SMART TD supports Senate rail bill’s two-person crew provision


S. 2784, the Rail Safety Improvement Act of 2014, contains language that requires freight trains be crewed with at least one federally certified conductor and one federally certified engineer. The Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers fully supports that requirement.

The issue of single-person train operations has gained national prominence recently when BNSF Railway proposed a contract to some of their operating employees that would remove conductors from trains, a proposal that was vetoed down by the affected employees. BNSF had a substantial train accident in Casselton, N.D., involving a crude oil train Dec. 30 where two-person crews played a vital role in working with first responders to protect the public.

SMART Transportation Division President John Previsich has cautioned that one-person train operations are unsafe. “No one would permit an airliner to fly with just one pilot, even though they can fly themselves. Trains, which cannot operate themselves, should be no different,” he said.

The legislation requiring a minimum of two persons on trains, H.R. 3040, is pending in the House of Representatives. This bill was introduced by U.S. Reps. Michael Michaud (D-Maine) and Chellie Pingree (D-Maine) last year and has 80 co-sponsors.

“We thank Sen. Blumenthal for including this provision, which maintains current practices. While America’s railroads generally operate with a minimum of one conductor and one engineer, there are a handful of rogue operators who are operating unsafe, single-person trains. This legislation will put an end to that unsafe practice,” Previsich said.

The legislation also requires Class I and passenger railroads to install audio and image recording devices in locomotive cabs. “We plan to work with the Senate to try to get this unwarranted proposal removed from the bill,” Previsich said.

“Preservation of our work rules was paramount, and our members at every level were clear about the need for a comprehensive overhaul of rail safety laws and protocols was needed to enhance safety and reliability following a series of high profile rail catastrophes in New York, Connecticut and nationwide that has undermined public trust in rail infrastructure, safety protocols, management and oversight,” Previsich said.

The deadly Metro North crash, plus so many others across the country, have exposed time and again that our passenger and freight railroads pose a glaring need for comprehensive reform of the nation’s rail safety laws and protocols.

“Whether it was Montana or North Dakota, the deadly M N crash, plus so many others across the country, have exposed extensive service disruptions and delays, and the numerous catastrophic derailments and explosions of trains transporting crude oil, and other high profile rail catastrophes nationwide have exposed a glaring need for comprehensive reform of the nation’s rail safety laws and protocols,” Previsich said.

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**Continued on page 10**

SMART Transportation Division members represented by General Committee of Adjustment GO 875 have approved a new agreement with the Los Angeles County Metropolitan Transportation Authority that attains all of the goals sought by the committee’s negotiating team.

The general committee represents bus and light and heavy rail operators throughout the county’s transportation system, as well as schedule makers and schedule checkers for the agency.

“The major issues given to the committee’s negotiators by the membership were discipline policies and work rules, an elimination of a tier-wage scale and the security of the health and safety laws,” said SMART International Representative Vic Balfoni. “The committee sought to address these issues, first and foremost, and our members approved of their accomplishments.

“Preservation of our work rules were paramount, and we totally renegotiated the discipline policy to provide our members with job security and fair treatment.”

The general committee represents approximately 5,000 LACMTA employees and is the largest bus and transit property represented by SMART.

The negotiation team was led by GO 875 Chairperson James Williams and general committee members Local 1607 Chairperson Lisa Arredondo, Local 1563 Chairperson Robert Gonzalez, Local 1564 Chairperson Ulysses “Butch” Johnson, Local 1565 Chairperson Eddie Lopez and Local 1608 Chairperson John M. Ellis.

In preparation for the negotiations, Williams held meetings with California Gov. Jerry Brown and Los Angeles City Mayor Eric Garcetti. Preliminary negotiations with the agency commenced in February, following discussions with members at local meetings to pinpoint their objectives for a new contract. Negotiations with SMARTACMA officials began in earnest in March.

“This General Committee is extremely proud of the work rules, discipline policy are keys to LACMTA Metro deal

**Continued on page 10**

**NTSB examines recent surge in rail worker deaths**

WASHINGTON – The National Transportation Safety Board Sept. 24 issued a special investigation report on the recent increase in deaths of railroad and rail transit workers on or near tracks and made recommendations to reduce the number of fatalities.

The Special Investigation Report on Railroad and Rail Transit Roadway Worker Protection provides details of 14 fatal accidents in 2013. Over the year, 15 roadway workers died. The number of deaths in 2013, the findings from investigations of those deaths and the increasing number of fatalities prompted the NTSB to look more closely at the issue of roadway worker safety and to recommend actions to address these issues.

Railroad and rail transit roadway workers are subject to on-the-job risks and hazards that are markedly different from those faced by other railroad employees. Of the fatalities in 2013, 11 resulted from 11 accidents on freight railroads and four were on commuter or transit railways. The average number of railroad worker fatalities has fluctuated but has remained about 6.4 per year from 1990 to 2013.

“Railroad roadway worker deaths have increased over the past three years,” said NTSB Acting Chairman Christopher A. Hart. “This trend is unacceptable.”

Among the report’s findings are that comprehensive job briefings could help prevent accidents and that national inspection protocols for work activities are necessary to ensure the safety of roadway workers.

The NTSB issued recommendations to the Federal Railroad Administration, the Federal Transit Administration, the Occupational Safety and Health Administration and the Fatality Analysis of Maintenance-Of-Way Employees and Signalman Committee. The recommendations call for additional training, harmonization of standards, a national inspection program and greater stakeholder participation in roadway worker fatalities, among other measures.

A summary of the special report is available at http://go.usa.gov/dZfj.
Local 240, Los Angeles, Calif.
Local Chairperson Harry Garvin Jr. reports that the 12th annual rail reunion and retirement dinner for employees of UP, SP, Pacific Electric, Metrolink, Amtrak and AT&SF (Locals 32, 240, 1422, 1770, 1815 and 1946) will be held Nov. 7, from 5:30 to 9:30 p.m. at the Lakeside Golf Course, 16600 Club House Dr., in Fontana. The cost is $40 per person or $75 per couple, with a reservation deadline of Nov. 1. The cost will be $45 per person at the door. For more information, call Garvin at (909) 261-8878 or (909) 481-7261. Send checks or money orders to Garvin at P.O. Box 8936, Alta Loma, CA 91701-0395, and include names, address, telephone number, railroad and years of service.

Local 363, Roanoke, Va.

State Legislative Director Pat Corp. Assistant Legislative Director Allan Johnson, UTU Alumni Association member Dan Zebrowski, Jim Gibbons and Local Chairperson Rich "Bubbe" Chandler prepare to march in the Roanoke Labor Day parade. "The Roanoke Labor Day Parade was a great experience once again and we thank Dan and Jim for the use of the Mold'T Fords," Corp. said.

Local 407, Charleston, S.C.
Retired member Oliver S. Hill was killed in a motorcycle accident July 27 reports Howard A. Spier, an attorney for the designated legal counsel firm of Rossman, Baumberger, Reboso & Spier, P.A. "This is very sad news. Oliver was a former client and we stayed in touch. Each year, we called each other on our birthdays, which was easy since we shared the same one," Spier said.

Local 587, Greenfield, Mass.
Members of this local hosted a benefit dinner Aug. 2 for member Rob "Charby" Charboneau, whose right leg was severed below the knee in a switching yard accident this past February, Local Chairperson James Falandes reports. "Members of the community and our local, as well as other craft unions, took part in this benefit dinner," Falandes said. "Because of him, a bad situation was prevented from becoming worse." Charboneau had been a Pan Am Railways employee for 15 years at the time of the accident.

Local 393, Jefferson City, Mo.
UTU Alumni Association member Norbert Shacklette (1823) reports that fellow Alumni Association member Robert D. Salmons died July 9. Salmons was the last general chairperson for the UTU-E Missouri Pacific Upper Lines General Committee before it merged with Union Pacific GO 569, Shacklette said. He was a World War II veteran and also served as this local’s chairperson and as a member of the Cole R-I Russellville School Board. He is survived by his wife, Mary, and seven children.
Flu vaccines: Protect yourself and others

Each year, more than 200,000 people are hospitalized as a result of the flu, including an average of 20,000 children younger than five years of age. By simply getting a seasonal flu vaccine, you can reduce your risk of getting the flu, or possibly minimize the symptoms should you come down with the flu.

Getting vaccinated can also protect the people around you who are more vulnerable to serious flu illness. Those at risk include:

- Older adults;
- People with chronic health conditions, like asthma;
- Pregnant women, and
- Young children, especially infants younger than six months old who are too young to get vaccinated.

Flu shots are covered by most rail medical plans at 100 percent when using an in-network provider and when billed as preventive. You can search your plan’s online provider directory to find a network provider in your area:

Aetna members: www.aetna.com/docfind/home.do
Highmark members: www.highmarkbcbs.com/ illness/claim/getProviderSearchLink.do
UnitedHealthcare members: www.myuhc.com

FRA delays testing for railroad MOW employees

Federal regulators are putting the brakes on a proposal by some railroads for railroad maintenance-of-way employees.

The Federal Railroad Administration proposed new testing requirements for railroad track workers in July but announced Sept. 24 it was extending the comment period at the request of industry groups.

In response to Congress’ mandate in the Rail Safety Improvement Act of 2008 (RSIA), the FRA proposed to expand the scope of its alcohol and drug regulations to cover employees who perform maintenance-of-way (MOW) activities.

It also proposed certain substantive amendments that either respond to National Transportation Safety Board recommendations or update and clarify the alcohol and drug regulations based on a retroactive regulatory review (RRA) analysis.

“(Track workers) directly affect the safety of railroad operations, because they work on or near railroad tracks, operate on-track or fouling equipment, and assist in directing trains through work areas,” the agency wrote.

The delay comes at the request of the American Public Transportation Association, the American Short Line and Regional Railroad Association, the Association of American Railroads and the National Railroad Construction and Maintenance Association.

Comments can be posted to the docket [Docket No. FRA--2009-0339] at www.regulations.gov until Nov. 25.

To read the complete proposed rule, enter “MOW” in the Search box at www.fra.dot.gov.

www.utu.org / www.utuia.org

RRB unemployment, sickness benefits to decrease

Beginning Oct. 1, 2014, the U.S. Railroad Retirement Board (RRB) will reduce railroad unemployment and sickness insurance benefits by 7.3 percent, up from the current 7.2 percent reduction, due to federal budget cuts first implemented in March 2013.

The adjusted reduction amount is based on revised projections of benefit claims and payments under the Railroad Unemployment Insurance Act. It will remain in effect through Sept. 30, 2015, the end of the fiscal year.

Reductions in future fiscal years, should they occur, will be calculated based on applicable law.

The daily benefit rate is $70, so the 7.3 percent reduction in railroad unemployment and sickness benefits will reduce the maximum amount payable in a two-week period with 10 days of unemployment from $907.10 to $850.07.

Certain railroad sickness benefits are also subject to regular Tier I railroad retirement taxes, resulting in a further reduction of 0.7 percent. The 7.3 percent reduction to these sickness benefits will result in a maximum two-week total of $599.26.

The reductions are required under the Budget Control Act of 2011 and a subsequent sequestration order to implement the mandated cuts. The law created social security benefit reductions, as well as railroad retirement, survivor, and disability benefits paid by the RRB, from sequestration.

When sequestration first took effect in March 2013, railroad unemployment and sickness benefits were subject to a 9.2 percent reduction. This amount was then adjusted to 7.2 percent in October 2013.

In fiscal year 2013, the RRB paid more than $11.7 billion in retirement and survivor benefits to about 92,000 beneficiaries, and net unemploy-ment-sickness benefits of $90.7 million to more than 26,000 claimants.

Employees of RCP&E Railroad return to SMART

In a swift and decisive vote held Aug. 27, employees of Rapid City, Pierre & Eastern Railroad selected the International Association of Sheet Metal, Air, Rail and Transportation Work-ers as their representative.

Among 53 eligible voters, 37 employees marked their ballots for the SMART Transportation Division and five voted for no union representation.

SMART Transportation Division Executive Board member Phage Craig, who served as United Transporta-tion Union vice general chairperson on the property when it was previously owned by Dakota, Minnesota & Eastern Railroad, was delighted to return his former members to the SMART fold.

“I was the vice general chairperson back when the property was owned by the DM&E and we organized it 25 years ago. I went out to the property prior to it being sold and the employees all felt good about SMART representation. So, I called Washington and I talked with Alternate National Legislative Director John Risch, and then Transpor-tation Division Director of Organizing Rich Ross, and we went out there,” Craig said.

Craig said that when SMART organizers began passing out literature to RCP&E employees, railroad officials asked workers to delay a representa-tive vote for a year or so while the company insti-tuted new work rules.

He said the employees saw no need to post-pone the election. “No deal.”

Ross thanked Craig and SMART Transportation Division South Dakota State Legislative Director B.J. Shillingstad for their efforts throughout the campaign.

Craig responded in kind saying, “I thank Brother Shillingstad, Vice Local 64 Chairperson Mike Decker, Local 64 members Nick Boyer and Gus Manolis, Director of Organizing Rich Ross, National Legislative Director James Stern, Alternate National Legislative Director John Risch and President John Previsich. They were all a big help to me.”

Genesee & Wyoming Inc. acquired the former Canadian Pacific – DM&E line earlier this year and began operations under its new name June 1.

The shortline railroad operates over 670 miles in four states – Minnesota, South Dakota, Wyoming and Nebraska. It transports more than 52,000 carloads annually of grain, ethanol, benzene, clay, fertilizer and other products.

Members defeat BNSF proposal to cut train crew size

The members of BNSF Railway General Com-mittee of Adjustment GO 01 opened a contract proposal from the carrier by a 5-1 margin that would have eliminated on-board conductors on approximately 60 percent of the railroad’s trains.

Of 3,679 ballots returned, 3,056 were in opposition to the crew cut agreement, nearly the same number of ballots cast were in opposition to a wage and rule settlement offered by the carrier.

Under the proposal, engineers would have received a pay boost, and conductors would have been given the opportunity to become engineers.

It also called for the creation of a “master conductor,” who would be responsible for supervising multiple trains from a fixed or mobile location.

The railroad was seeking to operate most of its trains with a single engineer on trains equipped with positive train control, a collision-avoidance system mandated by Congress in 2010.

It maintained that trains carrying hazardous materials, including those with large volumes of crude oil or ethanol, would still have operated with two people on board.

Prior to releasing the complete vote count Sept. 29, GO 001 General Chairperson Randall Knutson had acknowledged earlier in September that the proposal had failed.

“Please be advised that we have completed the tabulation of ratification ballots for the tentative crew consist agreement and wage and rule settle-ment, and neither agreement was ratified. A more complete summary of the vote will be forthcoming in the next several weeks, but we felt it was impor-tant to provide our members with immediate noti-fication on that these agreements were not ratified,” Knutson said.

“Moving forward, this office will notify BNSF Labor Relations that we remain open to informal conversation regarding these matters, but will oppose any formal attempt by BNSF to serve notice of their desire to us to operate trains with a single engineer,” Knutson continued.

In a statement posted on the SMART Transporta-tion Division’s web-site prior to the voting dead-line, Transportation Division President John Previsich noted that, “Our constitu-ency grants the general committees jurisdiction in this area and this organization Division mem bers have successfully defended that right over the years through litiga-tion and arbitration. There are no grounds for any entity to interfere with that right and there will be no attack on the right by this office or any subordinate body of this organization.

“Nonetheless, it should surprise no one that the proposed agreement is generating a great deal of discussion due to its potential impact beyond its own territory.

“This office will not interfere with the rights of all of our members to engage in that discussion.”
Dialogue is a two-way street, contact me with your concerns

The First SMART General Convention represented a new beginning for all of us. So, now is the time to take advantage of the opportunity and begin forging a path to ensure the dialogue between the leadership and convention delegates at our convention extends to an open communication between our membership and their elected leaders.

As a first step, we need to recognize that a dialogue can only exist when both parties participate and the quickest way to harm an organization is by ignoring the voice of the membership. I believe our members can and will speak up when they trust that their voices will be heard.

The only way to build that trust is through transparency and accountability. If members feel they can trust their leaders, they will lend their support to the organization and make meaningful contributions to the discussion.

We have to recognize that a dialogue can only exist when both parties participate and the quickest way to harm an organization is by ignoring the voice of the membership. I believe our members can and will speak up when they trust that their voices will be heard.

A quiet membership eventually devolves into an ailing union. A quiet membership becomes disinterested and apathetic, allowing its leaders to do as they please without any accountability.

Without involvement by the membership, the dues a member pays become nothing more than another unwanted deduction. That will not become the legacy of this organization.

I encourage everyone to take the opportunity to attend local union meetings, ask questions of your leadership, and learn about the ways your union can assist you and how you can assist your fellow brothers and sisters. The more active and aware you become, the better our union will represent you.

Also, keep in mind that within any organization news travels fast, but is often not always accurate. Sometimes rumors and innuendo are advanced by individuals on the outside whose goals do not align with yours.

Let your leaders know when you hear something that doesn’t seem right. Getting answers before we pass something on can stop those who wish to divide us and will show them we are a united union.

Let’s squash those rumors and get moving on making this union as strong and as vibrant as possible.

Finally, if you are unhappy with the direction of the organization on any level, or feel you are not receiving the representation you deserve, call your leadership and let them know how you feel. I strongly believe in having an open door policy that allows members to voice their concerns. I also believe that when it comes to leadership, I hold myself to the same standards that I expect of other elected representatives in this organization, along with our staff.

This is why I am including my telephone number here – (202) 662-2800 – so you can contact me with any of your questions or complaints.

I will hold myself to the same standards that I expect of other elected representatives in this organization, along with our staff.

You may not like my answers or what I tell you, but I do promise, you will at least have a voice. Always remember, this is your union. Fraternally,

Joseph J. Nigro
SMART General President

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It definitely matters who we elect to Congress

Conventional elections do matter. Actions of Congress can make a big difference when it comes to our job security, our wages, our fringe benefits, our retirement and safety in our workplace.

In this issue of the SMART Transportation Division News, our official endorsements for the Nov. 4 election. These endorsements are based on recommendations from our state legislative boards, which, with our national office, reviewed the voting records of incumbent lawmakers and conducted thorough interviews with new candidates seeking national office.

Our constitution requires that we make these endorsements and we take this obligation seriously. A full listing of how Congressional lawmakers voted on issues important to our members can be found on the Transportation Division website at www.utu.org by clicking on the 2014 Voter Information tile at the bottom right corner of the homepage.

The upcoming session of Congress will be a busy one. We will be working to pass legislation requiring a minimum of two persons – a certified conductor and a certified engineer – working on all trains. One current bill, Senate Bill S. 2784 – the Rail Safety Improvement Act, is reported on page 1 of this publication.

We will be working to see that our transit systems and Amtrak receive the funding they so desperately need. Likewise, we will be working to make sure that the National Mediation Board receives the funding it needs to resolve disputes in the workplace in a timely manner. We will be working with our Sheet Metal brothers and sisters on issues important to the construction industry and to ensure that the Essential Air Service program is properly funded.

While I appreciate our diversity, I urge you to take into consideration the endorsements in this newspaper when you cast your ballot.

These endorsements were based on issues like support for the coal industry, mass transportation, the NTEB, the coal industry, mass transportation funding, other work-related issues.

Our endorsed incumbents have supported our work-related issues and the endorsed candidates have pledged to do so.

Neither I nor anyone else in our union tells anyone “how to vote.” What we do is fulfill our constitutional responsibility to endorse those that we believe will support us once they’re elected. To do anything less would be shirking our constitutional responsibility.

Come Nov. 4, no matter whom you choose to vote for, choose to vote. If your state has early or absentee voting, take advantage of this opportunity, especially if you work a road job or an extra board.

I look forward to serving each of you as your National Legislative Director and pledge to do my best. That being said, our legislative department’s odds of success will be much better if you send folks to Congress that support our issues.

I encourage everyone to take the opportunity to attend local union meetings, ask questions of your leadership, and learn about the ways your union can assist you and how you can assist your fellow brothers and sisters. The more active and aware you become, the better our union will represent you.

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National Legislative Director
SMART Transportation Division

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I look forward to serving each of you as your National Legislative Director and pledge to do my best. That being said, our legislative department’s odds of success will be much better if you send folks to Congress that support our issues.

John Risch
National Legislative Director
SMART Transportation Division
Utah

Delegates from both the Sheet Metal and Rat Divisions of SMART from the state of Utah met to discuss issues affecting all members at the first SMART General Convention held Aug. 11-15 at Caesar’s Palace in Las Vegas. Pictured, from left, are Vice Local Chairperson Brandon Redbaugh (4366), Assistant State Legislative Director Pat Winslow (1554), State Legislative Director Jay Seegmiller (166), Local Chairperson Roger D. Barnes (1294), Timothy J. Mahon (238), Sam Johnson (Short Metal Division, Local 312) and Tony Erickson (Sheet Metal Division 312).

Virginia

Virginia State Legislative Director Pat Corp, submitted a letter to the editor of The Roanoke Times that was published in the newspaper Aug. 22. It was in response to an article previously published by the newspaper regarding coal exports. Portions of Corp’s letter are below.

“The article’s leanings struck me less as pure investigative reporting.

“U.S. exports are actually down and projected to decrease through 2015 for a reduction of almost 25 percent from 2012, due in most part to other countries upping their production levels (Source: Energy Information Administration).

“Since world demand for coal is expected to grow and demand for our coal to almost double, building export terminals in the U.S. for Powder River Basin coal is being worked on now and argued over, yet the author fails to note Canada has the ability to export as well.

“History is replete with examples of failed attempts to stop the supply of commodities in the face of demand. Perpetuating the misperception that restricting U.S. coal exports will result in the world’s reduction in the use of coal is promoting an agenda of certain groups whose ultimate goal is the unrealistic near-term elimination of coal use. It is a leap to say it is ‘fuelling demand.’

“Continuing and accelerating the research and application of technologies that will allow for the use of all fossil fuels is... a realistic approach. The U.S. needs to keep trade open to these countries and maintain relationships in the coal markets so we can influence the expansion of pollution and carbon mitigation technologies.

West Virginia

State Legislative Director Mark Nowshaw, left, and Alternate National Legislative Director John Risch, right, met with Rep. David McKinley (R-W.Va.) to endorse his re-election campaign and to discuss issues important to the SMART members. McKinley is a leader on coal-related issues and works to find solutions in regard to energy policy that protect the coal industry and the environment.

Wisconsin

Wisconsin State Legislative Director Craig Peachy and Legislative Board Secretary Chris Tassone attended a retirement party June 21 in Franklin, Wis., for Local 922 member Larry Markow and expressed the board’s appreciation for Markow’s efforts in drafting of legislation that improved pedestrian safety at railroad crossings.

The final amendments to Wisconsin’s state statutes now empower police departments to cite violating pedestrians for crossing in front of a train when the warning protection is active.

“Larry’s experience as former police officer and conductor for Union Pacific inspired him to bring this idea to GO 225 Vice General Chairperson and Local Legislative Rep. Bob Alba, and later to me,” Peachy said. “His testimony in support of this legislation to the Senate Committee on Transportation was instrumental in educating our legislators to the dangers of pedestrian traffic at railroad crossings.

“T he Wisconsin Legislative Board thanks Lar- ry Markow for his commitment to safety and wishes him a very happy and healthy retirement.”

Bus Department

By Calvin Studivant, Alternate Vice President-Bus

Sleep apnea should not cost operators jobs or pay

Operators employed in the transit industry continue to experience difficulty in obtaining any type of sleep aid or a potential serious sleep disorder in which breathing repeatedly stops and starts during sleep.

Several types of sleep apnea exist, but the most common type is obstructive sleep apnea, which occurs when throat muscles intermittently relax and block your airway during sleep. The most noticeable sign of obstructive sleep apnea is snoring.

The National Transportation Safety Board and the Federal Transit Administration have identified fatigue and undiagnosed sleep apnea as high-risk vulnerabilities for transit operators, and as an element of probable cause to shoulder, to ensure our members are not being put out of service and to ensure that the carriers assume the cost of any sleep studies performed.

In 2013, Congress enacted a law prohibiting the Federal Motor Carrier Safety Administration from implementing or enforcing requirements relating to sleep disorders unless adopted by a rule-making proceeding. However, it did not apply to any requirement in force before Sept. 1, 2013, at which time there were guidelines for screening and testing.

Many questions remain unanswered because it seems carrier medical review officers (MRO) are making determinations on employees based on their beliefs, as opposed to actual physical examinations. The only way a respiratory problem can be detected is through a sleep study and a MRO should request a sleep study if he or she believes there is a problem.

There is also the issue of the costs of medical examinations and who is responsible for payment. Physical examinations required by carriers based on Department of Transportation regulations should be paid for by the carrier. Also, a sleep study is no excuse for an operator to be put out of service.

We must seek a resolution to this problem and stand together, shoulder to shoulder, to ensure our members are not being put out of service and to ensure that the carriers assume the cost of any sleep studies performed.

After a sleep study is completed and the diagnosis is indeed sleep apnea, there are treatment options, including continuous positive airway pressure (CPAP) machines, dental devices and surgical options.

As more information becomes available concerning this disorder and DOT guidelines, we will make sure that all of our members are well informed.

APTA study: Two-thirds of Americans want increased public transit funding

WASHINGTON – As Congress gets into full swing after the August recess, the American Public Transportation Association (APTA) released a survey Sept. 15 that shows the public’s support for increasing federal public transportation investment grew to nearly 65 percent. This represents a nearly two-point increase over last year.

The survey, which was conducted by the Mineta Transportation Institute (MTI) for APTA, also found that nearly 74 percent of Americans support the use of tax dollars for creating, expanding and improving public transportation options in their communities.

“We believe Congress should move swiftly on a robust long-term funding plan for the next surface transportation bill, and not wait until the extension deadline of May 31,” said APTA President and CEO Michael Melandry.

“Americans understand the importance of investing in public transportation because it is a catalyst to transform ing their community.”

Seventy-six percent of those surveyed agreed with the statement that public transportation investment can help create jobs and pave the way to a stronger economy.

When asked about the affordable transportation options for people, nearly 88 percent of respondents agreed that public transit expands opportunities and provides access to new jobs and careers as well as to medical care, schools and colleges.

“Research data shows support for increased revenues for public transportation. This support continues to increase because Americans realize that everyone benefits from public transit investments through the economic growth in their community, even if they do not ride,” said Melandry.

The survey by MTI was a result of 1,503 telephone interviews with individuals across the United States and the margin of error is minus 2.5 percentage points, at the 95 percent confidence level.

According to APTA, Americans took 10.7 billion trips on public transportation in 2013 – the highest in 57 years. Since 1995, public transit ridership is 57.2 percent, outpacing population growth, which is up 20.3 percent, and vehicle miles traveled (VMT), which is up 22.7 percent.

People board public transportation 35 million times each weekday.

www.utu.org / www.utuia.org
Railroad Medicare protects trust fund from fraud, needs your help

With millions of claims submitted to Railroad Medicare, protecting the fund from fraudulent billing is a possibility that cannot be ignored. Railroad Medicare is no different than standard Medicare, in that the same providers submitting claims to Railroad Medicare can also be submitting claims to Railroad Medicare.

Knowing that the potential for fraud and abuse exists, the Centers for Medicare and Medicaid Services established seven Zone Program Integrity Contractors that investigate potential fraudulent and abusive billing for multiple states and jurisdictions. Railroad Medicare has its own dedicated Ben-efit Integrity Unit (BIU), which uses data analysis and referrals from beneficiaries, as well as the Medical Review and Appeals units in-house, to ensure that claims are accurately interpreted.

The BIU works with law enforcement and refers cases to the Railroad Retirement Board Office of Inspector General to pursue on a case-by-case basis. Examples of just a few of the types of issues the BIU investigates are:

- Suppliers submitting claims for unusually high-dollar drugs and biologicals.
- Doctors billing for the same service for the same beneficiary for more visits than would normally be expected.

When examining claims, the unit looks for an intentional deception or misrepresentation that could result in payment of an unauthorized Medicare benefit. Railroad Medicare’s BIU works hard to fight fraud and abuse, but you can help. Sometimes the first indication of fraud or abuse is evident on a Medicare Summary Notice (MSN). When you receive your MSN, please read it carefully. Look to see:

- Your name, address and Health Insurance Claim Number (Medicare Number) are correct;
- The dates of a service on the statement match when you actually had a service, and
- The description of the services your doctor billed to Railroad Medicare is correct.

If you need help reading your MSN, or you find something on it that appears to be wrong, call the Beneficiary Contact Center at (800) 813-4455, Monday through Friday, from 8 a.m. until 7 p.m. ET, or a TTY/TDD line at (877) 566-3572 for the hearing impaired is available during the same hours.

You may also call the Department of Health and Human Services Medicare Fraud Hotline to report suspected fraud or abuse at (800) 447-8477, or for TTY at (800) 377-4950.

Rails may be eligible for death, dismemberment insurance

Active and retired railroad employees covered under The Railroad Employee’s National Health and Welfare Plan or the NRG/UTU Health and Welfare Plan may be eligible for Life and Accidental Death and Dismemberment benefits from MetLife.

For eligible active employees, the death benefit is in most cases $20,000, and there may be an additional ADS&D benefit that could pay up to $16,000. For eligible retired employees, the death benefit is $2,000.

Most employees filled out a designated beneficiary form when they began work for a participating railroad and MetLife urges employees to retain this form with your other important papers. If you need to update your beneficiary form, or if there is doubt as to whom you designated, it is recommended that you complete a new form and send it to MetLife.

A beneficiary form, as well as a copy of the plan summary, can be found at www.YourTrackToHealth.com. There is a direct link to that web page from www.utu.org. Hovering over the “Healthcare” tab on the SMART Transportation Division home page will provide you with a drop down menu for Your Track To Health.

You can also obtain information about this benefit by calling MetLife toll-free at (800) 310-7770.

This is a very important benefit for all eligible active and retired railroad employees covered under the national health and welfare plans, although many employees, especially retired employees, may not be fully aware of it. We urge you to post this notice in appropriate work locations on the property and remind all retirees with whom you may be in contact that they should contact MetLife to inquire about their eligibility for the $2,000 death benefit.

Bay Area Railroaders to host 7th annual reunion lunch

The seventh annual fall luncheon and railroad reunion hosted by the Bay Area Railroaders is being held Saturday, Oct. 25, at Spenger’s Seafood and Fish Grotto at 1919 Fourth St. in Berkeley, Calif. All active and retired railroad workers from all crafts are invited to attend.

The event will run from 1-5 p.m. in the restaurant’s Atlantic and Pacific rooms while the band plays. The restaurant’s Atlantic and Pacific rooms that feature their own entrance on Fourth Street.

Doors will open at 12:30 p.m., with lunch served at 2 p.m.

The menu includes Caesar salad, rolls with butter, coffee, iced tea, a choice of pasta primavera with vegetables, salmon, chicken marsala or grilled sliced sirloin of beef with a mushroom glaze. All entrées include vegetables and potatoes. A chocolate truffle cake with raspberry sauce is also included. A limited number of fruit plates will be available for persons with diabetes.

The price is $35 with an advance registration or $40 at the door. Payment and reservations can be sent to John Herrmann, P.O. Box 4763, Walcott, Iowa 51361. Please note choice of entrée.

For more information, call Herrmann at (925) 465-4122.
Accidents can happen to anyone, at any time.
UTUIA Accident Indemnity Insurance can help.

Protect yourself and your family from accidents, on and off the job, for less than $1 per day

The UTUIA’s accident indemnity plan provides you with money when you need it most: when you’ve had an accident and cannot work.

Benefits are paid for emergency treatment, hospital confinement, exams, physical therapy, ambulance service and more.

Use the money for whatever you want: mortgage payments, car payments or medical expenses. The choice is yours.

The UTUIA offers two levels of benefits; you choose the level of protection you and your family desire.

• All benefits are paid directly to you.
• Benefits are paid at full value, regardless of any other insurance you have.
• Benefits will never be reduced.
• Your premium does not increase with age.
• You will never be singled out for a rate increase.
• Guaranteed renewable to age 80.
• No physical required. Certain conditions and exemptions may apply.

Call or email today: (800) 558-8842 or sales@utu.org

Information, please
I would like more information on UTUIA’s accident indemnity insurance plan.
Please print

Full name
Date of birth
Local number

Address
City
State
ZIP

Telephone number with area code
Sex
Male
Female

Complete and mail to: UTUIA, 24950 Country Club Blvd., Ste. 340, North Olmsted, OH 44070-5333

Healthcare open enrollment period runs Oct. 1 to Nov. 1

Railroad employees covered under National Railway Carriers/UTU Health and Welfare Plan or the Railroad Employees’ National Health and Welfare Plan were mailed a notification of the open enrollment period that began Oct. 1, 2014, and ends Nov. 1, 2014. The information should be specific to the current enrollment for you and your eligible dependents. The online enrollment capability provides the ability to view your personal information, add, delete and update dependent information, view enrollment materials, enroll in benefits for next year, and receive an immediate confirmation statement. There is no need to mail in a paper enrollment form. However, if you need assistance, have questions or require a paper enrollment kit, call Railroad Enrollment Services at (800) 753-2692.

The enrollment website can be found at https://www.yourtracktohealth.com (formerly known as the Railroad Information Depot).

You are encouraged to visit the online enrollment site and review all the information available. Use the log-in instructions at the end of this article to access and review your personal information and spend some time learning about the benefits and resources available on the site. You will also be able to search medical provider networks.

It is required that covered dependent Social Security numbers (SSN) be provided to the Centers for Medicare and Medicaid Services. Please supply the missing SSN on the Dependent Information screen.

If you have not yet registered, select “New User?” at the bottom of the screen to complete your registration.

Enroll in and/or change your benefit selections for the 2015 plan year:

1. Log into Your Track to Health.
   • If you have already registered, enter your username and password.
   • If you have not yet registered, select “New User?” at the bottom of the screen to complete your registration.

2. Once logged in, look to the upper-left corner of the screen and select the option to “ENROLL NOW FOR 2015.” From here, you will be able to review your personal benefit information and enroll in or change your benefit selections for 2015.

Enroll early — don’t wait until the last day!

When you enroll online, you can do the following without the need for paper enrollment materials:

• Access the online enrollment site 24/7 during the enrollment period (Oct. 1 – Nov. 1, 2014)
• Review your benefit election choices, including quick-link access to everything needed to make your selections for 2015
• Search through medical provider networks

If you need assistance, have questions or require a paper enrollment kit, please call Railroad Enrollment Services at 1-800-753-2692.

www.utu.org / www.utuia.org
SMART TD supports Senate rail bill’s two-person crew provision

Continued from page 1

must do more to promote a ‘culture of safety,’ above all other priorities,” Schumer said. “That is why Sen. Whitehouse and I have worked to develop a comprehensive rail safety bill that will take the lessons of this tragic crash, plus the expert recommendations from the National Transportation Safety Board and others, and make them into tough requirements for our railroads, including a mandate for in-and-out safety facing cameras on all trains, new requirements for increased rail inspections, a significant boost in fines for safety violations, and more. For too long, railroad operators have failed to completely heed the lessons of fatal train crashes and this legislation will change that.”

“This major, comprehensive measure will help American railroads move toward 21st century safety and reliability,” Blumenthal said. “Rigorous public oversight and scrutiny are critical, and that’s where this bill begins. We must assure that safety and reliability standards receive real enforcement, not mere lip service. The watchdog agencies must bite, not just bark, and whistleblower claims must be protected.”

“We need a national railroad strategy to stop the cascading catastrophes, derailments, spectacular crashes, senseless worker injuries and deaths, and needless mundane delays that all undermine public trust and confidence. This measure seeks to restore public trust and confidence and assure that railroad officials respect their communities and demand – safety and reliability, and on time performance, as complementary not conflicting goals.”

“The bill also lays the groundwork for investments in important technology like positive train control (PTC) and other upgrades that are proven to save lives and enhance service. They must be followed by other investments that hopefully will gain bipartisan support, because they benefit our economy and all Americans.”

If passed as currently written, the bill would also:

• Require greater FRA accountability for unmet statutory mandates and open NTSA recommendations through regular quarterly reports to Congress;
• Require the installation and implementation of technology like inward-facing cameras, alerters and redundant signal protection;
• Strengthen FRA’s enforcement powers by increasing civil penalties for those who engage in unlawful activity. Civil penalties would be at least $13,000 and up to $50,000 for any safety sensitive violations, and a minimum of $1 million for grossly negligent violations or repeated violations that cause death or injury;
• Improve railroad operating practices by requiring enhanced inspection practices by commuter railroads;
• Require greater use of modern inspection technology and stepped up enforcement of speed restrictions;
• Provide resources for passenger and commuter railroads so they can implement critical technology like PTC by the December 2015 deadline;
• Require coordination between DOT and the FCC to ensure passenger and commuter railroads have access to necessary spectrum to make PTC operate effectively;
• Require expedited FRA action on the development of rules governing fatigue management plans for railroads;
• Require safer operating practices for the transportation of crude oil and flammable liquids;
• Require the national roll out of a confidential close call reporting initiative and the participation by freight, passenger and commuter railroads in the program, and
• Ensure the openness and transparency of railroad safety information.

To read an overview of S. 2784 or the complete bill, enter “Blumenthal Schumer” in the Search box at www.utu.org.

FRA issues proposal on unattended train movement

WASHINGTON – The U.S. Department of Transportation’s (DOT) Federal Railroad Administration (FRA) today issued a Notice of Proposed Rulemaking (NPRM) that will help protect communities from crude oil and hazardous materials incidents by strengthening requirements for securing unattended freight trains.

The proposed rule codifies many of the recommendations for a proposed rule to the FRA in April 2014. The Department has also continued to collaborate with Canada.

The NPRM would require railroads to:

• Require greater FRA accountability for unmet statutory mandates and open NTSA recommendations through regular quarterly reports to Congress;
• Require the installation and implementation of technology like inward-facing cameras, alerters and redundant signal protection;
• Strengthen FRA’s enforcement powers by increasing civil penalties for those who engage in unlawful activity. Civil penalties would be at least $13,000 and up to $50,000 for any safety sensitive violations, and a minimum of $1 million for grossly negligent violations or repeated violations that cause death or injury;
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LACMTA Metro deal

Continued from page 1

the work that was put into crafting the new work rules for our members. Other transportation unions have gone on strike to get a fraction of what our committee was able to accomplish. There is not a doubt in my mind that these rules will serve as a model for other bargaining units in the future,” Williams said.

Under the new contract, an unfair and divisive two-tier system that was eliminated for good and was replaced by a seniority-based rate schedule. Under previous agreements, operators hired after July 1, 1997, were paid significantly less than operators hired on or before that date.

Employees will now see wage increases after five, six, 10, 11 and 17 years of full-time service.

“If you put in the time and do the job, any operator can now reach the top of the pay scale,” Williams said.

During the life of the contract, all operators will see at least one significant pay increase, with the top-mean employees receiving a 4.5 percent pay increase immediately. Trainees, schedule checkers and schedule makers, and some part-time operators, will receive rate increases as well.

The parties, workers of Transportation Division Locals 1563, 1564, 1565, 1607, 1608. LACMTA Metro operates 2,228 vehicles over 1,433 square miles. The authority reports its total calendar month system-wide boardings for July 2014 at 38,327,115 riders.

W A S H IN G T ON – T he U .S . D epartm ent of Transportation’s (DOT) Federal Railroad Administra- tion (FRA) today issued a Notice of Proposed Rulemaking (NPRM) that will help protect communities from crude oil and hazardous materials incidents by strengthening requirements for securing unattended freight trains. The proposed rule codifies many of the requirements included in Emergency Order 28, which the FRA issued in August 2013 following the Lac-Megan tic accident and strengthens existing reg- ulations for railroad cars containing certain hazardous materials.

“Safety is our top priority,” said U.S. Transportation Secretary Anthony Foxx.

“Today’s action is only the latest in more than two dozen steps we have taken in the last year to further safeguard communities along routes that carry crude oil and other flammable liquids.

The new measures proposed in the NPRM would require railroads to:

• Prevent trains or vehicles transporting speci- fied hazardous materials from being left unattended on a mainline track or side track outside a yard, unless specific securement requirements are followed; develop strategies for identifying such loca- tions or circumstances; verify securement by qualified persons and ensure that locks on locomotive cars are secure; include securement requirements in job briefings; perform additional inspections by qualified persons when emergency

SMART TD members: Request an absentee ballot and vote by mail today

 casting a ballot in 2014 is one of the most important things you can do to protect your rights, your pension and your job security. The issues at stake are too important to sit on the side lines and let others decide our future.

Some states allow easy access to cast your bal- lot early, either by mail or in-person at a designat- ed site. See www.utu.org for more information. Due to our unpredictable work schedules and busy lives, requesting your ballot today will ensure you have a voice in Election Day.

Instructions and links to absentee ballots can be found on the website by clicking on “2014 Voter Information” tile at the bottom of the homepage. Should you have any questions regarding the absentee ballot process or anything on the elec- tion process, please call the SMART Transportation Division’s National Legislative Office at 202-543-7714. And no matter whom you choose, choose to vote.

September 2014 SMART-TD News
OSHA orders BNSF Railway to pay $12k to injured conductor

KANSAS CITY, Mo. – BNSF Railway Co. has been found in violation of the Federal Railway Safety Act by the U.S. Department of Labor’s Occupational Safety and Health Administration for disciplining an employee at its Murray Yard complex for following a physician’s treatment plan. The company has been ordered to pay the conductor $12,000 in damages, remove disciplinary information from the employee’s personnel record and provide whistleblower rights information to its employees.

“It is illegal to discipline an employee for following doctor’s orders,” said Marcia P. Drumh, OSHA’s acting regional administrator in Kansas City. “Workers should never be forced to choose between their health and facing disciplinary action. Whistleblower protections play an important role in keeping workplaces safe.”

OSHA’s investigation upheld the allegation that the railroad company disciplined the conductor, who has been employed there since 2004, in retaliation for taking leave in line with a doctor’s treatment plan. The employee was ill and notified a supervisor that he was seeing a doctor the afternoon of Nov. 18, 2013. Following his doctor’s recommendation, the employee immediate notified a supervisor that the doctor had ordered him to stay out of work for the remainder of the day, due to a personal illness. The company then accused the employee of violating its attendance policy and subsequently disciplined the employee.

BNSF Railway has been ordered to pay $2,000 in compensatory and $10,000 in punitive damages, as well as reasonable attorney’s fees. Any of the parties in this case can file an appeal with the department’s Office of Administrative Law Judges.

OSHA enforces the whistleblower provisions of the FRSA and 21 other statutes protecting against retaliation and discrimination. The whistleblowers program is available at http://www.osha.gov.

House Transportation Committee approves Amtrak budget cut

The House Transportation Committee, in a voice vote Sept. 17, unanimously approved a bill that would cut 40 percent of Amtrak’s construction budget. The measure reduces Amtrak’s authorized spending from $3.7 billion to $2.2 billion per year for construction purposes and operations.

The bill also requires Amtrak to divert $470 million per year to a trust fund for improvements along the Northeast Corridor and appropriates another $330 million for a longer construction zone in the rest of the country. It also provides $982 million per year for nationwide operations.

The bill was considered largely a bipartisan effort. Democrats called on Congress to provide Amtrak the resources it needs to meet growing demand and to fund improvements and construction efforts. Democrats were for the measure because it would not touch funding for operating already existing train routes, while Republicans supported the measure because they felt it would fund construction in a four-year old back injury. It is unfortunate that BNSF chose to ignore Mr. Holt’s experience and qualifications in his chosen profession, and instead forced him to prove that he would not be injured in the future.”

Edward Wytkind, President of the Transportation Trades Department of the AFL-CIO said in a statement, “This is not a perfect bill. We have specifically called on Congress to provide Amtrak the resources it needs to meet growing demand and to fund improvements and upgrades to an aging system. This legislation is a bipartisan compromise, which was agreed to by the committee to pass today (Sept. 17). It rejects efforts made by some lawmakers to demote Amtrak and undercut public support for passenger rail. “Today’s approval by the House Transportation and Infrastructure Committee of the Passenger Rail Reform and Investment Act of 2014 is welcome news and represents important progress for both Amtrak and its almost 20,000 employees. “We look forward to continuing efforts to provide Amtrak the tools it needs to make our passenger rail network a driver of economic expansion and a creator of good, middle-class jobs.”

Ongoing discrimination lawsuit leads BNSF to settle

The American Federation of State, County and Municipal Employees, AFL-CIO, has settled a discrimination lawsuit filed by two former BNSF Railway workers in a federal court in Kansas City (Mo.).

The settlement, announced today by the AFL-CIO, was entered in the U.S. District Court for the Western District of Missouri Civil Case No. 4:12-cv-00133.

The settlement resolves a lawsuit filed in the U.S. District Court for the Western District of Missouri Civil Case No. 4:12-cv-00133, where the plaintiffs alleged discrimination under the Americans with Disabilities Act (ADA).

OSHA’s investigation upheld the allegation that the railroad company disciplined the conductor, who has been employed there since 2004, in retaliation for taking leave in line with a doctor’s treatment plan. The employee was ill and notified a supervisor that he was seeing a doctor the afternoon of Nov. 18, 2013. Following his doctor’s recommendation, the employee immediately notified a supervisor that the doctor had ordered him to stay out of work for the remainder of the day, due to a personal illness. The company then accused the employee of violating its attendance policy and subsequently disciplined the employee.

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Now what?

SMART Discipline Income Protection Program can help!

What is the Discipline Income Protection Program? This program pays you a specific amount of money over a length of time if you are suspended, dismissed or removed from service by the carrier.

What benefits are paid? You choose the level of benefits paid, from $6 to $200 per day, all at low monthly assessments. The term of benefits, from 250 to 365 days, depends on how long you have been enrolled in the program.

Who sponsors the program? The SMART Transportation Division sponsors the Discipline Income Protection Program.

Who is eligible for coverage? All SMART Transportation Division members may enroll on a voluntary basis.

How do I get more information? Contact your field supervisor or local insurance representative, or write to: SMART Transportation Division, 24950 Country Club Blvd., Suite 340, North Olmsted, OH 44070-5333, or email dipp_TD@smart-union.org, or check out the Discipline Income Protection Program page on www.utu.org.

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OSHA announces new injury-reporting requirements

WASHINGTON – The U.S. Department of Labor’s Occupational Safety and Health Administration Sept. 18 announced a final rule requiring employers to notify OSHA when an employee is killed on the job or suffers a work-related hospitalization, amputation or loss of an eye. The rule, which also updates the list of employers partially exempt from OSHA record-keeping requirements, will go into effect on Jan. 1, 2015, for workplaces under federal OSHA jurisdiction.


“This year, the Bureau of Labor Statistics reported that 4,405 workers were killed on the job in 2013. We can and must do more to keep America’s workers safe and healthy,” said U.S. Secretary of Labor Thomas E. Perez.

“Workplace injuries and fatalities are absolutely preventable, and these new requirements will help OSHA focus its resources and hold employers accountable for preventing them.”

Under the revised rule, employers will be required to notify OSHA of work-related fatalities within eight hours, and work-related in-patient hospitalizations, amputations or losses of an eye within 24 hours. Previously, OSHA’s regulations required an employer to report only work-related fatalities and in-patient hospitalizations of three or more employees. Reporting single hospitalizations, amputations or loss of an eye was not required under the previous rule.

All employers covered by the Occupational Safety and Health Act, even those who are exempt from maintaining injury and illness records, are required to comply with OSHA’s new severe injury and illness reporting requirements.

In addition to the new reporting requirements, OSHA has also updated the list of industries that, due to relatively low occupational injury and illness rates, are exempt from the requirement to routinely keep injury and illness records. The previous list of exempt industries was based on the old Standard Industrial Classification system and the new rule uses the North American Industry Classification System to classify establishments by industry.

The new list is based on updated injury and illness data from the Bureau of Labor Statistics. The new rule maintains the exemption for any employer with 10 or fewer employees, regardless of their industry classification, from the requirement to routinely keep records of worker injuries and illnesses.

For more information about the new rule, visit http://www.osha.gov/recordkeeping2014.

Inside this issue of SMART-TD News:

- Work rules, discipline policy and key to LACMTA Metro deal. See page 1.
- News from SMART-TD State Legislative Boards. See page 3.

Please recycle.

This photo was taken by Local Secretary & Treasurer Ryan W. King of Local 607 at Thayer, Mo. “The Frisco caboose sits at the depot located at Mammoth Spring State Park in Mammoth Spring, Ark. The original 1886 Frisco Depot was restored in 1971 and now functions as a repository for artifacts and memorabilia related to the railroad and the area,” King said.