ten leading causes of derailments associated with track structure, and none of the top ten associated with wheel bearings. It is important to keep in mind that often with smaller short line railroads most of their tracks are considered "yard" operations.



These results align with what we would expect, based on the history of these smaller railroads. As noted previously in the current Ohio state rail plan, most often these railroads were created as "spin-offs" of the unprofitable lines of the larger railroads. In such cases these lines often were not upgraded and typically

reflected deferred maintenance. These results also mirror an informal survey undertaken last year of the frequency of failed bearing derailments on Ohio short lines. Over the course of at least five years only two were even noted.

Based on this, Senate Bill No. 250 proposes a refinement of the frequency wayside defect detectors are required, changing the current10-mile interval for smaller railroads as follows:

- For Class II regional railroads, every twenty-five miles
- For Class III short line railroads, every thirty-five miles

The current five-mile variance would continue, to allow railroads the flexibility to avoid installing a detector in a location that is inappropriate, such as on a bridge or in a tunnel. However, the proposed refinement would require Class II and III railroads to provide the Public Utilities Commission of Ohio with a written explanation whenever such a variance would be invoked.

Also included in the refinement is an exclusion of the requirement for installation of wayside detectors on Class II or III lines operating at a speed of ten miles per hour or less. As will be provided by another person giving testimony, current detector technology does not even work at these low speeds.

It is important to keep in mind that railroads cannot simply pass on the cost of new mandates in their rates charged to customers. Railroads, especially smaller ones, compete against trucks for almost all their business. Markets set the rates

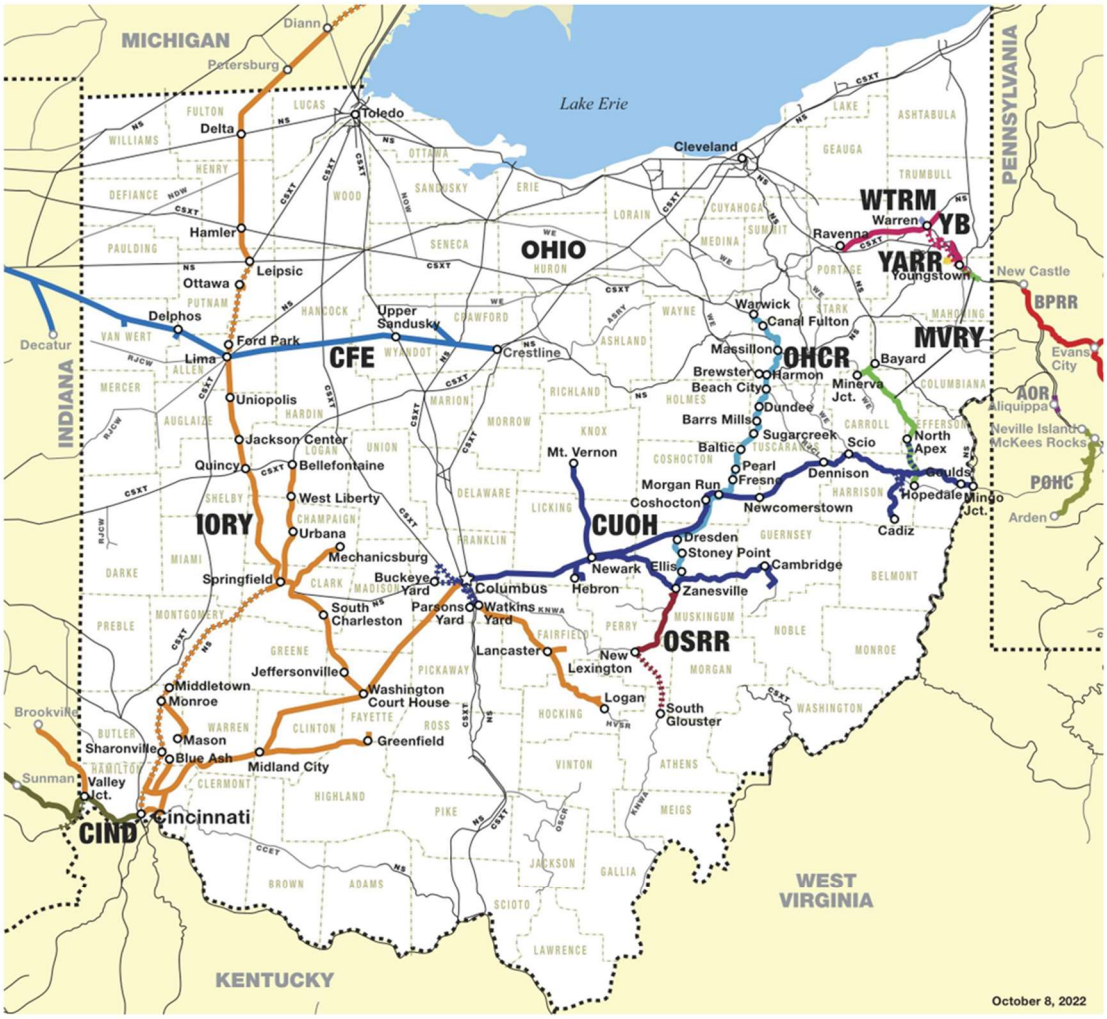
that can be charged and keep the business. This means that with any new legislative mandate the required funds must come from some other use. It would be counterproductive to improve safety by diverting funding from track improvements to install wayside detectors on smaller freight railroads every ten miles.

The proposed refinement of the Ohio wayside detector law will still result in new detectors being installed on smaller freight railroads across Ohio. They will simply be installed at a frequency more in keeping with the operations of these smaller railroads, and not done so at a level compromising the ability of the smaller railroads to continue to make needed investments in their track structures. This will provide Ohio with the best means to help rail safety on smaller railroads in the state.

For these reasons I encourage your committee to advance Senate Bill No. 250. Thank you for your time and interest in this topic.

# # #

Appendix No. 1



Genesee & Wyoming (G&W) Railroads in Ohio

CFE	Chicago, Fort Wayne & Eastern Railroad
CIND	The Central Railroad Company of Indiana
CUOH	The Columbus & Ohio River Rail Road Company
IORY	Indiana & Ohio Railway Company
MVRY	The Mahoning Valley Railway Company
OHCR	Ohio Central Railroad, Inc.
OSRR	Ohio Southern Railroad, Inc.
WTRM	The Warren & Trumbull Railroad Company
YARR	Youngstown & Austintown Railroad Inc.
YB	The Youngstown Belt Railroad Company

G&W Nearby Railroads

AOR	The Aliquippa & Ohio River Railroad Co.
BPRR	Buffalo & Pittsburgh Railroad, Inc.
POHC	The Pittsburgh & Ohio Central Railroad Company

Dashed line indicates Trackage Rights.