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To the Honorable Members of the Legislative Joint Transportation Committee:

BNSF respectfully submits the following comments to provide additional information about its opposition to SB 723. In summary, the bill is unnecessary because changes to crew size are best achieved through the collective bargaining process as they have been for nearly a century and the federal government has claimed the regulatory space around the crew size issue. While there is no data to support the idea that accidents are avoided by having a second qualified person in the cab, the Federal Railroad Administration through a rulemaking enacted in 2024 strongly expressed opposition to creating a patchwork of inconsistent rules through state actions, such as this bill.

The current process of railroad collective bargaining and federal oversight has resulted in railroad workers being among the nation's most highly compensated employees, with some of the best benefits, in one of the safest industries in the United States. We urge you to oppose this legislation for these reasons, expressed in more detail in the following pages.

### **Railroad Safety**

Safety is our core mission. At BNSF, we work each day to operate free of injuries or accidents. It is a vision achieved through a culture of safety that includes extensive employee training and technology that empowers better decision making by our employees. With that vision, BNSF achieved a record year for workplace safety in 2023 with the lowest injury frequency rate in the company's 175-year history.

Railroads are among the safest industrial sector employers in the United States consistently outperforming other transportation modes and major sectors like agriculture, manufacturing, and construction. In fact, Class I railroad injury rates are lower in both frequency and severity than those experienced by workers in grocery stores.

Through a culture that emphasizes safety from day one, railroads have consistently improved safety at all levels for several decades. Consider the following<sup>1</sup>:

- Overall train accident rates have decreased 43% since 2005.
- Employee casualties have decreased 27% since 2005, the lowest on record in 2024.
- Derailments have decreased 33% since 2005.
- Hazmat events have decreased 80% since 2005, currently the lowest rate ever.

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<sup>1</sup> According to the Federal Railroad Administration.



- Class I mainline accidents have decreased 43% since 2005
- Grade crossing collisions are down 23% since 2000.
- Accidents resulting from human error have decreased 28% since 2005.
- Equipment-caused accidents have decreased 36% since 2005.
- Track-caused accidents have decreased 52% since 2005, with 2024 reflecting an all-time low.

Employee training is critical to our safety culture. Using a combination of field training, on-the-job training, and distance learning, BNSF empowers workers to make safe decisions. Our 70 locomotive simulators provide opportunities for employees to test and develop their skills safely in an environment that can be customized to reflect different types of trains, weather conditions, terrain, and times of day.

In addition to training, BNSF invests aggressively in technology that empowers workers to make safer decisions each day. Devices such as track-side sensors which detect mechanical gear variances that are inaudible to the human ear and invisible to the human eye help identify and address potential hazards before they jeopardize safety. Each day, BNSF wayside detectors generate more than 35 million data points which help identify poorly performing equipment for preventive maintenance before it can lead to a service interruption or safety incident.

Positive Train Control (PTC) is another technology that empowers better decision making on railroads. Using PTC, railroads are able to track trains more closely, ensure a train does not exceed its authority, and even allows workers in our network operations center to take control and stop a train remotely if the on-board crew is nonresponsive. BNSF currently operates PTC on more than 11,500 miles of its network and 90 percent of its freight volume. The technology helps to prevent collisions, excessive-speed derailments, incursions onto sections of track where maintenance is occurring, and train movements where a track switch is left in the wrong position. BNSF has been a leader in deploying PTC technology.

BNSF was also one of the first railroads to enhance safety by utilizing drones for inspections. Drones are used to conduct comprehensive inspections of bridges and other structures with the ability to access areas that would otherwise be inaccessible and to capture images of structural elements that further inform our decisions about maintenance and safety. After major weather events, drones can help identify issues such as washouts, downed trees, and misaligned tracks. Moreover, drones are instrumental in examining sections of track impacted by severe weather, providing valuable insights into potential damage and facilitating prompt response and maintenance.

The combination of a strong safety culture, employee training, and technologic improvements that empower more informed decision making have resulted in historic levels of safety across our network and throughout the communities we serve. Safety is the result of consistent dedication to continual improvement. It is our core mission.



## Conflicts with Existing Safety and Labor Policies

In April 2024, the Federal Railroad Administration (FRA) published a final rule<sup>2</sup> regarding train crew size safety requirements, which became effective June 10, 2024. The text of that rule includes the following passage:

*In issuing this final rule, FRA will ensure that laws, regulations, and orders ‘related to railroad safety’ with respect to train crew size are nationally uniform by preventing varying State laws regulating crew size from creating a patchwork of potentially inconsistent rules governing train operations across the country. Without this rule, railroads could be subjected to a different crew staffing law in every State in which they operate, as there would be no assurance that State laws governing crew size would be based on analysis or determination concerning impacts on railroad safety. The lack of a uniform standard would likely result in additional costs and operational inefficiencies.*

This language is important in considering SB 723 because it reiterates the specific intent of laws enacted by Congress decades ago which establish the federal government’s sole authority to regulate railroads. For example, the Federal Railroad Safety Act (the “FRSA”) declares that “laws, regulations, and orders related to railroad safety... shall be nationally uniform to the extent practicable.” The act also includes a specific provision prohibiting state regulation wherever the FRA “prescribes a regulation or issues an order covering the subject matter of the state requirement.”<sup>3</sup>

This is important because the ability to move freight efficiently across state lines is essential to ensuring the free flow of interstate and international commerce. A patchwork of state-mandated crew size policies, as described in the Biden Administration’s crew size rule enacted last year, could create a situation where trains would have to stop at each state line in order to move the appropriate number of crew members onto or off of every train. This would be highly inefficient, increase shipping costs, and serve as a barrier to commerce.

More importantly, the inefficiency and inconsistency of a patchwork of crew size policies changing from state to state would diminish safety because it would undermine standard practices. Standardized operating practices are critical to safe operations. If these practices change arbitrarily from one jurisdiction to another, there is a greater opportunity for confusion, especially in critical moments when decision making matters most.

To be clear, the substance of the FRA’s final rule on crew size remains a matter of controversy within the industry because the agency has never produced data showing a two-person crew is any safer than a one-person crew. At several points in recent history the agency has even said there is insufficient data to demonstrate that accidents are avoided by having a second qualified person in the cab. Even as the substance of the rule remains a matter of debate, the agency’s assertion of its role in establishing a single uniform standard seems consistent with long-held statutory positions taken by Congress and

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<sup>2</sup> *Federal Register*; Vol. 89, No. 69; Tues., April 9, 2024; pg. 25052.

<sup>3</sup> 49 C.F.R. § 172.822



upheld in the courts. SB 723 efforts to create a state crew size standard which could undermine a uniform national standard.

Furthermore, state crew size laws may also conflict with federal labor laws. Crew size is a core subject of collective bargaining in the railroad industry and has been since passage of the Railway Labor Act (RLA) in 1926. In the past 40 years, crew size has been addressed through collective bargaining multiple times. For example, when the transition from steam to diesel power eliminated the need for an on-board fireman the transition of this role was necessitated through collective bargaining. Similarly, when brakemen were no longer needed to manually turn hand brakes on rail cars these positions were transitioned through collective bargaining.

Each time these agreements were negotiated and finalized, crew sizes were reduced in exchange for monetary and work rule changes that benefit employees to this day. Through SB 723, the state would essentially seat itself as a bargaining representative and, in doing so, disrupt decades of advancements made through collective bargaining.

### **Railroad Collective Bargaining**

For nearly a century, the RLA has governed collective bargaining between freight railroads and labor organizations. The structured process ensures competitive compensation for workers and dependable service for rail customers and shippers. In passing the act a century ago, Congress recognized the important role dependable railroad service plays in the economy while also protecting the rights of railroad workers.

Freight rail employees are among the highest paid industrial workers in the nation. Most now earn between \$90,000 and \$140,000 annually, with an average of about \$111,000 per year. The total average value of Class I railroad craft employee annual pay and benefits (including health care, paid time off, and retirement) ranges between \$135,000 and \$190,000, with an average of \$160,000 per year.

Railroad employees rank in the 92<sup>nd</sup> percentile of U.S. industrial workers, meaning only 8% of U.S. workers receive a higher average level of total compensation. They also enjoy top-tier benefits, such as the following:

- **Platinum Medical Benefits:** Railroad workers have access to platinum-level medical benefits and pay nearly \$240 less per month than the national average for employer-provided family coverage. Despite rising medical and pharmacy costs, railroad health care premiums remained stable from 2023 to 2024 and decreased in 2025.
- **Generous Paid Time Off:** Freight rail employees benefit from 28-32 days of paid time off each year, with the most senior employees receiving up to 43 days off. New agreements reached since 2022 provide 93% of craft employees at Class I carriers with individual paid sick days and many operating craft employees with more predictable schedules.



- **Long Tenure:** High wages, comprehensive benefits, and ample opportunities for growth make railroading a career that many choose for their entire career. Unionized rail employees have an average tenure three times longer than the typical private-sector worker.

In 1926, when Congress recognized the unique role of railroads in the U.S. economy and the unique nature of railroad work, a structured system of collective bargaining was created within the RLA to ensure fair compensation and reliable commerce. The system forbids either side from initiating work stoppages in the form of company lock outs or labor strikes which could be catastrophic for U.S. trade. It creates a structured system of negotiation with periods of direct bargaining, mediation, arbitration, and cooling off periods. As bargaining escalates, there are defined roles for both Congress and, ultimately, the President of the United States if necessary.

The last round of national negotiations, which concluded in 2022, did include input from Congress and a Presidential Emergency Board. When talks concluded, it resulted in an historic 24% wage increase for employees over five years, additional lump sum bonus payments, and health benefit enhancements. President Biden also directed both sides to continue negotiating on the issue of additional sick leave days, which resulted in additional leave days for 93% of Class I railroad employees.

Railroad collective bargaining agreements are nationally bargained and locally ratified. They do not expire under the RLA and become amendable upon certain dates at which time the parties may initiate a new round of bargaining by exchanging "Section 6 notices," which are named for the section of the RLA which defines bargaining procedures. The notices include the proposed contractual changes sought by the parties.

The most recent agreement became amendable on November 1, 2024. In the months leading up to this date, several Class I rail carriers and their union partners reached – and, in many cases, ratified – local collective bargaining agreements which proactively resolve the next bargaining round. At the present time, agreements have been ratified by 8 of the 13 bargaining units representing BNSF employees.

At this time, the general pattern of agreements reached proactively between Class I railroads and employee bargaining units reflects: an 18.8% wage increase over 5 years; a decrease in health care payments to \$277/month, well below the national average of \$500/month for employer-provided family coverage; and, additional vacation time for rail workers earlier in their careers.

The current agreements represent decades of good faith discussion at the bargaining table through a defined process overseen at the highest levels of elected leadership and government. It is a process that has remained through administrations led by both major political parties and all combinations of partisanship between the three branches of government. It has met its goals of balancing commerce and employee compensation.

With passage of SB 723, the state of Oregon would essentially be taking a seat at the table and, in doing so, could jeopardize decades of success through a well-established model of collective bargaining.

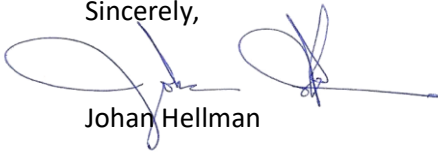


## Conclusions

SB 723 seeks to improve railroad safety by mandating a minimum of 2 crew members on every train. This policy would likely conflict with federal safety and labor laws and could begin unravelling progress made through an established process of collective bargaining that has ensured the safe and efficient transportation of cargo by trains for more than a century and resulted in compensation packages for railroad workers that are among the best in the U.S. industrial sector. This change of policy is unnecessary as there is no data to support the idea that accidents can be avoided by having additional crew members in a locomotive. It also represents a step towards a patchwork of inconsistent rules governing train operations across the country, which could undermine both interstate commerce and safety. For these reasons we urge you to oppose SB 723.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Johan Hellman". The signature is stylized with a large loop at the beginning and a long horizontal stroke at the end.

Johan Hellman