



# Locomotive

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### ACTION ALERT

# AMTRAK MUST BE FULLY FUNDED

THE FOLLOWING MESSAGE IS FROM DENNIS PIERCE, PRESIDENT OF THE TEAMSTERS RAIL CONFERENCE.

In March, President Donald J. Trump presented his budget to the American people, and despite making public statements that his administration would spend \$1 trillion on infrastructure, his first budget proposal consists of cuts that hurt American workers. Included in this budget is the complete elimination of funding for all long distance Amtrak trains. These cuts would negatively impact rail service in 23 states and along 15 Amtrak routes, and further affect hundreds of thousands of riders a year nationwide.

Along with hampering the ability of Americans to use passenger rail as a mode of transportation, these cuts would also eliminate the jobs of approximately 500 hardworking members of the Brotherhood of Locomotive Engineers and Trainmen (BLET), who operate Amtrak trains, and also the jobs of hundreds of mem-



bers of the Brotherhood of Maintenance of Way Employees Division (BMWED), who repair tracks, bridges and other infrastructure along Amtrak routes. Additionally, the cuts would eliminate jobs in other railroad crafts along Amtrak's long distance train system. The loss of so many jobs would have a serious impact on the

Railroad Retirement System, as employer and employee taxes pay for the system. All railroaders, regardless of employer, would feel the negative impact if these cuts are allowed to happen.

On behalf of the Teamsters Rail Conference, BLET National President Dennis Pierce is urging the Trump Admin-

istration and members of Congress to fully fund Amtrak on long distance, Northeast Corridor, and state-supported corridor trains. The Rail Conference also urges President Trump and members of Congress to allocate enough money for improvement of rapid, frequent and dependable service and continued growth of passenger rail throughout the United States of America.

All Teamster members, families and friends are asked to contact their member of Congress by calling the U.S. Capitol Switchboard at (202) 224-3121, and ask to speak with the House of Representative member from your Congressional District. Contact information can also be found here ([www.house.gov/htbin/findrep](http://www.house.gov/htbin/findrep)). If you do not talk directly with your member of Congress, then ask to speak to the staff member who handles Labor issues. When speaking to staff, please be respectful just as you would if you were personally speaking with your member of Congress. @@

**CONTACT YOUR CONGRESSPERSON:** BLET members can send a customized email asking them to oppose the Trump budget that does not fully fund Amtrak: <http://tinyurl.com/Amtrak-Funding>

## The end of an era...

ON JULY 30, 2016, Norfolk Southern ran its last train across the NS Princeton-Deepwater District from Alloy Yard in Deepwater, W.Va., south to Elmore Yard in Mullens, W.Va. Here, the southbound freight passes through Harper, W.Va., as a rainbow greets the mixed freight comprised of covered hoppers, tank cars and gondolas. Photo taken at Harper, W.Va., by Chase Gunnoe.



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## BLET PRESIDENT'S MESSAGE BY DENNIS R. PIERCE

# KEEPING UNIONS STRONG IN THE RAIL INDUSTRY

**BLET EDITOR'S NOTE:** THE FOLLOWING REFLECT REMARKS GIVEN BY BLET NATIONAL PRESIDENT DENNIS R. PIERCE ON MARCH 22, 2017, AT AN ATDA TRAINING CLASS HELD IN CONJUNCTION WITH THE CELEBRATION OF THE 100TH ANNIVERSARY OF THE AMERICAN TRAIN DISPATCHERS ASSOCIATION, A FELLOW RAIL LABOR UNION.

I would like to start by thanking American Train Dispatchers Association President Leo McCann and Secretary-Treasurer Ed Dowell for the invitation to join you here as your Union celebrates 100 years of service to the nation's Dispatchers.

It's worth noting that the BLET and the ATDA have a long history of working together in our effort to provide the best representation possible. In fact, ATDA was a Division of BLE from 1993 to 2004, when BLE merged with the International Brotherhood of Teamsters. Although our formal affiliation ended at that time, our work together and our joint struggles did not. Whether it be through our mutual efforts within the Cooperating Railway Labor Organizations, of which your President serves as Secretary, or through our Coordinated Bargaining Group, BLET and ATDA routinely join together to not only best represent our collective members, but also to make the union movement as strong as it can be.

I don't have to tell you that we are in a fight for the ages to protect the wages, and the health and welfare benefits that our members work so hard for. Unfortunately the Railroads no longer feel obligated to provide us the level of benefits that we have bought and paid for time and time again with our labor. They are pushing to redistribute their profits, which we help earn, to provide more for them and less for us. Time will tell as to whether or not they will get their way, but I can tell you now that unions in our Coordinated Bargaining Group are fighting hard to pre-

vent that from happening.

Even more important are Rail Labor's efforts to keep the union movement in America a strong one. I for one believe in the union movement; I know what having a union job has meant to me and my family, and I also know how quickly all of that could be taken away.

I started on the Burlington Northern Railroad almost exactly 40 years ago as a Maintenance of Way employee. I spent the better part of my first three seasons working in the track department, and proudly held membership in the Brotherhood of Maintenance of Way Employees organization, which is now a Division of the Teamsters Rail Conference.

I then transferred to the clerical ranks, and became a member of the Brotherhood of Railway and Airline Clerks, BRAC, which is now part of the TCU. Several of the clerical employees that I worked with went on to become train dispatchers.

I later transferred from the clerical ranks, this time to the craft of Locomotive Fireman, a craft represented by the United Transportation Union, another union that I held membership in. And, finally, I promoted to the craft of Locomotive Engineer, and joined the Brotherhood of Locomotive Engineers.

I share this story for one simple reason. In early April I will celebrate my 40th anniversary as a proud dues-paying union member. I didn't pay my dues to these four rail unions out of any obligation; I paid them because I know the value of a union job. Yes there were furloughs, I was forced to work away from my family for months at a time; but



President Pierce speaking to ATDA members in honor of the union's 100th anniversary.

I also knew that I was accumulating seniority because of my union contract, and that I had insurance benefits that allowed me to start a family that I could take care of in times of sickness.

It was incredibly easy for me to be part of a labor union. Each time I entered a new craft, someone from the union contacted me to fill out my paper work to become a member. I didn't have to fight for the right to belong to a union, and in some ways, I think it has led some railroad workers to take for granted that rail unions will always be there to provide representation and other services, without any action required on their part.

I stand before you today very concerned about our union movement. There are powerful anti-union forces working night and day to rid America of labor unions. Their so-called "free market" suggests that you would be better off on your own than you are a part of a concerted effort where we all work together for the common good. Ironically, they have even turned many of our own members against their unions, because the legal system that we labor under gives broad latitude to the railroads and other employers in the way that they

treat their employees. The end result is that the employee feels slighted by the railroad, but he or she blames the union for allowing it to happen. Although I understand that level of frustration, I work tirelessly to try and explain to our membership how dangerous that viewpoint can be.

This all comes full circle when anti-union forces work to bring cynically-named Right-to-Work legislation to those of us who work under the Railway Labor Act. In reality, they are working to capitalize on those feelings that I just described; Brothers and Sisters who have been aggrieved in the workplace but blame their union, instead of their employer. They push Right-to-Work legislation, urging our members to abandon their unions the minute that they legally can. The ultimate goal is to eliminate the rail unions — and don't think for a minute that it cannot happen.

Nothing could be more harmful to union-represented railroad employees than losing their union; yet not all of those employees know how high the stakes are. If any of you have ever worked for a non-union railroad, you know just how high the stakes are. If you lose your union, you lose your union

contract. Things that many have taken for granted over years will simply vanish. Things like a seniority roster ... the right to due process and a hearing before discipline is assessed ... the right for those who do the same work to be paid the same pay; the list of benefits that come from our union contracts is a long one, and don't think for a second that the railroad work-life experience would improve if they are taken from us.

To the contrary, the same employee who complains about his union not stopping the railroad's abuse would now have no rights to even complain. Complainers are fired without a hearing in a non-union railroad shop. And the right to use your seniority to hold a preferred job? Those days are over in a non-union railroad shop. The boss's buddies, or in some cases, his family, will hold those jobs.

When it comes to pay, get used to the boss's buddies and family members making more money than you do. That's just the way it works in a non-union railroad shop. And, finally, when there are drops in business, it's generally the oldest — and not the most junior — employees who are laid off first because there is no seniority roster. They work 25, 30 even 35 years for their employer, only to be the first ones laid off when business drops. Try finding meaningful employment as a 55-year-old former railroad employee. It's not an easy thing to do.

I don't share these negative stories to depress you, I share them to motivate you. There is one thing that we can all do that stands in the way of the dark picture that I have painted; it's called a strong rail union **movement**. If you have studied rail labor history — or labor history in general — you know that the stark picture I just painted was the reality of life for all American

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I don't have to tell you that we are in a fight for the ages to protect the wages, and the health and welfare benefits that our members work so hard for. Unfortunately the Railroads no longer feel obligated to provide us the level of benefits that we have bought and paid for time and time again with our labor.

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## BLET NATIONAL DIVISION ELECTRONIC COMMUNICATIONS POLICY

Official communications between BLET members and the National Division require a hard copy of the correspondence, bearing a signature, being received by the National President to be considered an "official communication." This is to provide that the actual question(s) are addressed, and ensures that when official interpretations are made they have

reference to a specific request and can be used in future correspondence.

The volume of e-mails received makes it impossible for the National President to answer all unofficial communications. Therefore, it is the policy of the BLET that e-mails addressed to the National President will be reviewed and forwarded to the appropriate officer or staff for a timely

response; however, an e-mail message is not considered an official communication.

Moreover, anonymous e-mails and e-mails that do not provide sufficient information concerning the sender to enable National Division staff to confirm the sender's membership status will not receive any reply or acknowledgement. This policy is intended to allow the National

President to be aware of the opinions and suggestions of the membership, while at the same time providing a timely response to the member's unofficial communication, if a response is necessary, without needlessly expending limited BLET resources.

ADOPTED AT CLEVELAND, OHIO ON JULY 22, 2010. ©©





**GENERAL PRESIDENT'S MESSAGE** BY JAMES P. HOFFA

# HAVING GOOD HEALTH INSURANCE SHOULDN'T BE PUNISHED

**H**ealth care is a complex matter, one that Congress is attempting to tackle again with the rollout of the American Health Care Act (AHCA). But no matter how one might feel about the latest legislation, there should be something everyone can agree on — workers shouldn't be punished for having high-quality health insurance benefits.

Republicans on Capitol Hill say they want to revamp health care in part because it burdens too many hard-working Americans. Then why did they lead the charge against two amendments to the AHCA offered in a House committee that would have permanently repealed the so-called "Cadillac Tax" levied on such insurance plans?

This excise tax, which imposes a 40 percent surcharge on high-quality health insurance offerings often earned by union workers, hits middle-class families hard. Ultimately, it will lead to an increase in their health care plans as insurers pass along the added costs to participants.

Lawmakers have decided to penalize their constituents, even though many let them know

they were looking for improved health care coverage, not a more expensive insurance. It's just the latest example of the rich getting a free pass while the people who can least afford it foot the bill.

Why should workers be penalized for having good health care? In the case of union workers, these plans have been included in benefit packages. They negotiated to get these insurance plans, trading more generous wages in exchange. What business is it of the government to intervene in such an agreement between employers and employees?

There certainly is a valid argument that the current health care set up could be improved upon. Very few would argue otherwise. Getting rid of the so-called "Cadillac Tax" is one such example. Workers shouldn't have to pay out for having good insurance, especially when the affluent are getting tax breaks under the deal.

Fraternally,

**JAMES P. HOFFA**  
TEAMSTERS GENERAL PRESIDENT



66 Lawmakers have decided to penalize their constituents, even though many let them know they were looking for improved health care coverage, not a more expensive insurance. It's just the latest example of the rich getting a free pass while the people who can least afford it foot the bill.

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## BLET members to keep Health FSA plan for 2017

**M**embers of the Brotherhood of Locomotive Engineers and Trainmen will keep their Health Flexible Spending Accounts (Health FSA) through 2017 thanks to an increased level of participation in this money-saving plan.

A negotiated benefit obtained in the 2012 National Agreement, the Health FSA allows members to use pretax dollars to pay for certain medical expenses that are not covered under any health plan (including a railroad health & welfare plan) or any other source. The plan could allow members to save hundreds of dollars per year in taxes.

The 2012 National Agreement stipulates that at least 7.5% of eligible engineers must participate in the Health FSA in each Plan Year (after 2014) or the Carriers would have the right to terminate it. Following the conclusion of the Open Enrollment for the 2017 plan year, 10.28% of eligible BLET members had enrolled in the program, which is up from the 8.65% participation level achieved during the 2016 Plan Year.

Except as noted at the end of this paragraph, members eligible for the plan include locomotive engineers and Tex-Mex train service employees covered by the Health & Welfare portion of the 2012 Na-



tional Agreement. Also, BLET members subject to the September 16, 2011 UTU National Agreement are currently eligible to participate in the Health FSA program provided for in that Agreement. The national Health FSA is distinct and separate from the on-property BNSF Health FSA plan. The participation rates identified in this News Flash do not apply to BNSF engineers.

BLET National President Dennis R. Pierce thanked all BLET members who are participating in the plan and encouraged more members to sign up for fu-

ture Plan Years.

"The Health FSA program has proven to be a money saver for BLET families," President Pierce said. "I am encouraged by our membership's steady participation level and I am optimistic that it will continue to increase as the word spreads about the Plan's benefits and more members become familiar with the positive aspects of the plan."

Any members with questions regarding the FSA should call United Healthcare at (888) 298-9754 or visit the Your Track to Health website. ©©

## TEAMSTERS APPLAUD DEFEAT OF RIGHT-TO-WORK BILL IN NEW HAMPSHIRE

**T**he Teamsters Union applauded the defeat of right-to-work legislation in New Hampshire on February 16, 2017, where the House of Representatives voted 200-177 in a bipartisan rejection of the anti-worker bill.



Teamsters Local 633 in Manchester, N.H. and Joint Council 10, which represents 22 locals across New England, launched a massive call to action leading up to the vote.

Thousands of members called their elected officials in the House of Representatives asking them to reject the right-to-work legislation.

Right-to-work laws require workers and their unions to cover the costs of non-union workers who benefit from union contracts. These laws are proven to drive down wages and weaken workers' unions by undercutting bargaining power. Nine of the 10 states with the highest poverty rates are right-to-work states. Workers in right-to-work states are less likely to have employer-paid health care and pensions, and more likely to die in accidents on the job. ©©



# BLET General Chairmen meet in Cleveland

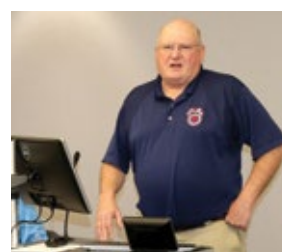
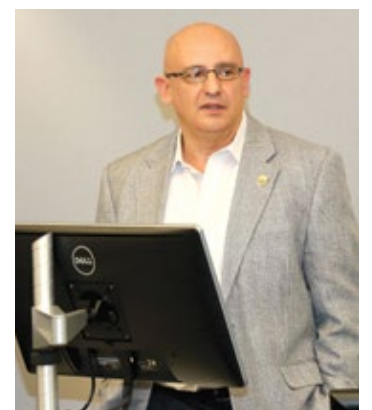
**O**n February 28 and March 1, 2017, more than 50 BLET General Chairmen and Vice General Chairmen convened for informational meetings and educational seminars at the BLET Education & Training Center in Independence, Ohio.

The BLET Advisory Board was also in attendance, holding a meeting on March 2.

"This was a highly successful and productive session," BLET National President Dennis R. Pierce said. "We were able to bring our General Chairmen, Vice General Chairmen and Advisory Board together in the spirit of solidarity as we move along a unified front concerning national negotiations and the challenges facing the BLET."

During the morning session on February 28, BLET National President Dennis R. Pierce gave an update on the current National Bargaining Round. Other topics included health & welfare discussions, the negotiating process under the Railway Labor Act, and the current political environment. The afternoon session began with an update from the BLET's National Legislative Office, with presentations led by BLET Vice President & National Legislative Representative John P. Tolman. The afternoon concluded with an informational session about BLET Bylaws compliance, tax compliance, internal controls and audit committees, and a presentation on the new Union Track membership reporting system.

On March 1, the educational seminars focused on Section 3 dispute resolution, Public Law Boards, Special Boards of Adjustment, selecting a neutral, and the National Railroad Adjustment Board First Division, which hears grievances from locomotive engineers and trainmen crafts. The afternoon concluded with a presentation regarding the BLET's mobilization network. @@



## Registration open for BLET's Myrtle Beach regional meeting

**R**egistration is now open for the BLET regional meeting at the Hilton Myrtle Beach Resort, August 14-18, 2017.

The BLET National Division is planning a meeting filled with educational opportunities and entertaining leisure time activities. Guests will stay at the Hilton Myrtle Beach Resort (10000 Beach Club Drive Myrtle Beach, South Carolina 29572, (843) 449-5000).

BLET convention registration as well as hotel registration can be made through the BLET's regional meeting website, [www.bletregionals.org](http://www.bletregionals.org). If making reservations by telephone, you must mention the group code "BLE1." Please be advised that all room reservations must be made by July 14, 2017.

Located right on the ocean, the Hilton Myrtle Beach Resort is moments from unique shops, delicious dining, and exciting entertainment.

The Myrtle Beach regional meeting kicks off with registration and a welcome reception on Monday, August 14. Opening ceremonies will take place the morning of Tuesday, August 15, with a

**TO REGISTER, GO TO: [WWW.BLETREGIONALS.ORG](http://WWW.BLETREGIONALS.ORG)**



closed meeting for BLET members that afternoon. A golf tournament will be held on Wednesday, August 16, at the Barefoot Resort Dye Course. The cost to register for the golf tournament is \$160 per person. Non-golfers will be on their own to explore the many differ-

ent entertainment options that Myrtle Beach has to offer.

Workshops will be held for Local Chairmen, Secretary-Treasurers and Legislative Representatives throughout the day on Thursday, August 17. The BLET's Myrtle Beach regional meeting

will conclude with a banquet the evening of August 17. Attendees will travel home on August 18.

There is no cost for BLET members who wish to attend the August 15 meetings and August 17 workshops only; however, there will be fees for those members who choose to attend the meals. The cost of full registration (including all meetings, workshops, the banquet and all BLET sponsored meals) is \$200 per person. The cost is \$150 to register for all of the above EXCEPT the banquet. Additionally, reduced children's registration and a la carte meal registration options are also available. Please visit [www.bletregionals.org](http://www.bletregionals.org) for more information about the registration process.

The website [www.bletregionals.org](http://www.bletregionals.org) has been established as a one-stop shopping opportunity for all future BLET regional meetings. Registration is also currently open for the BLET's first regional meeting of 2017 — which will be held June 5-9, 2017, in San Antonio, Texas. Please visit the BLET website, Facebook page, and [www.bletregionals.org](http://www.bletregionals.org) for the latest information. @@



## News Briefs

### LIRR POSTS HIGHEST RIDERSHIP SINCE 1949

The Metropolitan Transportation Authority (MTA) announced on January 23, 2017, that the Long Island Rail Road (LIRR) is seeing record ridership numbers, carrying 89.3 million customers in 2016, a 1.9% increase over 2015 and the highest ridership since 1949.

According to MTA, the LIRR's growth continues recent trends in which the LIRR has registered a 1.97% average growth per year over the past five years. The railroad's ridership has grown 10.2% over five years, from 81.0 million in 2011.

The ridership figures come at a time when Governor Andrew M. Cuomo has proposed a major capacity increase to the LIRR by expanding the Main Line from two tracks to three between Floral Park and Hicksville and as the LIRR is building a second track from Farmingdale to Ronkonkoma.

A detailed demographic and travel analysis of LIRR customers shows an increasing reliance on the LIRR on the part of younger generations. The study showed that millennials, defined as those born between 1981 and 1997, have lower levels of access to automobiles than older New Yorkers.

Metro-North Railroad, another MTA subsidiary, carried approximately 86.5 million in 2016, the highest ridership in Metro-North's history. Metro-North's ridership for 2016 surpasses the previous record of 86.3 million, set last year. Metro-North's total ridership has more than doubled since the railroad was founded in 1983.

### CP RAIL BRINGS BACK BEAVER LOGO

Canadian Pacific is bringing back its iconic beaver logo as it looks to the future, while re-connecting with its past. The logo combines two



elements: the modern red "CP" logo mark that has been in use since 2012, and the gold heritage shield that features the beaver, Canada's official symbol for sovereignty. The railroad

said, "[T]here is no better time to bring the beaver back" than now, with the nation of Canada marking its 150th anniversary in 2017. More information about the history of the railway's corporate symbol can be found on the CP Rail website, [www.cpr.ca](http://www.cpr.ca).

### TOTAL 2016 RAIL TRAFFIC VOLUME DOWN 5 PERCENT FROM 2015

In January, the Association of American Railroads (AAR) reported that U.S. rail traffic volumes had declined during calendar year 2016. It marked the second consecutive year that rail carloads were down in year-over-year statistical comparisons.

Total U.S. carload traffic for 2016 was 13,096,860 carloads, down 8.2 percent or 1,169,152 carloads, from 2015. Also, intermodal containers and trailers were 13,490,491 units, down 1.6 percent or 220,171 containers and trailers when compared to 2015. In 2016, total rail traffic volume in the United States was 26,587,351 carloads and intermodal units, down 5 percent or 1,389,323 carloads and intermodal units from the same point last year.

The AAR said market shifts in the U.S. economy have led to challenges in the freight rail industry, especially as it relates to rail traffic. In spite of the decline, AAR said that there are signs that the economy may be gradually returning to a period of growth. Carload traffic was up 2.9 percent in January 2017 and 6.7 percent in February 2017. ©©

### PRESIDENT PIERCE MESSAGE

CONTINUED FROM PAGE 2

workers. Those were the conditions that led locomotive engineers to found my Union 154 years ago in May, and they led train dispatchers to form your Association a century ago.

When my Union was founded, there was no one to hand out membership applications. There were no legal protections for labor unions; in fact, the very first application of anti-trust laws in the late Nineteenth Century was against unions! What our forefathers did was to commit to one another in complete solidarity, willingly risking what little financial stability their families had for the common good.

They also risked their lives. In 1877 railroad strikes spread like wildfire through the country. Martial law was declared and federal troops were deployed. And when the militia opened fire on strikers and their supporters in Reading, Pennsylvania, 10 people were killed ... including BLE Division 75 members John H. Weaver and John A. Cassidy. By the time the ATDA was

founded, the days of the so-called labor riots in the railroad industry thankfully were behind us, but there still was no legal protection for your founders.

Everything we have today — from legal protections, to the level of wages, benefits and working conditions we enjoy today — came from the battles waged by those who founded our unions and those who followed them. These victories were not simply conceded by the railroads or the government ... they were wrested from the hands of the wealthy and powerful by means of a genuine **movement** and a broad **solidarity** on the part of our predecessors.

Today — especially today — we must be mindful of the lessons of our history if we are to stave off the attacks that intend to turn the clock back and restore those reprehensible conditions. So what does that mean in terms of going forward?

First, we must tell our elected politicians — with a loud and single voice comprised of every Rail Union member — to **leave the Railway Labor Act alone**, and to drop the push for Right-to-Work legislation. It's not fake news, Brothers and Sisters, that working class Ameri-

cans who labor in Right-to-Work states make over \$6,100 less per year than their counterparts in states that are not Right-to-Work. Anti-union forces may have given these laws a catchy name. They may make it sound like you are getting a right or a benefit, but don't fall for this age-old bait and switch tactic. What you are getting is the right to work for less, so your employers can keep more; it's as simple as that.

Join me in our fight to keep unions strong in the rail industry. Join me as we work to defend the provisions of our union contracts, many of them so engrained in our culture that they are taken for granted. Become a vocal union advocate in the workplace, let there be no doubt that we support the union movement, and that we support our rail unions. On this proud day of ATDA's 100th anniversary, I want each and every one of you to make a commitment to work tirelessly to ensure that ATDA, and all of Rail Labor, is here to celebrate ATDA's 150th Anniversary. Thank you all for your time. ©©

**DENNIS R. PIERCE**  
BLET NATIONAL PRESIDENT



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# OSHA Whistle-blower Roundup

## INTRODUCTION

**T**he U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) enforces the whistleblower provisions of more than 20 whistleblower statutes, protecting employees who report violations of various workplace safety and health laws. This includes railroad workers under the statutes of the Federal Railroad Safety Act (FRSA). Under FRSA, an employee of a railroad carrier or a contractor or subcontractor is protected from retaliation for reporting certain safety and security violations. For more information, please visit: [www.whistleblowers.gov](http://www.whistleblowers.gov).

An OSHA Fact Sheet outlining whistleblower protections for railroad workers is on the BLET website: [www.ble-t.org/pr/pdf/OSHA\\_factsheet.pdf](http://www.ble-t.org/pr/pdf/OSHA_factsheet.pdf)

In this section of the *Locomotive Engineers and Trainmen News*, we report on recent findings from OSHA that are favorable to railroad workers.

## BNSF TRACK INSPECTOR AWARDED \$147,000 IN BACK PAY AND DAMAGES

On December 28, 2016, OSHA reported that the BNSF Railway violated federal law when it terminated a track inspector for insubordination after the employee reported railroad track defects to management.

OSHA has ordered BNSF to pay more than \$147,000 in back wages and damages and take other corrective actions. Agency investigators determined the company retaliated against the former employee in violation of the Federal Railroad Safety Act (FRSA).

## AMTRAK SPECIAL AGENT REINSTATED, AWARDED \$892,000 FOR FRSA VIOLATION

On January 18, 2017, OSHA reported that Amtrak retaliated against a supervi-

sory special agent in its inspector general's office when he raised concerns about railroad safety, fraud and abuse involving an Amtrak contractor, and when he supported a fellow agent's safety concerns during an internal investigation.

In early to mid-2010, the agent was investigating an Amtrak contractor that had been convicted in a New York state court for fraud in examining and testing concrete at building projects in the New York City area. This Amtrak contractor had performed testing on certain Amtrak tunnel projects. Strongly believing it was necessary for safety and security reasons, the agent raised safety concerns regarding work performed by this contractor on Amtrak projects.

Then, in October 2010, the agent gave Amtrak's Dispute Resolution Office information and provided support for a fellow employee who had received a let-



ter of reprimand after he raised safety concerns in a separate matter. The following month, the agent received his first-ever negative performance review. In March 2011, Amtrak notified him that — as a part of an overall reorganization — his position was being eliminated. In the course of the next few months, the agent applied for other positions, but was told that he lacked the required law enforcement training, despite a 40-year law enforcement career that included equivalent training. In June 2011, Amtrak notified the agent that he would be terminated due to his not being placed in a new position.

The terminated agent later filed a whistleblower complaint with OSHA. After concluding its investigation, the agency determined that the complainant engaged in protected Federal Railroad Safety Act (FRSA) activities when he raised concerns about safety issues related to work conducted by the Amtrak contractor and when he expressed his support of his fellow agent's safety complaints. OSHA also found these protected activities contributed as factors in his termination by Amtrak.

OSHA has issued a notice of findings to Amtrak ordering it to take the following corrective actions:

OSHA ordered Amtrak to reinstate the employee to his former or a similar position with all rights, seniority and benefits he would have received had he not been discharged. Amtrak was also ordered to pay him a total of \$892,551, which is comprised of \$723,332 in back wages plus \$34,218 in interest, \$100,000 in punitive damages, and \$35,000 in compensatory damages; OSHA also awarded reasonable attorney's fees and costs.

## UP ENGINEER AND CONDUCTOR VICTORIOUS IN STAND AGAINST INTIMIDATION

On February 20, 2017, the *North Platte Bulletin* reported that OSHA fined the Union Pacific Railroad more than \$20,000 after a locomotive engineer and

conductor complained that the seats in their locomotive were too wobbly to safely operate a train.

The two operating crew employees boarded their locomotive on November 20, 2015, for a scheduled run from North Platte, Neb., to Cheyenne, Wyo. Before departure, however, they advised management that the seats in the lead locomotive were not up to federal safety standards. A manager called a technician to measure the wobble, and after talking to his supervisors, he ordered the crew to take the train "as is." The men declined.

They asked that the seats from the No. 2 locomotive or the entire No. 2 locomotive to be moved to the No. 1 position, but management declined. The operating crew members were then pulled off the locomotive and ordered to the superintendent's office for questioning.

When the two crew members got to the office, they declined to answer any questions until their union representatives arrived. Before their representatives arrived, the two crew members were escorted out of the office and told to go home.

They left work presuming they could be fired, but due to an administrative error, the department that schedules crews reinstated the two men 24 hours later on another locomotive. Also, 24-48 hours later, the locomotive in question was sent to a mechanical repair facility where both seats were replaced.

In its determination, OSHA ruled that the employees followed the proper chain of command in reporting the issue, and that the manager's conduct became unprofessional and unsafe. OSHA also ruled that the two men had a right to wait for union representation.

According to the *North Platte Bulletin*, UP will pay each man \$10,000 in punitive damages as well as \$2,500 in compensatory damages, and the men's attorney's fees in the total amount of about \$18,000. Through their attorney, the men told the newspaper that case wasn't about the money. Rather, they wanted to fight back against on-the-job intimidation. ☺



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# Railroad Retirement spouse benefits

In addition to the retirement annuities payable to employees, the Railroad Retirement Act, like the Social Security Act, also provides annuities for the spouses of retired employees. Payment of a spouse annuity is made directly to the wife or husband of the employee. Divorced spouses may also qualify for benefits.

The following questions and answers describe the benefits payable to spouses and the eligibility requirements. Information regarding divorced spouses begins with Question 8.



## 1 How are railroad retirement spouse annuities computed?

Regular railroad retirement annuities are computed under a two-tier formula. The spouse annuity formula is based on certain percentages of the employee's tier I and tier II amounts.

The tier I portion of an employee's annuity is based on both railroad retirement credits and any social security credits that the employee also earned. Computed using social security benefit formulas, an employee's tier I benefit approximates the social security benefit that would be payable if all of the employee's work were performed under the Social Security Act.

The tier II portion of the employee's annuity is based on railroad retirement credits only, and may be compared to the retirement benefits paid over and above social security benefits to workers in other industries.

The first tier of a spouse annuity, before any applicable reductions, is 50 percent of the railroad employee's unreduced tier I amount. The second tier amount, before any reductions, is 45 percent of the employee's unreduced tier II amount.

## 2 How does a railroad retirement spouse annuity compare to a social security spouse benefit?

The average annuity awarded to spouses in fiscal year 2016, excluding divorced spouses, was \$1,091 a month, while the average monthly social security spouse benefit was about \$719.

Annuities awarded in fiscal year 2016 to the spouses of employees who were of full retirement age or over and who retired directly from the rail industry with at least 25 years of service averaged \$1,333 a month; and the average award to the spouses of employees retiring at age 60 or over with at least 30 years of service was \$1,489 a month.

## 3 What are the age requirements for a railroad retirement spouse annuity?

The age requirements for a spouse annuity depend on the employee's age and date of retirement and the employee's years of railroad service.

If a retired employee with 30 or more years of service is age 60, the employee's spouse is also eligible for an annuity the first full month the spouse is age 60. Certain early retirement reductions are applied if the employee first became eligible for a 60/30 annuity July 1, 1984, or later and retired at ages 60 or 61 before 2002. If the employee was awarded a disability annuity, has attained age 60 and has 30 years of service, the spouse can receive an unreduced annuity the first full month she or he is age 60, regardless of whether the employee annuity began before or after 2002 as long as the spouse's annuity beginning date is after 2001.

If a retired employee with less than 30 years of service is age 62, the employee's spouse is also eligible for an annuity the first full month the spouse is age 62. Early retirement reductions are applied to the spouse annuity if the spouse retires prior to full retirement age. Full retirement age for a spouse is gradually rising to age 67, just as for an employee, depending on the year of birth. Reduced benefits are still payable at age 62, but the maximum reduction will be 35 percent rather than 25 percent by the year 2022. However, the tier II portion of a spouse annuity will not be reduced beyond 25 percent if the employee had any creditable railroad service before August 12, 1983.

## 4 What if the spouse is caring for a child of the retired employee?

A spouse of an employee receiving an age and service annuity (or a spouse of a disability annuitant who is otherwise eligible for an age and service annuity) is eligible for a spouse annuity at any age if caring for the employee's unmarried child, and the child is under age 18 or a disabled child of any age who became disabled before age 22.

## 5 What are some of the other general eligibility requirements?

The employee must have been married to the spouse for at least one year, unless the spouse is the natural parent of their child, or the spouse was eligible or potentially eligible for a railroad retirement widow(er)'s, parent's or disabled child's annuity in the month before marrying the employee or the spouse was previously married to the employee and received a spouse annuity.

## 6 Can the same-sex spouse of a railroad employee file for a railroad retirement spouse annuity?

On June 26, 2013, the Supreme Court found Section 3 of the Defense of Marriage Act, which prevented the Federal government from recognizing marriages of same-sex couples, to be unconstitutional. As a result, the Railroad Retirement Board (RRB) began accepting applications for benefits from those eligible spouses in same-sex marriages who were validly licensed under State law. On June 26, 2015, the Supreme Court further found that the Constitution required all States to license same-sex marriages, and to recognize lawfully licensed same-sex marriages performed in other States.

## 7 Are spouse annuities subject to offset for the receipt of other benefits?

The tier I portion of a spouse annuity is reduced for any social security entitlement, regardless of whether the social security benefit is based on the spouse's own earnings, the employee's earnings or the

earnings of another person. This reduction follows principles of social security law which, in effect, limit payment to the higher of any two or more benefits payable to an individual at one time.

The tier I portion of a spouse annuity may also be reduced for receipt of any Federal, State or local government pension separately payable to the spouse based on the spouse's own earnings. The reduction generally does not apply if the employment on which the public service pension is based was covered under the Social Security Act throughout the last 60 months of public employment. Most military service pensions and payments from the Department of Veterans Affairs will not cause a reduction. Pensions paid by a foreign government or interstate instrumentality will not cause a reduction. For spouses subject to a public service pension reduction, the tier I reduction is equal to 2/3 of the amount of the public service pension.

In addition, if the employee was first eligible for a railroad retirement annuity and a Federal, State or local government pension after 1985, there may be a reduction in the employee's tier I amount for receipt of a public pension based, in part or in whole, on employment not covered by social security or railroad retirement after 1956. If the employee's tier I benefit is offset for a noncovered service pension, the spouse tier I amount is 50 percent of the employee's tier I amount after the offset.

The spouse tier I portion may also be reduced if the employee is under age 65 and is receiving a disability annuity as well as worker's compensation or public disability benefits.

While these offsets can reduce or even completely wipe out the tier I benefit otherwise payable to a spouse, they do not affect the tier II benefit potentially payable to that spouse.

## 8 How do the eligibility requirements and benefits differ for a divorced spouse?

A divorced spouse annuity may be payable to the divorced wife or husband of a retired employee if their marriage lasted for at least 10 consecutive years, both have attained age 62 for a full month, and the divorced spouse is not currently married. A divorced spouse can receive an annuity even if the employee has not retired, provided they have been divorced for a period of not less than 2 years, the employee and former spouse are at least age 62, and the employee is fully insured under the Social Security Act using combined railroad and social security earnings. Early retirement reductions are applied to the divorced spouse annuity if the divorced spouse retires prior to full retirement age. Full retirement age for a divorced spouse is gradually rising to age

67, depending on the year of birth.

While a spouse is eligible for an annuity at any age if caring for the employee's unmarried child, and the child is under age 18 or a disabled child of any age who became disabled before age 22, a divorced spouse is not eligible for an annuity on such basis unless the employee is deceased.

Unlike a regular spouse annuity, the divorced spouse annuity is computed under a single tier formula. The amount of a divorced spouse's annuity is, in effect, equal to what social security would pay in the same situation (tier I only) and therefore less than the amount of the spouse annuity otherwise payable (tier I and tier II). The average divorced spouse annuity awarded in fiscal year 2016 was \$651.

## 9 Would the award of an annuity to a divorced spouse affect the monthly annuity rate payable to a retired employee and/or the current spouse?

No. If a divorced spouse becomes entitled to an annuity based on the employee's railroad service, the award of the divorced spouse's benefit would not affect the amount of the employee's annuity, nor would it affect the amount of the railroad retirement annuity that may be payable to the current spouse.

## 10 What if an employee and spouse/divorced spouse are both railroad employees?

If both started railroad employment after 1974, the amount of any spouse or divorced spouse annuity is reduced by the amount of the employee annuity to which the spouse is also entitled. If both the employee and spouse are qualified railroad employees and either had some railroad service before 1975, both can receive separate railroad retirement employee and spouse annuities, without a full dual benefit reduction.

## 11 Are railroad retirement annuities subject to garnishment or property settlements?

Certain percentages of any railroad retirement annuity (employee, spouse, divorced spouse or survivor) may be subject to legal process (i.e., garnishment) to enforce an obligation for child support and/or alimony payments.

Also, a court-ordered partition payment may be paid even if the employee is not entitled to an annuity provided that the employee has 10 years of railroad service or 5 years after 1995 and both the employee and former spouse are 62.

Employee tier II benefits, vested dual benefits and supplemental annuities are subject to court-ordered property settlements in proceedings related to divorce, annulment or legal separation. Tier I benefits are not subject to property settlements.

## 12 How can a person get more information about railroad retirement spouse and divorced spouse annuities?

For more information, a person should contact an office of the RRB by calling toll free at 1-877-772-5772, or via the agency's website at [www.rrb.gov](http://www.rrb.gov).

Most RRB offices are open to the public on weekdays from 9:00 a.m. to 3:30 p.m., except on Wednesdays when offices are open from 9:00 a.m. to 12:00 p.m. RRB offices are closed on Federal holidays. ©





## Locomotive Engineers And Trainmen News Brotherhood Of Locomotive Engineers And Trainmen

7061 East Pleasant Valley Road  
Independence, Ohio 44131

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### Photo of the Month: March 2017

**SALT LAKE SKYLINE:** En route to Ogden from Salt Lake City, a pair of Union Pacific SD70M's ease through the railroad's North Yard with the beautiful Salt Lake City skyline in the background. A classic Belmont backdrop as some would say. **Photo:** taken June 24, 2015 by Chase Gunnoe.



**Are you a photographer?** The National Division's Public Relations Department, which produces the Newsletter each month, has received numerous inquiries lately from BLET members volunteering to contribute their

images to the "Photo of the Month" section of the Newsletter. If you'd like to submit a photo for consideration, you may call Editor John Bentley at (216) 241-2630, ext. 248, or you can email: Bentley@ble-t.org.

Please note only high resolution images can be used. Members are also encouraged to review their employer's policies regarding the use of cameras and other electronic devices while on duty.

## Advisory Board February 2017 Activity

In accordance with the BLET Bylaws, summaries of BLET Advisory Board members' activities are published monthly:

**NATIONAL PRESIDENT DENNIS R. PIERCE:** National Division Office, Independence, Ohio; General supervision of BLET activities; General office duties; Correspondence and telephone communications; Supervision of Office Administration; General Supervision of Special Representatives; President, Teamsters Rail Conference; Policy Committee, Teamsters Rail Conference; Policy Committee meeting, Temsters Rail Conference, Hollywood, Fla.; Coordinated Bargaining Group mediation, Hollywood, Fla.; Cooperating Rail Labor Organization (CRLO) mtgs., Hollywood, Fla.; BLET General Chairmen's meeting and training, Independence, Ohio; Vacation.

**FIRST VICE PRESIDENT E.L. (LEE) PRUITT:** National Duties include but not limited to: Shortline Organizing Dept.; Trainmen's Dept.; National Publications Committee; National Legislative Board; Teamsters Rail Conference Policy Committee; PRAC; and National Negotiations; National duties, Independence, Ohio; General office duties, telephone, email, correspondence communications, etc.; Cooperating Rail Labor Organization (CRLO) mtgs., Hollywood, Fla.; Vacation; Holiday; BLET General Chairmen's meeting and training, Independence, Ohio.

**NATIONAL SECRETARY-TREASURER STEPHEN J. BRUNO:** General supervision of Accounting Dept., Record Dept., Online Services Dept., Tax Compliance Dept.; Safety Task Force; PAC and FEC reports and filings; Implementation and training for BLET membership database; Pension, STD, 457 plan Trustee; Division, General Committee and SLB monthly Trustee reports; Mtgs. with vendors and financial institutions; BLET General Chairmen's meeting and training, Independence, Ohio; Cooperating Rail Labor Organization (CRLO) mtgs., Hollywood, Fla.; Union Track implementation and training, Independence, Ohio; Rail Conference Policy Committee mtg., Hollywood, Fla.

**VICE PRESIDENT & NATIONAL LEGISLATIVE REPRESENTATIVE JOHN P. TOLMAN:** Assigned to BLET Washington, DC office; General office duties, telephone and correspondence communications; Cooperating Rail Labor Organization (CRLO) mtgs., Hollywood, Fla.; Conference call mtgs. w/ all State Chairmen; Board mtg., Independence, Ohio; Advisory Board mtg., Independence, Ohio; Academy of Trial Attorneys mtg., Hollywood, Fla.; BLET General Chairmen's meeting and training, Independence, Ohio; Holiday; Various mtgs. w/ the GOP Progressive Caucus, Washington, D.C.; Several mtgs. w/ the new members of Congress and the leadership of both the GOP and Democratic parties, Washington, D.C.; Various mtgs. and functions with Senators and Representatives, Washington, D.C.

**VICE PRESIDENT MARCUS J. RUEF:** Vice Chairman, National Railroad Adjustment Board (NRAB); National Mediation Board (NMB) Arb. Adv. Forum; Department Head, BLET Arbitration Department; Assigned to Illinois Central, Wisconsin Central, Indiana Harbor Belt, Belt Railway of Chicago, Metra, GRR and Illinois RR; Rail Conference Policy Committee mtg., Hollywood, Fla.; Assist GC Short w/ correspondence and PLB submissions, IHB, Chicago; Study, prep and assist GC Reynolds w/ discipline submissions, WC, Chicago; NRAB admin., NRAB research old files, study awards, prep for adoption session, Chicago; BLET General Chairmen's meeting and training, Independence, Ohio.

**VICE PRESIDENT MIKE TWOMBLY:** Assigned to all Union Pacific GCAs (Eastern District, Northern Region (former C&NW), Western Lines (Pacific Harbor Lines), Western Region (Portland & Western), Central Region, Southern Region; Tacoma Belt RR, Utah RR, Longview Portland & Northern NO & Longview Switch, Portland Terminal; On duty at home office; General office duties, telephone, email, correspondence communications, etc.; On duty at home office; Utah Railway Section 6 negotiations, Draper, Utah; BLET General Chairmen's meeting and training, Independence, Ohio.

**VICE PRESIDENT GIL GORE:** Assigned to all CSX; Grand Trunk Western; Union Pacific-Southern Region GCA special assignment; Dispute Resolution Committee (DRC) issues, CSXT; General office duties, paperwork, correspondence, emails, telephone calls, etc.; DRC submission review; Bone Valley submission; DRC arb. Article 36 review and submission; Mtg. w/ GC Best and GC Lyons, re: DRC arbitration, Jacksonville, Fla.; Material change mtg.; Conference call w/ all CSX General Chairmen, re: Hunter Harrison take over, voting stock proxy; Jacksonville-Chattahoochee trip rate discussion; Assist GC Pat Driscoll; Grand Trunk Western negotiations, assist GC Karakian, Atlanta; CSX medical monthly update; BLET General Chairmen's meeting and training, Independence, Ohio.

**VICE PRESIDENT MICHAEL D. PRIESTER:** Assigned to all BNSF (former ATSF, former C&S, CRI&P, FWD, former STL-SF, BNSF/MRL), Panhandle Northern, Missouri & North Arkansas, Montana Rail Link, Great Western; General office duties, telephone, email, correspondence communications, etc.; Secretary-Treasurer training with Santa Fe GCA, BNSF, Fort Worth, Texas; Contract discussions w/ M&NA, assisting GC Thurman, Fort Worth, Texas; GCA site selection meeting w/ GC Thurman, Kansas City; Division 502 mtg. w/ GC Thurman, Kansas City; BLET General Chairmen's meeting and training, Independence, Ohio.

**VICE PRESIDENT COLE W. DAVIS:** Assigned to: Kansas City Southern (MidSouth Rail, SouthRail, Gateway Western, Illinois & Midland), Texas Mexican Rwy.; CP Rail System/US (Indiana Southern, Iowa, Chicago & Eastern, Dakota, Minnesota & Eastern); Springfield Terminal (St. Lawrence & Atlantic, Delaware & Hudson), Cedar River, Louisville & Indiana, Huron & Eastern; General office duties, telephone, email, correspondence communications, etc.; KCS issues, assist GC Spradlin; MidSouth issues, assist GC Craddock; St. Lawrence & Atlantic contract, Springfield Terminal and D&H issues, assist GC Moore; Tex Mex issues, assist GC Hiese; Louisville & Indiana issues, assist GC Hogan; DM&E and Soo Line contract issues, assist GC Semenak; Huron & Eastern issues, assist GC Ladrig; BLET General Chairmen's meeting and training, Independence, Ohio.

**VICE PRESIDENT R.C. (RICK) GIBBONS:** Assigned to: All Norfolk Southern General Committees; Wheeling & Lake Erie; Chicago, Fort Wayne & Eastern; New York, Susquehanna & Western; New England Central; Connecticut Southern; Western New York & Pennsylvania; Indiana & Ohio; RSAC/RSIA Fatigue Management Group; General office duties, telephone, email, correspondence communications; Vice President duties; On duty at home office; Holiday; NS/BLET Disputes Committee, assisting all NS GCs, Atlanta, Ga.; Connecticut Southern negotiations, assist GC Martin, Clifton Parks, N.Y.; Division 316/Division 338 mtg., GCs Wallace, Dehart and Fannon, Atlanta, Ga.; BLET General Chairmen's meeting and training, Independence, Ohio.

**VICE PRESIDENT JAMES P. LOUIS:** Assigned Amtrak; Long Island Rail Road; New York & Atlantic; Metro North; New Jersey Transit; PATH; SEPTA; Metra; Union Railroad; National Division Department Head, Education & Training Dept.; National Division Department Head, Internal Organizing, Mobilizing & Strategic Planning Dept.; Union Track mtgs. and training; Education & Training issues; PATH contract talks, assist GC Nunziato, Jersey City, N.J.; LIRR issues, assist GC Sexton; Regional Meeting planning; N&C retiree mtg., Tonawanda; Monthly meetings for Division 384 and Division 421, Tonawanda; NY&A GCA issues, assist GC Sexton; NJ Transit issues, assist GC Brown; BLET General Chairmen's meeting and training, Independence, Ohio.

# SAVE THE DATE: 2017 BLET REGIONAL MEETINGS

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