



Historic agreements



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.



Photo courtesy Tim Howard of Local 278 (Jackson Mich.)

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.

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

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 his-

toric 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 time 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.

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

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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.

New GP Coleman takes helm for SMART

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** on May 31.

Coleman was elected general president by the SMART General Executive Council, which in turn



Coleman

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

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OUR INBOX IS OPEN! Send in photo submissions for the annual TD Alumni calendar to news_TD@smart-union.org today! Submitters whose photos are chosen will receive copies of the calendar. (Photo above by frequent contributor **A.J. Nash** out of Local 257 in Morrill, Neb.)

Inside this issue

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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 of UP’s conductors 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 railroaders.

“Our members made it very clear in 2022 that quality-of-life issues and the ability to provide stability for their families in times of medical crisis was of the utmost importance. On-demand sick days that do not amount to discipline from their employer are a historic step in the right direction for these men and women, and I am very proud of the effort that our General Chairmen on the UP properties put in 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. All five of the UP General Chairs 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**, GC 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 boards 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** GC of GO 953, 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 makes the countless hours of work we put into this union movement worthwhile.”

General Chairperson **Joe Cornelius** of GCA 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 a 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. Vice President **Gary Crest**, GC 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 majority of the American workforce already enjoy.

In addition to paid sick time, the agreement, which covers approximately 2,400 conductors and trainmen on CSX 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 attendance 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. It is also encouraging that 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.

Two 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.

All Norfolk Southern operating general committees have 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 workers in the carrier’s Eastern District, Idaho and

Pacific Northwest, ratified a crew-consist agreement, preserving the in-cab role of the conductor until national negotiations reopen in November 2024.

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

The three crafts 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 Leonard**.

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

VP Leonard had this reaction to ratification of GO 953’s agreement:

“This agreement serves to protect the train & yard service 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 and does so without tying their position to that of another craft. Despite the efforts of outsiders who tried to prevent train & yardmen from becoming the highest-paid railroad craft employees, SMART-TD members recognized their value and secured their future. I commend the SMART-TD members for recognizing this and overwhelmingly ratifying 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 1985, when he joined what was then Local 65 in Cleveland, Ohio (Local 65 merged with Local 33 soon after). After graduating into journeyman 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 tirelessly 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 presi-

dent, a position in which he served until May 31, 2023. In all, Coleman has more than 20 years of dedicated leadership at the local 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 through 114 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 FRA underscored how the Class I’s have prioritized profits over their workers and the communities they service. Railroads have downsized their workforce, rewarded wealthy shareholders and corporate executives through 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

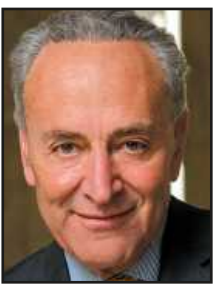
rail incidents.

Schumer highlighted that as safety concerns and incidents rose, the industry has simultaneously cut over 30,000 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 railways – BNSF, CSX, Union Pacific, Canadian National and Canadian Pacific Kansas City – with the intention of publishing those reports as well.

Finally, FRA will make overarching 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



Schumer

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 as well as what endemic problems permeate across the whole industry. I am glad to hear that the administration is taking this call seriously, and I hope that the rail companies will receive these reports and provide robust plans of actions on how to institute any changes the FRA recommends. We cannot stop this drumbeat 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 help prevent the frequent derailments across the country that have made headlines.

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 this perennial 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.

The FRA listed three unacceptable training issues they found in their safety audit along with FRA-prescribed “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: Implement objective standards, track measurable progress and properly train managers, coordinators and mentors who perform any oversight duties on on-the-job field training.

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.

Action: Strictly follow 49 CFR 242.7 “in the selection of qualified instructors and ensure joint selection by a designated railroad officer and a designated employee representative.”

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

SMART-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. SMART-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.

Support needed to halt unemployment benefit cuts

Under the Budget Control Act of 2011, and a subsequent sequestration order to implement mandated cuts, Railroad Retirement Board-administered unemployment and sickness insurance benefits were reduced by a set percentage that is 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 whip and a senior member of the House Budget Committee, alongside Rep. Brian Fitzpatrick (R-Pa.), Rep. Rick Larsen (D-Wash.), Rep. Don Bacon (R-Neb.), Rep. Chuy Garcia (D-Ill.), and Rep. Pete Stauber (R- Minn.). U.S. Sens. Deb Fischer (R-Neb.), Amy Klobuchar (D-Minn.), and Sherrod Brown (D-Ohio), introduced the bill in the Senate.

The current RRB daily rate for

Your help is needed!

Contact your congressional representatives through the **SMART TD Legislative Action Center (LAC)** to tell them to **DO THEIR JOBS** 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.

unemployment is \$85 and pays out five days weekly for biweekly payment of \$850. After the emergency relief’s expiration, the daily rate for unemployment will become \$80.15 daily for a biweekly total of \$801.50. This bill will reduce the payment of our out-of-work brothers and sisters by \$48.50 per pay period.

Sickness benefits paid to an employee within six months from the date last worked for a reason other than an on-the-job injury are

also subject to regular Tier I Railroad Retirement taxes, resulting in a further reduction of 7.65%. 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 that the pandemic relief temporarily eliminated already has been done away with for other federal retirement plans. This clawing-back of funds, implemented 12 years ago, is literally only applicable to the Railroad Retirement Board.

SMART-TD is asking you to rally around our own by contacting your House representative as well as your U.S. senators to demand they support a permanent end to sequestration of railroad unemployment and sickness insurance benefits. By reintroducing and passing the REEF Act, Congress can restore railroaders’ hard-earned benefits.

This sequestration is out of date, and unfairly targeted at our profession. Please follow the link provided to make your voice heard to protect the hard-working men and women in your crew base when they are in financial difficulty.

SMART GENERAL PRESIDENT'S COLUMN

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 February 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**, who I consider a good friend and brother. He is a constant advocate for the members of the Transporta-



By Michael Coleman

tion Division, and together we plan on continuing the efforts he and General President Sellers led.

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 is taking proactive measures, but we cannot rely solely on momentum and media attention. It is essential that we make our presence felt in our communities and in the offices of our elected officials. We must urge our representatives and U.S. senators to support a strong, pro-worker Railway Safety Act.

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 interests 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



Michael Coleman, left, takes the oath of office from SMART General President Joseph Sellers Jr. on June 1.

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

Michael Coleman
General President, SMART

Bus Department News

A message from your Bus Department leadership

Brothers and sisters,

With all the recent assaults on bus and transit workers, the time is now that we demand actions from lawmakers and the Federal Transit Administration (FTA). As evidenced by a recent incident in Charlotte, there is now an increasing number of operators who are starting to take actions into their own hands, and by doing so are faced with termination.

FTA, before making grant money available to transit agencies, should ensure that these agencies are in compliance with reporting operator assaults. They should also ensure that a portion of the funds are allocated for the agencies to be used for security and/or transit police presence. Regardless of transit agency size, there must be a focus on eliminating operator assaults. There can be no more roundtable



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. Deescalation 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. And 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
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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.

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TRANSPORTATION DIVISION PRESIDENT’S COLUMN

Our bus, transit workers deserve protection

Brothers and sisters,
SMART Transportation Division has seen historic successes in 2023 and at the same time, we face some unprecedented struggles. Since the last publication of this newsletter, many of our freight rail members have won major victories with new contracts including paid sick leave, increased schedule predictability, and pay increases. Two-person crew and other rail-safety legislations have been passed in statehouses around the country, and the United States Congress maintains its focus in the face of carriers’ intense opposition to take overdue action that gives our members’ safety and quality of life the credence that they deserve.

As the SMART-TD President I am also very excited to have Brother Mike Coleman as the new general president of SMART. We wished General President Sellers a very happy retirement at our board of directors meeting this past April and I was proud to see Mike sworn in as General President at our General Executive Council meeting May 23. Mike and I have had a longstanding working relationship and I am also proud to call him a friend.
On the flip side of all the positive we are experiencing, I am very 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



By Jeremy Ferguson


shoot-out with a disgruntled bus passenger, an incident that sent both men to the hospital with what were described as life-threatening 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 "this data includes only the most serious events, and may significantly underestimate 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 transit workers is violently assaulted. These men and

“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.”

women are the lifeblood of our economy, getting Americans 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 violent incidents. Last year, also in Charlotte, one of our members was killed by gunfire while on the job. This is no time for a government study. It’s not time to discuss increasing next 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 transportation, 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 agreements, including crew-consist guarantees, paid sick leave for multiple crafts including some yardmasters, and more firmed-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 support.
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 Department have been producing great results in state legislatures and on the hill in Washington 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 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 happening in your 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 want 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

What YOUR UNION is doing for YOU

Here is a list of recent arbitration victories reported to SMART Transportation Division’s leadership.
General chairpersons who wish to report a recent success should email Vice President **Alvy Hughes** (ahughes@smart-union.org) for Bus Department victories and Vice President **David B. Wier Jr.** (dwierjr@smart-union.org) for rail victories.

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

...
■ In **NRAB First Division Award No. 31275** (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 concluded that the record did not contain substantial evidence to determine whether the claimant was the crew

member who was responsible for the execution of the shove movement that ultimately caused the train to derail. Based on this finding, 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 Chairperson **Nathan MacDonald** and GO 001 Associate General Chairperson **Jere-**

my Brown progressed this case to the NRAB First Division.
...
■ In **NRAB First Division Award No. 31276** (Shea, 2023), a switchman was dismissed from the employment of BNSF over the carrier’s allegation that he was dishonest and stole time by receiving overtime payments 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 introduce 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 dishonesty or theft. Reaching this finding, the board reinstated the claimant to serv-

Continued on Page 6

Action taken to defend bus, transit worker safety

June 26, 2023, was the Federal Transit Administration's (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, efforts and the quality of the ideas shared while 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 Studivant** 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 the front lines.

Thank you all for your efforts to keep yourself as well as your union brothers and sisters safe at work and both represented as well 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.

■ In **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 their 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 the investigation would reconvene on January 26 of the following week, and if his local chairperson was unavailable to attend the hearing on that date, he would need to secure other representation. The local chairperson selected by the claimant contacted the carrier to advise them that he would not be available to attend the formal investigation on January 26. The local chairperson further advised the carrier that he would be medically cleared to report back to work five days from the day the investigation was scheduled 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 compelled 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's decisions to disallow the claimant the right to a representative of his choice at the formal investigation and denying his request to postpone the January 26 investigation were neither reasonable nor in conformity with the collective bargaining agreement. After reaching this conclusion, the board reinstated the claimant to service and compensated him for all 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.

■ In **NRAB First Division Award No. 31305** (Falvo, 2023), Union Pacific dismissed a conductor for allegedly being dishonest regarding reporting an on-duty injury and being careless to the safety of himself and others. Based on a review of the record evidence in this case, the board concluded that that 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. 1.6. Accordingly, the board reinstated the claimant to service and ordered the carrier to compensate him for his lost wages. GO 887 General Chairperson **Gary Crest** and GO 887 Vice General Chairperson **Todd Campbell** progressed this case to the NRAB First Division.

■ In **NRAB First Division Award No. 31307** (Falvo, 2023), Union Pacific terminated 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 COM-

MIT events are not supposed to result in discipline, the board therefore found that the discipline administered to the claimant was unjustifiable. In addition to that finding, the board maintained that the carrier committed a procedural impropriety 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 Crest** 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 concluded that the claimants were not guilty of engaging in a deliberate slowdown, it found that they were culpable for some of the delay their job experienced on the date in question. In its stated findings and conclusions, 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 each claimant 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 the initial sixty (60) 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. 161** (Darby, 2023), Norfolk Southern terminated the

employment of a conductor for allegedly passing a stop obstruction banner 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 a prior pristine work record and him not being solely responsible for the incident in question, reduced the his termination to a suspension of ninety (90) days. Based on this finding, the board reinstated the claimant to service and compensated him for his lost earnings, minus the initial ninety (90) days he was withheld from service. GO 687 General Chairperson **James Ball**, GO 687 Assistant General Chairperson **Brian Sharkey**, GO 687 Secretary **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. 166** (Darby, 2023), Norfolk Southern terminated the employment of a conductor for purportedly marking off under false pretenses when he laid off using FMLA leave. In this case, the claimant was approved for intermittent FMLA leave. The claimant attempted to take vacation leave from 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 rationalized 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 Secretary **Nicholas Greficz**, and International Vice President **David B. Wier Jr.** handled this case before Public Law Board 7488.

State Watch

News from SMART-TD State Legislative Boards

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 got there just the same. On May 1, Kansas became the 10th state in the country to secure 2PC as the minimum train crew size in the state.

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

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 and SMART-TD 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 challenging Kelly 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 statewide races coalesced for the 2022 election cycle, it was no surprise to see Schmidt squaring off against Kelly. This was obviously not in 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 is what matters to our organization. **Party affiliation is not what qualifies someone to earn our endorsement, a commitment to rail safety is.** As it happened, SMART-TD was the only trade union in the state of Kansas that endorsed Kobach. It 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 Kanas 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 causes.”

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 passed it in 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 began as its own bill in the Senate with a companion in the House. It was heard and passed through all committees with the railroads very actively opposing it.

“It was difficult when the railroads were testifying to keep a straight face,” commented Katich. “Some of their claims were so false or misleading it would make you sick. Our job was to help 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 SLDs Dragoo and 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 965 — 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 duty and for service rendered on rest days. Under the terms of the prior agreement, employees did not receive the overtime pay rate until after 40 hours of service during a work week.

The new agreement also provides significant General Wage Increases (GWIs) as stipulated:

- Upon signing: 8%
- January 1, 2024: 6%
- Jan. 1, 2025: 4%
- Jan. 1, 2026: 3%

- 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 unrelenting 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%

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 TP&W provides the membership with historic general wage increases, and it also provides the membership with a much-needed guaranteed wage for extra 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 a series of GWIs as follows:

- 3% GWI effective July 1, 2020
- 3.5% 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.”

Officers mobilize for RR Safety Day

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



SMART Transportation Division officers, including state legislative board members and general committee officers, gather on the steps of Capitol Hill in May after visiting with members of Congress to discuss railroad safety around the nation.

(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 mini-

mum 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.”



ABOVE: GC Gary Crest, D.C. Legislative Director Jarad Jackson, N.J. SLD Ron Sabol, U.S. Rep. Grace Napolitano (D-Calif.) and N.J. SLB Legislative Vice Chairperson Joseph Williams.



Virginia State Legislative Director Ronnie Hobbs (top center) meets with U.S. Rep. Gerald Connolly (D-Va.) and others during Railroad Safety Day on the Hill on May 17.



Calif. SLD Louis Costa, Rep. Julia Brownley (D-Calif.) and Ga. SLD Matt Campbell.



From left, Michigan SLD Don Roach, Rep. Haley Stevens (D-Mich.), Scott Hoose and Owen Smith.



Arizona SLD Scott Jones meets with Mo. Sen. Josh Hawley (R).



U.S. Rep. Randy Feenstra (R) of Iowa’s 4th District, left, meets with Iowa SLD Chris Smith.

DIPP assessment reductions take effect in August

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 DIPP_TD@smart-union.org for further details.



SMART-TD President Jeremy Ferguson addresses the audience as Norfolk Southern CEO Alan Shaw, left, looks on during the June 1 event at NS’s Bellevue, Ohio, facility.

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 our brothers’ and sisters’ keepers. That’s what we have to do. Make sure all of us, including the managers, including 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.

“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.

GUEST COLUMN: FROM THE BALLAST

“From the Ballast” is an open column for SMART Transportation Division rail members to state their perspective on issues related to the railroad industry. Members of the union are encouraged to submit content by emailing news_TD@smart-union.org. Columns are published at the union’s discretion and may be published in the SMART-TD newspaper as well as online.



By Justin Wolters

Even before I became an officer, I was deeply involved in the unions’ activities. I spent countless hours studying our agreements and providing guidance to fellow members. I always felt a sense of leadership and responsibility to share what I learned and I never felt like I was just a member.

Throughout my career, I’ve had the privilege of meeting SMART members from various railroads, and I’ve come to realize that we all share a common bond. Each and every one of us has the opportunity to teach and guide our fellow members if we choose to do so. We actively engage in discussions about agreements, rules and laws, and we mentor each other through these conversations to ensure that everyone is well-informed. Even in those cases that we do not agree or share the same views, the communication that takes place is invaluable as it cultivates and sharpens our perspective. In our own unique ways, we all contribute to the collective knowledge and education of those around us.

The term “rank and file” has been thrown around a lot lately, but it’s a misnomer when it comes to SMART members. The definition of “rank and file” refers to the ordinary members of an organization, as opposed to its leaders. However, SMART members all have the ability to be leaders in their own way, and it is strongly supported and encouraged based on our union’s constitution.

SMART members are highly skilled and trained professionals who take pride in their work and are committed to excellence. They are not just followers, and the majority are active participants in our organization. SMART members are involved in decision-making processes, and they have a say in the direction of the organization.

Therefore, it’s inaccurate to refer to “rank and file.” This term does not accurately reflect the level of leadership and expertise that SMART members bring to the table. Instead, we should recognize and celebrate the fact that all SMART members are leaders in their own right.

Justin Wolters is general chairperson of the Indiana Harbor Belt Railroad Co. and a proud member of SMART Local 1381.

REPRESENTING AT TOLEDO TRAIN DAY



Legislative Representative **Tim Merren** and **Alt. Legislative Representative Tony Wilcox** of Local 2 in Toledo, Ohio, man the table to represent the union at the Train Day, a regional event held annually at the city’s Amtrak station.

Around the SMART-TD

GO 009 (BNSF, FORMER AT&SF — PROPER)



The General Committee’s reorganization meeting took place in the spring in Las Vegas. The GO’s leadership includes front row, seated from left, Secretary Chad Fluke (Local 945); First Vice Chairperson Chad Davis (Local 945); General Chairperson Scott Swiatek (Local 445) and Second Vice Chairperson John Lynch (Local 1494).

GO 393 (BNSF, FORMER AT&SF — WESTERN)



The General Committee’s reorganization meeting took place in the spring with all elected officers being chosen to retain their respective leadership permissions. The GO’s leadership includes General Chairperson Kevin Kime; Senior Vice Chairperson Dwayne Martin; Engineman Vice Chairperson Gary Relic; Junior Vice Chairperson Robby Cavazos and Secretary Robby Bradford.

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 we openly share member/employee information with each other. Carriers have zero obligation to voluntarily share any change in your personal information with your union, including your job craft. Even in this age of easy communication, maintaining good labor relations isn’t the strong suit of many carriers, and that 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 Leichter**. 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.



From left, Michigan state Rep. Nate Shannon, Conductor Devourie Nesby, Assistant Conductor Desiray Campbell and Mich. state Rep. Jason Hoskins pose in the House chamber.

L-202, PUEBLO, COLO.



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-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 that far out to him, and by the time I had him, I had lost most of the feeling in my legs."

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.

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



Members of Local 445 take part in a food drive done in conjunction with Sunny 97.7 WMOI-FM in May.

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 18 and 19.

This second food drive was done in conjunction with the radio station Sunny 97.7 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 Pacific 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



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!

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!



Byrne

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.



Gibson

GIVING THE CEO A MESSAGE

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.

Hours of service report rolls out

As kids all over the world know, railroaders tend to work “all the live-long day.” This is baked into the cake and 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 workers are supposed to be on duty.

The first time the federal government limited the consecutive 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 on their way home or to away-from-home lodging, we all know that is not how it plays out. Often, crews stop their train at the 12-hour mark and spend additional hours waiting on a crew or transport.

The carriers expect their transportation employees to

skirt these federal laws. When crew members mark off time tickets, there is a mechanism to report to the Federal Railroad Administration (FRA) that HOS has been exceeded. Unfortunately, self-reporting these violations to the carriers and FRA has not changed the reality on the ground.

SMART-TD’s National Legislative Department is asking for all rail members to help us bring this quality-of-life issue into a better light.

An Hours-of-Service Violation Report has been added to the SMART website. This new report can be accessed from the “Get Involved” menu on www.smart-union.org below “Report a Worksite Issue.” The data we collect from you will be used to inform regulators, as well as congressional members, about the frequency of these federal violations.

SMART-TD’s leadership is very aware that after a long day of work, no one looks forward to filling out paperwork. We kept that in mind when we put together the form. It is short and won’t take longer than a minute or two to fill out.

There is also a tutorial available that will hopefully answer any questions you might have.

In the spirit of being user-friendly, the Technology Event and Safety Condition Reports that are available on the app have been streamlined as well. All three are pivotal to SMART-TD’s ability to represent you in the manner you deserve and they play a large role in our government affairs strategy.

The information we gather will only be effective if we consistently hear from our members. Please make your voice heard and help us represent your interests in the halls of Congress and to hold carriers 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!

HOURS OF SERVICE REPORT

Scan me

SAFETY REPORT

Scan me

TECH REPORT

Scan me

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 designated as legal counsel for a rail union.

Youngdahl also serves on the Academy of Rail Labor Attorneys (ARLA) Board of Managers.



Youngdahl

She has been representing railroad workers in Federal Employers’ Liability Act (FELA) and Federal Rail 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 railroaders 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 legal and ethical obligations has been the cornerstone of Youngdahl’s practice.

Youngdahl has been designated counsel for SMART for nearly 20 years and says she looks forward to serving as SMART DLC coordinator.

To learn more about the DLC, visit the SMART website under the Resources tab.

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 railroaders while also restricting their ability to engage in a normal family life outside of work. Depending on the circumstances, you may have legal rights that could protect you if the railroad

attempts to improperly enforce their attendance policies:

- **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 doctor’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 pursuing FMLA leave must satisfy 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 circumstances, qualify as a legitimate refusal 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.

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 requirements. Railroads have started cracking down on how its 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 www.dol.gov provides additional information about the FMLA at www.dol.gov.

SMART
TD

Useful news and information for our retirees
and members of the TD Alumni Association

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.

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 Newark local.

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



Retirees pose for a photo at the New York-New Jersey Retired Passenger Trainmen Dinner in May.

come together.

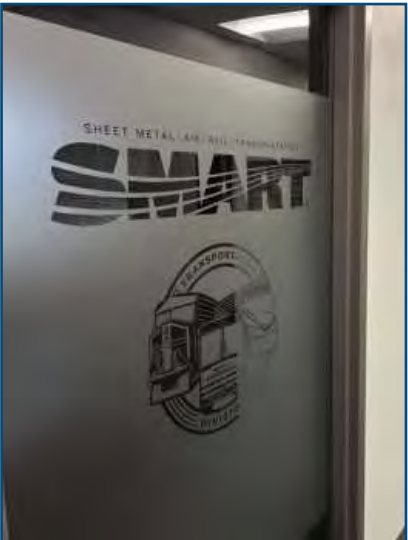
“We have people come from all over the country,” Powers said. “Both coasts. We give them gifts, drinks and dinners and away we go.”

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.



JUST A
REMINDER

The SMART-TD office
has moved!
Automatic/electronic pay-
ments through your bank
for annual Alumni Associa-
tion dues should go to the
SMART Transportation
Division’s new mailing ad-
dress:

6060 Rockside Woods
Blvd. N., Suite 325
Independence, OH
44131-2378

THE FINAL CALL

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

Local	Name	City/State	Local	Name	City/State	Local	Name	City/State
14	Haynes, John H.	California, Ky.	544	Hentschel, Richard G.	Havre, Mont.	1138	Wells Jr., Ellis J.	Sunrise, Fla.
60	Long, Alexander	Monroe Twp., N.J.	544	Hotchkiss, Jon C.	Havre, Mont.	1337	Square, Andre D.	Baton Rouge, La.
61	Eby, Benjamin F.	E. Norriton, Pa.	577	Cross, Nicholas D.	Homewood, Ill.	1379	Snyder, John A.	Newell, Pa.
61	Gorden, Constance H.	Philadelphia, Pa.	586	Young, Darrell R.	Plymouth, Ohio	1393	Andres, Robert C.	Eden, N.Y.
167	Celentano, Richard	Schenectady, N.Y.	622	Griffin, Walter J.	Hueytown, Ala.	1422	Belmonte, Frank J.	Alhambra, Calif.
171	Richards Jr., William A.	Oswego, Ill.	645	Clampett, Liam P.	Brookhaven, N.Y.	1470	Wetzelberger, Paul E.	Taneytown, Md.
195	Bradley, Robert E.	Knoxville, Ill.	659	Linscomb, Garry L.	Glasgow, Ky.	1548	Hunter, Donald E.	Plainfield, Ind.
202	Alcala, Stephen A.	Pueblo, Colo.	770	Locke, John T.	Poteau, Okla.	1563	Lisberg, Brian L.	Azusa, Calif.
206	Colelli, David	Peru, Ind.	807	Bone, Johnny W.	Tucson, Ariz.	1564	Darby, Cecil	Paramount, Calif.
258	Holmes, Heath M.	Glenwood, Iowa	807	Malone, Patrick W.	Tucson, Ariz.	1570	Kosek, Emil J.	Citrus Hts., Calif.
258	Sorensen, Steven A.	Norfolk, Neb.	832	Bodell, Joseph J.	Duluth, Minn.	1574	Newton, Donald E.	Happy Valley, Ore.
265	Mattox, M.J. “Mike”	Pocatello, Idaho	866	Gonzales, Baldamar	Cheyenne, Wyo.	1589	Fletcher, Herbert	Woodbury, N.J.
293	Caten, James A.	League City, Texas	891	Hutzenbiler, Ronald L.	Kalispell, Mont.	1628	Gilliland, John L.	Arona, Pa.
313	Wierckz, Richard L.	Lowell, Mich.	945	Smith, Bryson T.	Pueblo, Colo.	1709	Anderson, Albert T.	Warren, Mich.
316	Schafer, Dean A.	Marshalltown, Iowa	971	Rickers, Charles C.	Richmond, Va.	1709	Brancheau, Robert M.	Johannesburg, Mich.
349	Nowlin, Charles A. “Al”	Braymer, Mo.	977	Kilbury, George W.	Kennewick, Wash.	1775	Elmore, Glen Scott	Taylorsville, Utah
376	Bowling, Delmar R.	London, Ky.	980	Bienek, James C.	Mandan, N.D.	1780	McArthur Jr., Gene	Knippa, Texas
378	Tiedman, Ronald O.	Euclid, Ohio	1006	Scott, Richard A.	Homestead, Pa.	1886	Voight, Leonard A.	Katy, Texas
427	Graham Jr., William R.	Bogalusa, La.	1011	Garner, William C.	Hamlet, N.C.	1892	Johnson, Johnnie	Cypress, Texas
446	Daigle, Tad A.	Austin, Texas	1031	Whitfield, William D.	Statesboro, Ga.	1947	Boudreaux, James L.	Lafayette, La.
446	Harmych, Frank-Jason	Laramie, Wyo.	1053	Galloway, Jack	Selma, Ala.	1947	Cryer, Harold W.	Chapin, S.C.
489	Barnhart, Orville H.	Austin, Texas	1075	Beauman Jr., Lilburn W.	Monroe, Mich.	1948	West, Joseph M.	Seneca, Pa.
493	Decker, Gary M.	Jesup, Iowa	1075	Long, Bobby J.	Taylor, Mich.	1949	Pilger, Thomas A.	Jersey City, N.J.
533	Cook, Kenneth W.	Osawatomie, Kan.	1081	Klingshei, John R.	Phoenix, Ariz.	1976	Hendrickson, Dawn M.	Grand Forks, N.D.

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 was promoted to engineer and worked for the carrier’s successor, Union Pacific, for the duration of his career.

Brother Nowlin first became a union officer in his home local in 1978, winning election 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



From left, SMART Transportation Division Vice President Brent Leonard, General Chairperson Charles “Al” Nowlin meet with AFL-CIO President Richard Trumka. Nowlin passed away in April at 68.

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,” Leonard said. “His legacy will be that future railroad employees will continue to be benefited 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 legislative representative from 2012 through 2019.

On a family vacation in Pensacola, Fla., David’s five-year-old niece was caught in a rip tide. Brother Colelli and one other person in their 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.



“His family meant absolutely everything to the man. I know for a fact that if he knew the outcome, 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 Ulery**, a longtime friend of Brother Colelli. A link to an online fundraiser for Brother Colelli’s family is above.

Schedule set for RRB retirement prep seminars

Union officials, auxiliary members and their spouses as well as rail employees and spouses within five years of retirement are welcome to attend a Railroad Retirement Board (RRB) pre-retirement seminar.

While most of the program focuses on various aspects of Railroad Retirement benefits, each seminar closes with a brief presentation on railroad unemployment and sickness benefits to help prepare union officers for sharing reliable information with members.

How to register

Online registration is required to ensure accommodations and materials for all attendees.

Security screening is required for seminars hosted inside any federal buildings. Bring a current, valid photo ID (issued by state/federal government); no weapons permitted.

Attendees are encouraged to bring original records (or certified copies) of documents required to file a Railroad Retirement application (such as proof of age, marriage or military service), along with an additional copy of each item to leave with field service staff.

Visit [RRB.gov/PRS](https://rrb.gov/PRS) to register.

Select your local seminar from the schedule listed, click the register button, enter your information and hit submit.

To RSVP on paper instead: select your local seminar from the schedule listed, find the blank registration form (PDF) to print and complete, then mail or fax it to your local RRB field office. Contact

information for each office hosting a seminar is accessible through the Field Office Locator at [RRB.gov](https://rrb.gov).

Event details and registration will be available approximately 70 days in advance of each seminar, and registration will be closed for any seminar that reaches capacity.

Seminar video available online

The Office of the Labor Member released its 2023 Pre-Retirement Seminar presentation online. The video is intended to help educate those nearing retirement about the benefits available to them, and what they can expect during the application process.

To view the hourlong video, follow the QR code above with your smart device or visit <https://rrb.gov/PRS> for more information about preparing for life after pulling the pin from your railroad career.



Date	Site
Sept. 15, 2023 8:30 a.m. - 12:30 p.m. (doors open at 8 a.m.)	Fritz G. Lanham Federal Building 819 Taylor St., Room 4A14H Fort Worth, Texas 76102 FEDERAL BUILDING: Visitors subject to security screening. Bring a current, valid photo ID; no weapons allowed. PARKING FEE: \$20
Oct. 20, 2023	TBA — check rrb.gov/PRS for details.

IN MEMORIAM

Richard Gulley — Local 1590 president

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

“Brother Gulley was a beloved husband, father, grandfather, and friend,”

said Bus Department Vice President **Alvy Hughes**. “As local president, Brother Gulley was instrumental in assembling one of our newest bus locals.”



Gulley

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.



Lucas



The Division 3 General Chairpersons Committee convened June 22 at the TD office in Independence, Ohio. Along with a number of other TD officers, including President **Jeremy Ferguson**, Vice President **Alvy Hughes**, Alt. VP **James Sandoval** and SLDs, the group set the course for the direction the union needs to go to better serve its bus membership.

Featured photo showcase

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, 6060 Rockside Woods Blvd., N., Suite 325, Independence, OH 44131-2378.

High-resolution digital photographs should be in JPEG format and emailed to news_td@smart-union.org. We prefer horizontal photos. Be sure that your camera is set to the large resolution setting when taking the photo or it might not reproduce well 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 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 legal right to object to political and ideological expenditures not related to collective bargaining, contract administration, or other activities germane to collective bargaining. Each non-member who objects shall pay reduced fees. In the public sector, nonmembers can elect to pay their fair share of the costs of collective bargaining by paying the agency fees, or they have the right to pay no fees.

To the extent permitted by law, a non-member cannot participate in union elections as a voter or as a candidate; attend union meetings; serve as delegate to the convention or participate in the selection of such delegates; or participate in the process by which collective bargaining agreements are ratified.

2. Notification of objection procedures:

a. To be a nonmember fee objector and pay reduced fees, the objecting non-members shall provide notice of objection by notifying the President, Transportation Division of the objection by first-class mail postmarked during the month of September preceding the calendar year to which s/he objects, or within thirty (30) days after he/she first begins paying fees and receives notice of these procedures. The objection shall contain the objector’s current home address. Once a non-member objects, the objection shall stand until revoked. Objections may only be made by individual employees. No petition objections will be honored.

b. A nonmember who is a public employee: To be a nonmember fee objector and pay no fees, the objecting non-member shall provide notice of objection by notifying the President, Transportation Division of the objection by first-class mail during the period agreed to in his/her Authorization for Fee Deduction form, if applicable. The objection shall contain the objector’s current home address. Once a non-member objects, the objection shall stand until revoked. Objections may only be made by individual employees. No petition objections will be honored. Any new hire of a public employer who wishes to be a nonmember should not fill out an Authorization for Fee Deduction form. Anyone who believes they are having dues improperly deducted must notify the President Transportation Division in writing.

3. The following categories of expenditures are chargeable:

a. All expenses concerning the negotiation of agreements, practices and working conditions;

b. All expenses concerning the administration of agreements, practices and working conditions, including grievance handling, all activities related to arbitration, and discussion with employees in the craft or class (or bargaining unit) or employer representatives regarding working conditions, benefits and contract rights;

c. Convention expenses and other union internal governance and management expenses;

d. Social activities and union business meeting expenses;

e. Publication expenses to the extent coverage is related to chargeable activities;

f. Litigation expenses related to contract administration, collective bargaining rights, and internal governance;

g. Expenses for legislative and administrative agency activities to effectuate collective bargaining agreements;

h. All expenses for the education and training of officers and staff intended to prepare the participants to better perform chargeable activities;

i. All strike fund expenditures and other costs of economic action, e.g., demonstrations, general strike activity, informational picketing, etc., that benefit members of the bargaining unit or craft formerly represented by UTU, now SMART.

4. SMART shall retain a certified public accountant to perform an independent audit of the records of the Transportation Division and subordinate units maintained by the President, Transportation Division. The Transportation Division shall designate an analyst for the purpose of determining the percentage of

Percentage of chargeable fees determined by analyst for calendar year 2022	
Transportation Division [*]	77.7%
State Legislative Boards	
LO-005 California ¹	44.3%
LO-025 Michigan ²	85.2%
LO-028 Missouri ³	77.7%
LO-048 Texas ⁴	53.3%
LO-051 Virginia ⁵	60.8%
LO-054 Washington ⁶	57.6%
Unreviewed boards ⁷	0.0%
General Committees of Adjustment, including locals under jurisdiction	
GO-851 CSX Transportation ⁸	100.0%
GO-898 Norfolk Southern ⁹	97.0%
Unreviewed committees ¹⁰	99.6%

^{*} Estimate; final ratio forthcoming.
¹ Estimate based on January-June 2022 monthly activity reports.
² Estimate based on 2022 monthly activity reports.
³ Estimate based on 2022 monthly activity reports.
⁴ Estimate based on 2022 monthly activity reports.
⁵ Estimate based on 2022 monthly activity reports.
⁶ Estimate based on January and February 2022 monthly activity reports.
⁷ Unreviewed state legislative boards will have a 0 percent chargeable percentage applied to new objectors.
⁸ Estimate based on 2022 monthly activity reports.
⁹ Estimate based on 2022 monthly activity reports.
¹⁰ Unreviewed general committees will have the historical average of chargeable percentages of audited general committees, which is 99.6 percent, applied to any new objectors.

expenditures that fall within the categories specified in Section 3. The amount of the expenditures that fall within Section 3 shall be the basis for calculating the reduced fees that must be paid by the objector. The analyst shall also give an opinion concerning the adequacy of the escrow amounts maintained pursuant to Section 17, and later will verify the existence and the amounts of money in any escrow accounts.

5. The analyst shall complete the report no later than August 31. This report shall include an analysis of the major categories of union expenses that are chargeable and non-chargeable.

6. Each person entitled to receive the analyst’s report may challenge the validity of the calculations made by the analyst by filing an appeal with the President, Transportation Division. Such appeal must be made by sending a letter to the President, Transportation Division postmarked no later than thirty (30) days after issuance of the analyst’s report.

7. After the close of the appeals period, the President, Transportation Division shall provide a list of appellants to the American Arbitration Association (AAA). All appeals shall be consolidated. The AAA shall appoint an arbitrator from a special panel maintained by the AAA for the purpose of these arbitrations. The AAA shall inform the President, Transportation Division and the appellant(s) of the arbitrator selected.

8. The arbitration shall commence by October 1 or as soon thereafter as the AAA can schedule the arbitration. The arbitrator shall have control over all procedural matters affecting the arbitration in order to fulfill the need for an informed and expeditious arbitration.

9. Each party to the arbitration shall bear their own costs. The appellants shall have the option of paying a pro-rata portion of the arbitrator’s fees and expenses. The balance of such fees

and expenses shall be paid by the Transportation Division.

10. A court reporter shall make a transcript of all proceedings before the arbitrator. This transcript shall be the official record of the proceedings and may be purchased by the appellants. If appellants do not purchase a copy of the transcript, a copy shall be available for inspection at the Transportation Division during normal business hours.

11. Appellants may, at their expense, be represented by counsel or other representative of choice. Appellants need not appear at the hearing and shall be permitted to file written statements with the arbitrator instead of appearing. Such statement shall be filed no later than fifteen (15) days after the transcript becomes available, but in no case more than thirty (30) days after the hearing closes.

12. Fourteen (14) days prior to the start of the first hearing, appellants shall be provided with a list of all exhibits intended to be introduced at the hearing and a list of all witnesses intended to be called, 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 exhibits shall be available for inspection and copying at the hearing.

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 hearings 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 analyst. 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 monies in the escrow account until fifteen (15) days after the conclusion of the period within which an objector may appeal the report 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.