As a result of last year’s national rail negotiations, some TD freight rail members have gained for the first time ever paid sick leave benefits from carriers on the East Coast.

In late April, GO 049 Mid-Atlantic District members had the distinction of ratifying the first agreement for freight rail operating employees to receive paid sick days.

The agreement with CSX set a historic precedent for T&E workers, providing for five paid sick days, adding an option to convert personal days to sick days, and cashing out sick time at the end of the year.

The lack of paid sick leave within the railroad industry was highlighted in the media in 2022 when workers rejected a tentative national agreement that covered most railroad carriers and labor organizations, almost leading to a December shutdown of the nation’s vital supply chain.

Michael Coleman, a long-time SMART member with decades of leadership experience at the local and international level, assumed the position of SMART general president on June 1 following the retirement of Joseph Sellers.

Coleman was elected general president by the SMART General Executive Council, which in turn was elected by delegates to the 2019 SMART General Convention.

“It is the honor of my lifetime to serve this great union – one that has given myself and my family everything we have,” said Coleman. “General President Sellers has worked tirelessly to position this union for success in the future, from winning pro-worker federal legislation to helping oversee the Green Zone certification of the Sheet Metal Workers National Pension Fund. I look forward to building on his legacy and working to advance SMART members’ priorities.”

Coleman began his career as

T&E employees get paid sick leave for first time ever; UP GO crew-consist agreement receives ratification

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The operating crafts (which include engineers, conductors and trainmen) have what is perceived as the most demanding of working conditions of the railroad crafts due to the travel requirements, working in the elements and the on-call nature of their

CSX GO 049
- Five paid sick days with option to convert two personal days to paid sick days.
- Unused sick days converted to cash.
- Incorporates more lenient carrier attendance policy.
- Covers about 2,400 members.

NORFOLK SOUTHERN
- T&E workers get five paid sick days with the option to convert up to two personal leave days to sick days.
- Unused personal leave days can now be carried over and accumulated indefinitely, with no limitations.
- Yardmasters get four paid sick days with the option to convert up to three personal leave days.

UP crew-consist agreement
- A $27,500 signing bonus upon the contract’s ratification.
- Continues to require the conductor’s position as being based in the cab of the locomotive.
- 30 years of protections for brakemen switchmen with assignments abolished.

UP GO crew-consist agreement receives ratification

Historic agreements

New GP Coleman takes helm for SMART

Inside this issue

LEADERSHIP MESSAGES: Updates from SMART GP Michael Coleman and TD President Jeremy Ferguson, Pages 4-5.

WHAT YOUR UNION IS DOING: Roundup of recent cases and victories by the union for members, Page 5.

AROUND SMART-TD: News bites from our locals, Pages 10-11.
Paid sick leave agreement is ratified with UP

A tentative agreement (TA) reached with the Union Pacific Railroad that, among other things, provides paid sick leave to about 6,000 UP’s Conductor and Trainmen was ratified in August.

SMART-TD President Jeremy Ferguson said when the agreement was announced that it signified a win for the quality of life for thousands of railroad employees. “Our members made it very clear in 2022 that quality-of-life issues and the ability to provide stability for their families in the face of medical crisis was of the utmost importance.

On-demand sick days that do not amount to discrimination from their employer are a historic step in the right direction for these men and women who, as SMART-TD, are very proud of the effort that our General Chairmen on the UP properties put into to make this happen,” he said.

General Chairperson Roy Davis of GO 557 said: “It took a lot of hard work to get here, but in the end, it all came together.” Two: All five of the UP General Chairmen stuck together in these negotiations and it paid off.”

Brother Davis also added that, “It only took UP about 160 years to figure out that people get sick and that it doesn’t make sense to fire them for it!”

Alt. Vice President Scott Chelette, QC of GO 927, said: “The three medical occurrences we negotiated for in December’s contract didn’t help our members in assigned service. With this agreement, we were able to convert them into on-demand sick days available to assigned and unassigned locals alike. Now our yardmen and all our road crews can benefit from these days without UP being able to deny the requests.”

Brother Luke Edington GO 963, said: “All told, this contract provides our members with an unprecedented eight days of on-demand paid leave for illness and well-being. This is the kind of achievement that we knew was hours of work we put into this union movement worthwhile.”

General Chairperson Joe Cornelius of GO 569 said: “We put a lot of time and thought in to make sure that everyone got cut in on this deal. The agreement really is win-win for our members. If they get sick, they can take a day off and not worry about losing that day’s pay, and for the first time, they won’t have to worry about being assigned any points toward discipline. One of the perks to this agreement that we insisted on is that it isn’t a ‘use-it-or-lose-it’ scenario. All unused sick days can be banked up to 60 days that keep rolling. If a member accumulates more than 60 unused days, UP will cut them a check to cash out the excess days. It’s a great parachute to have a 60-day buffer when things go wrong medically.”

Alt. President Gary Crest, QC of GO 887, said: “This has been a long time coming. It took 160 years to get here, but we aren’t done yet. There’s still a lot of work left to do to bring this railroad into the 21st century, and we are determined to do it.”

Historic agreement gets paid sick leave benefits to U.S. T&E employees for the first time ever

Continued from Page 1

positions. This agreement establishes a benefit in the railroad industry that the members of the American workforce already enjoy.

In addition to paid sick time, the agreement, which covers approximately 2,400 conductors and trainmen on the Northern line, also adopts the current attendance policy put in place by CSX into the collective bargaining agreement.

Railroads in the past have been reluctant to negotiate this area and this is another first for the operating workforce as it subjects the former policy (now agreement) to negotiation if any changes are desired by either the carrier or the employees in the future.

In return, the carrier gained flexibility and cost savings through provisions that allow conductors and trainmen to drive company-provided vehicles under certain conditions and also settled a long-term dispute between the SMART-TD and CSX regarding assignment placement.

“it’s refreshing and impressive to see the overwhelming support of the membership on this tentative agreement that establishes a new standard of management relations. SMART-TD and CSX leadership were able to sit down at the table and reach a consensus on items as important as these. I am hopeful this momentum will carry forward in future negotiations and help us collectively improve the working conditions and overall moral at CSX,” General Chairperson Richard Lee said.

The other CSX committees, GOs 513 and 851, also reached similar agreements in late May with CSX with ratification results pending at the time of this newsletter’s publication.

Kevin Cornelia, SMART-TD General Chairmen has ratified an agreement, completing negotiations with the carrier that includes five paid sick days, additional financial compensation and addresses scheduling and quality-of-life concerns. Yardmasters also reached an agreement that provides paid sick time.

UP property crew-consist agreement

Out west, GO 953, representing Union Pacific’s workers in the carrier’s Eastern District, Idaho and Pacific Northwest, ratified a crew-consist agreement that guarantees the conductor’s role at least through national negotiations reopen in November 2024.

The ratified agreement provides for a substantial signing bonus, work protections and no rules changes regarding roadyard switching.

The three crews participating in the vote approved the new contract with more than two-thirds (68.16% aggregate) voting in favor of ratification.

General Chairperson Luke Edington of Local 286 (North Platte, Neb.) negotiated the successful agreement with assistance from Vice General Chairperson Zach Nagy and TD Vice President Brent Leonhard.

“This was a challenging process but the result is a contract that our members found to be to their satisfaction,” Edington said. “The cardractor’s role is preserved at least until the next round of Section 6 notices.”

Leonhard had this reaction to ratification of GO 953’s agreement: “This agreement serves to protect the transportation crafts and ensures these crafts as the crafts of the future. SMART-TD is the only transportation craft with agreements protecting their position now and into the future. We are happy about SMART-TD’s members recognized their value and secured their future. I commended the SMART-TD members for recognizing and wholeheartedly endorsing the agreement. SMART-TD will continue to lead and secure the future for our members.”

GO 953 has members in 48 TD locals.

Property-specific negotiations continue with BNSF and remaining segments of CSX and UP while talks with Norfolk Southern have concluded.

For the latest information about the continued negotiations and the substantial gains these negotiations bring to our members’ quality of life, visit the SMART website.

Michael Coleman is SMART’s new general president, succeeding Joseph Sellers

Continued from Page 1

a SMART sheet metal worker in 1973, when he joined what was then Local 65 in Cleveland, Ohio (Local 65 merged with Local 33 soon after). After graduating into journeyperson status and honing his craft for several years, he ran for election as a member of the local’s executive board. From there, he became business representative, then Local 33 president and business manager in 2012.

At Local 33, Coleman cultivated a reputation for pursuing innovative strategies in order to organize more members, effectively structure benefit and pension plans, provide greater flexibility to members and more. He worked closely with Norfolk Southern to boost the local’s profile throughout northern Ohio and West Virginia and demonstrated a willingness to think outside the box in taking on the challenges our union faces.

Seven years later, Coleman moved to Washington, D.C., to work as SMART’s director of business and management relations. Shortly after that, General President Sellers asked Coleman to become assistant to the general president, a position in which he served until May 31, 2023.

In all, Coleman has more than 20 years of dedicated leadership experience in both national and international level. He played a crucial role during SMART’s second General Convention in 2019, serving as secretary of the Constitution Committee and shepherding through114 proposed amendments — helping to facilitate the democratic process of our union and positioning SMART for future success.

During the last decade, SMART members have mobilized to win transformational victories for working families across North America. SMART sheet metal workers are on the forefront of new and pending megaprojects funded by the Bipartisan Infrastructure Law, the CHIPS and Science Act and the Inflation Reduction Act, as well as partnering with the Biden administration to perform much-needed indoor air quality work. The union’s political advocacy has helped spark forward progress on regulation related to two-person freight train crews and rail safety, and SMART’s organizing activity led to groundbreaking wins in Alaska, California and beyond.

Coleman, who plans to hit the road to meet with SMART members in his first months as general president, vowed to continue this forward progress.

“The members are the union – that was the core value of this union when I joined in 1985, and it remains the foundational principle of SMART to this day,” he said. “When we come together to fight for our jobs, our communities and our families, we cannot be stopped. This is our time, and I will work as hard as I can to help us seize this opportunity.”
Schumer, FRA announce comprehensive safety review for all the Class I railroads

The past few months made it clear to the nation at large that the freight rail industry has perpetuated a culture of cost-cutting and shortcuts that has led to horrific damages in communities and injured workers. The February derailment in East Palestine, Ohio, brought national attention to the clearly escalating safety crisis in the railroad industry.

This spring, Senate Majority Leader Charles Schumer of New York called for the Federal Railroad Administration — with assistance from the National Transportation Safety Board (NTSB) — to launch an investigation into all Class I freight railroads.

Schumer’s letter to the FRA underscored how the Class I’s have prioritized profits over their workers and the communities they service. Railroads have downsized their workforces and have been embroiled in shareholder lawsuits and corporate executive stock buybacks, and have pushed for more automation. As a result, there have been an increasing number of dangerous and hazardous incidents.

Over the past five years, Class I freight railroads have seen over 26,500 accidents and incidents, almost 13,000 injuries attributed to rail incidents. Schumer highlighted that as safety concerns and incidents rose, the industry has simultaneously cut over 90,000 employees — roughly 20% — from its workforce. This alarming combination of forces, Schumer said, “clearly demonstrates the need for a full audit of industry practice.”

In a response to Schumer’s letter, FRA Administrator Amit Bose said the agency has completed a “broad assessment of Norfolk Southern Railway’s safety culture, practices, and compliance,” with a report due out in the “near future.” The FRA also announced that it will conduct similar assessments on each of the Class I railroads — BNSF, CSX, Union Pacific, Canadian National and Canadian Pacific — late this year with the intention of publishing those reports as well. Finally, FRA will make overhauling assessments on “issues, trends, and commonalities across all railroads reviewed.”

The response from Administrator Bose also noted that each Class I railroad would be asked to “develop corrective actions in response to FRA’s recommendations, and FRA will track those to completion.”

“Years of deregulation and wanton acts of corporate greed have led to an industry that simply does not value safety,” Schumer said. “We cannot allow the railroad companies to continue to prioritize profits over people. These reports by the FRA will be a good first step to identifying the problems that persist in individual companies and the national system. The endemic problems permeate across the whole industry. I am glad to hear that the administration is taking this call seriously, and I look forward to seeing the FRA receive these reports and provide robust plans of actions on how to institute any changes the FRA recommends. We cannot stop this dumbing until freight rail travel is safer for the workers and the communities they serve.”

These reports — and subsequent changes in safety practices for the rail industry — could potentially save lives and provide a safer work experience for thousands of rail employees. Not to mention how the frequent derailments across the country that have made headlines.

Support needed to halt unemployment benefit cuts

Under the Budget Control Act of 2011, and a subsequent sequestration order to implement mandated cuts, the federal Railroad Retirement Board-administered unemployment and sickness insurance benefits were reduced by a set percentage in January 2013, subject to revision at the beginning of each fiscal year. In December 2020, in an effort to minimize the effects the COVID-19 pandemic was having on the rail industry, Congress passed the Continued Assistance to Rail Workers Act (CARWA).

This legislation temporarily suspended the sequestration, and railroad workers eligible for unemployment and sickness benefits from RRB went back to receiving the full amount of their benefits. This legislation expired in May.

To avoid these cuts, the Railroad Employment Equity and Fairness (REEF) Act was introduced April 20 in the House by U.S. Rep. Jan Schakowsky (D-Ill.), a chief deputy representative to Rail Workers Act (CARWA).

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Applying the 5.7% reduction to these sickness benefits will result in a maximum two-week total received of $740.23.

If these cuts seem aimed at the most vulnerable population within our union, that is because they are. The sequestration for unemployed, sick and injured railroaders benefits the pandemic relief temporarily eliminated already has been done away with for other federal retirement plans. This claw-back of funds, implemented 12 years ago, is literally only applicable to the Railroad Retirement Board.

The FRA listed three unacceptable training issues they found in their safety audit along with FRA-pescribed “corrective actions” that they state NS “must take,” as follows.

Issue: 13-day training period is “grossly inadequate.”

Action: Extend training program duration and retrain conductors who were trained under the non-compliant program.

Issue: Current conductor on-the-job training lacks consistency, structure and proper oversight.

Action: Create robust plans of actions on how to improve the training program, including retraining employees that have failed to comply with training regulations by not making an attempt to find out if employees are qualified and willing to act as instructors.

Issue: NS has failed to comply with training regulations by not making an attempt to find out if employees are qualified and willing to act as instructors.


“Norfolk Southern is obligated to consult with relevant employee labor organizations as part of developing their plan,” said the agency.

SMRT-TD has already been working with Norfolk Southern to enhance other quality-of-life issues for our members. This is a responsibility your union takes very seriously. SMRT-TD has every intention to make sure NS’s new training curriculum will be designed and ensures new-hire conductors are equipped with the tools they need.

FRA criticizes NS training program, demands fix

Norfolk Southern has been hiring new freight conductors at a noteworthy rate in 2023. As the labor organization that represents newly hired conductors, that is great news to the SMART Transportation Division. Like most pieces of good news that come from the railroad, this comes with a catch. The problem is that Norfolk Southern, a Fortune 500 company has been operating without a Federal Railroad Administration-approved conductor certification training program for 21 months.

The FRA has been questioning NS about its conductor training program since October 2021. NS has submitted multiple proposals for training programs to the FRA since. However, all of them have fallen short of FRA’s expectations and have been denied.

On June 14, the clock ran out as FRA served notice to Norfolk Southern’s board of directors that they have to produce an acceptable plan for a conductor certification training program to them and to get the plan implemented by the end of July.

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Your help is needed!

Contact your congressional representatives through the SMART TD Legislative Action Center (LAC) to tell them to DO THE RIGHT THING and protect American workers.

Using the LAC online is quick and easy. Just visit the SMART website and click on “Take Action” or follow the QR code above.
The time for our entire union is right now

Brothers and sisters,

I am honored to represent each one of you, the dedicated men and women who keep America’s transportation network running smoothly. The members are the backbone of our union, and I assure you that my utmost commitment lies in ensuring that each SMART member has a voice and equal access to opportunities, just as I and previous generations have had. Like my predecessor, Joseph Sellers, I am a sheet metal worker by trade. I was born and raised in Ohio and know firsthand the communities that were affected by the Mohawk disaster in East Palestine. During my years serving as assistant to the general president, I had the chance to work with TD leaders like President Jeremy Ferguson.

Recent events, including East Palestine, have brought rail safety to the forefront, gaining significant media attention. This has led to a positive shift in momentum both at the state level and with the ongoing progress of the federal Railway Safety Act. We are also seeing transit operator safety making headlines in cities across the country, from Los Angeles to Philadelphia, creating public awareness and driving us toward achieving real change. This moment presents us with a unique opportunity, and we must act swiftly. The SMART Transportation Division, and together we plan on continuing the effort he and General President Sellers led.

Additionally, stay connected with your local union to receive information about legislative developments, regulations and organizing efforts in your area. For instance, we have coordinated to advocate for our interest in response to the Federal Transportation Administration’s notice of proposed rulemaking on public transportation agency safety plans.

One of our key strategies to strengthen our collective bargaining power is to continue organizing our fellow workers into SMART. By doing so, we will increase our market share in industries across transportation, which strengthens our collective bargaining power. This allows us to seek and successfully gain the family sustaining pay, meaningful benefits, stronger retirement and dignity on the job that all workers deserve. Brothers and sisters, the actions we take today will have a profound impact on the future of our communities, families and union for decades to come. This is our time to create a safer and more prosperous future. We will do this in solidarity with each other, standing shoulder to shoulder whenever a challenge needs to be confronted. That is what makes us unique as a labor union, and it is how we have been able to withstand every obstacle thrown in our way over the past 160 years.

The time to act is now — let us seize this opportunity and drive positive change for each and every member.

Fraternally,

Michael Coleman
General President, SMART

Bus Department News
A message from your Bus Department leadership

By Calvin Studivant

Discussions on whether assaults are classified as misdemeanors or felonies. They must be classified as felonies so that the penalties for these crimes are harsh. Transit agencies that don’t accurately report violent incidents against workers should not be allowed to request federal funds for new equipment, bus shelters and any other items until a focus is put on protecting their employees and passengers.

It is obvious that the status quo is not working. De-escalation training, driver shields and other minuscule deterrents are not working. Every carrier must emphasize operator safety. There must be training on passenger etiquette and public service announcements on the punishment for assaulting transit workers. The education of this must include bus operators and riders. Agencies must commit to aligning with the unions to end this once and for all.

For any agency that is not willing to work with the unions, then their funding should be thoroughly examined by its overseers and then disrupted, if necessary.

In solidarity,

Calvin Studivant
Vice President
Bus Department, SMART-TD
ccstudivant@smart-union.org
216-630-0963

STB orders BNSF to haul coal, update on performance

By a 3-2 majority June 23, the Surface Transportation Board (STB) ruled in favor of Navajo Transitional Energy Co. (NTEC), ordering BNSF to fulfill its common-carrier obligation to serve the Powder River Basin energy producer and transport 4.2 million tons of coal.

NTEC filed a complaint April 14 seeking an emergency service order to move coal from a facility in Big Horn, Wyo., to a Canadian terminal. As a result, BNSF must move 23 trains per month of NTEC’s coal beginning immediately, and an additional six trains per month when additional train sets and crew become available. Both parties will be providing weekly service updates, the STB said in a news release announcing the decision.

Michael Coleman
SMART General President
mcoleman@smart-union.org

Joseph Powell
SMART General Secretary-Treasurer
jpowell@smart-union.org

Jeremy R. Ferguson
SMART Transportation Division President
president_td@smart-union.org

Gregory K. Hynes
SMART Transportation Division National Legislative Director
ghynes@smart-union.org

www.smart-union.org

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TRANSPORTATION DIVISION PRESIDENT’S COLUMN

Our bus, transit workers deserve protection

By Jeremy Ferguson

“You cannot tell me that it is acceptable that on two out of every three days in this country one of our transit workers is violently assaulted. These men and women are the lifeblood of our economy, getting Americans to work and improving their quality-of-life day in and day out.”

As the SMART-TD President I am also very excited to have Brother Mike Cole-
man as the new general president of SMART. We wished General President Sellers a very happy retire-
ment at our board of direc-
tors meeting this past April and I was proud to see Mike sworn in as General Presi-
dent at our General Execu-
tive Council meeting May 23. Mike and I have had a longstanding working rela-
tionship and I am also proud to call him a friend.

On the flip side of all the positive we are experienc-
ing, I am troubled with the fact our bus members’ safety has never been more at risk. On May 18, a SMART-TD bus operator from Local 1715 (Charlotte, N.C.) was involved in a shoot-out with a disgruntled bus passenger, an incident that sent both men to the hospital with what were described as life-threaten-
ing injuries.

Less than a week later, on May 24, another SMART-
TD bus operator out of Local 1608 (Chatsworth, Calif.) was stabbed multiple times in the neck and back while working his assigned route in Los Angeles.

There have been news reports of gunfire on buses, angry parents going after school bus drivers and road-rage incidents. The list is extensive.

The U.S. Federal Transit Administration put out a study in December 2022 entitled “Update on Transit Worker Assault Prevention and Mitigation.” This report looked at data from 2008 through 2011. In those 13 years, the FTA reports that there was an average of 241 assaults per year on transit workers throughout the country.

This study itself points out that the data includes only the most serious events, and may significantly under-
estimate the total number of assaults.

You cannot tell me that it is acceptable that on two out of every three days in this country one of our tran-
sit workers is violently assaulted. These men and women are the lifeblood of our economy, getting Ameri-
cans to work and improving their quality-of-life day in and day out. They deserve to be heard and protected like the essential workers that we know they are.

We’ve had two members on both sides of the country in the hospital fighting for their lives as a result of vio-

tent incidents. Last year, also in Charlotte, one of our members was killed by gun-
fire while on the job. This is no time for a government study. It’s not time to dis-

cuss increasing our year’s safety budget. It’s time to take action. Our men and women deserve and demand immediate and definitive actions to ensure their physical safety.

The FTA has requested public comments on what needs to be done to shore up safety in public trans-
por-
tation, and SMART-TD members can rest assured that our call to action will be heard.

On another positive note, our general chairpersons on multiple rail carriers have a lot of momentum going into the summer. New agree-
ments, including crew-con-
sist guarantees, paid sick leave for multiple crafts including some yardmas-

cers, and more firm-up-

scheduling for time off have been making their way into rail crew rooms all over the country. To the GCs who have been on the front lines negotiating these quality-of-

life improvements for our rail members, you have both my gratitude and sup-
port.

SMART-TD has also spent the spring and early summer delivering on the legislative front. Our skilled group of state legislative directors and our National Legislative Committee have been producing great results in state legislatures and on the hill in Washing-
ton D.C. We are moving the needle nationally on issues of rail safety, 2PC and others. Credit for these pivotal victories does not belong exclusively to me, or our office holders. You, the SMART-TD members, have done a remarkable job of advocating on your own behalf. We asked you to be a part of this process, and we continue to be excited by your response.

To that end, I would like to personally thank each and every one of you, your friends and family members who have answered the bell and sent your messages to legislators, written letters to the editor and have reached out to our office this year to add your voices to SMART-

TD’s efforts to mold the public policy surrounding railway and bus safety.

Please continue to use the tools your union provides you to continue this push. Your continued use of the new hours-of-service reports, the safety condition reports for bus and rail members and tech event reports is a key ingredient to keeping our union’s momentum and countering the carriers’ attempts to sow misinformation. And, as a reminder, please update your personal information via the website and app so that we can keep you informed of what’s happen-

ing in our industry and your union.

As an organization SMART-TD is growing stronger each day with all of your dedication and we are without a doubt the best bus, rail and air union in the country. I appreciate your hard work and ask you to know that your union is in the fight with you. There will always be much more that needs to be accomplished by this organization, but you can rest assured that we are doing everything that can be done to advocate for you and your family.

In solidarity,

Jeremy R. Ferguson
President, Transportation Division

SMART-TD Vice Presi-
dents David B. Wier Jr. and Jamie C. Modestit 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 sus-
taining decisions on from the First Division, the cases referred below are of sig-
ificant interest:

... in NRB First Division Award No. 31277 (Shea, 2023), a switchman was terminated by BNSF for allegedly running through a misaligned switch and causing a derailment. Based on a studied review of the evidentiary record of this case, the board con-
cluded that the record did not contain substantial evi-
dence to determine whether the claimant was the crew member who was responsi-
bile for the execution of the above move that ulti-

cmately caused the train to derail. Based on this find-
ing, the board reinstated the claimant to service and awarded him compensation for all his lost earnings.

GO 001 General Chairperson Mike LaPresta, GO 001 Associate General Chair-
person Nathan MacDonald and GO 001 Associate General Chairperson Jere-

my Brown progressed this case to the NRB First Division.

... in NRB First Division Award No. 31276 (Shea, 2023), a switchman was dismissed from the employ-
ment of BNSF over the car-
rier’s allegation that he was dishonest and stole time by receiving overtime pay-
ments on various dates when his crew did not tie up when their work was com-
pleted. After examining the record of the instant case, the board determined that the carrier failed to intro-
duce substantial evidence into the record of the formal investigation to sufficiently establish that the time from when the claimant’s crew completed their last move and tied up constituted dis-
honesty under the law. Reaching this finding, the board rein-

stituted the claimant to serv-

ity.
Action taken to defend bus, transit worker safety

June 26, 2023, was the Federal Transit Administration (FTA) deadline for the public to respond to their Notice of Public Rule Making (NPRM) on forming new Public Transportation Agency Safety Plans (PTASPs). FTA requested public comments on how to keep bus operators safe on the job, and as a union SMART Transportation Division answered the call. The National Legislative Department would like to thank all of our bus members for their time and efforts as we were putting together our response. SMART-TD reached out to you, and you answered. We truly are an organization that can only be as strong as our members and your assistance was highly appreciated.

As a result of the feedback we received from multiple bus members, Bus Vice Presidents Calvin Studvant and Alvy Hughes, as well as Anthony Petty, representing our members from SEPTA in Philadelphia, PA.; SMART-TD’s team submitted a strong response.

Unlike many responses they received, ours was fueled by information and creativity that came straight from you.

Thank you all for your efforts to keep yourself as well as your union brothers and sisters safe at work and beyond from harm as respected in the PTASP development process.

What your union is doing for you: A list of arbitration victories achieved by SMART Transportation Division

Continued from Page 5

ice and awarded him compensation for his lost wages. GO 001 General Chairperson Mike LaPresta, GO 001 Associate General Chairperson Nathan MacDonald and GO 001 Associate General Chairperson Jeremy Brown progressed this case to the NRAB First Division.

\[\text{NRAB First Division Award No. 31290 (Shea, 2023), BNSF terminated a conductor based on its assertion that he violated the carrier’s attendance policy. The collective bargaining agreement in place on this property permits an employee charged with an offense to be represented at a formal investigation by a representative of his or her choice. The local chairperson the claimant selected to represent him at the formal investigation was on medical leave. The carrier granted several postponements of the investigation, but then finally required the claimant to appear at the formal investigation without the local chairperson of his choosing. At the opening of the investigation, the claimant raised vehement objections to being required to attend a formal investigation without the local chairperson of his choice, in violation of the collective bargaining agreement. At this point in the investigation, the hearing officer placed the proceeding into recess and advised the claimant that he would be medically unable to continue to postpone the investigation. Once the investigation was rescheduled to reconvene and he would be able to represent the claimant on that date. Despite the local chairperson making this reasonable postponement request, the carrier denied the requested postponement, claiming that it was not required to continue to postpone the investigation. Once the investigation was reconvened, the claimant reiterated his well-founded objection to being required to defend himself against disciplinary charges without a local chairperson of his choice present to represent him, but the hearing officer continued the claimant to proceed with the investigation without his local chairperson being present. Following the investigation, the carrier terminated the claimant’s employment based on its allegation that he transgressed the attendance policy. After analyzing the record of this case, the board concluded that the carrier failed to present evidence that the claimant the right to a representative of his choice at the formal investigation and denying his request to postpone the January 26 investigation was not a reasonable postponement request, the board reinstated the claimant to service and ordered the carrier to compensate him for his lost earnings. GO 001 General Chairperson Mike LaPresta, GO 001 Associate General Chairperson Nathan MacDonald and GO 001 Associate General Chairperson Jeremy Brown progressed this case to the NRAB First Division.

\[\text{NRAB First Division Award No. 31305 (Deinhardt, 2023), Union Pacific dismissed a conductor for allegedly being dishonest regarding reporting an on-duty injury and being careless with the safety of himself and others. Based on a review of the record evidence in this case, the board concluded that the carrier failed to tender sufficient evidence into the record of the formal inquiry to support its allegation that the claimant violated General Code of Operating Rules No. 1. According, the board reinstated the claimant to service and ordered the carrier to compensate him for his lost wages. GO 887 General Chairperson Gary Creit and GO 887 Vice General Chairperson Todd Campbell progressed this case to the NRAB First Division.

\[\text{NRAB First Division Award No. 31307 (Falvo, 2023), Union Pacific discharged a conductor for allegedly breaching the red zone and acting in a careless manner by stepping in between cars while they were in motion. Based on its review of the record of this case, the board observed that the offense for which the claimant’s termination was based upon concerned a testing event conducted under the carrier’s COMMIT policy, and since COMMIT events are not supposed to result in discipline, the board there-fore found that the discipline administered to the claimant was unjustifiable. In addition to finding the claimant the right to a procedural imprompture because the discipline was issued by an officer other than the highest designated officer in the service unit, in violation of the collective bargaining agreement and NRAB First Division Award No. 30740 (Halter, 2021). For these reasons, the board reinstated the claimant to service and awarded him compensation for his lost earnings. GO 887 General Chairperson Gary Creit and GO 887 Vice General Chairperson Todd Campbell progressed this case to the NRAB First Division.

Public Law Boards

In Public Law Board 8002, Award Nos. 1 and 2 (Deinhardt, 2022), BNSF terminated the employment of a yardman and a foreman for allegedly engaging in an intentional slowdown of work performance, including taking an unauthorized break and failing/refusing to respond to the radio despite multiple contacts. Although the board determined that the claimants were not guilty of engaging in a deliberate slowdown, it found that they were culpable for some of the delay due to their performance, including taking an unauthorized break and failing to respond to the radio despite multiple contacts. In light of that conclusion, the board maintained that the carrier proved some of the alleged rule violations against the claimants, but it did not prove all of the rule violations levied against the claimants. Because the carrier did not establish that the claimants were guilty of all the alleged rule violations, and taking into account the excellent work history of both claimants, the board mitigated the termination of both claimants to a suspension of sixty (60) days. Accordingly, the board reinstated the claimants to service and ordered the carrier to compensate them for their lost earnings, minus fifty (50) days they were withheld from service. TD Vice President Joe M. Lopez and GO 009 General Chairperson Scott Swiatek handled these cases before Public Law Board 8002.

In Public Law Board 7488, Award No. 166 (Darby, 2023), Norfolk Southern terminated the employment of a conductor for purportedly marking off under false pretenses when he last off using FMLA leave. In this case, the claimant was approved for intermittent FMLA leave. The claimant terminated his leave on November 3 through November 9; however, when the claimant was notified by the carrier that he did not have sufficient vacation time available to take vacation leave on the aforementioned dates, he then notified the carrier that he would be taking FMLA leave during those dates. Noting that the record evidence did not disclose that the claimant attempted to deceive the carrier, and also observing that the claimant was entitled to FMLA leave during the timeframe in question, the board maintained that the carrier failed to support the charges against the claimant with substantial evidence at the investigation. In light of that conclusion, the board reinstated the claimant to service and ordered the carrier to compensate him for his lost wages. GO 687 General Chairperson James Ball, GO 687 Assistant General Chairperson Brian Sharkey, GO 687 State President Nicholas Greficz, and International Vice President David B. Wier Jr. handled this case before Public Law Board 7488.

In Public Law Board 7488, Award No. 161 (Darby, 2023), Norfolk Southern terminated the employment of a conductor for allegedly passing a stop obstruction barrier and failure to comply with restricted speed. Although the board concluded that the charges were proven with substantial evidence at the formal investigation, it, taking note of the mitigating circumstances of the claimant having prior pristine work record and him not being solely responsible for the incident in question, reduced the claimant’s termination from suspension of ninety (90) days. Based on this finding, the board reinstated the claimant to service and compensated him for his lost earnings, minus sixty (60) days they were withheld from service. GO 687 General Chairperson James Ball, GO 687 Assistant General Chairperson Brian Sharkey, GO 687 State President Nicholas Greficz, and International Vice President David B. Wier Jr. handled this case before Public Law Board 7488.
Kansas, Minn. are latest to get 2PC victories

Making two-person crews the rule of the land in the state of Kansas took an atypical route, but it got there just the same. On May 1, Kansas became the 10th state in the country to secure 2PC as the minimum crew size in the state.

It has been the goal of SMART Transportation Division Kansas State Legislative Director Ty Dragoo for years. When asked how he made this happen, he cited persistence and patience as the keys, along with some outside influences.

Kansas Gov. Laura Kelly, a Democrat who began her second term in Topeka in January, has been a friend to rail labor throughout four terms in the state Senate as well as in her first term as governor. During that term, she was instrumental in thought that 2PC had been made the law of the state.

On July 27, 2020, Kelly signed a safety rule establishing a minimum railroad crew size — making Kansas the ninth state in the country to have accomplished this goal. Just one formality stood in the way of that being a reality.

At the time she signed the rule sent to her desk from the Kansas Department of Transportation, the state’s attorney general was a man named Derek Schmidt, a Republican who was in the beginning stages of a campaign to unseat the incumbent governor for governor in 2022. In an effort to flex his political muscle and block the accomplishment, Schmidt opted not to sign the safety rule, allowing it to die on his desk. As they say, “Schmidt happens.”

What did not die that day was the drive of Brother Dragoo and his team of LRs to secure the conductor craft in Kansas.

As the political fight card for Kansas’s state-wide rates coalesced for the 2022 election cycle, it was no surprise to see Schmidt squaring off against Kelly. This was obviously not the best interest of our membership, so Dragoo and SMART had a clear cut role to play. SMART-TD and Kansas labor worked hard to secure Kelly’s narrow 11,000-vote re-election in 2022. As a bonus, Schmidt’s failed gubernatorial ambitions meant that he forfeited his seat as the state’s attorney general.

Having learned the hard way that having a rail labor-friendly governor in office was not enough on its own to get a 2PC rule into state law, Dragoo and his team of LRs also got involved in the state’s AG race.

There rail labor had the luxury of having both candidates for the job open to our message. In an unconventional manner, Dragoo and SMART-TD endorsed both Democrat Chris Mann and Republican Kris Kobach.

Both had advocated for rail safety, and that was important to our organization. Party affiliation is not what qualifies someone to earn our membership, a commitment to rail safety is. As it happened, SMART-TD was the only trade union in the state of Kansas that endorsed Kobach. This was a distinction that did not go unnoticed, and, appropriately on May Day, Kobach didn’t forget about his support.

Dragoo and the Kansas State Legislative Board had secured the needed support in both offices to solidify the 2PC rule, so when Gov. Kelly again sent the DOT’s proposed safety rule to the AG’s office, it was signed and sealed into Kansas state law.

“We always need to remember that elections have consequences all the way up and down the ticket,” Brother Dragoo said about the five-year-long multi-party, multi-office, multi-administration battle. “SMART-TD and labor in general cannot allow ourselves to confine our thinking to the standard way of doing business in our state capitals. This holds especially true in red states that are traditionally less friendly to our cause.”

Minnesota
SMART-TD Minnesota State Legislative Director (SLD) Nick Katich along with the Minnesota State Legislative Board are proud to announce that Gov. Tim Walz signed HF 2887 on May 24, and a two-person crew minimum for freight trains is now officially the law in the state.

The massive transportation omnibus bill was passed May 21 and, along with the minimum crew size provision mandating a crew of two, has infrastructure dollars to bring many more railroad jobs in passenger service.

“The Minnesota Legislative Board began working on minimum crew size in 2015,” Katich said. “At that time, Phil Qualy was director, and I was his assistant. We met with the House once and the Senate once, but never together.” Katich was elected in May 2020 after Qualy’s retirement and continued the fight.

Minimum crew size became as its own bill in the Senate with a companion in the House. It was heard and passed through all committees with the roadways very actively opposing it.

“It was difficult when the railroad group was trying to keep a straight face,” commented Katich. “Some of their claims were so false or misleading it would make you sick. They held the lawmakers see through the smokescreen and we did just that.”

Minnesota becomes the third state this year to require two on a crew, following Ohio and Kansas. SMART-TD would like to congratulate Nick Katich and their teams on jobs very well done!

Three short-line agreements net big raises for members

SMART-TD International Vice President David B. Wier Jr. reports that the membership on the Dallas, Garland, and Northeastern Railroad (Local 969 — Dallas), a Genesee & Wyoming subsidiary, ratified a new agreement June 9, 2023.

The new agreement vastly improved several provisions of the former agreement. The new Agreement provides the membership with two additional flex days (paid days off) on an annual basis, allowing employees to accrue a total of eight flex days per year.

The new agreement provides a modernized rule for overtime pay and stipulates that employees will receive the overtime pay rate for all work performed after eight hours on workdays. Under the terms of the prior agreement, employees did not receive the overtime pay rate until after 40 hours of work during a workweek.

The new agreement also provides significant General Wage Increases (GWIs) as stipulated:
• Jan. 1, 2027: 5% Additionally, the new agreement provides all active employees with a signing bonus of $1,250.
• The agreement immensely improved several provisions of the former agreement in favor of our membership, and it provides our members with substantial economic gains,” Vice President Wier said.
• The vast improvements to the agreement that SMART-TD achieved at the bargaining table for our members would not have been possible without the dedicated and member-focused efforts exhibited by General Chairperson Bobby Taylor and Vice General Chairperson Danny Mahan.
• I congratulate and thank them both for their assistance at the bargaining table during these negotiations which resulted in a great agreement.

Toledo, Peoria & Western RR

The membership on the Toledo, Peoria & Western Railroad (Local 198 — Peoria, Ill.), a Genesee & Wyoming company, ratified a new agreement March 20. The agreement provides the membership with substantial GWIs as indicated:
• Upon signing: 20% • Jan. 1, 2024: 4% • Jan. 1, 2025: 4%
• Jan. 1, 2026: 3%
• Jan. 1, 2027: 5%
• Jan. 1, 2028: 3%
• 4% GWI effective July 1, 2023
• 7% GWI effective July 1, 2022
• 10% GWI effective July 1, 2021

In addition, the agreement provides a guarantee of 36 hours pay per week for employees assigned to the extra board. The prior agreement did not contain a guarantee for extra board employees. For this reason, under the prior agreement, if employees assigned to the extra board did not get called for work, they did not receive any compensation, even though they were required to be on call for work to protect prospective vacancies.

Accordingly, obtaining a weekly guarantee for extra board employees was a paramount achievement.

“The new agreement on the T&P provides the membership with historic general wage increases, and it also provides the membership with a much-needed guaranteed wage for excess board employees,” Wier said. “I congratulate General Chairperson Lorenzo Cardine and Vice General Chairperson Derek DeMott for their tenacious efforts at the bargaining table in obtaining a 37% GWI, which is 41% compounded, over the life of the agreement and other benefits of principal importance to the membership.”

Gary Railway Co.

Membership on the Gary Railway Company (Local 1383 — Gary, Ind.) ratified a new agreement Nov. 9, 2022. The new agreement provides for series of GWIs as follows:
• 3% GWI effective July 1, 2020
• 5.5% GWI effective July 1, 2021
• 7% GWI effective July 1, 2022
• 4% GWI effective July 1, 2023

Additionally, the new agreement provides full retroactive pay on the GWIs agreed-to for the years preceding the implementation of the agreement. Two service bonus payments of $1,500 and a lump sum payment of $2,500 to all active employees to settle various outstanding grievances were obtained as well.

“The new agreement on the Gary Railway Company provides the membership with significant wage increases and benefits,” Wier said. “I want to congratulate and express my gratitude to GO 329 General Chairperson Brian McWilliams for his arduous efforts at the bargaining table to obtain this exceptional agreement on behalf of the membership.”
With headlines being made nationwide about railroad safety, it has come to feel like every day has become “Railroad Safety Day on the Hill.”

Under normal circumstances, building relationships with the 535 members of Congress falls on SMART-TD’s staff of three in our Washington D.C. National Legislative Department, but on May 17 plenty of reinforcements within our union marched forth to lead the effort with other labor groups.

This support came in the form of 35 men and women representing 15 different states. State legislative directors, vice state legislative directors, general chairpersons, local legislative reps and state legislative vice chairs from across the country answered the call to help SMART-TD National Legislative Director Greg Hynes, Alternate National Legislative Director Jared Cassity and Legislative Department Chief of Staff Jenny Miller educate our nation’s lawmakers on rail safety.

They held over 100 meetings with legislators sharing the gospel of the Railway Safety Act of 2023, shorter trains, increased quality of life and better safety inspections of rolling stock with any Congress member or staffer willing to listen.

In addition to holding this important series of meetings and reaching out to over 100 members of the House and Senate, SMART-TD representatives attended a press conference in support of U.S. Sen. Bernie Sanders (I-Vt.) as he announced his legislation known as the Healthy Families Act. This legislation includes provisions ensuring that every company with over 100 employees provides a minimum of seven paid sick days to its employees. This bill has language in it that speaks directly to railroad companies.

This bill indicates the progress our union made in the 2022 national contract negotiations. In December, Sanders pushed for similar legislation that was strictly aimed at railroaders and though it won a majority of votes in both the House and Senate, it failed to get the 60 votes it needed to carry a filibuster-proof supermajority and make it to President Biden’s desk to be signed into law.

With the ramifications of this bill’s success weighing heavily on the quality-of-life improvements that SMART-TD continues to seek for our members, Sen. Sanders reached out to SMART’s Legislative Department and made a point of inviting our representatives to his press conference.

Following the successes of the day’s events, NLD Hynes expressed his gratitude to the army of SMART-TD leaders who made the trip.

“These men and women went above and beyond the call of duty to be here today, and because of them, we had a fantastic show of force in the halls of Congress. The validity of our issues speaks for itself, but when leaders from these different states show up to meet with their congressional and senate delegations it makes an impact on these lawmakers,” he said. “They hear from Jared Cassity and me all the time, but when someone from home comes to meet with them in D.C., it puts a face to our issues in a unique way.

“I want to thank each and every one of them for making the effort to come out this year, and with your help, we will deliver on the promise of the Railway Safety Act, the REEF Act, and all the issues that speak to the quality of life our members deserve and the dignity of the work they do each day.”


U.S. Rep. Randy Feenstra (R) of Iowa’s 4th District, left, meets with Iowa SLD Chris Smith.
The trustees of the Discipline Income Protection Program (DIPP) met to discuss plan design changes aimed at bringing about additional benefits for our members and making the program easier to participate in.

Among the action items the trustees are looking to improve is an assessment reduction for plan participants. As a result of the overwhelming support for this change, the trustees convened and approved a reduction of 25 cents per $1 of daily benefit coverage. SMART-TD President Jeremy Ferguson, who sits on the Board of Trustees for DIPP, announced this spring that the “wheels are in motion” to make this change effective as soon as possible.

Effective Aug. 1, 2023, the assessment for DIPP coverage will be reduced. The trustees also voted to remove the graduated benefit structure that depended on a member’s length of participation. Plan participants all will receive 365-day coverage.

DIPP is the gold standard of income protection for workers in the railroad industry with a 90% rate of claims approval. With Precision Scheduled Railroading compounding the rate of incidents, this consideration is more important now than ever before.

DIPP coverage ranges from $6 to $250 per day, ensuring that a participant covered by DIPP who is suspended, dismissed, or removed from service by a carrier for an alleged violation of rules or operating procedures will continue to receive income.

Participants in DIPP also have the added flexibility of electing to increase their benefit level or to modify their coverage at any time by submitting the appropriate form to the TD office.

DIPP trustees are SMART General President Michael Coleman, SMART General Secretary-Treasurer Joseph Powell and SMART-TD President Jeremy Ferguson.

For more information on DIPP, visit the SMART website or email SMART_TD@smart-union.org for further details.

**TD’s Ferguson speaks at NS safety ‘town hall’**

Norfolk Southern hosted a system-wide safety town hall meeting June 1 in the middle of the largest yard in their system in Bellevue, Ohio. Carrier CEO Alan Shaw was joined on stage by the presidents from six of the 12 rail labor unions, including SMART Transportation Division President Jeremy Ferguson, who was the first of the union representatives to address the presentation that was simulcast to every yard office on the NS system.

“Our union was created on the need for safety,” Ferguson said. “There are two fundamentals that we have to work with. The first is culture, and the other one is ownership. Part of culture is us being able to change how we treat each other and to show respect when someone raises a hand and says, ‘I’m concerned about this,’ or ‘I think this is an unsafe condition.’ That is a commitment we have to make to each other. The other key component, as I said, is ownership. We all have a part in that. The old saying in the unions is that we are brothers’ and sisters’ keepers. That’s what we have to do.

“We made a short-term decision looking to cut cost, and we took the hump out. That’s not what we’re doing going forward. We’re going to be different. We’re going to grow,” he said. “We’re going to grow and we’re going to invest. We’re going to invest in our franchise, we’re going to invest in our facilities, and most importantly we’re going to invest in our people.

“My vision for Norfolk Southern is a growth company. So we reopened this hump. And says, ‘I’m concerned about this,’ or ‘I think this is an unsafe condition.’ That is a commitment we have to make to each other. The other key component, as I said, is ownership. We all have a part in that. The old saying in the unions is that we are brothers’ and sisters’ keepers. That’s what we have to do. Make sure all of us, including the managers, the switchmen, the maintenance of way workers, everybody, we take care of each other to make sure everybody is safe. We can’t just say it, we’ve got to live it.”

Shaw’s message was clear to everyone in attendance. “For those of you who have worked for Norfolk Southern for more than a decade, you remember when we had the best service, and we had the best safety in the industry. And we took a lot of pride in that. I want to get that back. I want to be known for that.”

Shaw expressed his intention to distance NS from the “do more with less” mentality that continues to prevail as a management tactic in the industry. In discussing the operation at Bellevue, he touched on the carrier’s removal of one of two hump yards there as a cost-saving maneuver during PSR.

He pointed to the recent reopening of the second hump as an indication that doing more with less was no longer the path.

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“We made a short-term decision looking to cut cost, and we took the hump out. That’s not what we’re doing going forward. We’re going to be different. We’re going to grow,” he said. “We’re going to grow and we’re going to invest. We’re going to invest in our franchise, we’re going to invest in our facilities, and most importantly we’re going to invest in our people.

“My vision for Norfolk Southern is a growth company. So we reopened this hump. And now we’re pushing more volume through here and our service is a lot better.”

In addition to President Ferguson, President Mike Baldwin of the Brotherhood of Railroad Signalmen, President Tony Cardwell of the Brotherhood of Maintenance of Way Employees Division, President Leo McCann of the American Train Dispatchers Association and Assistant General President Carl Lakin of the Transportation Communications Union all spoke.
It’s easier than ever to update emergency contacts, craft and veterans’ status

In today’s world, it’s important for the union to keep current and accurate information so members can stay informed on things that are important to them. This can be accomplished through the SMART mobile app, via the SMART Member Portal on the SMART website or the old-fashioned way — by just letting your TD local secretary know.

It’s no secret that we and the carriers do not often see eye to eye, and there is a false narrative out there that the union has the most accurate information. We have a clearer understanding of what they need and our leadership includes notifying the union when one of our members has moved, changed contact information or has changed crafts at work, for example, holding dual certification as a conductor/engineer.

A feature has been added in the SMART app and the SMART website’s Member Portal so members can more accurately update their info with the union. It’s important to fulfill that SMART constitutional duty (Article 21B, Section 49) by keeping your contact info (address, phone number and email) as well as your emergency contact info, work craft and military service record current. To avoid missing out on important notices and to make your union one member stronger please use the app, website or contact your local leadership to ensure that your union has the most accurate information.

Together we are stronger!

**L-1594, Upper Darby, Pa.**

The local in suburban Philadelphia represents roughly 300 SMART-TD members working for the Southeastern Pennsylvania Transit Authority (SEPTA) in bus service, commuter rail and trolley service.

A handful of our brothers and sisters reached out with questions that touched on a variety of complicated issues. Without delay, SMART-TD President Jeremy Ferguson assembled Bus Department Vice President Alvy Hughes, Assistant General Counsel Shawn McKinley, and Senior Assistant to the President Ralph Leichliter. The group attended two local meetings in April to provide information and hear the facts on the ground.

Roughly 40 members attended to participate in the discussions, and both the membership and leadership team came away with a better mutual understanding of how SMART-TD can best move forward in our dealings with SEPTA.

“I want to thank Local 1594’s leadership and their General Committee Chair Anthony Petty for hosting my team and facilitating these important discussions,” President Ferguson said. “We cannot expect to make progress as a labor organization without open lines of communication. I feel that as far as the International office is concerned, we are happy with the progress made in these two meetings in Upper Darby, Pa. We have a clearer understanding of what they need from us as officers, and I’d like to think they now have a better understanding of what needs to be done on their end as well.”

**L-622, Birmingham, AL.**

Members of the local showed their support for organized labor by taking part in the state AFL-CIO’s BBQ cookoff this spring. From left are Local Chairpersons Coty Batemon; Rusty Pitts; Brian Bailey; Local President W.W. Jackson Jr.; Local Chairpersons Chris Aaron and Braxton Cupps and Craig Aaron, who in some circles has been declared the best engineer on the railroad.

**L-168, Chicago, ILL.**

Michigan state Rep. Nate Shannon (D-Sterling Heights), chairman of the House Transportation, Mobility and Infrastructure Committee, gave a legislative tribute to TD members Devourie Nesby and Desiray Campbell on May 10 during a House session.

In June 2022, an Amtrak train struck two pedestrians who were on a bridge in Ann Arbor Mich. Conductor Nesby and Assistant Conductor Campbell leaped to action and assisted in resolving the situation and saving the pedestrians’ lives.


www.smart-union.org
Local 202 held a union orientation meeting for a combined 40 BNSF and Union Pacific new hires. Officers of Local 202, local chairpersons from GOs 001, 386 and 953, legislative representative and Designated Legal Counsel Rossi & Vucinovich were all in attendance to help these new members with critical information for their new railroad careers. Welcome aboard!

L-445, NIOTA, ILL. AND L-643, KAHOKA, MO.

These two locals combined to give back to their communities and raise public awareness for 2PC in Illinois and Iowa. Officers and members delivered hope rather than freight May 12 and 13 to needy families by volunteering for a food drive to benefit the Fort Madison (Iowa) Food Pantry. The effort collected nearly 500 pounds of food as well as nearly $1,000. In addition to this effort, Local 445 participated in an additional two-day food drive the following week on May 19 and 19.

This second food drive was done in conjunction with the radio station Sunny 97.7 WMOI-FM. WMOI-FM, and the food/donations from this second drive went to the FISH Food Pantry of Galesburg, Ill. While doing their charitable work, our members also did some public outreach to the people who came in to donate, using the face time with the public to discuss the necessity of the two-person crew to keep their communities safe and to solicit their support for the safety improvements in the Railway Safety Act of 2023. As part of Local 445’s advocacy for the legislation, they took their message live to the WMOI radio audience. These SMART members used the opportunity to tell the audience why they have a vested interest in preserving two-person crew operations to safeguard the communities they live and work in. They also informed the audience that 2PC and more could be accomplished with the Railway Safety Act’s passage. Participants included Josh Gordon, Jason Wolverton, Rich Gustin, Scott Lester, Beau Trego and Wes Ekstedt.

SMART-TD would like to thank all our members for the generous giving of their time and talents for these worthy causes, and also for their efforts to educate.

L-590, PORTAGE, WIS.

Gene Waddell has retired after a 48-plus year career. He hired out August 1974 in the Milwaukee Road roundhouse in Madison while attending college. He entered train service in 1976 and became an engineer in 1994. He worked for the Milwaukee Road, which later became the Soo Line and now is Canadian Pacif ic Kansas City. Gene was always actively involved with his locals, most recently serving as chairperson for Local 590’s engineers from January 2011 to February 2016. He was presented with a WMOI-FM, and the food/donations from this second drive went to the FISH Food Pantry of Galesburg, Ill. While doing their charitable work, our members also did some public outreach to the people who came in to donate, using the face time with the public to discuss the necessity of the two-person crew to keep their communities safe and to solicit their support for the safety improvements in the Railway Safety Act of 2023. As part of Local 445’s advocacy for the legislation, they took their message live to the WMOI radio audience. These SMART members used the opportunity to tell the audience why they have a vested interest in preserving two-person crew operations to safeguard the communities they live and work in. They also informed the audience that 2PC and more could be accomplished with the Railway Safety Act’s passage. Participants included Josh Gordon, Jason Wolverton, Rich Gustin, Scott Lester, Beau Trego and Wes Ekstedt. SMART-TD would like to thank all our members for the generous giving of their time and talents for these worthy causes, and also for their efforts to educate.

L-1558, BERGENFIELD, N.J.

Michael Byrne, who served in multiple local positions including legislative representative, legislative chairperson, local secretary and treasurer, has called it a career.

A member of our union since 1984, the 65-year-old worked as a bus operator for Rockland Coaches and also served as a delegate to two SMART-TD conventions.

“It has been an honor and a privilege to serve the members of Local 1558 for these past 30 years and I wish them all the best in the future,” Byrne said.

N.J. State Legislative Director Ron Sabol said that the amazing example of service to his local brothers and sisters that Brother Byrne set during his three decades will be tough to follow.

“He was an advocate of safety for his members for so many years I can’t count,” Sabol said.

The local honored Brother Byrne at its meeting in June with a farewell celebration. Thank you, Brother Byrne, for setting a shining example for what unionism and solidarity are all about. The SMART Transportation Division wishes you a long, happy and healthy retirement!

L-376, LOUISVILLE, KY.

Kelly Gibson not only finds the time to serve the local as its president, but he recently took on a commitment to bring his leadership skills into action for his city. Gibson lives in Shively, a suburb of more than 15,000 residents south of Louisville. In November, Brother Gibson was elected to City Council and began serving in January. He works as a road conductor for CSX out of their Louisville terminal and is in his third term as president.

“I decided to run because I felt like I was the void that was missing in our city,” he said.

L-265, POCATELLO, ID.

Easter Sunday is as good a day for a miracle as any.

Early Easter morning in April, conductor Caleb Ferguson and engineer Justin Stewart answered a man’s prayers.

Ferguson and Stewart came around a curve just outside Pocatello and saw the headlights of a vehicle stopped on the adjacent main line. The crew thought they might hit it.

After their train stopped, Ferguson walked back to investigate, he saw no one was in the vehicle. He was reporting to Brother Stewart the make/model license plate when he heard what he described as a weird moaning sound.

Ferguson crossed over the train and saw a man waist-deep in the freezing water of an overflow pond “He was cold, wet, and wasn’t able to move,” Ferguson said.

Ferguson waded about 40 feet into the water and was able to coax the man into taking a few steps in his direction. When Ferguson got to him, the man lost consciousness and was unresponsive. “It took me a little time to get my legs,” Stewart said.

Stewart came to aid as well and waded in with Ferguson to help save the man from the water. Luckily for all involved, Stewart had radioed the Union Pacific dispatcher and the dispatcher had a track inspector with a high rail vehicle in the area. As the crew was getting the man out of the water, the high-rail vehicle arrived with a sheriff’s deputy there to assist.

The man’s family said he did survive the incident and is expected to make a full recovery.

From left, Legislative Representative Steve James, General Chairperson Gerald Wallace (GO-261), Gene Waddell and Local Chairperson Vince Ramirez clock thanking him for his years of service at the local’s March meeting.

Congratulations, and enjoy your well-deserved retirement Gene!
Coalition-building meeting series kicks off in Cleveland

Brother Arin Johnson of SMART-TD Local 194 (Elkhart, Ind.) kicked off his series of coalition building meetings in Cleveland, Ohio, on May 3. Johnson’s vision of bringing members from multiple carriers together to discuss best practices and form a clear idea of what is and isn’t working in the railroad industry was a tall order, but he is off to a great start.

This meeting brought roughly 80 men and women from the union together and featured three state legislative directors, three general chairpersons, members from seven states and four railroads. SMART-TD President Jeremy Ferguson was in attendance and spoke to the crowd along with other representatives from the International. There was also an effort to reach out to the attendees of the meeting from two Ohio government leaders. The first was a recorded video message from Ohio state Sen. Nickie Antonio, who sits as the ranking member of the Ohio Senate’s Transportation Committee, as well as the Ohio Select Committee on Rail Safety. The second was from U.S. Sen. Sherrod Brown, who could not attend but sent a letter to the group. Both Sns. Brown and Antonio emphasized in their messages that they share SMART-TD’s commitment to rail safety. The second was a recorded video message from Ohio state Sen. Nickie Antonio, who sits as the ranking member of the Ohio Senate’s Transportation Committee, as well as the Ohio Select Committee on Rail Safety. The second was from U.S. Sen. Sherrod Brown, who could not attend but sent a letter to the group. Both Sns. Brown and Antonio emphasized in their messages that they share SMART-TD’s commitment to rail safety. The second was a recorded video message from Ohio state Sen. Nickie Antonio, who sits as the ranking member of the Ohio Senate’s Transportation Committee, as well as the Ohio Select Committee on Rail Safety. The second was from U.S. Sen. Sherrod Brown, who could not attend but sent a letter to the group. Both Sns. Brown and Antonio emphasized in their messages that they share SMART-TD’s commitment to rail safety. The second was a recorded video message from Ohio state Sen. Nickie Antonio, who sits as the ranking member of the Ohio Senate’s Transportation Committee, as well as the Ohio Select Committee on Rail Safety. The second was from U.S. Sen. Sherrod Brown, who could not attend but sent a letter to the group. Both Sns. Brown and Antonio emphasized in their messages that they share SMART-TD’s commitment to rail safety.

SMART Transportation Division President Jeremy Ferguson talks to the audience at a meeting May 3 at the SMART Local 33 building in Cleveland.

SMART Transportation Division President Jeremy Ferguson talks to the audience at a meeting May 3 at the SMART Local 33 building in Cleveland.

The conversations between these two SLDs was a great testimony to how effective this series of coalition-building meetings can be as Brother Johnson takes them across the country. Ohio SLD Clyde Whitaker discussed SMART-TD’s recent success in getting two-person crew legislation passed in the Buckeye State and what went into his approach for getting first-of-its-kind regulations into Ohio law surrounding the regulation of wayside defect detectors.

Among topics discussed were the decline in training programs being offered by the rail carriers, the delay in some carriers honoring their back pay obligations that came with the new contract Congress imposed in December, the utility position and crew control across all railroads.

Class I rail carriers file earnings reports for second quarter 2023

<table>
<thead>
<tr>
<th>Railroad</th>
<th>Net earnings: Decreased $158 million to $1.17 billion.</th>
<th>Revenue: Decreased $2.87 billion or 7% to $54.06 billion.</th>
<th>Operating income: Decreased $1.8 million to $169 million or 10%.</th>
<th>Operating ratio: Worsened 1.3 points to 60.6%.</th>
<th>Net earnings: Increased to $1.33 billion from $765 million.</th>
<th>Revenue: Increased to $3.174 billion from $2.02 billion.</th>
<th>Operating income: Increased to $944 million from $868 million.</th>
<th>Operating ratio: Worsened by 970 basis points to 70.3% from 60.6%.</th>
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<tbody>
<tr>
<td>CN</td>
<td>Net earnings: Decreased to $996 million from $1.18 billion.</td>
<td>Revenue: Decreased $116 million from $3.2 billion to $3.1 billion.</td>
<td>Operating income: Decreased to $1.48 billion from $1.7 billion.</td>
<td>Operating ratio: Worsened 4.5 points to 59.9%.</td>
<td>Net earnings: Decreased $463 million to $356 million from $819 million.</td>
<td>Revenue: Decreased by 8% from $3 billion to $3.27 billion.</td>
<td>Operating income: Decreased $694 million to $576 million from $1.27 billion.</td>
<td>Operating ratio: Worsened 19.8 points to 80.7% from 60.9%.</td>
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<tr>
<td>CSX</td>
<td>Net earnings: Decreased $286 million to $1.57 billion from $1.84 billion.</td>
<td>Revenue: Decreased $306 million to $5.96 billion from $6.27 billion.</td>
<td>Operating income: Decreased $291 million to $2.2 billion from $2.5 billion.</td>
<td>Operating ratio: Worsened 2.8 points to 63% from 60.2%.</td>
<td>Notes: • BNSF’s second-quarter earnings were not available at the time of publication. • 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 2022’s second-quarter financial results respectively for each railroad. • All figures for CN are in Canadian currency.</td>
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“The Carriers maintain that capital investment and risk are the reasons for their profits, not any contributions by labor.” — Presidential Emergency Board 250, page 32 of 119

www.smart-union.org
The Family and Medical Leave Act (FMLA) provides up to 12 weeks of unpaid annual leave to employees who meet certain eligibility requirements. Railroads have started crack- ing down on how their employees use this leave. To avoid FMLA-related attendance issues, read on:

Railroads often “provisionally” or "conditionally" approve FMLA only to deny the FMLA request once it reviews the materials submitted to support the FMLA request. When the railroad does this, it can charge points or leave time to the employee.

If the railroad deems your medical certification in support of your FMLA request incomplete, then it generally must give you seven days to cure the deficiency. The railroad can deduct your medical leave of absence days from your annual FMLA leave balance. The Department of Labor website provides additional information about the FMLA at www.dol.gov.

During the spring, Union Pacific CEO Lance Fritz was out and about in Colorado. SLD Carl Smith made sure he got to see EXACTLY where we stand.

Youngdahl at helm of DLC
Sara Youngdahl, managing partner of The Youngdahl Law Firm, P.C. in Houston, Texas, was appointed in May by SMART General President Joseph Sellers Jr. SMART-TD President Jeremy Ferguson to serve as coordinator of SMART’s Designated Legal Counsel. Ms. Youngdahl is the only woman in the United States designat- ed as legal counsel for a rail union.
Youngdahl also serves on the Academy of Rail Labor Attorneys (ARLA) Board of Managers. She has been representing railroad workers in Federal Employers’ Liability Act (FELA) and Federal Railroad Safety Act (FRSA)(OSHA Whistleblower) cases for nearly 25 years.
Youngdahl has handled hundreds of cases on behalf of railroad workers and their families who were injured or tragically suffered death on the job.

She has also fought for railroad workers who have been retaliated against for reporting railroad safety violations, personal injuries and those who have been denied medical treatment.

Youngdahl comes from a family of union organizers and lawyers representing working people all over the country.

Dedication to values such as fair wages, the right to organize, equal access to justice, and the notion that railroads must honor their justice, and the notion that railroads must honor their agreements with workers, as fair wages, the right to free association, the right to be fully heard in halls of Congress and to hold railroad accountable now, and into the future.

Information gathered on the SMART website and via any links on the SMART app is solely visible to SMART-TD and the details on the forms we receive (including the names of who reported) will not be given to carriers. PLEASE be a part of the solution to these problems and send in your reports!

FROM THE DLC Information about legal matters for rail workers
Carrier attendance policies — Know your rights!
Recently, Class I railroads enacted attendance policies which appear to increase the working demands of railroad workers while also restricting their ability to engage in a normal family life outside of work. Depending on the circum- stances, you may have legal rights that could protect you if the railroad attempts to improperly enforce their attendance poli- cies:

Medical Treatment. The Federal Railroad Safety Act (FRSA) prohibits the railroad from denying or interfering with the medical treatment of an employee who sustained on-duty injuries, and also prohibits the railroad from disciplining an employee for requesting medical treatment or follow- ing his or her doc- tor’s treatment plan.

Family Medical Leave. The Family Medical Leave Act (FMLA) may also protect employees seeking intermittent or long-term leave due to a medical condition or family illness. An employee interested in purs- uing FMLA leave must sat- isfy the requirements under the law to qualify for that protection.

Too Ill/Fatigued to Work. An employee refusing to work because he or she is ill or too fatigued to work could, depending on the cir- cumstances, qualify as a legitimate refusal to work in a hazardous environment and therefore, could be con- sidered a protected activity under the FRSA. Of course, illness and fatigue must be supported by a qualified physician.

Some important information about the Family and Medical Leave Act
The Family and Medical Leave Act (FMLA) provides up to 12 weeks of unpaid annual leave to employees who meet certain eligibility require- ments. Railroads have started crack- ing down on how its employees use this leave. To avoid FMLA-related attendance issues, read on:

As kids all over the world know, railroad workers tend to work “all the live-long day.” This is balanced by the fact that railroad workers are explained at hiring sessions of all the major railroads, but the hours-of-service (HOS) laws in place say, in no uncertain terms, that 12 hours is the extent of how long rail work- ers are supposed to be on duty.

The first time the federal government limited the con- secutive hours at work on a train or asset(s) for a railroad transportation employee was in 1907 when the mark was set at 16 hours. It has since evolved into the 12 hours that all of us in railroading are familiar with today.

Though the intention of the HOS laws is that a rail crew is supposed to be entirely relieved of duty by the 12- hour mark and spend additional hours-of-service (HOS) laws explained at hiring sessions of railroad workers while also restricting their ability to work in a hazardous environment and therefore, could be considered a protected activity under the FRSA. Of course, illness and fatigue must be supported by a qualified physician.
Annual trainmen’s dinner continues
New Jersey tradition for 70 years

A longtime New Jersey tradition that started to honor retiring passenger trainmen in 1953 celebrated its 70th anniversary in May. Always held on the Sunday after Mother’s Day, the New York-New Jersey Retired Passenger Trainmen Dinner saw about 180 people attend this year’s event May 21. “We always say, take care of momma and then come visit us,” said organizer and TD Alumni Association member Neil Powers, a retiree of Local 60 and former treasurer of the New York-New Jersey Retired Passenger Trainmen Dinner in May.

The dinner originated as an exclusive gathering for employees of the Pennsylvania Railroad passenger service and has evolved, now inviting UTU/SMART-TD retirees from Amtrak and New Jersey Transit to come together. “We have people come from all over the country,” said Powers. “Both coasts. We give them gifts, drinks and dinners and away we go.” The next year is going through a transitional period since the restaurant that hosted the event this year is being closed. Some of the dinner’s cost is covered through railroaders who can’t attend participating in weekly drawings. “They do a great job of keeping the spirit of togetherness alive,” New Jersey State Legislative Director Ron Sabol said. “They really are looking to get the people who are closing in on retirement to get involved.” At its peak, there were about 300 people who participated, Powers said. People wanting more information on the event or wanting to get involved can email Powers at neiljpowers@yahoo.com.

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<td>Klingeshi, John R.</td>
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The SMART-TD office has moved! Automatic/electronic payments through your bank for annual Alumni Association dues should go to the SMART Transportation Division’s new mailing address: 6060 Rockside Woods Blvd. N., Suite 325 Independence, OH 44131-2378

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Are you getting close to retirement? You can get the TD News & other benefits for $12 a year! Call 216-228-9400, email arayner@smart-union.org or visit www.smart-union.org.
IN MEMORIAM

Charles ‘Al’ Nowlin — former GO 569 chairperson

Charles ‘Al’ Nowlin, a stalwart supporter of the union through and through and a multiple-term general chairperson for GO 569, passed away unexpectedly April 24. He was 68 years old.

“Al was a true brother to all of us. He was steadfastly dedicated to our cause and that of the labor movement in general,” SMART Transportation Division Vice President Brent Leonard said. “I always admired his kindness and true caring for those he represented and worked for, as well as his tenacious fight against the railroad carrier.”

Brother Nowlin joined the union in December 1973 after hiring on as a fireman for the Missouri Pacific at age 18. A member of Local 349 in Kansas City, he later worked as a union officer, for the duration of his career.

Brother Nowlin first became a union officer in his home local in 1978, winning a seat as a local chairperson. This began four decades of dedicated service as a union officer, eventually leading to his being elected as GO 569 chairperson and serving three terms before his retirement in December 2018.

Leonard recalled a story that Al’s wife, Phyllis, shared that summed up Brother Nowlin’s belief in the organization. “When Al would meet non-railroad people, upon his telling them that he worked for the railroad, most often their response would be, ‘Wow, the railroad is a great job!’ Al’s response would be, ‘No, the railroad is a good job, with a GREAT union.’”

Upon the occasion of his 35th year as a union officer, Brother Nowlin was honored at the 2013 Anaheim Regional Meeting by then-SMART General President Joe Nigro with a clock to recognize his service. “Al was a man of strong faith and had incredible love for both his family and his union family,” Leonard said.

Brother Nowlin was a delegate to multiple UTU/SMART-TD conventions, a frequent donor to TD PAC, served as a special organizer for the union, had membership in the SMART-TD Alumni Association and mentored union leadership while maintaining his labor activism even after his retirement. “Al will be sorely missed by those who knew him,” said Leonard. “His legacy will be that future railroad employees will continue to benefit from the work he did on their behalf.”

David Colelli — former legislative rep of Local 206

Brother David Colelli of Local 206 (Peru, Ind.), passed away in an act of selflessness May 5 at the age of 46.

Brother Colelli lived in the service of his family, both at work and in his personal life. An 18-year member of our union, he served proudly as a legislative representative from 2012 through 2019.

On a family vacation in Pensacola, Fla., David’s five-year-old niece was caught in a riptide. Brother Colelli and one other person in his group succeeded in saving the young girl, but both succumbed to injuries suffered in the incident.

In the words of Kenny Edwards, state legislative director for Indiana: “There is no doubt that David was a hero. If you knew David, you know what a gentleman and what a great man he was. He loved his family more than anything.” He is survived by his wife; his father-in-law; children; grandchildren; siblings and his nieces.

“I know the out- come, he would have done it all over again. That is the man I know him to be, David is a hero, and we will all remember him with the respect that he deserves,” said Local 206 Legislative Representative Pete Utley, a longtime friend of Brother Colelli. A link to an online fundraiser for Brother Colelli’s family is above.

Richard Gulley — Local 1590 president

Brother Richard Gulley, president of Local 1590 (Anahiem, Calif.), passed away June 29.

“Brother Gulley was a beloved husband, father, grandfather, and friend,” said Bus Department Vice President Avry Hughes. “As local president, Brother Gulley was instrumental in assembling one of our newest bus locals.”

Thomas Lucas — Local 1440

Brother Thomas Lucas, a member of our union for more than two decades, passed away May 6 at the age of 52. Brother Lucas joined our union in 2002 and worked as an electric equipment maintainer for Staten Island Rapid for 20 years.

He was an Army veteran and served during Operation Iraqi Freedom.
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, 600 Rockford Roads Blvd., N., Suite 325, Independence, OH 44131-2378.

High-resolution digital photographs should be in JPEG format and emailed to news_tl@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 in print.

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-TD 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.

Transportation Division policy concerning fees objectors

Any person covered by a UTU, now SMART, union shop or an agency shop agreement in the United States who elects to be a non-member has the right to object to the collection of any fees that he/she is currently paying until the analyst issues the report. As soon as possible after the issuance of the analyst’s report, the President, Transportation Division shall provide a list of appellants to the American Arbitration Association (AAA). All appeals shall be consolidated, except for exhibits and witnesses that may be introduced for rebuttal. On written request from an appellant, copies of exhibits (or in the case of voluminous exhibits, summaries thereof) shall be provided to them. Additionally, copies of the record shall be available for inspection and copying at the AAA.

13. The Transportation Division shall have the burden of establishing that the reduced fees set forth in the analyst’s report are lawful.

14. If the arbitrator shall determine that more than one day of hearing is necessary, hearings shall be scheduled to continue from day to day until completed. The parties to the appeal shall have the right to file a brief within fifteen (15) days after the transcript of the hearing is available, but in no case more than thirty (30) days after the hearing closes. The arbitrator shall issue a decision within forty-five (45) days after the submission of post-hearing briefs or within such other reasonable period as is consistent with the rules established by the AAA.

15. The arbitrator shall give full consideration to the legal requirements limiting the amounts that objectors may be charged, and shall set forth in the decision the legal and arithmetic basis for such decision.

16. If an objector receiving an advance reduction wishes to continue the objection, he/she shall continue to pay the reduced fees that he/she is currently paying until the analyst issues the report. As soon as possible after the issuance of the analyst’s report, he/she shall pay the amount of the reduced fees calculated by the arbitrator. Persons objecting for the first time shall be sent a copy of the report prepared by the analyst for the previous year and shall pay the reduced fees as soon as possible.

17. Each month thereafter for all objectors, an amount shall be put in an interest-bearing escrow account equal to 25 percent of the reduced monthly fees, or such other greater amount as the analyst may recommend. All objectors from the previous year shall be paid the amount of non-chargeable money that is in the escrow account as determined by the analyst’s report as soon as practicable after its issuance. The appropriate unit of the Transportation Division shall not, however, take its portion of the proceeds in the escrow account until fifteen (15) days after the conclusion of the period within which an objector may appeal the ruling of the analyst, or upon the issuance of the decision of the arbitrator, whichever is later.

18. When the decision of the arbitrator is announced the monies remaining in the escrow account shall be distributed in accordance with the decision.

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