What is the Rule of 2?

Simply put: Like a pilot and a co-pilot on an airplane, the certified conductor and certified engineer on a freight train are essential for safe rail operations in the real world and to contend with the unique hazards of the job, even with a number of advanced technologies applied to assist in their duties.

What are the three paths for the Rule of 2?

Legislative
Making the Rule of 2 into law in either a state legislature or in the U.S. Congress by passing a bill. For two consecutive years, the Rule of 2 has passed the U.S. House of Representatives, as part of the larger INVEST in America Act. Two-person crews have been signed into law in nine states and an attempt to federally preempt these laws was denied in federal court.

Regulatory
The administration of President Joe Biden announced that the Department of Transportation (DOT) and the Federal Railroad Administration (FRA) was to prioritize revisiting the role of freight crew size in safe rail operations. While effective nationally, a regulation can be vulnerable to changes in the political realm, such as a new presidential administration.

Collective Bargaining
A contract results from discussion between two parties. The general chairpersons of the union are authorized to take action to negotiate and present agreements for ratification that result in what they feel would be the best outcome for the people on their properties, therefore protecting present jobs while securing the jobs of the future. Alternatively, if a proposed agreement cannot be made with a carrier or if proposed agreements fail ratification, a Presidential Emergency Board will likely decide the issue. No one knows what is ahead, but past reductions of crafts such as firemen and brakemen have been through a multi-decades attrition and negotiated economic and job protections.

Senator bill improves operator safety, funds Amtrak
WASHINGTON, D.C. — The U.S. Senate on Aug. 10 passed the Infrastructure Investment and Jobs Act, its $1.2 trillion bipartisan legislation, by a 69-30 vote, sending the bill to the U.S. House of Representatives for consideration and taking a step to end a substantial period of largely flat federal investment in the nation’s roads, rails and bridges. The bill contains $766 billion

Continued on Page 2

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Inside this issue of the SMART-TD News

- **ARBITRATOR RULING:** Section 6 bargaining can begin on crew consist, Page 2.

- **STATE WATCH:** Checking out what legislative boards nationwide are working on, Pages 7-8.

- **AROUND SMART-TD:** Items of importance from our locals from coast-to-coast, Pages 3-5.

- **RETIRED VIDEO:** Willie Bates, long-time D.C. legislative director and union safety leader, retires after more than four decades, Page 8.

- **LEADERSHIP MESSAGES:** The latest updates from SMART GP Joseph Sellers and TD President Jeremy Ferguson, Pages 6-7.

- **2Q EARNINGS:** Class Is prosper with one exception, Page 12.
Senate bill protects bus members, boosts passenger rail

Continued from Page 1

to address a backlog of national infrastructure needs, $66 billion for Amtrak and $39 billion for public bus, transit and subway systems.

“THIS BILL marks the end of a long period of stagnation in the upper chamber of Congress when it comes to putting additional money into the nation’s infrastructure,” SMART Transportation Division National Legislative Director Greg Hynes said. “There was a lot of talk of Infrastructure Week and the like in prior years, but nothing ever was accomplished with the bills dying in the Senate. Now we see a strong effort to protect bus and transit workers to shield them from assaults and a major influx of money that will allow Amtrak to provide expanded service and help its national passenger service to flourish. These are very encouraging times and the bill’s passage is a major win for our Amtrak, bus and transit members.”

Absent from the Senate bill was a two-person freight crew provision that was passed in July through the U.S. House of Representatives’ infrastructure bill known as the INVEST in America Act (H.R. 3884). Yardmaster hours of service, also in the INVEST Act, suffered the same fate.

The 10 bipartisan senators who authored the Infrastructure Investment and Jobs Act did not include those items when writing the more than 2,700 pages of the legislation, and no amendment adding a 2PC provision was introduced by senators as the bill was considered for passage. Only bipartisan amendments were considered during the amendment process, and no Republican senator was offered to co-sponsor the two-person crew or yardmaster hours of service items as an amendment in this bill.

This does not close the door on national two-person crew bill efforts with House leaders, including Transportation and Infrastructure Committee Chairperson Peter DeFazio, Railroad Subcommittee Chair Donald Payne and other supporters of rail safety, working to find a vehicle to get a legislative solution passed. Regulatory efforts via the federal Department of Transportation and the Federal Railroad Administration also will intensify.

“We ask that members continue to be loud and clear about rail safety and the importance of a certificated conductor and certified engineer being in the cab to elected officials via phone call, letter and email and also by raising public awareness on social media,” Hynes said. “We have come further than we ever have in getting nation-al two-person crew legislation accomplished this cycle. The battle is not over, and there is much more to be done.”

Arbitrator rules that Section 6 bargaining can begin regarding freight crew consist

On July 28, 2021, a neutral party appointed by the National Mediation Board issued his ruling finding that 13 general committees involved 13 general committees at BNSF, Union Pacific, Norfolk Southern and Canadian National railroads.

Other properties not currently affected or involved may also be included in the future as moratoriums naturally expire. Please contact your regional or district SMART-TD or SMART-Union organizer to get contact information on how carriers are trying to cut to one-person crew bills.

Once a Section 6 is served, the Railroad Labor Act requires both parties to engage in mandatory bargaining. The Act, however, does not mandate any particular outcome in such negotiations, it merely provides a process. In the event parties reach an impasse, the Act contains methods to avoid disruption to commerce through mandatory mediation and possibly intervention from the President of the United States and the U.S. Congress.

The arbitration hearing was a result of a long court battle in which it was determined by the National Railroad Labor Board that the question of whether the moratorium language in the various agreements barred serving a notice was a “minor dispute” within the meaning of the Railroad Labor Act and would have to be arbitrated.

Class I railroads BNSF, UP, NS and KCS initiated a claim in October 2019, just prior to the opening of the current round of national contract handling, that asserted that, in accordance with the moratorium provisions of various local agreements no longer barred the service of a Section 6 notice regarding the topic of crew consist. SMART-TD remains committed to protecting the jobs of today, as well as securing the jobs of the future. While only some general committees will be involved in bargaining, the full support and effort of the Inter-national in accomplishing this goal.

How can I get involved with the Rule of 2?

1. Keep yourself updated and engaged in news about how the Rule of 2’s journey down the two paths — regulatory and legislative — is progressing through union publications and the SMART-TD website.

2. Be ready to speak out if your state legislature is working to have your state’s Legislature consider a state bill requiring two-person freight crews. Often, real-world testimony can build a solid foundation of understanding before lawmakers unfamiliar with how railroads work.

3. Unite with others through social media such as the Fight for Two Person Crews Facebook group. Visit the SMART-TD Legislative Action Center or rule22.us to send messages to your national legislators or, when available, state legislators.

4. Tell the public how carriers are trying to cut to one-person crews in the name of profitability (“they call it ‘reduplication’ for the sake of ‘innovation’)” and why that is a bad idea.

5. Stay proactively informed with your local chairperson and local officers as well as your general committee and International. It’s the best way to avoid the conjecture and unverified information on social media. As always, supporting labor-friendly politicians who support the Rule of 2 and reaching out to those people is helpful.
DIPP offers new daily benefit starting in Sept.

SMART Transportation Division and the trustees of the Discipline Income Protection Program (DIPP) are pleased to announce a new maximum daily benefit level for program participants beginning Sept. 1, 2021.

Participants will now have the option to elect a $250 daily benefit at a cost of $202.50 per month. As always, participants in DIPP have the choice to choose the level of protection they want, currently from $6 to $200 per day. The duration of the coverage period (days), ranges from 200 to 365 days and depends on how long a participant has been enrolled in the program. The new maximum daily benefit will provide yet another level of financial protection and peace of mind when a member’s income is at risk. DIPP has a long tradition of shielding SMART-TD members if they are suspended, dismissed or removed from service by the carrier for alleged violation of rules or operating procedures and pays out millions of dollars to participants annually.

If interested in joining DIPP or increasing your existing daily benefit level, TD members should contact their UTUIA Regional Insurance Manager / Field Supervisor, email DIPP_TD@smart-union.org or write to Discipline Income Protection Program, 24050 Country Club Blvd., Ste. 340, North Olmsted, OH 44070-5333.

For more information on DIPP, visit www.smart-union.org/td/dipp or follow the QR code accompanying this article with your smart device.

Educating about SMART matters

Over a six-week period, GCA-953 (Union Pacific) held a series of six educational events for local officers throughout the GCA in Omaha, Neb.; Cheyenne, Wyo.; Salt Lake City; Portland, Ore.; and Waukesha, Wis.

General Chairperson Luke Edington, Associate GC Ian Reynolds and Senior Vice GC Zach Nagy hosted and taught classes that covered topics such as How to be an Officer, Duties of Officers, website training, filling a proper time claim, writing a discipline appeal and a mock arbitration session.

Local officers from four states attended the initial session in Topeka, Kan., on June 22 and 23.

SMART-TD President Jeremy R. Ferguson, right, attended the July 27 session and honored the retiring Jerry Kalbfell, at left.

Around the SMART-TD

Four TD-affiliated students receive $1,000 Union Plus scholarships

Union Plus awarded $250,000 in scholarships to 199 students representing 37 unions, including four winners representing SMART Transportation Division. The four TD winners of $1,000 scholarships from Union Plus are:

• Evan Bock of Rantoul, Ill., whose father, Christopher Bock, is a member of Local 1358 (Danville, Ill.), has been awarded a $1,000 scholarship. Evan is a 2021 graduate of Rantoul Township High School who will begin college this fall and plans to major in engineering.

“My family would not be able to afford the medical treatments we need without SMART,” Evan said. “It is the reason my father was able to provide great healthcare for us. SMART is a lifeline for many workers and their families.”

• Grace Brodarick of Southold, N.Y., whose father, Christopher Brodarick, is a retired member of Local 645 (Babylon, N.Y.), has been awarded a $1,000 scholarship. Grace is a 2021 graduate of Rantoul Township High School who will begin college this fall and plans to major in nursing.

“SMART’s hard work and negotiations allow members to thoroughly enjoy the fruits of their labor,” Grace said. “I am forever grateful for all that SMART has provided my father and my family.”

• Kaysa Kurtz-Merwin of Rocky Ford, Colo., whose father Anthony Merwin is a member of SMART Local 945 (La Junta, Colo.), has been awarded a $1,000 scholarship. A 2021 graduate from Rocky Ford Jr./Sr. High School in Rocky Ford, Colo., Kaysa attends Otero Junior College, seeking out a double major in psychology and business management and intends to attend Colorado State University.

• Billi Vavra of Prescott, Iowa, associate chairperson of GCA-001 and a member of Local 199 (Creston, Iowa), has been awarded a $1,000 scholarship.

“During a time of continued disruption and hardship for many families, Union Plus is glad that we are once more able to share a higher than usual scholarship award amount to help union families offset the cost of college education,” Union Plus President Mitch Stevens said. “We are proud to support this year’s exceptional group of 199 winners as they pursue higher education in a new environment after a year of largely virtual schooling.”

The Union Plus Scholarship Program, in its 30th year, is offered through the Union Plus Education Foundation. Visit unionplus.org/scholarship for applications and benefit eligibility.

The Topeka, Kan., educational session, shown above and below, the first of six scheduled sessions organized by GCA-953, took place June 22 and 23.
Around SMART-TD continued...

Local 1470 S&T helps set up vaccine clinic in NFL stadium

Local 1470 (Edmontson, Md.), Secretary & Treasurer and Maryland Air National Guard Lt. Col. Charles “Chuck” Wetzelberger has been doing his part to get the public vaccinated against COVID-19.

A 35-year member of the National Guard, Wetzelberger was on the Reserves list when he heard about his unit possibly being part of vaccination efforts. With 33 years of service at Amtrak, he took a military leave of absence to be part of the front-line vaccination effort.

“I started to get wind of, back in October, of a response to COVID-19 that was going to be required from my unit. And I volunteered immediately to be part of it, no matter what it was, not knowing what it was going to be. So, my name was put on a list and after the holidays, I got the phone call that they needed me to come in on duty,” Wetzelberger explained.

Before shots got put into anyone’s arms, they needed a plan, and Wetzelberger was instrumental in that too. His first task after being called to duty was to work with the Maryland Department of Health and to get in contact with local health department administrators and secretaries so that he could schedule mobile vaccination teams from his unit to go out to drive-up and brick-and-mortar sites to help get the public vaccinated.

When Maryland decided to start doing mass vaccination sites, Wetzelberger volunteered to be the on-site commander at the Baltimore Ravens’ M&T Bank Stadium and got the site up and running with the help of the University of Maryland Medical System within 18 days. He brought 71 airmen with him to help operate the site.

“[The Ravens stadium] went from a barren, first-class, club-level football stadium to a fully operational clinic within 18 days. And our highest output in one day was 6,152 vaccinations. We did that in one day at the end of April,” Wetzelberger said. “It’s been an amazing experience for me. It’s given me an opportunity to take the things I’ve learned from my railroad career and my military career and re-create a handbook. Because there was no handbook on how to operate a mass vaccination site.”

In an effort to get everyone vaccinated, Wetzelberger took things further on his own and offered a full day off to any of his airmen who wanted to get vaccinated. “Anybody who wants a shot, gets it,” he said. “I’ve got some airmen who had not gotten the vaccine, and I offered them a day off to get the shot. So, they come in in the morning and we go through our morning briefs and make sure everyone has their assignments. If they want it, they get it and they get a day off. I gave them that benefit. The majority of the clinical staff have been vaccinated.”

As far as his brothers and sisters at Amtrak go, Lt. Col. Wetzelberger has been instrumental in helping to get the word out to them.

“I have seen a number of our co-workers from Amtrak come through the facility. It’s a pleasure to actually see them cause they get to see me in a different uniform. And I make sure on social media they know it’s available. I’ve talked about it at union meetings, and I make sure that the union officers also inform our members that if they want to get the vaccine it’s readily available and to come right up to club level at M&T Bank Stadium, and we’ll take care of them there.”

Lt. Col. Wetzelberger urges everyone who can to get vaccinated. He’s seen the effects of this virus and knows that this isn’t going away anytime soon if people are unwilling to get vaccinated.

“Health is so important. Don’t take a chance with it,” he said. “I’ve known many people who’ve gotten this thing and it’s everything from losing their sense of taste and smell all the way up to dying. So, there’s no reason to take a chance.”

SMART-TD wishes to thank Brother Wetzelberger for his dedication to getting people vaccinated and congratulates him on a job well done. Anyone who is unvaccinated and interested in procuring themselves and others, can go to www.vaccines.gov to find out where their nearest vaccination site is.

L-1545, Monroe, L.A.

An online fundraiser has been established for Eddie Dotson, a member of SMART-TD Local 1545 (Monroe, La.), who was severely injured June 23, 2021, while on duty in Tioga, La.

Brother Dotson, 52, a trustee for his local and a member of our union for 17 years, lost limbs in the accident. He faces multiple surgeries and mounting medical bills.

“How donations for Brother Dotson and his family would be greatly appreciated,” said Louisiana State Legislative Director Chris Christianson, who established the GoFundMe campaign. “An update on Dotson’s health posted in July by his daughter said that he was to be transferred to an inpatient rehabilitation program with on-site wound care, psychiatry, counseling and a physical/therapy prothestic program.

“I’ve been passing along the messages I’m receiving and letting him know who all is helping us and reaching out,” Dotson’s daughter wrote. “He doesn’t have the energy or very much time to reach out to everyone and thank them personally, but he does send his regards to everyone.”

L-1857, Green River, Wyo.

Local 1857 member Charles Gasperetti, a veteran of the U.S. Marines from January 2004 to January 2015, current National Guardsman and a conductor with Union Pacific, was recognized with his photos featured on the Helmets to Hardhats Facebook page as the Aug. 11 Wednesday feature.

Congratulations, Brother Gasperetti and thank you for your past and continued service to our country!
WHEN CAN A LOCAL PRESIDENT VOTE?

The following addresses questions posed to the SMART Transportation Division regarding the language in the SMART Constitution, Article 21B, Section 59, which states, in pertinent part:

The President may speak on any subject before the Local but they may not vote except, in case of a tie vote, on a matter upon which they are otherwise eligible to vote shall cast the deciding ballot.

The local president, tasked with conducting the meetings of the local, does not typically vote on motions presented at those meetings, except in the case of a tie. However, under the Labor-Management Reporting and Disclosure Act (LMRDA), every member, including the local president, is afforded certain voting rights. SMART Constitution, Article 21B, Section 48, also provides certain rights. In those situations, a secret ballot vote is required.

Is the local president permitted to vote in local elections? Yes (if not in E49 status).

Is the local president permitted to vote in local committee of adjustment (LCA) elections? Yes, if not in E49 status and working under the jurisdiction of that LCA.

Is the local president permitted to vote in LCA matters (unless working under the jurisdiction of that LCA).

Is the local president permitted to vote on disbursements (bills of allowance) made from local funds? Yes, if otherwise eligible to vote on the issue (including the local president and all members eligible to vote on the issue (including the local president)).

Is the local president permitted to vote on disbursements (bills of allowance) made from LCA funds? Yes, if otherwise eligible to vote on the issue (including the local president and all members eligible to vote on the issue (including the local president)).

Frequently, the above also raises the following questions that would also apply to someone presiding at a meeting in the local president’s absence:

In a situation where the local president is initially permitted to vote, and that vote results in a tie, is the local president then permitted to cast the deciding vote? No. Doing so would compromise the secrecy of the ballot.

Is the local president permitted to vote on social and charitable spending? Yes.

Is the local president permitted to vote when a secret ballot is presented for a change in local dues? Yes.

Is the local president permitted to vote when a secret ballot is presented for a change in LCA matters (unless working under the jurisdiction of that LCA)? Yes, if otherwise eligible to vote on the issue (including the local president and all members eligible to vote on the issue (including the local president)).

Is the local president permitted to vote when a secret ballot is presented for a change in a LCA officer’s salary or rate of pay? Yes.

Is the local president permitted to vote when a secret ballot is presented for a change in a LCA committee person’s salary or rate of pay? Yes, if working under the jurisdiction of that LCA.

Is the local president permitted to vote when a secret ballot is presented to approve social and charitable spending? Yes.

Is the local president permitted to vote when a secret ballot is presented to adopt or amend local bylaws? Yes.

If the local president chose to abstain from initially voting in any of the above circumstances, could they cast a deciding vote in the event of a tie? No.

Is the local president permitted to vote on disbursements (bills of allowance) made from local funds when in E49 status? Only in the event of a tie vote.

Is the local president permitted to vote in a mail referendum vote? Yes. In a referendum ballot, all members eligible to vote on the issue receive a ballot. The issue is decided by a majority vote of the valid ballots returned.

Would a local president cast a deciding vote on any issue handled by mail referendum vote? No. In a referendum ballot, all members eligible to vote on the issue (including the local president) receive a ballot. The issue is decided by a majority vote of the valid ballots returned.

In summary, generally speaking, a local president would not cast a deciding vote in a secret ballot vote, a mail referendum vote, or in LCA matters (unless working under the jurisdiction of that LCA).
SMART GENERAL PRESIDENT’S COLUMN

‘I Got Your Back’ gives a chance to honor mentors

Every one of us, regardless of the work we do, has had at least one person in our careers who has stood up for us, provided formal or informal mentorship, or has been there in times of crisis or need.

SMART has launched the ‘I Got Your Back’ campaign as a way to recognize those who have stepped up and stood up for what’s right and to reinforce a culture of solidarity and paying it forward.

In a transportation industry that relies heavily on teamwork and unity, it is important to have each other’s backs. Helping out when you notice someone struggling, or speaking up when you notice unfair treatment, can not only make the difference in someone’s career, but can also go a long way in boosting worksite morale. Especially when someone is new, hazed or isolated at work can be distracting and dangerous, leading to injury and a hostile work environment. Working in a setting where every single one of us feels valued and respected will allow people to ask for help from their union brothers and sisters when they need it. At the end of the day having each other’s backs is the core of a strong union.

That is how and why we formed over a century ago in the first place.

The ‘I Got Your Back’ campaign will bring more solidarity to our union. By sticking together, we build a stronger foundation that will help us foster something better for ourselves and for future generations such as enhanced safety.

So remember to always stay aware of your surroundings and continue to speak to your local representatives, who should contact international representatives to address any safety concerns facing our members.

On the political front, H.R. 3684, the Infrastructure Investment and Jobs Act, passed the five-year, $715 billion INVEST Act as well as $39 billion for transit. The INVEST Act’s passage in early July was applauded by our international representatives to the U.S. Senate containing language from the Transit Worker and Pedestrian Protection Act as well as $39 billion for transit. We will keep our members informed as this pieces of legislation move forward.

As always, I remain, fraternally,

Joseph Sellers Jr.
General President, SMART

‘Working in a setting where every single one of us feels valued and respected will allow people to ask for help from their union brothers and sisters when they need it.’

SMART Transportation Division 2021 budget

Pursuant to Article 21B, Section 16, of the SMART Constitution, below is the 2021 budget for the SMART Transportation Division

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SMART Transportation Division News

Bus Department News

A message from your Bus Department leadership

Dear Brothers and Sisters:

As we are coming close to seeing the pandemic in the rearview mirror, we must remain vigilant that the buses are starting to become crowded again, which means that our exposure becomes greater. While the majority of members have been vaccinated, there are others who have not, and we cannot afford to let down our guard. So continue to follow the Centers for Disease Control and Prevention (CDC) guidelines and make sure your carriers are also working to keep you and your families safe.

By Calvin Studivant

the coronavirus pandemic, there remains a different pandemic concerning operator assault and the impact they have on our members. Carriers must join with us in stopping any and all assaults, they must ping any and all assaults, they must ensure safe working conditions and spare no expense in order to achieve this outcome.

So remember to always stay alert to unfair treatment, can notice someone someone standing up for us, as a way to recognize those who have stepped up and stood up for what’s right and to reinforce a culture of solidarity and paying it forward.

MEMBERS CAN OPT IN TO GET PDF VERSION OF THE TD NEWS ...

www.smart-union.org/td • www.utuia.org
Despite ups, downs, ahead is where we should and will focus

By Jeremy Ferguson

The impact that the implementation of the PSR by the railroads is having on workers, safety, freight shippers, passenger railroads and the long-term management of the nation's railroads...

While this is a great start, derailments of two or three dozen cars coming off the tracks continue on a regular basis. Please — stay safe, stay vigilant and help us help all of you by using the confidential safety reporting tools provided on the main page of the TD website to advise us of any unsafe conditions that you have reported to your carrier. This will allow us to engage our state legislative director and local legislative officers to help get the situation addressed as quickly as possible. With your assistance, we can make positive change!

Do not think others have reported it if your single report will not make a difference — remember, if you miss 100% of the shots you do not take … it only takes one report to make a difference.

The ups and downs we’ve experienced this summer are part of the journey. They do not dampen but add fuel to the fire of my administration’s desire to represent all of you to the best of our abilities. Never forget that we are all in this together and that it is not what happens to you, but how you react to it. I know that if we stay united, engaged and trust one another, we will emerge a stronger and safer union. You can count on me to do my part, and I remain honored beyond measure to represent all of you.

In solidarity,

Jeremy R. Ferguson
President, Transportation Division

State Watch

News from SMART-TD State Legislative Boards

Minn. - Director Nick Katchik is pleased that the state approved $10 million in funding in late June to double daily Amtrak service between Minneapolis/St. Paul and Chicago from one to two daily roundtrips on a 411-mile corridor through Minn., Wis. and Ill., effective in 2024. "The $10 million from Minn has been a priority for us. We’ve been working with All Aboard Minnesota, Amtrak and Northern Lights Express to get this done," Katchik said. "This is the next step toward restoring service to Duluth that was cut in the early ’80s. After a career of watching things be cut, it’s really nice to be working toward restoration of service."

Wisconsin has also approved funding for the service increase, putting in $6.5 million on the project. Wis. Legislative Director Andy Hauck said. The bulk of the funding of the new service comes from a federal grant.

Continued on Page 8
D.C. SLD Willie Bates: He did what he did for 40 years

After 40 years of service, William H. “Willie” Bates is hanging up his Amtrak conductor’s cap for the last time. Bates was so much more than just a conductor; he was a trailblazer in the union for blacks, an advocate for safety — both in the union and nationally, a mentor and friend.

Brother Bates began his railroading career in 1981 when he hired out as a conductor at the Richmond, Fredericksburg & Potomac Railroad (now a part of CSX). In 1986, he made the decision to transfer to Amtrak as a conductor, working the rest of his career on the Richmond, Va., to Washington, D.C., route.

A member of Local 1933 out of Richmond, Va., he served his local as delegate, legislative representa- tive, vice president, president and local chairperson. In March 1992, he became the inaugural local presi- dent of his local. In March 2008, Bates made UTU history when he was elect- ed as the first black state legislative director in the history of our union and predecessor unions.

From 2005 to 2007, Bates served Amtrak as their volunteer engineer. In July 2011, he joined the SMART-TD National Safety Team (NST) and was appointed as a co-director of the team in 2013, where he was put in charge of passenger/transit accident investigations.

Bates made safety a cornerstone of his career and received many accla- mations for his work. In 2009, Bates was the recipient of Amtrak’s highest safety award — the 2009 Charles Luna Memorial Safety Award, named after the UTU’s first president, and was established in 1990 to recognize Amtrak employ- ees who “demonstrates the highest degree of safety awareness.” At the time, Bates had worked injury-free for 25 years and had never had a safety-rules violation. Impressively, that held true for his entire 40- year career.

In 2011, Bates was awarded the Governor’s Transportation Safety Award for rail transportation by the governor of Virginia. Under the Obama administra- tion, Bates served as a member of the 20-person Transit Rail Advisory Com- mittee for Safety (TRACS). He was named to the committee by former Trans- portation Secretary Ray LaHood and reappointed to the position in 2014 by DOT Secretary Anthony Foxx.

In 2013, Bates was invited by then-FRA Admin- istrator Joe Szabo to serve on the Stakeholder Review Panel for the agency’s new Clear Signal for Action safety pilot program. “My career has been the most fulfilling experience of my life. I’m proud that I have advocated measures that cultivated proactive solutions,” Bates said. During the monthly state legislative directors’ call in August, Bates said, “I thank each and every one of you for the opportunity to work alongside you to serve the membership. Going into my 41st year, I believe it’s time. It’s been a pleasure.”

Bates did say that although he is retiring, he plans to continue to advocate for the betterment of workers and to provide guidance when necessary. “My plans during retire- ment will continue to be an advocate for safety and operation activities pertain- ing to all modes of the transportation industry. I am an active member serv- ing as vice president of the Conference of Minority Transportation Officials (COMTO) Richmond Chap- ter under the direction of Local President Lamar Bates,” Bates said. “A spe- cial project that I would like to start is more training for new hires. We must resist putting our members out there too early, setting them up for failure.” Bates’ successor, Jarad Jackson, the assistant state legislative director since June 2021 — also of Local 1933 — told his peers on the call that he appreci- ated greatly the preparation Bates had given him.

“Jarad Jackson is the consummate safety professional with 12 years of service. I am very confident that Jarad will step in and uphold the highest stan- dards of this office,” Bates said of his replacement. “I am looking forward to stepping up and to have a bigger role,” Jackson said. Jackson has been a member since November 2009. Starting in 2016, he took on various leadership roles in the union including local legislative representa- tive, alternate state director, legislative vice chairperson, legislative chairperson, assistant state legislative director and now state legis- lative director.

A quote Bates often used also was formally passed along to Jackson for his use during that final SLD call — “We do what we do.” Bates did what he did — and SMART Transportation Division thanks him for it and wishes him a long, healthy and happy retire- ment.
Instructions, and 1.15 – Duty – Reporting and Complying with Code of Operating Rules (GCOR) alleged that he violated General

In NRAB First Division Award No. 30618 (Deinhardt, 2021), Union Pacific terminated a brakeman for alleged dishonesty. In this case, the claimant fell and twisted his ankle during his tour of duty on June 14, 2019. Thereafter, the claimant began experiencing discomfort in his ankle, and both his engineer and conductor noticed him limping. Not realizing that an injury had manifested in his ankle, the claimant assumed his ankle discomfort was caused from a pair of new work boots he was wearing. Subsequent to completing his tour of duty, the claimant reported to a hospital to have his ankle examined. The results of the examination disclosed that he had a fractured fibula bone. Upon learning of his fractured fibula, the claimant promptly reported the injury to carrier management. In examining the instant case, the Board noted that the claimant’s version of the facts that he likely injured himself at work and did not immediately recognize that he was injured was plausible. Observing that the claimant’s version of the sequence of events was credible, the Board determined that the claimant failed to prove his allegation of an injury resulting from dishonesty. Based on that finding, the Board sustained the organization’s claim on behalf of the claimant in full. GCOR 953 General Chairperson Luke Edington, GO 953 Associate General Chairperson Ian Reynolds and GO 953 Senior Vice General Chairperson Zach Nagy progressed this case to the NRAB First Division.

In NRAB First Division Award No. 30637 (Deinhardt, 2021), Union Pacific terminated the employment of a yardman for allegedly failing to properly line a train and running through a switch, resulting in a derailment. On the date of the incident, the claimant was working as a pilot with a hostler in North Platte, Nebraska. During the subject tour of duty, the claimant was located on the east end of his locomotive consist, and while the hostler traversed the locomotive consist in a westward direction, the locomotives ran through an improperly lined switch. At that point, the hostler reversed the direction of movement of the locomotives, resulting in one set of tracks from the locomotive consist derailing. Although the claimant was neither located on the west end of the locomotive consist (direction of travel) when the hostler ran through the misplaced switch nor instructed the hostler to initiate the movement into the improperly positioned switch, the carrier found her guilty of transgressing GCOR 8.2 – Position of Switch in Relation to Locomotive Employment. After subjecting the evidentiary record of the instant case to detailed scrutiny, the Board discerned that the carrier failed to satisfy its necessary burden of proof. As a result, the Board reinstated the claimant to service, removed the discipline from her record, and directed the carrier to pay her for her lost wages during her period of dischARGE. GCOR 953 General Chairperson Luke Edington, GO 953 Associate General Chairperson Ian Reynolds and GO 953 Senior Vice General Chairperson Zach Nagy progressed this case to the NRAB First Division.

Public law boards

In Public Law Board 7955, Award No. 2 (Hanft, 2021), Union Pacific Company, a subsidiary of Translan LLC, terminated a trainman for allegedly failing to comply with a simulated switch misalignment test. A carrier officer placed a switch flag banner approximately three (3) feet beyond the switch points of a switch positioned ahead of the claimant’s train. Although the switch in question was properly positioned for the claimant’s intended movement, the switch flag banner was meant to simulate a misaligned switch. Because of the diminutive size of the switch flag banner, the claimant did not notice it until after passing the clearance point for the adjacent track. Once the claimant noticed the switch flag banner, he placed his train in emergency and stopped short of the testing device; however, as noted, the movement of his train stopped in the foul of the adjacent track. According to the carrier’s own policy regarding switch point banner tests, there is a clear policy that the clearance points be placed as close to the switch points as possible. Deviating from that requirement, the switch flag banner in question was placed approximately three (3) feet beyond the clearance points of the switch subject, and at the formal investigation, the charging manager conceded that the switch flag “could have been moved a little closer” to the switch points. Based on an analysis and review of the record of the instant case, the Board observed that the testing manager failed to comply with the carrier’s rules and requirements when he conducted the subject test and therefore the test was improper. In light of those findings and conclusions, the Board vacated the claimant’s termination in its entirety and fully sustained the organization’s claim on behalf of the claimant. GCOR 953 General Chairperson Brian Fattore and International Vice President David B. Wier Jr., handled this case before Public Law Board 7955.

In Public Law Board 7955, Award No. 12. Gary Railway Company, a subsidiary of Translan LLC, terminated a trainman for purportedly entering in between equipment not sufficiently secured to adjust a drawbar. Nevertheless, the carrier failed to convene the formal investigation within the contractually prescribed timeframe. GO 953 General Chairperson Brian Fattore and International Vice President David B. Wier Jr., handled this case before Public Law Board 7955.
The brothers and sisters of the SMART Transportation Division, former United Transportation Union, in New Jersey wish to inform our members of the passing of former Conrail South General Chairperson (1984-96) and N.J. State Director (1997-2002) Robert M. “Bob” Belle (of Local 800, Jersey City, N.J.). In addition we also sadly note the passing of his wife, Helen Belle, a former member of the Auxiliary of the UTU, now the SMART-TD Auxiliary. Bob hired out with the former Erie Railroad as a fireman in 1955 in Jersey City. After two years on the railroad he was elected vice chairperson of Local 543 of the former Brotherhood of Locomotive Firemen and Engineers (BLF&E), one of our predecessor unions. He served as president, legislative representative and vice general chairperson of the Erie Lackawanna GA of A. He also held the positions of legislative representative, assistant N.J. state director and vice general chairperson while a member of Local 800. He was a delegate to the 1968 BLF&E Convention and every subsequent union convention until his retirement.

While working for the Erie Railroad, he was involved with the merger of the Erie and the Delaware Lackawanna & Western Railroad (DL&W) creating the Erie Lackawanna (EL). This was one of the early class I mergers. Following the acquisition of the EL by a subsidiary of the Norfolk and Western, labor protection was provided to the affected employees. This experience would become critical when the Baltimore & Ohio (B&O) tried to acquire the EL. When that attempt by the B&O failed in 1975, EL became a part of Conrail. Through these experiences he became familiar with merger procedures, wage protection and equity issues which Bob offered to the delegates when he became a candidate for alternate vice president-East at the 1987 UTU Convention.

Brother Belle was a mentor and friend to generations of our union’s officers and he and his wife, Helen, were often seen at regional meetings. Bob and Helen were predeceased by their daughter, Barbara, and are survived by their daughter, Marie, and many grandchildren, including Dan “JR” Schneider, a conductor at New Jersey Transit (NJT), and several great grandchildren. A memorial service held in the spring was attended by family, friends, co-workers and Bob’s union brothers.

Open payment service shows relations between docs, companies

More than seven years ago, Palmetto announced the Open Payment initiative to increase public awareness of drug financial relationships between drug and medical device companies, and physicians and teaching hospitals. Open Payments is described by the Centers for Medicare & Medicaid Services (CMS) as “a national disclosure program that promotes a more transparent and accountable health care system. Open Payments houses a publicly accessible database of payments that reporting entities, including drug and medical device companies, make to covered recipients like physicians.” The data does not state what kind of relationship exists between these entities, nor does it find of fraud or abuse. It is only an accounting of dollars that were spent.

Open Payments data is available for the years of 2013-20. To look up your doctor or teaching hospital, visit https://openpaymentsdata.cms.gov.

Former N.J. SLD Robert Belle and his wife, Helen, pass away

The brothers and sisters of the SMART Transportation Division, former United Transportation Union, in New Jersey wish to inform our members of the passing of former Conrail South General Chairperson (1984-96) and N.J. State Director (1997-2002) Robert M. “Bob” Belle (of Local 800, Jersey City, N.J.). In addition we also sadly note the passing of his wife, Helen Belle, a former member of the Auxiliary of the UTU, now the SMART-TD Auxiliary. Bob hired out with the former Erie Railroad as a fireman in 1955 in Jersey City. After two years on the railroad he was elected vice chairperson of Local 543 of the former Brotherhood of Locomotive Firemen and Engineers (BLF&E), one of our predecessor unions. He served as president, legislative representative and vice general chairperson of the Erie Lackawanna GA of A. He also held the positions of legislative representative, assistant N.J. state director and vice general chairperson while a member of Local 800. He was a delegate to the 1968 BLF&E Convention and every subsequent union convention until his retirement.

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Joshua Morstad, LCA-169A chairperson, passes in auto accident

Joshua Morstad, LCA-169A chairperson, passed away on July 11, 2021, en route home from vacation. Brother Morstad was a loyal member of our union for 20 years, local chairperson of LCA-169A (Central of Georgia) since 2009, and a skilled engineer for Norfolk Southern.

Joshua was loved, respected, friend to all, and will be missed by his family, friends and co-workers.

General Chairperson James E. Stewart Jr. wrote, “Brother Morstad had a fierce love for his family and always made sure they were cared for. Brother Morstad enjoyed being outdoors, hunting, fishing, golfing and playing sports with his children. He is survived by his wife, four sons and an unborn son due Sept. 7, 2021. Other survivors include his parents, and two sisters-in-law as well as many cousins, nieces and nephews, aunts and uncles, and extended family and friends.

Local 807’s Karl Middlemas killed in collision involving crew van

Karl Middlemas, LCA-62, of Local 807 (Tucson, Ariz.) — a member of our union for more than 50 years — was killed when the crew van he was being transported in collided with a tractor-trailer late on July 6. Brother Middlemas hired on in 2007 and most recently served as a conductor for Union Pacific. He had been driving the van on a shift July 6 and was en route back to Tucson from Nogales, Ariz. when he was struck at 11:24 p.m. local time on Interstate 19, south of Tucson. He was killed instantly in the crash.

Danny K. Patterson, LCA 001E chairperson

Local Chairperson Danny K. Patterson (LCA-001E), of Nebraska City passed away July 26, 2021, at Nebraska Medical Center in Omaha. Brother Patterson was a member of our union for 18 years as a locomotive engineer for BNSF. Brother Patterson is survived by his wife, Betsy, of Nebraska City, two sons and other family members.

Local 807 member Frederick Lendroth

Brother Frederick Lendroth, 62, of Tucson passed away July 8, 2021, after a long, courageous battle with cancer. Brothe Lendroth was a member of our union for 16 years and worked as conductor/engineer for Union Pacific Railroad.

Transportation Division policy concerning fees objections

The purpose of determining the percentage of expenditures that fall within the categories specified in Section 3. The amount of the escrow amounts maintained pursuant to Section 17, and later will verify the existence and the amounts of money in any escrow accounts.

1. Any person covered by a UTU, now SMART, union shop or an agency shop who elects to be a non-member has the right to object to paying the costs of collective bargaining not related to collective bargaining, contract administration, or other activities germane to collective bargaining.

2. Notification of objection procedures:

a. To be a non-member fee objector and pay no fees, the objection non-member shall provide notice of objection and objections reimbursement by notifying the Transportation Division of the objection by first-class mail postmarked during the month of September preceding the first month of the calendar year in which the objection shall be sustained. The objection shall extend its deepest con-
SMART-TD seeks images of work-related scenes, such as railroad, bus or mass transit operations, equipment photos, scenic shots, activities of your local or photos of your brothers and sisters keeping America rolling.

Printed photographs should be mailed to SMART-TD, 24950 County Club Blvd., Suite 340, North Olmsted, OH 44070-5333. High-resolution digital photographs should be in JPEG format and emailed to news_td@smart-union.org. We prefer horizontal photos. Be sure that your camera is set to the large resolution setting when taking the photo or it might not reproduce well.

With each photograph, please include your name, SMART local number, the names of the persons in the photo (left to right), where the photo was taken and other pertinent info.

All photographs submitted become property of SMART and can be used in future projects.

Remember to review your employer’s policies regarding use of cameras on the property or during work hours.

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Class I rail carriers file their second-quarter earnings reports

**Net Earnings**: Increased 34% to $1.52 billion from $1.13 billion  
**Earnings Per Share**: N/A – not publicly traded  
**Revenue**: Increased 26% to $5.81 billion from $4.60 billion  
**Operating Income**: Increased 28% to $2.22 billion from $1.73 billion  
**Operating Expenses**: Increased 25% to $3.6 billion from $2.9 billion  
**Operating Ratio**: Improved 0.7% to 60.4% from 61.1%  
**Net Earnings**: Increased 90% to $1.034 million from C$770 million  
**Operating Income**: Increased 135% to C$1.178 billion from C$242 million  
**Operating Expenses**: Increased 104% to C$2.16 billion from C$2.16 billion  
**Operating Ratio**: Improved 13.9 points to 43.4% from 57%  
**Earnings Per Share**: Increased 136% to $0.52 per share from $0.22 per share  
**Revenue**: Increased 12% to $3.598 million from $3.298 million  
**Operating Income**: Increased 26% to $1.6 billion from $1.2 billion  
**Operating Expenses**: Increased 12% to $3.0 billion from $2.7 billion  
**Operating Ratio**: Improved to 63.3% from 61.6%  
**Net Earnings**: Increased 96% to C$1.25 billion from C$635 million  
**Operating Income**: Increased 6% to C$820 million from C$770 million  
**Operating Expenses**: Increased 21% to C$1.23 billion from C$1.02 billion  
**Operating Ratio**: Improved 170 basis points to a record 55.3% from 57%  
**Net Earnings**: Increased 33% to $1.17 billion from $498 million  
**Earnings Per Share**: Increased 16% to $0.52 per share from $0.22 per share  
**Revenue**: Increased 33% to $2.99 billion from $2.26 billion  
**Operating Income**: Increased 104% to $1.7 billion from $828 million  
**Operating Expenses**: Decreased 9% to $1.3 billion from $1.43 billion  
**Operating Ratio**: Improved to 43.4% from 63.3%  
**Net Earnings**: Reported a loss of ($378.0 million) from $10.3 million*  
**Diluted Earnings Per Share**: Increased 79% to $2.06 per share from $1.16 per share  
**Revenue**: Increased 37% to $749.5 million from $547.9 million  
**Operating Income**: Reported a loss of ($431.7 million) from $180.4 million*  
**Operating Expenses**: Increased 25% to $460.4 million from $357.0 million  
**Operating Ratio**: Increased 3.8 basis points to 61.4% from 65.2%  

*Losses due to CP-KCS & CN-KCS merger deals

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NOTES: Operating ratio is a railroad’s operating expenses expressed as a percentage of operating revenue, and is considered by economists to be the basic measure of carrier profitability. The lower the operating ratio, the more efficient the railroad. All comparisons are made to 2020’s second-quarter results for each railroad. All figures for CN & CP are in Canadian currency, except for earnings per share for CP.