

Mr. THUNE. The following Senator was necessarily absent: the Senator from Nebraska (Mr. SASSE).

The yeas and nays resulted—yeas 52, nays 45, as follows:

[Rollcall Vote No. 364 Ex.]

YEAS—52

Baldwin	Hirono	Rosen
Bennet	Kaine	Rounds
Blumenthal	Kelly	Sanders
Booker	Kennedy	Schatz
Brown	King	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Leahy	Sinema
Carper	Luján	Smith
Casey	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Tillis
Duckworth	Merkley	Van Hollen
Durbin	Murphy	Warner
Feinstein	Murray	Warren
Gillibrand	Ossoff	Whitehouse
Graham	Padilla	Wyden
Hassan	Peters	
Hickenlooper	Reed	

NAYS—45

Barrasso	Ernst	Murkowski
Blackburn	Fischer	Paul
Blunt	Grassley	Portman
Boozman	Hagerty	Risch
Braun	Hawley	Romney
Burr	Hoeven	Rubio
Capito	Hyde-Smith	Scott (FL)
Cassidy	Inhofe	Scott (SC)
Collins	Johnson	Shelby
Cornyn	Lankford	Sullivan
Cotton	Lee	Thune
Cramer	Lummis	Toomey
Crapo	Marshall	Tuberville
Cruz	McConnell	Wicker
Daines	Moran	Young

NOT VOTING—3

Heinrich	Sasse	Warnock
----------	-------	---------

The PRESIDING OFFICER. On this vote, the yeas are 52; the nays are 45.

The motion was agreed to.

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Anne M. Nardacci, of New York, to be United States District Judge for the Northern District of New York.

The PRESIDING OFFICER. The Senator from Vermont.

#### RAILWAY LABOR MANAGEMENT DISPUTE

Mr. SANDERS. Mr. President, I want to take this opportunity to say a few words not only about the negotiations between railroad workers and the railroad management, but also to put that crisis into a broader economic context.

It seems clear to me—and I think the polls indicate it—that the American people are becoming increasingly disgusted by the corporate greed they are seeing and experiencing every single day.

They look out around them, and they see three people on top owning more wealth than the bottom half of American society. They see corporate profits soaring, while the prices they pay for the products they need continue to go up. They see CEOs of major corporations now making 400 times more than the average worker at that corporation.

They have seen during this terrible pandemic, when tens of thousands of

workers died because they had to go to work, the billionaire class make \$2 trillion more in their wealth.

Further, they look around them, and while the very wealthiest people in America become much richer, they walk down the street and they see people sleeping out on the sidewalks. We have almost 600,000 Americans who are homeless. People can't afford their healthcare costs. We have 85 million Americans who are uninsured or under-insured.

In other words, the economy is doing really, really, really well for CEOs and billionaires, but for the average American worker, he or she is falling further and further behind.

Now, within that broad context of what is happening in the overall economy, let's take a look at what is going on in the rail industry today and why Congress is being asked to implement a union contract with rail workers to avoid a strike that could take place as early as December 9.

And it turns out that when we talk about the extraordinary level of corporate greed in America, there is no better example of that than what is taking place in the rail industry today. They are the purest example of why the American people are so angry at what is taking place in our economy.

So if you look at the rail industry today, what you will understand is that this industry has seen huge record-breaking profits in recent years—huge profits. In fact, in the first three quarters—not a whole year, three-quarters of this year—the rail industry made a record-breaking \$21 billion in profit.

Further, they have so much money, profits are so high, that the industry spent over \$25 billion this year not to improve rail safety, not to address the supply chain crisis, but to buy back its own stock and hand out huge dividends to its wealthy stockholders.

In fact, since 2010—and I hope every Member of Congress hears this—the rail industry has spent over \$183 billion on stock buybacks and dividends.

And on top of all of that, the CEOs of many of these railroad companies are enjoying huge compensation packages.

So while workers struggle, last year the CEO of CSX made over \$20 million in total compensation. The COEs of Union Pacific and Norfolk Southern made over \$14 million each in total compensation.

In other words, within the rail industry, corporate profits are soaring, and CEOs are making incredibly large compensation packages.

But in the midst of all of that, it is fair to ask what is going on for workers. Profits, record-breaking; CEOs, tens of millions of dollars a year in compensation. What is going on for the workers in the rail industry?

And the reality is that the key issue in the rail dispute that we are dealing with right now—votes taking place as we speak in the House—is not about salaries. It is not about how much money workers there are earning. The

key issue is the working conditions in the rail industry, which are absolutely unacceptable and literally beyond belief.

Right now, if you work in the freight rail industry—and this is a job in the rail industry that is really hard work, dangerous work. It is work that takes place when it is 20 below zero. If you are a worker in the rail freight industry, you are entitled to a grand total of zero sick days. Let me repeat that. You are entitled to a grand total of zero sick days.

Now, as a nation, industry after industry, government after government, here in Congress, our people get sick, and they have the right to take time off. It is humane. No one—nobody, not the most conservative Member of this institution—would say to a worker: Oh, you have got COVID? You are fired.

It would be unthinkable. And yet what this means, what the policy in the rail industry means, is if you get sick, if your child gets sick, if your spouse gets sick and you need to take time off from work, not only will you not get paid, but you actually will get reprimanded and could get fired. And that absurd, inhumane situation is precisely what is taking place today in the rail industry.

Mr. President, let me remind you and all of our colleagues that hundreds of Americans are still dying every day from COVID, and tens of thousands are being hospitalized as a result of this terrible virus.

But what the freight rail industry is saying to its workers is this: It doesn't matter if you have COVID. It doesn't matter if you are lying in a hospital bed because of a medical emergency. It doesn't matter if your wife has just given birth. It just doesn't matter. If you do not come to work, no matter what the reason, we have the right to punish you; we have the right to fire you.

Frankly, it is hard to believe that these conditions still exist in the United States of America in the year 2022.

Let me give you just a few examples that I am familiar with, hearing from workers.

One rail worker was penalized by the railroads for spending the day in the hospital with his son who was having breathing issues.

Another worker couldn't take his pregnant wife to the doctor because it could have resulted in disciplinary action for him.

Tragically, we witnessed the death of a locomotive engineer, who was forced to skip his doctor's appointment after experiencing unusual symptoms, only to suffer a heart attack and die in an engine room weeks later.

And here is what one rail worker recently said:

I'm tired of being tired all day every day and having . . . every one of my coworkers being physically sick from sleep deprivation, most of my coworkers can't stay awake anymore during a 12 hour trip!

That is one rail worker.

There is absolutely no reason why these workers should have to deal with these conditions in the richest country in the history of the world.

And I wonder if the CEOs—the CEOs in the railroad industry or other top executives in this industry—get fired when they don't get into the office because of sickness or when they have a medical emergency in their families.

So I think it is—in fact, the head of the Teamsters recently said this, Sean O'Brien, that, you know, what is good for the CEOs in terms of paid sick leave is good for employees as well, and I think he is absolutely right.

Further, I should add, as everybody knows, that, quite sensibly, the Federal Government guarantees 12 weeks of paid family and medical leave to its workers. So if you are an employee, for example, at the Department of Transportation in the United States of America, sitting behind a desk, you are appropriately—appropriately—guaranteed 12 weeks of paid family and medical leave. But if you are an engineer running a train with tons of freight behind you, you get zero sick time.

Now, that may make sense to somebody, but it does not make sense to me. As a result of this incredibly reactionary policy of denying workers sick time, rail conductors, engineers, and other rail employees are coming into work sick and exhausted, which is a danger not only to themselves but to their coworkers and everyone else who is around them. The work they do is dangerous work.

The United States, sadly, is the only major country on Earth that does not guarantee paid sick days, something that we hope to remedy, we have tried to remedy, and we have got to continue going forward so that we do remedy it. It is a bit of an embarrassment that, of all the major countries on Earth, we are the only one not to guarantee paid sick days.

In Germany, workers are entitled to as many as 84 weeks of paid sick leave at 70 percent of their salary, depending upon how serious the illness is. And countries all over the world, in one way or another, have generous policies that recognize that in a modern, civilized society, if you get sick, if your kids get sick, if your wife or husband gets sick, you are entitled, as a worker, to have paid sick leave.

But while government workers here in the United States and in many, many industries and many companies are guaranteed paid sick leave, rail workers in the United States of America today, in the year 2022, are guaranteed zero paid sick days—zero.

Now, the rail industry has told us that they can't afford to provide paid sick days to their employees. Instead of sitting down and negotiating with their unions to bring about a reasonable compromise, for the past 3 years, the rail industry has refused to agree to a single day of guaranteed paid sick leave to its workers. They say it would

cost too much money to provide their workers any paid sick days. Well, let's see. They have made over \$21 billion in profits so far this year. They provide their CEOs with huge compensation packages. They spent \$25.5 billion to buy back their own stock and hand out huge dividends to their wealthy stockholders. But they are just too broke, too financially hard-pressed, to guarantee paid sick days to their employees.

So here is where we are. Interestingly enough, it turns out that guaranteeing 7 paid sick days to rail workers would cost the industry a grand total of \$321 million a year—a tiny fraction of the \$21 billion in profits that they have already made. If the major rail carriers can afford to spend \$25.5 billion a year on stock buybacks and dividends, do not tell me that they cannot afford to guarantee paid sick days to their workers and allow these workers to have a reasonable quality of life.

The outrage over the lack of paid sick leave is not the only issue that rail workers in America have been fighting for. The rail workers in this country are sick and tired of unreliable scheduling, which is having a negative impact on their personal and family lives. In America today, rail workers are on call for up to 14 consecutive days, 12 hours a day. In fact, it is not uncommon for many rail workers to be on call nearly 24 hours a day, with a requirement to report to work within 90 minutes for shifts that can last nearly 80 hours.

Now, as you know, last September, President Biden and Labor Secretary Walsh worked with the rail industry and union leaders to come up with a tentative agreement that was better than what the rail industry had been offering, but this agreement still does not require the industry to provide a single day of paid sick leave to workers.

I thank President Biden and Secretary Walsh for their efforts, but Congress can and must do better. That is why I will be introducing legislation to guarantee paid sick days to every rail worker in America, and I will insist on a rollcall vote in the Senate on this legislation as part of any unanimous consent request required to vote on the tentative rail deal.

I hope very much and I think we may have bipartisan support for this modest legislation, and I would hope—and I have talked to Republicans who indicate that they are prepared to support the workers. But I would say to every Member of this body—Democrat, Republican—to think long and hard about how you go home to your constituents and say: I voted against allowing rail workers in this country 7 paid sick days. Go home and think about how you are going to explain that vote.

Let's be clear. It is not just the rail unions and BERNIE SANDERS who believe that working conditions on the railroads, with no guaranteed sick leave, is wrong and inhumane. It turns

out that view is shared by some of the railroad's major business customers who are seeing a decline in the service that they are receiving and that they need.

Let me quote from a recent op-ed by Eric Byer, the president and CEO of the National Association of Chemical Distributors, who wrote an op-ed entitled "Railroads should give workers the benefits they seek." Here is what Mr. Byer wrote, and, again, this is a business organization that wants to make sure that their product is delivered on the railroads in a reasonable period of time and on schedule. Mr. Byer writes:

To say the paid sick leave policy for rail workers is woefully inadequate would be an understatement. The negotiated agreement does not include any significant measures to improve quality of life issues. Rail workers today have zero time allotted to them by their freight rail employers for sick leave. . . . According to the Bureau of Labor Statistics, private sector workers receive seven to eight days of sick leave per year.

A fragile and volatile supply chain requires a strong rail network. Now is not the time to deny reasonable benefits for a labor community that has been decimated by losses in recent years. . . . It's time for the freight . . . industry to right this wrong and get rail back on track.

That is from the chemical distributors, an important customer of the railroads.

It is not just the chemical distributors. I want people to hear what the Chairman of the Surface Transportation Board, Martin Oberman, had to say about the horrendous working conditions in the rail industry at a conference with rail executives earlier this month. Here is what Mr. Oberman said:

When railroads try to excuse their failures by pointing to labor shortages at other businesses, those other businesses did not enter the pandemic having stripped themselves of nearly 20 percent of their workforce in recent years. . . . Today the railroads tell us they are still having a hard time recruiting and retaining workers and try to blame this on the "Great Resignation." The fact is the railroad's personnel practices made these jobs much less desirable.

According to Mr. Oberman, the railroad industry has slashed its workforce by 10 percent since the pandemic started, slashing some 13,000 jobs.

Mr. Oberman continued, saying:

Class I [rail companies] over the past 2.5 years saved roughly \$4.8 billion in payroll. . . . During the same 2.5 years, the Class I [rail companies] have returned nearly \$60 billion to stockholders in stock buybacks and dividends, more than 12 times what they saved in payroll. Might the shareholders have been satisfied with only \$55 billion in buybacks and dividends? Apparently not. The \$4.8 billion in saved payroll would have been a drop in the bucket, but the operating ratio had to be met.

So what he is saying, and I think many of us understand, is that the railroads are making huge profits. They have seen their profit margins nearly triple over the past 20 years, and during the last 6 years, they have reduced their workforce by 30 percent. Do you want to make more money? That is the way you do it—you cut back on your

workforce. Now they are in a situation where they are telling workers: If you get COVID, you are going to get fired.

So clearly we need to rethink the entire business model of the rail industry, but right now, the issue before us is not complicated, and that is that in an industry which is enjoying record-breaking profits, an industry which laid off 30 percent of its workforce in the last 6 years, an industry which gives its CEOs huge compensation packages, now is the time for that industry to respect its workers and treat them with the dignity that all working people are entitled to.

So we are in an important moment—not just for the rail industry and not only for rail workers. The issue is whether or not this United States Senate will join the House. And my understanding is that the House just passed paid sick leave, 7 days. They did the right thing, and I want to applaud the Members of the House for doing the right thing.

Now it is going to come here to the Senate. Do we stand with workers in the rail industry and say: Yes, you are right. Working conditions are horrendous. We cannot continue a process by which you have zero paid sick leave.

Do we stand with workers or do we stand with an industry that is making huge profits, pays its CEOs exorbitant salaries, and treats its workers with contempt? That is the choice this Senate will soon be having to make, and I hope very much that, in a bipartisan way, we can do the right thing and tell the rail workers and tell every worker in America that the United States Congress is prepared to stand with them and not just the people on top who are doing extraordinarily well.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Iowa.

#### FBI INVESTIGATIONS

**MR. GRASSLEY.** Mr. President, on November 25 of this year, the Justice Department and the FBI purported to respond to six of my oversight letters, but the really strange thing about it is that they are responding to six oversight letters with just a single letter. Whenever I see one letter that aims to answer six, I know the government's letter will most likely be hogwash at best. The FBI's November 25 letter doesn't even meet the definition of "hogwash."

My May 31, 2022, letter was about then-Assistant Special Attorney in Charge Thibault's political bias. The FBI's letter failed to provide any requested records.

My July 18, 2022, letter was about Thibault and then-Election Crimes Branch chief Richard Pilger being involved in an open criminal investigation into former President Trump. That letter was based on whistleblower allegations about the defective opening of the investigation. That FBI letter failed to address the concerns I raised in my letter.

My July 25, 2022, letter was about Thibault and others at the FBI shut-

ting down investigative avenues into Hunter Biden separate from the ongoing U.S. Attorney Weiss investigation. That letter also noted that the investigative avenues were based on verified and verifiable information. That, too, was based upon whistleblower allegations. The FBI failed to provide any requested records.

The August 17, 2022, letter built off of the July 25 letter and requested an organizational chart from the FBI's Washington Field Office. It seems like a very easy request to answer. It also posed a series of questions about Hunter Biden's investigation, including, how can Hunter Biden's criminal investigation be full and complete if the FBI improperly shut down verified and verifiable information and sourcing relating to potential criminal activities? There was no answer on that point from the FBI.

The FBI did produce to me an organizational document for the Washington Field Office; however, it failed production because it wasn't what I asked for. For example, out of the entire Washington Field Office, the FBI included only six names in the document. Obviously, there are more people involved in that organization. There are dozens of subunits and squads within the Washington Field Office, and they only provided six names and even redacted some information.

Congress and the American people have every right to know how taxpayers' dollars are used to support the Washington field office of the FBI.

Then, going to my September 26, 2022, letter, that related to the FBI's retaliation against whistleblower Stephen Friend. Mr. Friend raised concerns to his superiors about breaches of FBI policy and procedure in domestic terrorism assessments and in those same terrorism investigations.

As part of their retaliation to this whistleblower, the FBI placed Mr. Friend on what is called absent-without-leave status. They also took away Mr. Friend's badge, gun, and suspended his clearance.

The FBI's letter didn't even mention Mr. Friend by name, yet purported to respond to my and Senator JOHNSON's letter about Mr. Friend.

The October 13, 2022, letter—and this is the sixth letter that I have been referring to—related to Hunter Biden's criminal investigation. My letter noted that allegations from whistleblowers indicated that the information provided by Tony Bobulinski to the FBI about Hunter Biden formed a sufficient basis to open a full field investigation on pay-to-play grounds. However, it is unclear if the FBI took the appropriate action.

The letter also noted that records within the FBI's possession and reviewed by my investigative staff indicate that Joe Biden was aware of Hunter Biden's business arrangements and may have been involved in some. The FBI failed to produce any requested records, and the FBI is zero for answering my six letters.

Now, there are a couple of elements to the FBI's response letter that I would like to highlight. I call it the FBI's response because the Justice Department proper failed to send their own answers to my letters. The letters said, in part:

When an employee or employees miss the mark and make a mistake, it's critically important that we learn from those instances. This means not only holding people accountable, but also taking a close look at the larger organization so that we can make necessary changes to policies and training to ensure mistakes aren't repeated.

I provided six letters to the Justice Department and FBI relating to their mistakes. The letters provided concrete facts. The letters provided evidence. The letters had highly credible whistleblower allegations. There was not a single admission of wrongdoing or some mistake that was even mentioned in the FBI letter. How can the FBI learn from its mistakes if it refuses to even admit or acknowledge them?

Just as important, with respect to all whistleblower allegations that I have made public, it happens that neither the Justice Department nor the FBI have disputed the accuracy of the accusations that I am trying to get information on. That ought to tell all of us something.

To the whistleblowers who have approached my office, they are true patriots.

There is one more part of the FBI's letter that I would like to highlight. On the third page of this nonresponsive letter, the FBI says this about whistleblowers:

Employees should feel they can raise their concerns about wrongdoing and if those concerns aren't addressed within their chain of command take them to an appropriate place without retaliation.

The FBI failed to mention Congress in this process of whistleblowing, and the FBI failed to make clear that employees can immediately go to Congress to disclose wrongdoing. That legal right to blow the whistle should have been explicitly clear in their letter.

It happens that in several meetings that I have had with Director Wray, he personally assured me that whistleblowers approaching my office with an allegation won't face retaliation. Simply put, the Justice Department and the FBI need to get over themselves, show some respect to Congress as well as the American people represented here, answer the questions, admit to the mistakes, show us corrective action, and let's move on together to fix our institutions for future generations of Americans.

The letters I wrote provide a roadmap for the FBI to root out political infection within their ranks and field offices. The letters highlight existential problems deep within the FBI. Based on the response letters that I have been referring to, the FBI has done nothing to root out the political infection.