



# Driving home our point

Leadership testimony, mobilizations by members expose abuse by carriers

Members of SMART Transportation Division joined other members of rail labor in rallies across the nation in response to Class I carriers' continued delay in negotiating a new rail contract and the ongoing scourge of Precision Scheduled Railroading (PSR).

In an unprecedented move, the 13 rail labor unions engaged in the national negotiations have become a united front — the United Rail Unions — to stand in solidarity in this round of negotiations that began in November 2019.

In addition, members of multiple unions came together to demonstrate, including at the Berkshire Hathaway shareholder meeting in late April in Omaha, Neb., where BNSF Railway parent company's head Warren Buffett crowded about the carrier's record profits, even as they target workers with its draconian "Hi-Viz" attendance policy.

A second major protest happened May 10 outside



ABOVE: Members of SMART-TD, the TD Auxiliary and other rail-labor-affiliated groups gathered April 30 outside the CHI Health Center in Omaha, Neb.

LEFT: From left, Local Chairperson Chris Bond (Local 513, Gainesville, Texas); Local Chairperson Steve Groat (Local 329, Boone, Iowa); General Chairperson Matt Burkhart (GCA-341); SMART Transportation Division President Jeremy Ferguson and AFL-CIO Transportation Trades Department President Greg Regan wait to deliver their testimony April 26, 2022, before the Surface Transportation Board.

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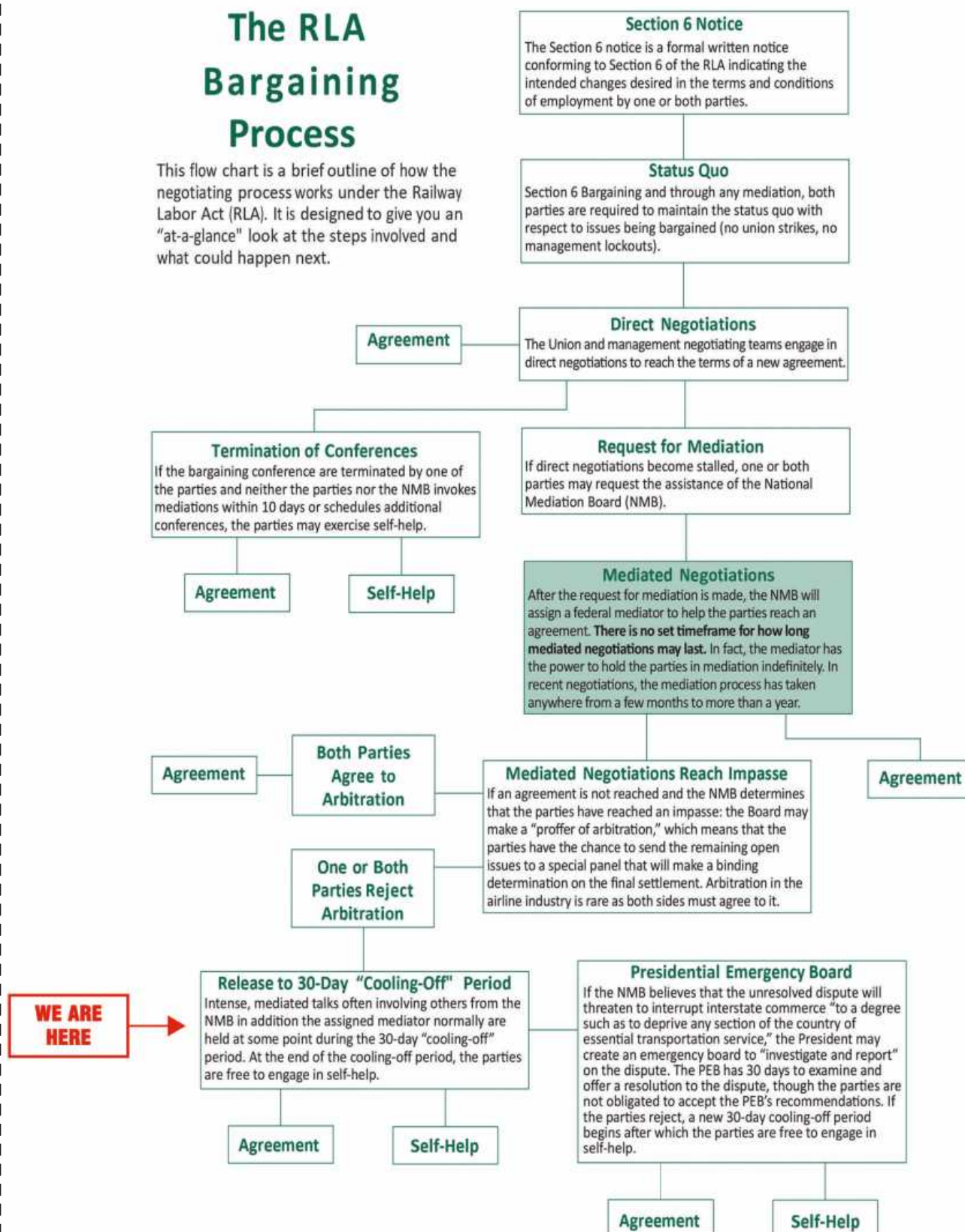
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## The RLA Bargaining Process

This flow chart is a brief outline of how the negotiating process works under the Railway Labor Act (RLA). It is designed to give you an "at-a-glance" look at the steps involved and what could happen next.



# Bill considered to put Santa Cruz workers under California PERB

A bill under consideration in the California Legislature would place employees of the Santa Cruz Metro under the umbrella of the state's Public Employment Relations Board (PERB) to foster improved relations between public employees and management.

S.B. 957 was introduced in the state Senate by state Sen. John Laird (D) on March 17 and passed that body May 23. At the time of publication, it had passed through a committee vote by the California General Assembly and awaited full consideration.

The bill's advance has happened in part thanks to the work of members of SMART-TD Local 23 in Santa Cruz, California State Legislative Board Director **Louie Costa** and General Chairperson **James Sandoval** (GC-SCM).

"The bill will protect Santa Cruz Metro workers from unfair labor practices moving forward," Sandoval said. "It's been a two-year project, and we still got work to do. This is absolutely huge."

S.B. 957 would require employers and employees of the district to adjudicate complaints of specified labor violations before PERB as an unfair practice instead of in the superior court. By requiring the district to adjudicate claims before PERB, the bill would impose a state-mandated local program that would serve to harmonize relations between SCM management and labor.

“PERB jurisdiction will give us free oversight to make sure Metro bargains with our union in good faith during negotiations and gives us recourse in the event Metro commits unfair labor practices,” Sandoval said.

Members of the Santa Cruz Board of Directors received the appreciation of TD Local 23 and SEIU Local 521, which also represents some SCM employees, for their support in getting the bill moved. Among those thanked were Kristen Petersen, Shebreh Kalantari-Johnson, Jimmy Dutra, Ari Parker, Manu Koenig, Rebecca Downing, Donna Meyers, Alta Northcutt and Laird.

## Driving home our point

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the North American Rail Shippers (NARS) annual meeting in Kansas City, Mo.

Many SMART-TD members and officers participated in the rallies, including Vice President **Chad Adams**, Kansas State Legislative Director **Ty Dragoo** and New Mexico State Legislative Director **Don Gallegos**. TD Auxiliary President **Kathryn Seegmiller** and many other union members, spouses and supporters spent hours outside and around the Kansas City Marriott Downtown.

President **Jeremy R. Ferguson** also testified before the Surface Transportation Board on April 25 and before the House Subcommittee on Railroads, Pipelines and Hazardous Materials June 14. A video recapping the most-recent testimony is available for viewing on the SMART YouTube channel by following the QR code accompanying this story.

Further grassroots actions have been planned, the details of which can be found online.



**United Rail Unions issued this statement on June 15, 2022**

Following a third week of compulsory mediation conducted by the National Mediation Board (NMB), the rail unions who are bargaining as part of the Coordinated Bargaining Coalition (CBC) and the Brotherhood of Maintenance of Way/SMART Mechanical Coalition pursuant to Section 5, First of the Railway Labor Act, received a proffer of arbitration from the NMB.

As previously stated, all of the carriers' proposals to date serve as an insult to our collective membership. These essential employees carried the railroads to their record profits throughout the last several years. As much as the rail unions would have preferred to reach a voluntary settlement, this has become the only viable path to reaching a satisfactory conclusion. The chiefs of all 12 rail unions wish to

thank the NMB members and the assigned mediators for their efforts in trying to bring us to a voluntary agreement, and for their recognition that such an agreement was not possible under the current circumstances.

On June 16, 2022, the parties entered a 30-day “cooling-off” period where the status quo is maintained. At any point during the aforementioned 30-day cooling-off period, President Biden may appoint a Presidential Emergency Board (PEB), which typically consists of three to five members. The PEB will conduct a hearing and issue a recommendation regarding settlement of the dispute. The issuance of the PEB recommendation starts another 30-day cooling-off period.

During this second cooling-off period, the parties may choose

to accept or reject the PEB's recommendation. If either party rejects the PEB's recommendation, or if the cooling-off period expires and the dispute has not been resolved, either party may engage in self-help.

If this happens, it is expected Congress will intervene and end self-help by passing legislation to resolve the dispute. To address this possibility, we have already mobilized our legislative departments to get the message to our elected representatives. In addition to these efforts, we are urging our members to begin reaching out to their U.S. senators and House representatives to voice support for a labor-friendly PEB, and, if necessary, labor-friendly legislation to bring this round of bargaining to a successful conclusion.



# What YOUR UNION is doing for YOU

Here is a list of recent arbitration victories reported to SMART Transportation Division's leadership.

General chairpersons who wish to report a recent success should email Vice President **Alvy Hughes** (ahughes@smart-union.org) for Bus Department victories and Vice President **David B. Wier Jr.** (dwierjr@smart-union.org) for rail victories.

SMART-TD Vice Presidents **David B. Wier Jr.** and **Jamie C. Modesitt** report that the organization has received numerous favorable decisions from cases arbitrated at the First Division of the National Railroad Adjustment Board. Of the many cases that the organization received sustaining decisions on from the First Division, the cases referenced below are of significant interest:

■ **In NRAB First Division Award Nos. 30919 and 30920** (Deinhardt, 2022), a conductor and a conductor-in-training were both dismissed by Union Pacific Railroad for allegedly being negligent when their train was placed in emergency and purportedly being dishonest when their locomotive engineer denied making an emergency brake application on the train in a radio conversation with the train dispatcher. Neither claimant was privy to the fact that the locomotive engineer initiated an emergency brake application on the train. Critically, neither claimant participated in the radio conversation with the train dispatcher where the locomotive engineer was allegedly dishonest concerning the origin of the emergency brake application on the train. In consideration of these circumstances, the board determined that the carrier failed to satisfy its burden of proof in both cases, and by reason thereof, the board reinstated both employees to service with full back pay for their lost earnings. GO 953 General Chairperson **Luke Edington** and GO 953 Associate General Chairperson **Ian Reynolds** progressed this case to the NRAB First Division.

■ **In NRAB First Division Award No. 30927** (Deinhardt, 2022), Union Pacific Railroad terminated a conductor for allegedly being dishonest in his use of time off under the Oregon Family Leave Act (OFLA). The carrier alleged that the claimant misused the OFLA by marking off work under the terms of the act when he left his home on Sept. 4, 2020, and returned home with another person. Nevertheless, the claimant

marked off on the date in question to retrieve his sick son from his ex-wife's home to bring him back to his residence to care for him. After reviewing the facts and circumstances of the instant case, the board concluded that the carrier failed to support its charge against the claimant with substantial evidence. Thus the board reinstated the claimant to his former position with the carrier and awarded him compensation for his lost earnings. GO 953 General Chairperson **Luke Edington** and GO 953 Associate General Chairperson **Ian Reynolds** progressed this case to the NRAB First Division.

■ **In NRAB First Division Award No. 30940** (Grey, 2022), Union Pacific Railroad terminated a conductor for purportedly failing to protect his employment on a full-time basis. Although the carrier terminated the claimant's employment on March 31, 2020, it reinstated him to service without compensation for lost wages and left the discipline entry on his work record on Sept. 21, 2021. After subjecting the record of the instant case to detailed scrutiny, the board determined that the carrier failed to introduce substantial evidence into the record of the formal investigation to support the charges. Having reached this conclusion, the board awarded the claimant compensation for his lost earnings and removed the discipline entry from his record. GO 953 General Chairperson **Luke Edington** and GO 953 Associate General Chairperson **Ian Reynolds** progressed this case to the NRAB First Division.

■ **In NRAB First Division Award No. 30952** (Neumeier, 2022), Union Pacific Railroad dismissed a conductor based on its allegation that he was allegedly dishonest when he reported that he was thrown from his train, resulting in a personal injury. The board observed that the claimant was riding a rail car to protect his shove movement. The board also noted that the charges brought against the claimant were not

based on him being out of position. Further, the board held that the claimant promptly reported that he needed help after he sustained his injury. For these reasons, the board rationalized that the charges brought against the claimant were groundless. Accordingly, the claimant was reinstated to service and awarded compensation for his lost wages. GO 887 General Chairperson **Gary Crest** and GO 887 Vice General Chairperson **Todd Campbell** progressed this case to the NRAB First Division.

■ **In NRAB First Division Award No. 30953** (Neumeier, 2022), Union Pacific Railroad terminated a conductor for allegedly being dishonest when he purportedly failed to report for his assigned job and claimed pay for time not worked. After reviewing the record of the instant case, the board determined that a procedural irregularity committed by the carrier deprived the claimant of a fair and impartial investigation. In this regard, although a company officer was listed on the notice of investigation as a witness, the hearing officer failed to call the manager to the formal inquiry as a witness. Because the manager was identified in the notice of investigation as a witness, the board concluded that he possessed firsthand knowledge of the matter under investigation. Under the circumstances, the board determined that the carrier's failure to have the excluded manager testify at the formal investigation was a fatal procedural error, warranting overturning the discipline assessed to the claimant. Arriving at this determination, the board reinstated to the claimant to his former position and awarded him compensation for his lost wages. GO 887 General Chairperson **Gary Crest** and GO 887 Vice General Chairperson **Todd Campbell** progressed this case to the NRAB First Division.

## Public Law Boards

■ **In Public Law Board 7966, Award No. 1** (Morgen,

2022), the board adjudicated a dispute between the organization and the Belt Railway Company of Chicago regarding whether employees could be subjected to discipline under the carrier's attendance policy when exercising their contractual right to observe forty-eight (48) hours to select a new assignment following being displaced by a senior employee. In this dispute, the board noted that Article 10(g) No. 4(c) of the 1957 local agreement expressly mandates that employees will be allowed forty-eight (48) hours from notification of being displaced by a senior employee to select another job assignment. Recognizing that Article 10(g) No. 4(c) of the 1957 local agreement contains clear and unambiguous contractual language, the board maintained that the negotiated agreement language prevailed over the carrier's unilaterally implemented attendance policy. To that end, the board held that any administration of discipline to an employee for taking forty-eight (48) hours to select a new job assignment following a displacement by a senior employee is at odds with the plain language expressed in the 1957 local agreement. Ultimately, the board sustained the organization's position that the carrier must allow a displaced employee forty-eight (48) hours from notification of a displacement to select another job assignment. GO 065 General Chairperson **Stelios Paras** and International Vice President **Brent C. Leonard** handled this case before Public Law Board 7966.

■ **In Public Law Board 7986, Award No. 1** (Javits, 2022), the board adjudged the propriety of a dispute centering on BNSF's proposal under the guise of Article IX of the Oct. 31, 1985, UTU National Agreement for multi-directional interdivisional service at Superior, Wis. The parties discussed the carrier's interdivisional proposal in a conference, and the organization notified the carrier that their proposed interdivisional service changes

did not fall within the ambit of Article IX of the 1985 UTU National Agreement. Thereafter, the carrier unilaterally implemented its proposal to establish multi-directional interdivisional service out of Superior, Wis. The crux of the organization's argument hinged on the fact that interdivisional service was already established at Superior, Wis., prior to the carrier's issuance of its latest proposal. By reason thereof, the organization vehemently argued that the carrier was not seeking to establish new interdivisional service at the subject location, but, rather, it was attempting to modify the rules and working conditions on existing interdivisional service. In resolving the subject dispute, the board adopted the organization's argument that the carrier's position was unsupported by Article IX of the 1985 UTU National Agreement because new interdivisional service was not being implemented. According to the Board, the carrier, rather than attempting to establish new interdivisional service, was merely attempting to consolidate multiple pools of employees into a single pool by seeking to alter existing interdivisional service. As the board held, this is counter to the express terms of Article IX of the 1985 UTU National Agreement. Based on its findings and analysis that the carrier's proposal and unilateral changes to interdivisional service did not comport with Article IX of the 1985 UTU National Agreement, the board ordered the carrier to reinstate the rules and working conditions that were in effect prior to the carrier's imposed notice. GO 386 General Chairperson **Larry Miller** and GO 386 Vice General Chairperson **Tim Flynn** handled this case before Public Law Board 7986. The General Committee was assisted by International Vice Presidents **Jamie C. Modesitt** and **John D. Whitaker** in this case.



SMART GENERAL PRESIDENT’S COLUMN

With unity, we all can help SMART grow

Since our founding, we have fought for basic worker protection on the job for generations of workers — at SMART, at our predecessor unions and across the labor movement. Over the years we have achieved many victories and suffered through turmoil and struggle in our constant effort to represent the members who are the lifeblood of this union. Through it all, we have never lost sight of our basic purpose: to represent the workers who came together to protect and build a path to a better future for themselves and their families.

We continue that work today. Retirement security, infrastructure investments



By Joseph Sellers Jr.

for our communities, investments in public transit, two-person crew laws, operator safety — all of these we have fought for in recent years. When the last administration and its allies were in power, they kept us at a distance. They tried to devastate our apprenticeship programs and pensions; they refused to work with labor and your union on protecting the livelihood of our

families.

Today, the landscape has changed. Our work with our elected allies in Congress and in states and communities across the country has brought project labor historic pension relief in the American Rescue Plan; and a bipartisan infrastructure bill, which specifically includes the largest ever investment in public transit, meaning more work and protections—along with a potential national two-person crew regulation.

None of this was possible under the previous administration — and make no mistake, all our gains will come under attack if they are allowed to come back to

power. We continue to work with the current administration, who have rewarded our votes with an unprecedented open-door policy: they listen to and ACT on SMART’s legislative priorities, which we put in place to work for YOU!


Besides our legislative progress, we still have work to do to fulfill our bedrock purpose of representing all workers; our promise of solidarity for all.

Each one of us has the choice, in how we engage with our fellow members, to shape this union’s future. As a labor organization, formed by workers to protect and pursue gains at work, it would go against

everything SMART values and represents to not welcome all of our union brothers and sisters, including those yet to become members.

Only when we stand united across all sectors of our union, and on every worksite across North America, will we be able to realize our full potential for ourselves, our union and the future of our families.

Fraternally and in Unity,

  
Joseph Sellers Jr.  
General President, SMART

Bus Department News

A message from your Bus Department leadership

Dear Brothers and Sisters,

The issues that we are facing are disheartening. And the two out front are assaults and pay. Bus operator assaults have increased nearly 40% over the last three years.

And, like with everything else, COVID has had an impact on this uptick in assaults to transit employees. So many assaults are the result of fare disputes, and while many transit agencies went to a cashless fare policy during the pandemic, it also created another hazard that operators had to deal with.

Operators were tasked with enforcing mask mandates carriers were imposing. By doing so, they faced both verbal and physical attacks. And then, to add insult to injury, some operators were terminated from their jobs, while trying to enforce these policies put in place by the carriers.

There are some states that aggressively pursue those who assault transit workers, but there



By Calvin Studivant

are too many that do not. Some do not even classify spitting or the pouring of hot coffee on an operator as an assault. In fact, unless the operator is hospitalized, then the incident is characterized as a simple misdemeanor.

Besides the new stressful task of enforcing the mask mandates, the pandemic also created bus operator shortages nationwide. Like on the freight rail side, operators who were furloughed during the peak of COVID-19 chose to get into other careers. Many others chose to simply not return to an industry that is very demanding, can be overwhelming and that takes a toll on family time.

To address the operator shortages, many agencies/companies started to increase starting

wages and implementing hiring bonuses. Ultimately they thought that throwing money at people who had not yet filled out an application was more important than rewarding those who were already on the job, those who had already reported for duty and carried out their assignments for years.

All the agencies/companies will tell you how valuable their employees are until it’s time to reward that value. Instead of hiring bonuses, carriers should pay more attention to retaining the quality, already-qualified operators that they have.

In closing I would like to wish you all continued good health and safety.

In solidarity,  
Calvin Studivant  
VP Bus Department  
SMART-TD  
216-630-0963

New FRA rule on fatigue management takes effect in July

The Federal Railroad Administration in June announced a new rule applicable to freight, passenger and commuter railroads regarding the management of worker fatigue.

The rule has been a long time coming, initially required by the 2008 Rail Safety Improvement Act, and takes effect July 13.

“Under the regulation,” FRA said, “Class I freight railroads, Amtrak and commuter railroads must develop and implement a Fatigue Risk Management Program (FRMP) as part of their larger system safety and risk reduction programs. Before submitting a FRMP plan to FRA for approval, each railroad is required to consult with affected employees to identify fatigue hazards, as well as specific actions to be taken to mitigate or eliminate those risks.”


Greg Regan, president of the Transportation Trades Department, AFL-CIO, of which SMART Transportation Division is a member, said TTD’s 37 unions welcome the rule “to address scheduling, drug and alcohol testing, and hours of service concerns. This rule provides a solid framework for continued engagement between labor unions and the FRA to ensure that employers are providing working conditions that keep workers and the public safe.”




Submit your photos for the 2023 Alumni Association calendar!

For a chance to have your photo featured in the 2023 Alumni Association calendar, submit your high-resolution, horizontal photos to [news\\_td@smart-union.org](mailto:news_td@smart-union.org) by no later than **September 19, 2022**. If your photo is chosen, you will receive five copies of the calendar. Please include your name, SMART local number, when and where the photo was taken and any other pertinent info. All photos should be taken at a clear point of safety to be considered. All submitted photos become the property of SMART.

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## TRANSPORTATION DIVISION PRESIDENT'S COLUMN

# We are speaking truth to those who will listen

Dear Brothers and Sisters,

On April 26th I testified on behalf of SMART Transportation Division before the Surface Transportation Board (STB) to shed light on the devastating effects Precision Scheduled Railroading (PSR) has had on rail labor and rail customers. Joining me in testifying on behalf of your union were General Chairperson **Matt Burkart** (GCA-341 – BNSF), Local Chairperson **Steve Groat** (Local 329 – Boone, Iowa) and Local Chairperson **Chris Bond** (Local 513 – Gainesville, Texas). These men did an outstanding job in describing to the STB just how egregious the effects of the Class I railroads' PSR scheme have been on rail customers and employees.

At the hearing, I testified that the Class I carriers are a main contributor to the supply-chain issues plaguing the country. From the appalling attendance policies to the carriers' refusal to recall furloughed employees, to their glacial pace of bringing locomotives and equipment out of storage to meet the demands of their customers, the railroads have hamstrung themselves into a service and workforce nightmare that has contributed to inflation and hurt our nation's economy.

The carriers say that longer trains will fix the problem. However, longer trains ARE part of the problem. When a train is so long that it does not fit in a siding and causes congestion in an area, blocking public crossings for hours on end, then that is a problem. When a train is too long and will not fit into yards without multiple moves, that is a problem. When a train has an issue en route and the conductor and engineer cannot communicate via radio because they are not designed to function at these extended lengths, then THAT IS A PROBLEM. Not only that, but it's a problem that is easily fixed by one of these three options – 1. The carriers operate trains that properly fit in the pre-existing track structure; 2. They build longer sidings and yard tracks; or 3. The government creates and enforces regulations that makes it illegal to run trains that do not fit current rail infrastructure, generate enormous delays and safety issues for the general public by blocking crossings and that do not exceed the



**By Jeremy Ferguson**

operating limits of safety equipment, including hand-held radios, end-of-train devices and braking systems to name but a few. These common-sense solutions we put forth at the STB could help relieve congestion and enable goods to get from Point A to Point B much quicker. With the current bottlenecks that carriers have caused, goods are held up for days or longer while the delays wreak havoc on businesses and the economy. More than 20 shippers and affiliated groups echoed our testimony to the board, bringing more evidence that PSR is terrible for our nation.

What's more, at a time when the vast majority of U.S. employers are providing incentives and changes to retain and recruit employees, the rail carriers institute backwards attendance policies that have made life so unbearable for our members that they are leaving in droves. What was once the gold-standard of middle-class jobs can no longer compete with places that pay less, but the quality of life is improved. It used to be unheard of for a vested railroader to leave the industry mid-career. Now it is starting to become the norm. New hires? They see what is going on and leave, sometimes before they even finish training as they figure out quickly that the rail carriers simply do not care about providing any type of quality of life to its employees. All because of the draconian policies put in place as a result of PSR and railroads' efforts to do more with less.

I told the STB that PSR is about corporate greed and lining shareholders' pockets. I testified with other members of labor and customers about the harm PSR has done to employees, businesses and the country as a whole. Chairman Martin Oberman, STB Member Robert Primus and the rest of the board heard us loud and clear, and I'm confident they will stay vigilant and do all they can to mitigate the enormous damage done by the carriers and their profit first, employees and customers last mindset.

After the hearing, the STB



*Attendees of the Los Angeles County Metropolitan Transit Authority Regional Training Seminar participate in the three-day session, which was capped by a Q&A with President Ferguson and SMART GST Joseph Powell.*

took a small but positive step May 6th and ordered BNSF, CSX, NS and UP to develop service recovery plans as a result of the severe deterioration caused by PSR. On June 13th, the STB issued another order directing the carriers to correct what the STB says was deficiencies in the submitted plans. It's a start. But sadly, there are no easy fixes to what the carriers have done. We are cautiously optimistic of what the future holds and applaud the efforts of the STB.

I took my testimony a step further and complained directly to Congress during the freight railroad safety hearing held June 14 by the House Subcommittee on Railroad, Pipelines and Hazardous Materials. At the hearing, I let the representatives know what was really going on, and I further reiterated that PSR is the main culprit behind the safety issues we're seeing on the railroad today. I showed them the numbers — the loss of life and career-ending on-duty injuries — that have increased since PSR has been implemented. I told them that we are past sounding the alarm. We have moved on and are screaming for help, and it is time for them to step up and do their jobs and rein in the railroads so that our brothers and sisters can make it home safely. Our lives depend on a safe workplace, and not one that has profits placed before it. I just hope and pray they heard me and the others from labor testifying with me before things get any worse.

Here's some good news: Finally, after 14 years, the Federal Railroad Administration (FRA) is putting into action a provision from the

Rail Safety Improvement Act of 2008 requiring that the railroads implement "Fatigue Risk Management Programs." We have been telling anyone who'd listen for years that this key part of the law needed to be implemented, and the FRA under the Biden administration has finally heard us. The FRA posted a Final Rule June 13th to be effective July 13th, requiring railroads to develop and implement fatigue risk management programs approved by the FRA. This mandate also requires that the carriers MUST consult with and reach an agreement with affected unions on the contents of their plans. This gives us a direct seat at the table, and I can assure you that we will use this process to address safety issues including changes that must be made to attendance policies that push workers beyond exhaustion, destroy work-life balance and do not stop the epidemic of worker fatigue.

As for contract negotiations, we have been in National Mediation Board (NMB)-mandated sessions for three weeks now with the carriers. After each session with the carriers making one insulting offer after another, the Coordinated Bargaining Coalition and the Brotherhood of Maintenance of Way/SMART Mechanical Coalition pleaded with the NMB for a proffer of arbitration to move things along. Finally, on June 15th, the NMB acquiesced and put forth a proffer. As going to arbitration means a binding contract would be put forth by an outside party, with no guarantee of an agreement that our members will find palatable, the United Rail Unions have turned down the

proffer of arbitration and are in a 30-day cooling off period at this writing. During this period, it is expected that President Biden will appoint a Presidential Emergency Board (PEB) to help settle the contract dispute. To learn more about the process set forth in the Railway Labor Act, I encourage affected rail members to visit our website.

We held our first bus-focused Regional Training Seminar (RTS) April 25-28 with LACMTA Locals 1563, 1564, 1565, 1607 and 1608 at the SMART Local 105 (sheet metal) hall in Glendora, Calif. The first three days consisted of local officer training that was similar but more robust than what has been previously provided at regional meetings. On the 28th, we held a town hall with a mock local meeting demonstration followed by a Q&A session in the afternoon where I, General Secretary-Treasurer **Joe Powell**, Bus Vice President **Alvy Hughes** and California State Legislative Director **Louis Costa** were on hand to answer any questions put forth by the members. I especially would like to thank Sheet Metal Local 105 for its hospitality, Local 1563 Treasurer **Pete Lara** for his assistance in making this event a success, Local 1563 Secretary **Sandra Pineda** for her assistance in donating leftover food to the local homeless shelter, and all who attended this meeting. I look forward to coming back.

If you feel that your local could benefit from a Regional Training Seminar, please contact your state legislative director or general chairperson and see the article on the following page about our new education efforts.

I want to take this opportunity to also remind members to sign up for an account on our new Member Portal. There you will find important updates on any upcoming meetings and the very latest about the national rail contract negotiations.

Stay safe everyone, God bless, and have a great summer!

Faternally,

**Jeremy R. Ferguson**  
President,  
Transportation Division



# Q&A about changing the face of education at SMART-TD

President **Jeremy Ferguson**'s Chief of Staff **Jerry Gibson** took some time to answer questions about the August SMART Leadership Summit and the new, more nimble Regional Training Seminar (RTS) model.

## Q. What's happened to the Regional Meeting?

President Ferguson has been looking forward to hosting an annual regional meeting since the start of his administration in October 2019. Being that it was to be held in our home office base in Cleveland, it simply added to that excitement. Unfortunately, as we are all well aware, the early stages of COVID took away our initial opportunity in 2020. Last year, a meeting was planned to be concurrent with the SMART Business Agents meeting in New York City, but once again, the pandemic had other plans with COVID variants making it unsafe.

## Q. What's going on with the San Francisco meeting that was announced?

The meeting locations are selected years in advance, so we knew when and where it would be held, but other issues presented themselves, so we had to delay providing in-depth information. We knew we had to make some changes, but it took some time to work this all out. The long two-year interval allowed us the opportunity to pause, review everything that we have done in the past, and determine what changes were needed for the future. We had some challenges presented to us that were pandemic-related, but we also knew that there were some long-standing concerns that had, frankly, been growing for years. We have already reduced the number of "Regional Meetings" from three to two and down to one due to reduced attendance. The question raised was, are they really "regional" then? The conclusion was that the old training and meeting model where local officers were expected to attend one big meeting in one place once a year had run its course.

So, after reviewing all of the hurdles, positives and negatives, we knew what we needed to do, so President Ferguson presented the idea to the TD Board of Directors,



*President Jeremy Ferguson had to appear remotely before attendees at the San Antonio Regional Training Seminar because he was in mandatory in-person mediation concerning the National Freight Agreement per the National Mediation Board as the meeting took place.*

whose members voted unanimously to make the change.

## Q. What were some concerns?

Well, we knew that the COVID-related safety requirements that the City of San Francisco placed on us would create an issue. We understand that some of our officers and members have elected not to be vaccinated, and you had to provide proof that you were vaccinated and boosted to enter the facility. No exceptions. Add that to the trend of reduced attendance, it made it very difficult to sign contracts for room, food and beverage guarantees. If we think 600 people are going to attend, and only 400 actually do, we still pay for 600. We need to be very aware of how every last dollar of our members' dues money is being spent, and the financial pressures that the organization has been experiencing at all levels — local, state and national, are significant. It takes a considerable investment in time, expense, and personnel to put one of these together. In addition, we heard loud and clear the long-standing concerns from many of our locals that these meetings have become a huge financial burden. No one disagrees that the training is wanted and in demand, it is simply a matter of "Can our local afford it?" It has become a paradox. We can't afford to go, but we cannot afford not to either.

## Q. Is the San Francisco meeting the same as the old regional meeting?

It's not. In short, the old format is being replaced with two separate, but needed, training and meeting structures. Starting in 2022 and into the foreseeable future, a single annual meeting will be reserved for general committee and state board executive officers. It will allow our SLB and GC officers to convene, attend training and presentations developed specifically for them, as well as provide a venue to discuss their complex issues in depth. It ensures we are all on the same page, provides an opportunity to freely exchange solutions, and discuss what we need to tighten up. That's never been done before and is long overdue. It will also be a joint meeting with their Sheet Metal counterparts. One of the intentions behind the SMART merger was to share costs and better allocate resources. This accomplishes that goal while allowing us to share our experiences and knowledge with each other.

## Q. You mentioned two structures. What's the other?

President Ferguson is adamant that training is the backbone that supports our organization and ensures its success. We have put a lot of resources toward it while taking into consideration the suggested changes and concerns that have been expressed since he has taken office. This includes the aforementioned financial stress it places on a local. We knew that there is a great and constant need for training our local officers, so

we created a true "regional" meeting format that should reduce both the travel time and expense of sending an officer to these training events. The end result was the implementation of Regional Training Seminars.

## Q. What's a Regional Training Seminar (RTS)?

In 2021, there were four Regional Training Seminars held, each unique with a true "regional" feel to them. Some were two-day events, and others were three. All were within a reasonable driving distance of a number of locals and offered training for all local officers: presidents, trustees, secretary/treasurers, legislative representatives and local chairpersons. Note that I said "driving distance" as this is by design and saves considerable time and money for the locals instead of flying officers across the country to a single annual meeting. These seminars took place in Columbus, Ohio; Nashville, Tenn.; Duluth, Minn.; and Michigan City, Ind., The International, at the behest of President Ferguson, provided the presenters and some financial assistance with the state directors and general chairmen of jurisdiction chipping in and handling the arrangements. All of these meetings were very successful and allowed us to develop a meeting agenda for future use. The only complaint received from the attendees was that they wish they had more training time. So we've adjusted the format this year to allow extra time.

## Q. How does the RTS

## model differ?

As mentioned previously, the RTS is focused on local officer training, but more than that, we can be flexible and more specifically target particular concerns by craft, carrier and geographic locations. We're able to focus on an issue important to a region and can adjust the length and types of training to be more in tune with what people in that location want. Something that's happening in Chicago might not be a concern for someone in Laramie, Wyo. The same goes for areas where we have more bus, passenger and transit members. Their concerns are not the same as the places where the vast majority of our members work on freight railroads. Those concerns can differ and will be addressed, while still maintaining our core local officer training provided by experts in each field. Simply put, the RTS model provides cost savings to all, while allowing for more intimate and specific training for all local officers. President Ferguson has attended every one of these (even virtually) and plans to continue to do so. It gives everyone accessibility and a chance to make a personal connection and clear up any misconceptions or misinformation straight from the source. President Ferguson enjoys the personal interaction with the local officers and typically closes out the meetings with a "nothing off the table" Q&A session. Another huge advantage is that these RTS's can be scheduled year-round, so if you cannot make one, there likely will be another.

## Q. Is an RTS "less" than the old meeting?

Well, I think we covered this, but in short, only in travel time and cost. The complaints about the prohibitive financial investment and time going to the single "big" meeting have become louder and it was time to react. With the new format, we come to you. Ideally, we want on average 20 to 30 officers attending each class (president, LR, S&T, LC), so I guess the participants will be less, but that allows for more intimate training, so that should not be viewed as a negative. It is a true collaborative effort with the international, state boards, and GC

*Continued on Page 7*



State Watch

News from SMART-TD State Legislative Boards

# 2PC bill makes it to N.Y. governor

The two-person crew bills introduced in New York state, Assembly Bill 1287B and Senate Bill 3953B, have passed both chambers of the state Legislature as of Tuesday, May 31. Both bills have been combined into Senate Bill 3953 and were on the

desk of Gov. Kathy Hochul (D) for signing. If the bill becomes law, it would make New York the 11th state with two-person crew legislation on the books. It would be the first state since Illinois in 2019 to have successfully

shepherded such rail safety legislation through. “This is a big accomplishment, and a lot of effort went into this by a lot of members and others, which I want to offer my deepest thanks,” N.Y. State Legislative Director **Sam Nasca** said.

## Kansas

In late April, members joined Kansas legislators and Gov. Laura Kelly at the state capitol in Topeka, where Gov. Kelly officially proclaimed April 28th “A Day of Honor and Remembrance for Railroad Workers” in the state. Along with witnessing Kelly sign the proclamation, Legislative Representative **Mike Scheerer** of Local 94 (Kansas City), **Troy Fansher** of Local 1503 (Marysville), **Nick Davis** of Local 527 (Coffeyville), Kansas State Legislative Director **Ty Dragoo**, Alt. SLD **Chad Henton** and **Kyle Brooks** of Local 1503 joined the



From left: Sen Carolyn McGinn (R); Legislative Rep Mike Scheerer (Local 94); Troy Fansher (Local 1503); Gov. Kelly (seated); Nick Davis (Local 527); SLD Ty Dragoo; ASLD Chad Henton and Kyle Brooks (Local 1503).

governor to discuss the vital role railroaders play in the state and in the nation at-large – as well as honor, recognize and remember the ultimate sacrifice some railroaders have made. “Today reflects our ongoing

relationship with Kansas’ government and the recognition that rail labor is vital to the state, and that we are appreciated,” Dragoo said. “It is a proud day for Kansas’ SMART Legislative Board.” Dragoo also noted that Gov. Kelly has been a steadfast champion of TD members and all of rail labor throughout her time in state government. “She has proposed the two-person crew regulation and has been a steadfast wall of support when legislation is directed to harm our jobs,” he explained.

## Louisiana

State Legislative Director **Chris Christianson** received an important assignment in June from Gov. John Bel Edwards with an appointment to the Southern Rail Commission. Christianson is secretary and treasurer as well as the legislative representative of Local 1545 (Monroe, La.) and joins a group of governors, elected officials and citizens from Louisiana, Mississippi and Alabama on the commission.



Christianson

The commission is tasked with meeting on a quarterly basis to study the feasibility of providing interstate rapid rail transit service for that three state region. Congratulations to SLD Christianson on this important duty to chart out the future of passenger rail in the deep South.

## Q&A with Chief of Staff Jerry Gibson on the changing educational offerings available to TD membership

Continued from Page 6

offices all sharing in the costs — it is less of a financial burden for all involved, but more so for the locals than anyone. We encourage people, even those that have attended the old-school regional meetings in the past, to attend one of the RTS’s. Instead of a shotgun approach, we are narrowing the focus and with more in-depth, specific training of all local officers, bus, freight, passenger, rail and transit. These are opportunities not to be missed and are not short of anything previously offered.

### Q. What if a local officer wants to attend a Regional Training Seminar?

We encourage locals and their officers to reach out to their general committee and state board offices of jurisdiction. They can also reach out to the President’s Department in our office. Last year, it was the GCs and SLDs reaching out to us once the word got out. Going forward, I think the best way to determine where and when to schedule one will be based

on how many locals in a geographic location communicate they want to participate or host. Once host locations are identified and chosen, information will be shared on our website and social-media platforms about how to attend. I can share that this process is already well on its way with several scheduled or in the works. There were recent ones at LACMTA in Los Angeles and one for freight rail in San Antonio, Texas.

### Q. If an officer can’t make it to a seminar, are there online educational offerings?

Absolutely. As I stated, President Ferguson wants training made available to members and officers alike. Understanding that we work varying schedules and learn in different ways, he asked that it be in different formats, times, and places, and it started with the overhaul of our SMART website and the addition of our new Member Portal. This portal allows us to protect member-only information, including training videos and supporting documents, for the very first time. We have developed SMART



### TD — SMART University: Membership 101

Benefits of Membership | Local Meeting Basics  
Local Officer Duties | Tips to Survive a Hearing/Investigation | Penalty Claims  
Safety Reporting | RR: Critical Incident Guide

By logging into the Member Portal of the new SMART website, TD members can access the SMART University series of videos 24 hours a day, seven days a week.

University, an online video training module that was launched for these very reasons. SMART U. offers 24/7/365 training options for our members and officers. We have recruited subject experts who have completed an extensive amount of work. Many of the topics covered at the meetings are available online, and it is our plan to continue to add to it as suggestions are made and topics become known. I think each and every member and officer will find something of value at SMART U.

In fact, May 24 marked the rollout of the Membership 101 portion of SMART Uni-

versity in the Member Portal for new SMART Transportation Division members to get acquainted with their union.

The first flight of releases includes video primers on local meetings, the roles of local officers, how to approach a carrier investigatory hearing and other important topics.

At this time, access to these videos is exclusively as a resource available in the Member Portal of the revamped SMART website. Instructions on how TD members can create an account to access the Member Portal are available on the website. Officers at the local, state



Follow the QR code above with your smart device to create your Member Portal account.

and GC levels also are not being left out. There is a full slate of SMART U. training videos available to them that was launched in mid-June. There’s a link from the Member Portal that’s visible from the Membership 101 resource that they can follow or they should have been emailed instructions on how to access the officer portion of SMART U. If not, contact us here at the TD office and we will get you started. Suggestions for future videos can be emailed to the TD President’s Department at president\_TD@smart-union.org. We’re excited about these changes and hope that they prove to be useful while providing a stronger foundation for our union.



# Around the SMART-TD

## GO 386 defeats attempted BNSF pool consolidation

An arbitrator’s recent decision in Public Law Board 7986 case brought by the SMART Transportation Division against BNSF resulted in a victory over the carrier. (See Page 3 for details).

General Chairperson **Larry Miller** (GO 386) initiated Section 3 arbitration with the assistance of SMART-TD Vice Presidents **John Whitaker** and **Jamie Modesitt**. **Tim Flynn**, 1st vice chairperson of GCA-386 also was heavily involved in the case.

“GC Miller and the rest of GO 386, as well as Vice Presidents Whitaker and Modesitt, should hold their heads high and be proud of this win,” SMART Transportation Division President **Jeremy Ferguson** said. “We need to remain focused, persistent and maintain our determination that we all will hold carriers accountable while battling as a unit against their unjust impositions such as these. This is a huge success for SMART-TD once again and shows we are defending the agreements and protecting members rights to a fair and reasonable interpretation of agreements, especially as we start down the same path of arbitration for the Hi-Viz attendance policy.”

Members of SMART-TD Local 832 (Superior, Wis.) and 1175 (Duluth, Minn.), through their respective state legislative boards, issued a letter expressing gratitude to those who successfully argued the case:

“We would like to take a moment to thank General Chairperson Larry Miller and 1st Vice Chairperson of GCA-386 Tim Flynn for their unwavering hard work, which resulted in a favorable ruling for our members regarding the contested Article IX that was imposed upon us in Superior, Wis.

“Our local membership as a collective felt we were being unfairly disenfranchised from longstanding agreements put in place to create equitable outcomes for all parties tasked with supporting the multiple customers who depend on our ability to service their needs year-round, 24/7. Whether it’s spring flooding events or 45 degrees below zero, the agreement stated all parties would work together to create a reliable pact that our customers and community could count on.

“Somewhere along the way, that alliance was broken, and with it our resolve. A feeling of isolation, dismay and resentment fell over the membership, yet we carried on for multiple years. So did Larry, Tim and others to make our voices heard. It would be easy to dwell on the negative impacts and feelings of animosity that soon arose after and during this time. Looking forward, hopefully with collaboration this ruling creates an opportunity to once again bring everyone into the fold and create an environment of inclusivity instead of isolation.

“To Larry, Tim and everyone behind the scenes we haven’t named, we want to thank you for never losing sight of what this favorable outcome would mean for the working environment and overall mental well-being of the Superior, Wis., terminal and their families. Once again THANK YOU!

“We are proud to have you in our corner and grateful for your representation throughout this time.”

### L-1892, HOUSTON, TEXAS



From left, Local Chairperson Jim Boehm, Vice Local Chairperson Ruben Sanchez, Vice President Jenkins Gbawar, Legislative Representative Butch Boggess and Secretary & Treasurer Robert Maldonado take a photo in front of the Alamo in a break from the Regional Training Seminar held June 8 to 10 in San Antonio. “We made new friends from other locals in Texas along the way. We represented our local well with active participants. Hats off to the general chairpersons, state legislative directors, DLCs and many others for putting on this event!” Maldonado said.

### L-171, AURORA, ILL.

**Matt Hanson**, vice president and alternate legislative representative of the local, is throwing his hat into the political arena again, running for state representative for the newly drawn 83rd Illinois House District.

Running as a Democrat, he faced a primary challenge on June 28 and won the nomination for the district.



Hanson

Brother Hanson, who works as a BNSF engineer, served one term on the Kane County Board and has been very politically active and has helped local and federal candidates during election cycles gather petition signatures, fundraise and assist voter registration efforts over many years.

Illinois State Legislative

Director **Bob Guy** said that Hanson has received support from his legislative board through TD PAC and he also has been backed by our Sheet Metal brothers and sisters in the state.

He has received endorsements from the state AFL-CIO and the Teamsters Local 916.

SMART-TD congratulates Brother Hanson on winning the primary and wishes him good luck to in November!

### L-311, LA CROSSE, WIS.

The local’s longtime legislative representative pulled the pin, retiring on March 31.

Brother **Rick Hauser** served some 20 years in the U.S. Navy and followed that with 20 years at the BNSF in La Crosse.

State Legislative Director **Andy Hauck** had fond memories of lobbying with Brother Hauser in the Capitol in Madison.

“He and I, we would go in there and try to do the whole ‘good cop, bad cop’ thing, but we couldn’t,” Hauck recalled with a laugh. “There was no good cop!”

Hauser was a frequent presenter at regional meetings and he gave his all to the membership, Hauck said.

“His persistence and dedication will be sorely



The retiring Rick Hauser, right, receives his “major” retirement award from Wisconsin State Legislative Director Andy Hauck during a meeting in March.

missed by the SMART-TD,” Hauck said. “We’re thankful for all the Ricks out there that make this union great. Please keep up the good work!”

We wish Brother Hauser a long, happy and healthy retirement.

### L-1589, NEW BRUNSWICK, N.J.

The local lost a leader with the passing of General Chairperson **Ronnie Alan Harmon** (GCA-FTB) in February at age 65.

Brother Harmon joined our union in 2014 upon becoming a motor coach operator for First Transit and became general chairperson in December 2018.

Brother Harmon was a gifted singer and founder of the gospel group



Harmon

“Armed and Dangerous” where he was a dynamic first tenor.

His faith was very important to him and he was a member of Mount Olive Baptist Church in Plainfield, N.J.

He is survived by his wife of 41 years, Joan Yvonne Beverly, and many other relatives, as well as his union brothers and sisters.

SMART-TD mourns the loss of this dedicated union leader.



GUEST COLUMN

# Former BNSF employee shares his resignation letter

By Chad A. Nováček  
SMART-TD Local 113

It is with a heavy heart and grave concern for our nation and fellow union members that I pen the following admonition deeply rooted in BNSF's recent "Hi-Viz" attendance policy misadventure.

Unleashed without the consent of labor on February 1, 2022, "Hi-Viz" was ostensibly created to effectuate more predictable line-ups (proven a colossal failure) and allow train crews to know their precise standing vis-à-vis their attendance allotment (data previously available when management was forthcoming), all in the name of remaining "competitive" in the industry.

Prior to Hi-Viz, train crews were expected to be available for their unpredictable, on-call 24/7 schedule 75% of the time, which compared with the general U.S. population (and BNSF attendance expectations before 2002), was highly restrictive and produced its own set of work-life balance challenges.

Hi-Viz now demands roughly 95% availability and is implemented with a point system that many describe as "draconian," allowing crews approximately one to two days off per month to coordinate life's pressing responsibilities and maintain a modicum of homelife stability (no doubt adversely impacting child development within the home). God forbid your daughter's big tournament or son's communion falls on a day that strips away a large

tranche of your meagerly allotted points. Oh, and don't get sick (especially under BNSF's rarely enforced COVID protections). And therein lies the rub.

## Hi-Viz: The systemic toll

In the wake of Hi-Viz, we have suffered unprecedented systemwide staffing losses (resignations/terminations) as a direct result. Grim estimates reflect that between 1,200-1,600 workers were lost within the first four months of implementation, sending shock waves throughout local communities and the economy at large.

Staffing shortages continue to worsen as Hi-Viz continues its carnage, with no end in sight. In effect, our already strained national supply chain infrastructure is being bled dry of essential crews by a coterie of short-sighted CEOs. One could argue this phenomenon is akin to a "parasite bleeding its host to death."

## Hi-Viz: The human toll

Overwhelming anecdotal evidence suggests this Hi-Viz policy, promulgated from a perch of comfort, has produced a noticeable uptick in traumatic "trickle down toxicity," adversely impacting the quality of life of real people with real families (and by extension the communities they live in). I have personally worked with rails suffering chronic depression, perpetual fatigue/burnout and even suicidal ideations as a direct result of our work environment

and how we are (mis)treated.

To be sure, we hire onto the railroad accepting and committing to the challenges of an unpredictable and unconventional work environment. "Old heads" however, remember when labor was treated markedly better. A common refrain among rails is that the quality of our work environment has progressively deteriorated since the merger of Santa Fe and Burlington Northern in the mid-90s.

## The moral dilemma of Hi-Viz

This new Hi-Viz attendance policy has nonetheless deviated from that "frog in the slowly boiling pot" approach and unabashedly ratcheted up our collective pain to the next level immediately. One can only surmise that Hi-Viz's gruesome outcomes were intentional, which begs the question, what kind of people would craft, institute and enforce such a heartless attendance policy? Do the architects of Hi-Viz actually think one or two days of reprieve per month is sufficient to maintain a dignified quality of life? Do they care? There appears to be a disconnect, an "empathy gap."

Perhaps it's more psychologically palatable for management to roll out a policy inhospitable for humans if they regarded those of us in the blue-collar class as something other than human. Should we be surprised? After all, in economics courses, we see that labor is described in sterilized abstraction as a "factor of production" along

with capital.

What's more, this notion is corroborated by the searing class bias seemingly reflected in BNSF's reluctance to subject its white-collar exempt employees to the same level of sociopathically-driven codified sadism.

We are basically subjected to a highly destructive, albeit far less fatal strain of what Hannah Arendt coined, the "banality of evil," as evinced by ordinary corporate functionaries enthusiastically defending and enforcing this palpably barbarous attendance policy.

Hi-Viz thus provides a perfect case study into a reckless and compassion-starved corporate "slash and burn" purging of employees and belies any pretenses of building efficient, predictable line-ups and a harmonious workflow.

Had genuine empathy prevailed at the top of the BNSF C-suite pyramid, Hi-Viz would never have been birthed. Perhaps those with allegiance to moral integrity over ambitious Machiavellian loyalty have long ago been filtered out and denied ascension to positions of meaningful influence within the company.

I get it. BNSF's mandate within this quasi-competitive market is to maximize profits, quench the insatiable appetite of its shareholders and maintain a status quo brimming with cushy perks and lavish bonuses for its white-collar class. And, as within all unbri-dled corporate capitalist milieux, "surplus value" will continue to be misallocated to

the detriment of the value-creating workers. These prevailing realities however do not give license to jettison humanity and ethics. Allegiance to virtue and compassion for your fellow human is a choice.

Pernicious policies like Hi-Viz will persist so long as a power imbalance favoring the carrier prevails. Helping to preserve this power imbalance are the mind-boggling legal impediments to exercise what should be an inalienable right to strike.

By now, it must be painfully obvious I can no longer countenance the unbearable existence Hi-Viz has wrought. Accordingly, I shall not seek, and I will not accept, the continuation of this abusive relationship for another half as your conductor. I hereby resign my position effective immediately.

A final note: As we amble down the path to what will surely be a full-blown war in Europe, hemorrhaging essential train crews at a brisk clip through the genius of Hi-Viz, it would behoove BNSF brass to now consider cultivating a more compassionate work environment conducive to attracting and retaining dedicated professionals to move our nation's freight. Unless, of course, this risky gambit to segue into profit maximizing automation at the expense of national security comports to BNSF Railway's preferred business model.

*Brother Nováček, a second-generation railroader, joined the union in February 2021 and tendered this resignation notice to BNSF in June 2022.*

GUEST COLUMN

# Want a stronger union? All you need to do is take part

By Tom Dillon  
SMART-TD Local 278 Legislative Representative

"What does our union do for us?"

It's a statement that I've heard all too often the past few years. Sit back and think about that for a minute if you would. Without a union, we would be far worse off than what we are today. By simple definition, a union takes all of us to make it work. To succeed, we must participate in a system that is put in place to improve working conditions, pay and provide safer environments for everybody involved.

One of the most underrated locally elected positions is the legislative representative posi-

tion within your locals. Actually it's as important to your local as a local chairperson is. In many SMART locals across our country, the LR position is not utilized nearly enough. One of the most-important things handled by a local's LR are the many safety issues within your territory. There are plenty of tools and resources readily available within the SMART organization to help mitigate safety concerns. Yet many members don't know how or where to start, it seems.

Last year, for example, on our territory aside from COVID issues, we were faced with unrealistic demands, poor management, lack of maintenance and manpower



all created by the carrier. Complaints regarding safety concerns about walking conditions, poor lighting, close clearance issues from debris, emergency exit signs, doors not securing, running water in crew room, leaking roofs and many more were emailed by SMART Local 1438 Legislative Representative **Walt Grein** and myself to the carrier several times that fell on deaf ears.

Not wavering, our next step was reach out to Michigan State Legislative Director **Don**

**Roach** for help. Brother Roach sent a letter to the carrier informing it of the need to address the safety concerns along with the poor working conditions. He then informed the Michigan DOT of the need for an on-site inspection. The result was a dozen other violations discovered and 90 days to remedy every violation or the carrier would face fines for each one not resolved. I'm pleased to say with the help of Brother Roach, we achieved our goal

within three months of MDOT's follow-up inspection.

Union participation on every level is what made this happen. Members reported issues, attended meetings and heard local elected officers say month after month to report safety issues to the local officers to handle. Had we not had a couple of good locals working together and a solid Michigan State Legislative Board, none of this would have occurred.

So what does our union do for us? The real question is what can you do for your union? Participation is the key.

*Brother Dillon has been legislative representative of Local 278 (Jackson, Mich.) since March 2020.*



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# Alumni leader assists on mission trips

**By Ken Menges**  
*Retired SMART-TD Mo. State Legislative Director*

Life has taken us many places and allowed us to make friends worldwide. Our union has provided our family with a good life and a great retirement.

My wife Carol and I have been blessed with three wonderful children (none have moved back home!) and 12 grandchildren. We have always lived by the adage, “shoot for the stars — you may get lucky and land on the moon!”

We have been blessed to have traveled to all 50 states and have made several trips overseas since retirement. None of this

would have been possible had it not been for our union providing us a good wage and good benefits, which allowed us to save for these adventures.

Last year I got to fulfill a life’s dream — a medical mission trip to Africa. I got a call from our son, Bryan, an ER doctor in Washington, Mo. He said, “Dad they need another male volunteer and a cook, so I volunteered you!”

And so began an eight-day mission trip to Africa with our son as the lead doctor with Mission: 318, a



medical mission organization that exists to transform forgotten communities and provide hope through sustainable healthcare.

When we landed at the airport in Ghana, we were in a modern urban area — after a two-hour drive, still in Ghana, we were in the middle of a poor Third World country run by tribal chiefs. Over the four days of clinics, the four doctors and nurses treated more than 1,500 men, women and children — almost every child had malaria.

We have no idea how blessed we are! As I helped move the patients through the clinics, they were so appreciative for the help they received — the



Dr. Bryan Menges, son of retired Missouri State Legislative Director Kenny Menges, provides aid to people in Ghana during a mission trip last year to the African country.

universal language of the smile is so powerful!

My cooking must have been OK, too — I have been asked to accompany the group again in October for

another medical mission trip.

Last year, with the help of our union brothers and

Continued on Page 11

## THE FINAL CALL

Following are the names of deceased members who were active TD members or maintained annual membership in the SMART-TD Alumni Association, according to reports received at the TD office. These brothers and sisters will be missed by their many friends and by fellow Alumni Association members.

Local	Name	City/State	Local	Name	City/State	Local	Name	City/State
Alumni Association Member Thomas M. Berry of Local 528 was mistakenly listed as having passed away in the Final Call that was published in the Spring 2022 TD News. His wife reports to us that he is indeed alive and well, and we sincerely apologize to Brother Berry, his family and friends for the error.			472	Lazor, John	Windsor, Ont.	1216	Boos, Stephen D.	Excelsior Springs, Md.
7	Hansen, Darrin L.	North Platte, Neb.	496	Welker, Paul J.	Dunbar, W.Va.	1252	Baldwin, Billy J.	Fresno, Calif.
7	O'Rourke, Stephen S.	North Platte, Neb.	577	Jackson, Colie E.	Chicago, Ill.	1290	Smith-Meachum, Sharlene	S. Holland, Ill.
48	Ross, Albert L.	Bath, N.C.	577	Shaver, Carl W.	Lombard, Ill.	1299	Wilkus, Thomas J.	Frankfort, Ill.
60	Domenici, Patsy	Smyrna, Del.	597	Jamison, Chrisean O.	Oak Park, Ill.	1345	Everage, Bobby D.	Jellico, Tenn.
60	Klesh, Daniel	Burlington, N.J.	610	Allgaier, Eugene A.	Linthicum Hts., Md.	1366	Kemp, Dennis L.	Herriman, Utah
84	Lugo, George G.	Perris, Calif.	610	Earley, Robert W.	Salamanca, N.Y.	1370	Grace, Douglas C.	Brooklyn, N.Y.
84	Stevenson, Kenneth B.	San Jacinto, Calif.	645	O'Connor, Shannon M.	Patchogue, N.Y.	1374	O'Brien, Erik D.	Alliance, Ohio
113	Vasquez, George P.	Winslow, Ariz.	645	Saccone, Christina	Port Washington, N.Y.	1379	Addis III, John W.	Connellsville, Pa.
118	Plumley, Tommy R.	Hinton, W.Va.	645	Santiago, Vincent	Holbrook, N.Y.	1383	Slagle, Ralph	Johnson City, Tenn.
202	Jones, Jeffrey	Northglenn, Colo.	645	Viola, Frank J.	Kings Park, N.Y.	1402	Osia, Dennis J.	Cahokia, Ill.
225	Brugnone, James J.	Bellevue, Ohio	656	Reynolds, Timothy E.	Pine Bluff, Ark.	1403	Hampton, Roger W.	Osawatomie, Kan.
225	McNally, James	Lakeside Marblehead, Ohio	722	Lauria, Robert	Holbrook, N.Y.	1422	Keck, Duane A.	Glendale, Calif.
226	Foster, William L.	Moberly, Mo.	771	Kinermmon, Daryl	Los Angeles, Calif.	1423	Duffy, Rusty	Dallas City, Ill.
233	Weiss, Patrick J.	Hot Springs, S.D.	792	Kromer, Stephen A.	Seven Hills, Ohio	1438	Howard, Walter Y.	Peru, Ind.
239	Ordonez, Joshua E.	Stockton, Calif.	807	Quintana, Leo	Buckeye, Ariz.	1458	Royer, Ira W.	DeQuincy, La.
243	Austin, Reginald A.	Crowley, Texas	811	Huth, Donald A.	Riverside, Calif.	1501	Brown, Shelly L.	Baton Rouge, La.
243	Schaeffer, Brian A.	Ft. Worth, Texas	818	Bowers, Brian Z.	Rockwall, Texas	1518	Liddle, Warren G.	Allendale, Ill.
305	Hauff Jr., Donald G.	Hastings, Neb.	830	Potter, Donald E.	Red Lion, Pa.	1518	Semon, James R.	Alexandria, Ind.
313	Branch, Gary W.	Rockford, Mich.	832	Thatcher, William F.	Superior, Wis.	1522	Johnson, Carl A.	Bruceton Mills, W.Va.
313	Hutchings, Bradley A.	Springfield, Mich.	835	Meythaler, Jeffery H.	Rosamond, Calif.	1524	McAdams, Weldon	Magnolia, Texas
313	Larson, John D.	Ludington, Mich.	838	Zaitoon, Ernest A.	Hendersonville, N.C.	1526	Johnson, David L.	Michigan City, Ind.
375	Stevens, Robert W.	Edgemont, S.D.	847	Hogan, Barry A.	Odenville, Ala.	1532	Egan, Edward M.	Olathe, Kan.
376	Jackson, Kent Joe	Williamsburg, Ky.	857	Booker, James W.	Columbus, Texas	1629	Chrisman, William H.	Casa Grande, Ariz.
446	Martinez, Lloyd	E. Cheyenne, Wyo.	903	Lee, James R.	Middleburg, Fla.	1709	Burhans, David A.	Waterford, Mich.
462	Whitener, Samuel M.	Pine Bluff, Ark.	915	Buckner Jr., Luther K.	Kenova, W. Va.	1823	Walsh, Michael J.	Columbia, Ill.
			931	Cochran, Charles J.	Roebuck, S.C.	1846	Mays, Harry J.	North Platte, Neb.
			945	Lovato, Frankie	La Junta, Colo.	1908	DeMola Jr., James D.	Buffalo, N.Y.
			1000	Roberts, James B.	Minneapolis, Minn.	1948	Giovengo, Joseph A.	Benwood, W.Va.
			1031	Dunbar, Dennis L.	Savannah, Ga.	1948	Reid Jr., James R.	Pittsburgh, Pa.
			1043	Flores, Michael T.	Sparks, Nev.	1975	Higgins, Robert L.	Guernsey, Wyo.
			1053	Stone, Roger A.	Grande Valley, Ala.	1978	Clay, Eugene O.	Mechanicsburg, Pa.
			1172	Morrison, Richard E.	Williamson, W.Va.			
			1202	Kinney, Martin L.	New Haven, Ind.			



IN MEMORIAM

Former Vice President Robert Earley passes away

Former Vice President **Robert “Bob” W. Earley**, who served our union’s membership for decades, died June 7, 2022, at Jones Memorial Hospital in Wellsville, N.Y., after a short illness.

Brother Earley, a member of Local 610 (Baltimore, Md.), began his railroad career in 1963 starting with the B&O Railroad and

became an active member of the United Transportation Union. He became secretary of GO 049 (B&O) in 1981. As he continued his advance in the union, he served as a general chairperson and was elected ninth vice president at the seventh quadrennial convention of the



Earley

United Transportation Union before his retirement in 1999.

During his railroad career, Brother Earley studied the history of railroad labor at Cornell University and furthered his education at the George Meany Center for Computer Studies and Labor Relations. Following his retire-

ment, he maintained a strong connection with his union by donating to its political action committee and as a member of the SMART-TD Alumni Association.

“He will be remembered for his work ethic, generosity and kindness. He loved life and was young at heart,” his family wrote in his obituary.

Brother Earley was married

to the former Ann Campbell, who survives. Also surviving are two daughters; a son; eight grandchildren; six great-grandchildren; a brother; and loving nieces and nephews.

The SMART Transportation Division offers its sincere condolences to Brother Earley’s family, friends and to those who knew him.

Retired Mo. SLD Foster passes away at age 80

**William “Larry” Foster**, a SMART Transportation Division Alumni Association member and retiree from Local 226 (Moberly, Mo.) who proudly served our union as Missouri’s state legislative director for the better part of two decades, passed away May 4 at his home. He was 80.



Foster

representative and executive board member until his retirement in 2008,” said current Missouri State Legislative Director Jason Hayden (Local 1405, St. Louis, Mo.). “His legacy and imprint on this board will never be forgotten, and he will be dearly missed.”

A U.S. Army veteran, having served from 1959-68, Brother Foster is survived by his wife of 53 years, Linda; two daughters; four grandchildren and six great-grandchildren.

SMART Transportation Division offers its condolences to Brother Foster’s family, friends and the union brothers and sisters in Missouri who mourn his passing.

Foster began as state legislative director in April 1992 and was re-elected to multiple terms leading the state legislative board until retiring in 2008. He also worked as a conductor for Norfolk Southern.

“Larry was the one early on in my railroad career that got me interested in our legislative department and helped guide me as a new legislative

Frankie Lovato of Local 945 dies in vehicle crash

**Frankie R. Lovato**, 33, of Rocky Ford, passed away on May 3 in Colorado Springs as a result of a vehicle accident.

A member of Local 945 in La Junta, Colo., he joined our union in June 2011 and worked as both a conductor and engineer for BNSF.

He is survived by his wife, son, parents and numerous other relatives.



Lovato

Leo Quintana of Local 807 passes from cancer

**Leo Quintana**, 48, a member of Local 807 (Tucson, Ariz.) lost his battle with cancer in November. A member of our union for eight years and a conductor for Union Pacific, he served honorably in the Marines and the Air Force.

“We will always cherish the amazing memories we all have made with him and we’re happy knowing that he is no longer in pain,” his family wrote in his obituary.



Quintana

Local 1374 member dies in two-vehicle crash returning from work

Local 1374 (New Castle, Pa.) conductor **Erik D. O’Brien**, 44, lost his life Saturday, May 21, 2022, when his car hit the back of a semi-truck on his way home from work.



O'Brien

A 23-year member of CSX Local 1374, Brother O’Brien was both a certified conductor and engineer.

“I only knew Erik from some phone calls over the years, and he seemed to be a great person,” said GO 049 General Chairperson **Rick Lee**. “He was a loyal member of UTU/SMART.”

Brother O’Brien is survived by his parents; wife, Catherine (Welton); son, Caiden; and brother; as well as several nieces, nephews, aunts, uncles, cousins and friends.

A fund has been set up for

Erik’s son, Caiden, and checks may be made out and sent to the funeral home with the name Caiden O’Brien in the memo. The funeral home handling the fund is Cassaday-Turkle-Christian Funeral Home, 75 S. Union Ave., Alliance, Ohio 44601. Memorial contributions may also be made to the NRA, 11250 Waples Mill Road, Fairfax, VA 22030 or to Gideons International, P.O. Box 97251, Washington, D.C. 20090.

SMART-TD offers our sincere condolences to Brother O’Brien’s family, Local 1374, his friends and all who knew him.

Brother Mike Flores of Local 1043 passes, won long fight with UP

**Michael “Mike” Flores**, a 23-year union member out of Local 1043 (Sparks, Nev.) passed away unexpectedly on April 24, 2022. He was 53.

Brother Flores was from Sparks, Nev., and hired out with Union Pacific on June 29, 1998. He regularly worked the various locals at the Sparks terminal. When the mass hiring of 2004 occurred, Brother Flores was one of the first people the new hires worked with and

a mentor for countless railroaders.

He was very understanding and patient in the education that he was providing and never afraid to express kindness.

Most recently the railroad had attempted to fire Brother Flores by holding him out of service beginning in Oct. 2018, then charging him for AWOL, even though the company was the one not letting him return to work.

After 3½ years of the union fighting with the railroad, the charge was overturned. Flores had begun the return-to-work process before his untimely passing.

He is survived by two daughters.

SMART-TD offers our sincere condolences to Brother Flores’ family, his brothers and sisters in Local 1043, his friends and all who knew him.

Brother Menges assists on trips

Continued from Page 10

sisters, we were able to purchase more medication than ever before.

I am again asking for your help as we work with those who are less fortunate than us. Last year we were able to purchase \$3,000 worth of medicine and supplies for our trip from the proceeds of this event — I would like to buy even more this year!

By donating or sponsoring the Sunset on Sunset run (there is a virtual run option) your donation will go directly to our mission trip in October. Each volunteer pays their own travel expenses, so the money raised from this event will be used to buy medicine and medical supplies that will be used on our mission trip.

Direct any questions or inquiries to me at kenmenges@gmail.com or call me at 573-418-2362 if you would like to help out.

Donations can be mailed to the address below or by credit card at Mission318.com/run:

Sunset on Sunset  
973 Cobblestone Dr  
Washington, MO 63090



Retired Missouri State Legislative Director Kenny Menges works with a Ghanan woman during a mission trip last year.

Ken Menges helps to oversee activities of the SMART-TD Alumni Association. Prior to his retirement in 2016, he was Missouri state legislative director for eight years and has been a proud member of our union since June 1973.



Featured photo showcase



An Alton & Southern train is reflected in the water at dawn in this picture submitted by **Rodney Nelson**, a member of Local 1929 (East St. Louis, Ill.). Brother Nelson is a 22-year member of the union. The Alton & Southern Railway is a switching railroad under the ownership of Union Pacific.

SMART-TD seeks images of work-related scenes, such as rail-road, 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 Country 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](mailto: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.

York Railway agreement ratified by membership

Vice President **David B. Wier Jr.** reports that Local 386 membership working on the York Railway, a Genesee & Wyoming line, ratified a new agreement March 9.

According to Vice President Wier, the new agreement provides for general wage increases (GWI) as follows: 12% GWI upon signing (for the calendar years of 2020, 2021 and 2022), 3% GWI on Jan. 1, 2023, 3% GWI on Jan. 1, 2024, 3% GWI on Jan. 1, 2025, and 3% GWI on Jan. 1, 2026.

In addition, the new agreement provided active employees with a signing bonus, locomotive engineers received an additional \$1 per hour, and employees called for brakemen positions will be paid at the conductor’s rate.

Wier remarked, “I want to congratulate and express my gratitude to General Chairperson **John Osciak** for his arduous efforts at the bargaining table to obtain this exceptional agreement on behalf of the membership.”

ENDORSED CANDIDATE ADVANCES



From left, Avery Edwards, Indiana State Legislative Director K.O. Edwards, retired Local 298 member Doug Fyfe and Fyfe’s son, Matt, pose for a photo this spring. Matt, a teacher, won the May 3 primary for Indiana’s Ninth District in the U.S. House and moves onto the November election with the endorsement of LO 17.

Class I rail carriers file their first-quarter earnings reports

<p><b>Net Earnings:</b> Increased 10% to \$1.4 billion from \$1.3 billion</p> <p><b>Earnings Per Share:</b> N/A – BNSF is not publicly traded</p> <p><b>Revenue:</b> Increased 10% to \$6.0 billion from \$5.4 billion</p> <p><b>Operating Income:</b> Increased 8% to \$2.04 billion from \$1.9 billion</p> <p><b>Operating Expenses:</b> Increased 12% to \$3.92 billion from \$3.51 billion</p> <p><b>Operating Ratio:</b> Worsened 0.9% to 64.6% from 63.7%</p> <p>...</p> <p><b>Net Earnings:</b> Decreased 7% to C\$918 million from C\$976 million</p> <p><b>Diluted Earnings Per Share:</b> Decreased 4% to \$1.31 per share from \$1.37 per share</p> <p><b>Revenue:</b> Increased 5% to C\$3.71 billion from C\$3.54 billion</p> <p><b>Operating Income:</b> Decreased 8% to C\$1.23 billion from C\$1.33 billion</p> <p><b>Operating Expenses:</b> Increased 12% to C\$2.5 billion from C\$2.21 billion</p> <p><b>Operating Ratio:</b> Worsened 4.4 points to 66.9% from 62.5%</p> <p>...</p> <p><b>Net Earnings:</b> Decreased 2% to C\$590 million from C\$602 million</p> <p><b>Diluted Earnings Per Share:</b> Decreased 30% to \$0.63 per share from \$0.90 per share</p> <p><b>Revenue:</b> Decreased 6% to C\$1.84 billion from C\$1.96 billion</p> <p><b>Operating Income:</b> Decreased 31% to C\$535</p>	  	<p>million from C\$780 million</p> <p><b>Operating Expenses:</b> Increased 11% to C\$1.3 billion from C\$1.2 billion</p> <p><b>Operating Ratio:</b> Worsened 1.07 basis points to 70.9% from 60.2%</p> <p>...</p> <p><b>Net Earnings:</b> Increased 22% to \$859 million from \$706 million</p> <p><b>Diluted Earnings Per Share:</b> Increased 26% to \$0.39 per share from \$0.31 per share</p> <p><b>Revenue:</b> Increased 21% to \$3.41 billion from \$2.81 billion</p> <p><b>Operating Income:</b> Increased 16% to \$1.28 billion from \$1.10 billion</p> <p><b>Operating Expenses:</b> Increased 24% to \$2.13 billion from \$1.71 billion</p> <p><b>Operating Ratio:</b> Worsened 150 basis points to 62.4% from 60.9%</p> <p>...</p> <p><b>Net Earnings:</b> Increased 23% to \$188.0 million from \$153.4 million</p> <p><b>Earnings Per Share:</b> N/A</p> <p><b>Revenue:</b> Increased 10% to \$778.2 million from \$706.0 million</p> <p><b>Operating Income:</b> Increased 15% to \$291.1 million from \$253.0 million</p> <p><b>Operating Expenses:</b> Increased 8% to \$487.1 million from \$453.0 million</p> <p><b>Operating Ratio:</b> Improved 1.6 points to 62.6% from 64.2%</p> <p>...</p> <p><b>Net Earnings:</b> Increased 4% to a record \$703 million from \$673 million</p> <p><b>Diluted Earnings Per Share:</b> Increased 10% to a record \$2.93 per share from \$2.66 per share</p>	  	<p><b>Revenue:</b> Increased 10% to a record \$2.9 billion from \$2.6 billion</p> <p><b>Operating Income:</b> Increased 7% to a record \$1.1 billion from \$1.02 billion</p> <p><b>Operating Expenses:</b> Increased 13% to \$1.8 billion from \$1.6 billion</p> <p><b>Operating Ratio:</b> Worsened 2% to 62.8% from 61.5%</p> <p>...</p> <p><b>Net Earnings:</b> Increased 22% to a record \$1.6 billion from \$1.3 billion</p> <p><b>Diluted Earnings Per Share:</b> Increased 29% to a record \$2.57 per share from \$2.00 per share</p> <p><b>Revenue:</b> Increased 17% to a record \$5.9 billion from \$5.0 billion</p> <p><b>Operating Income:</b> Increased 19% to a record \$2.4 billion from \$2.0 billion</p> <p><b>Operating Expenses:</b> Increased 16% to \$3.5 billion from \$3.0 billion</p> <p><b>Operating Ratio:</b> Improved 70 basis points to 59.4% from 60.1%</p>	
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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 2021’s first-quarter results for each railroad.

All figures for CN & CP are in Canadian currency, except for earnings per share.

On December 14, 2021, Canadian Pacific Railway acquired the outstanding common and preferred stock of KCS. Therefore, earnings per share data is not presented because the company does not have any outstanding or issued publicly traded stock.