

MEMORANDUM OF AGREEMENT
Between
THE BURLINGTON NORTHERN RAILROAD
COMPANY
And The
UNITED TRANSPORTATION UNION

The Parties to this Agreement desire to establish procedures that allow employees to either permanently or temporarily transfer between Seniority Districts. This Agreement does not affect any existing provisions that provide for the movement of employees within existing Seniority Districts.

For purposes of this Agreement:

The term "**train service position**" means any craft position subject to the collective bargaining agreements held by the United Transportation Union.

The term "**train service employee**" means any employee who possesses seniority as a brakeman, yardman or conductor, subject to the collective bargaining agreements held by the United Transportation Union Committees that are Parties to this Agreement.

Train service employees holding seniority on the Midwest Seniority District may be denied transfer if it would require the Carrier to force assign a train service employee from another Midwest Seniority District Zone as a replacement.

1. APPLYING FOR PERMANENT TRANSFER

1.1 Train service employees subject to the terms of this Agreement may petition for permanent transfer to another Seniority District by making application to the designated Organization Representative. The application shall include the employee's full name, employee number, social security number, service date, seniority date(s), current mailing address, up-to-date telephone number, current Seniority District and the desired Seniority District.

1.2 The application may be withdrawn upon ten (10) days written notice to the designated Organization Representative. When an application is withdrawn, the train service employee shall not be allowed to reapply for a period of twelve (12) months.

1.3 The designated Organization Representative will maintain a list of train service employees making application under this Section.

1.4 Applications and/or withdrawals must be made by certified return receipt mail.

2. PERMANENT TRANSFER BY PETITION

2.1 The Organization Representative will be notified prior to hiring additional train service employees on any seniority district. Carrier may elect to hire some or all new employees at the location where additional employees are required in lieu of transferring existing employees, advising the Organization Representative when applications to transfer will not be accepted. When the Carrier accepts application(s) for permanent transfer to the seniority district where additional employment positions are available, the applications will be accepted in seniority order.

2.1.1 Successful applicants must permanently transfer.

2.1.2 Successful applicants will be assigned a home terminal on the new Seniority District.

2.1.3 Successful applicants will have fifteen (15) days, after date of notification of acceptance (or release as provided in Section 2.4), to report to the assigned home terminal on the new Seniority District.

2.1.4 Successful applicants will receive the living expenses provided under Section 4.4 of this Agreement for a period of forty-five (45) consecutive days commencing with the date of reporting to the assigned home terminal.

2.2 Successful applicants will relinquish train service seniority on the original Seniority District and will establish train service seniority on the new Seniority District pursuant to Agreement provisions applicable on the new Seniority District.

2.3 Except as provided in 2.3.1 through 2.3.8 below, train service employees permanently transferring under this Section 2 will be treated as new hires.

2.3.1 The number of weeks of vacation that a train service employee is entitled to will be calculated from the continuous service date.

2.3.2 The number of Personal Leave Days that a train service employee is entitled to will be calculated based upon the employee's earliest continuous train service date.

2.3.3 Provisions of Article XII of the 10-31-85 National Agreement will not apply to transferred employees who have attained three (3) years continuous train seniority.

2.3.4 There will be no new probationary period.

2.3.5 There will be no re-starting of entry rates.

2.3.6 If the train service employee was considered to be a qualified conductor on the original Seniority District, s/he will be considered to be a conductor on the new Seniority District subject to becoming familiar with and competent on the territory to which assigned to operate.

2.3.7 Train service employees that have established train service seniority prior to November 1, 1985, on the original Seniority District will continue to receive "duplicate time payments" as they are defined and applied by the 1985 National Agreement with the United Transportation Union.

2.4 The Carrier may defer releasing the successful applicant(s) for a period not to exceed six (6) months if, by releasing the applicant(s), a shortage would be created on the original Seniority District. When release is deferred, successful applicants will be held on the original Seniority District in reverse seniority order.

2.4.1 Employees permitted to transfer to Seniority Districts subject to the terms of this agreement, will be ranked on the roster at the new district in the relative order of their continuous time in train service and ahead of new employees who have not already established seniority.

2.4.2 Successful applicants will only be held on the original seniority district in order to allow the Carrier to train new employees on the original seniority district, and shall rank on the new Seniority District roster as if they had been permitted to report without delay.

2.5 Train service employees who possess engine service seniority will be granted a "Transfer By Privilege" as provided in Memorandum of Agreement dated November 1, 1990, between the Burlington Northern Railroad Company and the Brotherhood of Locomotive Engineers (OPS 3-90).

3. PERMANENT TRANSFER BY BID

3.1 In the event there are not a sufficient number of train service employees who have made application to permanently transfer to the new Seniority District by petition, the Carrier may advertise, on Seniority Districts subject to the terms of this agreement, where there are train service employees in volunteer surplus, reserve board or furlough status, the intent to hire new employees on a particular Seniority District.

3.1.1 The advertisement will be posted for a period of ten (10) days, and sent certified mail to all train service employees in furlough, reserve board or volunteer surplus status.

3.1.2 Applications for permanent transfer will be accepted in train service seniority order, up to the number of people that the Carrier intends to hire (less the number of positions filled under Section 2 above). In the event two or more train service employees have the same seniority date, they will be ranked in order of their relative chronological age, with the oldest employee ranked ahead.

3.1.3 Successful applicants will have fifteen (15) days, after date of notification of acceptance, to report to the assigned home terminal on the new Seniority District.

3.2 Successful applicants permanently transferred under Section 3 will receive moving benefits per Attachment "A" to this Agreement. They will also receive the living expenses provided under Section 4.4 of this Agreement for a period of forty-five (45) consecutive days commencing with the date of reporting to the assigned home terminal.

3.3 Successful applicants will relinquish UTU seniority on the original Seniority District and will establish new train service seniority on the new Seniority District pursuant to Agreement provisions applicable on the new Seniority District.

3.4 The Carrier may defer releasing the successful applicant(s) for a period not to exceed six (6) months if, by releasing the applicant(s), a shortage would be created on the original Seniority District. When release is deferred, successful applicants will be held on the original Seniority District in reverse seniority order.

3.4.1 Employees permitted to transfer to Seniority Districts subject to the terms of this agreement, will be ranked on the roster at the new district in relative order of their continuous time in train service and ahead of new employees who have not already established train service seniority.

3.4.2 Successful applicants will only be held on the original Seniority District in order to allow the Carrier to train new

employees on the original seniority district, and shall rank on the new Seniority District roster as if they had been permitted to report without delay.

3.5 Except as provided in 3.5.1 through 3.5.8 below, employees permanently transferring under this Section 3 will be treated as new hires.

3.5.1 The number of weeks of vacation that a train service employee is entitled to will be calculated from the continuous service date.

3.5.2 The number of Personal Leave Days that a train service employee is entitled to will be calculated based upon the employee's earliest continuous train service date.

3.5.3 Provisions of Article XII of the 10-31-85 National Agreement will not apply to transferred employees who have attained three (3) years continuous train seniority.

3.5.4 There will be no new probationary period.

3.5.5 There will be no re-starting of entry rates.

3.5.6 If the train service employee was considered to be a qualified conductor on the original Seniority District, s/he will be considered to be a conductor on the new Seniority District subject to becoming familiar with and competent on the territory to which assigned to operate.

3.5.7 Train service employees that have established train service seniority prior to November 1, 1985, on the original Seniority District will continue to receive "duplicate time payments" as they are defined and applied by the 1985 National Agreement with the United Transportation Union.

3.6 Employees who possess engine service seniority will be granted a "Transfer By Privilege" as provided in Memorandum of Agreement dated November 1, 1990, between the Burlington Northern Railroad Company and the Brotherhood of Locomotive Engineers (OPS 3-90).

4. TEMPORARY TRANSFERS

4.1 When a temporary shortage of train service employees exists on a Seniority District and there are surplus employees on Seniority Districts subject to the terms of this agreement, train service employees on the Seniority Districts where there is a surplus may, upon notification, apply for temporary transfer to the Seniority District where there is a shortage,

Surplus means that there are train service employees in volunteer surplus, reserve board and/or furlough status.

4.1.1 The advertisement will be posted for a period of ten (10) days on Seniority Districts subject to the terms of this Agreement where there is a surplus of train service employees. The notice will list the Seniority District in need, the expected duration of the shortage and the home terminal to which the successful applicants will likely be assigned, Notification will be sent certified mail to all train service employees in furlough, reserve board and volunteer surplus status.

4.1.2 Applicants will be accepted in seniority order, up to the number of people that the Carrier determines are needed. In the event two or more employees have the same seniority date, they will be accepted in order of their relative chronological age, with the oldest employee selected first.

4.1.3 Successful applicants cannot refuse the temporary transfer.

4.1.4 Successful applicants temporarily transferring under the terms of this Agreement will automatically be granted a leave of absence from the original Seniority District in order to perform service on the temporary Seniority District.

4.1.5 An employee who was on vacation, leave of absence, or otherwise did not have access to the notice referenced in Section 4.1.1, will be permitted to displace a junior employee who previously reported and is working on the temporary Seniority District. In such case, the senior employee will not receive the \$750 temporary transfer allowance provided in Section 4.2.1 nor the transportation expenses provided in Section 4.3.

4.2 Successful applicants will be notified of the home terminal assigned on the temporary Seniority District and will have five (5) days to report to the temporary home terminal.

4.2.1 Successful applicants will receive a \$750.00 temporary transfer allowance. If the successful applicant does not satisfy the provisions of Section 4.9 hereof, the transfer allowance will be recovered by the Carrier.

4.2.2 The Carrier may elect to request that the successful applicant report before the five (5) day period and will pay a daily bonus of \$100.00 per day for each full calendar day that the employee reports and assumes service (including familiarization trips) before

the five (5) day period expires. The maximum payment under this Section to be \$500.00.

4.3 Subject to Section 4.9, temporarily transferred train service employees will be furnished transportation, or mileage at the appropriate rate, to and from the assigned home terminal on the temporary Seniority District.

4.4 Temporarily transferred train service employees will be paid a daily lodging and expense allowance of \$80.00 from the time of leaving the home Seniority District until release from the temporary Seniority District, The Carrier may elect to provide suitable lodging to the temporarily transferred train service employee and, when such lodging is provided, the daily expense allowance will be reduced to \$40.00.

4.4.1 This Section 4.4 shall not apply when the temporarily transferred employee's assigned home terminal on the temporary Seniority District is 50 miles or less from his or her original home terminal.

4.5 Temporarily transferred train service employees will receive a weekly premium payment of \$500.00 for each seven-day consecutive period that the train service employee is available for service during the first 49 days of the temporary transfer.

4.5.1 If the temporary transfer continues for in excess of 49 days, the weekly premium payment will be increased to \$600.00 for each subsequent seven-day consecutive period.

4.5.2 If the temporary transfer continues for in excess of 99 days, the weekly premium payment will be increased to \$700.00.

4.5.3 If the temporary transfer continues for in excess of 149 days, the weekly premium payment will be increased to \$800.00.

4.5.4 In the event a temporarily transferred employee lays off, lays off on call for service or misses call for service, the premium payment for that week will be reduced by an amount derived by dividing the weekly premium payment by seven and multiplying by 1.5, thereby reducing the premium payment for each full 24 hour period s/he is unavailable for service.

4.5.5 In the event the temporarily transferred employee is released before the end of a seven-day consecutive period, the premium payment for that week will be divided by seven (7) and multiplied by the number of days, including the release date.

4.5.6 Temporarily transferred employees will be allowed four (4) consecutive days off in each 45 day period, without reduction in premium pay.

4.6 The daily lodging and expense allowance, as well as the weekly premium payments provided in Sections 4.4 and 4.5 will be in addition to all other earnings or payments made to the temporarily transferred train service employee.

4.7 Train service employees who temporarily transfer to a Seniority District subject to the term of this Agreement will be governed by Sections 4.7.1 through 4.7.6 and will not be subject to the terms of Sections 4.8.1 through 4.8.3.

4.7.1 Temporarily transferred train service employees will hold temporary seniority rights on the temporary Seniority District based upon the date of first compensated service on the temporary Seniority District.

4.7.2 Temporarily transferred train service employees will not accumulate seniority on the temporary Seniority District or rank senior to permanent train service employees who subsequently establish seniority on that Seniority District.

4.7.3 If the train service employee was considered to be a qualified conductor on the original Seniority District, s/he will be considered to be a conductor on the new Seniority District subject to becoming familiar with and competent on the territory to which assigned to operate.

4.7.4 Temporarily transferred train service employees will be released promptly after the temporary shortage of train service employees is alleviated.

4.7.5 Temporarily transferred train service employees will retain seniority on the home Seniority District unless s/he fails to assume such seniority within fifteen (15) days of being released from the temporary Seniority District. Failure to assume seniority on the home Seniority District within the fifteen (15) day period will cause forfeiture of seniority on the home Seniority District, unless other arrangements are made with the appropriate Carrier officer.

4.7.6 In the event a temporarily transferred train service employee is scheduled to take vacation prior to being released from the temporary Seniority District, Carrier will consult with the employee and either reschedule the vacation or arrange for pay in lieu, thereof.

4.8 Train service employees that temporarily transfer to a Seniority District that is not subject to the terms of this Agreement will be governed by Sections 4.8.1 through 4.8.3 and will not be subject to Sections 4.7.1 through 4.7.6.

4.8.1 Temporarily transferred train service employees will establish seniority based upon the Agreement provisions applicable to train service employees on the temporary Seniority District.

4.8.2 Temporarily transferred train service employees will be released promptly after the temporary shortage of train service employees is corrected.

4.8.3 Temporarily transferred train service employees will retain seniority on the home Seniority District unless s/he fails to assume such seniority within fifteen (15) days of being released from the temporary Seniority District, unless otherwise provided. Failure to assume seniority on the home Seniority District within the fifteen (15) day period will cause forfeiture of seniority on the home Seniority District, unless other arrangements are made with the appropriate Carrier officer.

4.9 Train service employees who temporarily transfer must remain in service in the temporary Seniority District for a minimum period of sixty (60) days, unless released earlier by the Carrier.

4.9.1 In case of a bona-fide personal emergency, Carrier will release a temporarily transferred train service employee prior to the expiration of sixty (60) days and may recover the \$750 temporary transfer allowance.

4.9.2 Carrier will notify temporarily transferred train service employees by receipted, certified mail, regarding positions in the Locomotive Engineer Training Program which may become available on the original Seniority District. Carrier may recover the \$750 temporary transfer allowance when a temporarily transferred employee enters the Locomotive Engineer Training Program without first fulfilling the requirements of Section 4.9, above.

5. GENERAL

5.1 Nothing contained in the provisions of this agreement shall be construed as modifying or changing the provisions of any existing Rule or Agreement except as herein specifically provided for.

5.2 The monetary allowances, bonuses and premium payments received under the provisions of Sections 4.2, 4.4, and 4.5 will not be used for

purposes of computing vacation pay, lump sum payments, or counted as earnings in calculating make up pay due under merger protective agreements or any other existing or future monetary guarantee.

The effective date of this Agreement is July 12, 1996.

This Agreement signed at Fort Worth, TX, this 23rd day of July, 1996.

For: BURLINGTON NORTHERN RAILROAD COMPANY

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| Daniel Assistant Labor Relations | J. Vice | Kozak President |
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For: UNITED TRANSPORTATION UNION

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| D. General Chairman GNY | B. | Snyder |
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| G. General Chairman JTD | D. | Welch |
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ATTACHMENT A

Section 1

The following benefits will apply to employees permanently transferred under Section 3 of the Agreement.

Section 2

A. Transfer Allowance

1. The transferred employees will be afforded a transfer allowance of \$20,000 payable as follows:
 - i. \$10,000 payable within 30 days after the date of transfer.
 - ii. \$5,000 payable one year after the date of transfer.
 - iii. \$5,000 payable two years after the date of transfer.
2. The amounts listed in (ii) and (iii) will be payable provided the employee is still in the employ of the carrier.

- B. An employee transferring under this package who makes a bona fide change in residence to another terminal will be reimbursed for expenses of moving household and other personal effects, including living expenses for the employee and family while traveling and loss of wages during the time necessary for such transfer (not to exceed five (5) working days).
- C. The employee and spouse will be allowed up to a five (5) day house hunting trip; without loss of wages, prior to date of transfer with expenses for mileage or round trip coach class airfare, lodging and meals paid by Carrier (type of transportation and lodging facility to be determined by Carrier). Additionally, reimbursement of up to \$200 for child care will be allowed during the house hunting trip.

Note 1: An employee will receive the authorized mileage allowance (currently 31 cents per mile) for transporting not to exceed two personal motorized vehicles by the most direct route between his former home and his new location. Automobiles and boats will not be authorized for shipment in moving van.

Note 2: An employee may elect to receive a cash payment equal to the moving company's estimate to move household and other personal effects, with a maximum of \$5,000, which shall be paid within 30 days of actual relocation of residence.

- D. The employee will be allowed up to thirty (30) calendar days temporary living expenses (facility to be determined by Carrier) while waiting for permanent residence at the location being transferred to.

Note: In lieu of approved temporary living expenses, an employee may elect to receive a cash payment of \$1,500.

Section 3 - Real Estate Benefits

Real estate benefits under this section will only be applicable for employees who own their homes and are required to move and only if the employee has not received real estate or lump sum benefits for that same home in the past. In order to qualify for the benefits provided herein, an employee must own his/her home as of the date of this Agreement.

NOTE: As clarification, "owns" also means purchasing.

- A. If the employee owns his/her own home and is required to move, he shall at his option be reimbursed by the Carrier for any loss suffered in the sale of this home for less than its fair market value, including all of the usual and customary closing costs to the seller, such as real estate commission paid to a licensed Realtor, title insurance fee, reconveyance fee, revenue stamps and prepayment penalty on existing mortgages, but shall not include the payment of any "points" by the seller.

- B. If employee is unable to sell his home within three months of agreed upon appraisal, the Carrier will purchase the home for fair market value, with employee providing marketable title.
- C. An employee who desires to avail himself/herself of option A or B must include in listing agreement with any Realtor the following provision:

"It is understood and agreed and that regardless of whether an offer is presented by a ready, willing and able buyer.

1. No commission or compensation shall be earned by, or be due and payable to, broker until the sale of the property has been consummated between seller and buyer, the deed delivered to the buyer and the purchase price delivered to the seller; and
2. The Sellers reserve the right to sell the property to _____ (Name of Relocation Company] or _____ (Name of any other party to be covered by this exclusion clause] (individually and collectively a "Named Prospective Purchaser") at any time.

Upon the execution by a Named Prospective Purchaser and me (us) of an Agreement of Sale with respect to the property, this Listing Agreement shall immediately terminate without obligation on my (our) part or on the part of any Named Prospective Purchaser to either pay a commission or to continue this listing.

Note: Type exclusion clause into body of listing agreement - do not just attach."

Note 1: In the event the appraised fair market value of an employee's home, excluding mobile homes, is less than the original purchase price of such home, the employee will be reimbursed for any loss suffered in the home's sale (not to exceed \$10,000) providing such home has been adequately maintained by the employee. The original purchase price will be determined by presenting proof from the lending institution holding the mortgage of such home.

Note 2: In each case, the fair market value of the home in question shall be determined as of the date sufficiently prior to the change in operations to be unaffected thereby. The Carrier shall in each instance be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other party.

Note 3: Should an employee transferring under this Agreement have a contract (offer made and accepted) to purchase a home and needs funds for closing, the Carrier will purchase the employee's home in less than the

three months provided in Paragraph B above at the agreed upon fair market value.

Note 4: In order to be eligible for the real estate benefits of this section, a home must be certified as in salable condition and structurally sound, subject to inspections at Carrier's expense. Necessary repairs to make home in salable condition are employee's expense and not reimbursable.

- D. In lieu of the real estate benefits provided above, an employee required to change his/her place of residence under this package may elect to receive a lump sum of 15% of the appraised fair market value of their home, not to exceed \$15,000. The employee will be permitted to retain title to the home and will retain responsibility for any and all indebtedness, if any, outstanding against the home, The Carrier will assume no liability whatever in connection therewith. The amount shall be recovered from any employee who leaves Carrier's service voluntarily within one (1) year. An employee electing to receive the 15% of the appraised fair market value of his home will be entitled to make said option for a period of thirty (30) calendar days from the date of transfer.
- E. If the employee is under a contract (contract for deed) to purchase his home, the Carrier shall protect him against loss to the extent of the fair market value of any equity he may have in the home and, in addition, shall relieve him from any further obligations under his contract.
- F. If the employee holds an unexpired lease of a dwelling occupied by him as his home, the Carrier shall protect him from all loss and cost in securing the cancellation of his said lease.
- G. No claim for loss shall be paid under the provisions of this section which is not presented within three years after the date of transfer.
- H. The term "home" as used herein, means the single primary place of abode of an employee which is a structure consisting of not more than two (2) dwelling units (duplex), located on a building site of not more than one acre (or the number of acres consistent with state, city or county codes), which is utilized for residential purposes only.
- I. Mobile homes are not covered by this agreement, except as set forth in this paragraph. Employees being relocated under this Agreement who own mobile homes and occupy them as their residence at their current locations, will be allowed the 15% set forth in Paragraph D, where value is determined using NADA Mobile Home Manufacturer Appraisal Guide. Employees will not be entitled to any other payments of benefits under this Section. An employee may, however, request that the mobile home be relocated to his new terminal, in lieu of the 15%. If the law permits and the mobile home is moveable, it may be moved to his new terminal if the employee so elects. If moved, the Carrier will assume the cost of moving the mobile home.

Section 4 - Lump Sum

- A. In lieu of the \$20,000 transfer allowance, and all moving and real estate benefits in this package, an employee may elect a lump sum relocation allowance of \$35,000 if the employee owns his place of residence, or \$17,500 if the employee does not own his place of residence, which will be paid within 30 calendar days of date of transfer. The lump sum allowance shall constitute the entire relocation benefits. If the employee voluntarily leaves the Carrier's service prior to expiration of 12 months from date of transfer, he must reimburse the Carrier the entire lump sum allowance, less taxes withheld. These must be repaid within one week of such action or by the other arrangements made with Carrier.

Section 5 - Fair Market Value

- A. It is understood the fair market value of an employee's home will be determined prior to the employee being required to relocate.

Section 6 - Handling Disputes

- A. Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employees or their representatives and the railroad. In the event they are unable to agree, the dispute or controversy may be referred by either party to a board of competent real estate appraisers, selected in the following manner. One to be selected by the representatives of the employees and one by the railroad and these two, if unable to agree within 30 days upon a valuation, shall endeavor by agreement within 10 days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the National Mediation Board to designate within 10 days a third appraiser whose designation will be binding upon the parties. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

Section 7 - Transfer Forms

- A. None of the moving and real estate benefits contained herein will be provided until Form 12602, Scheduled Employee Transfer Notice, has been properly completed and forwarded to the Human Resources staff.

Section 8

A. This package, if offered and accepted, will be in lieu of any other moving benefit package, or elements of such packages. The effective date of this Agreement is July 12, 1996.