



To: The Honorable Glenn Youngkin, Governor of Virginia
From: Pete Sepp, National Taxpayers Union

On behalf of the National Taxpayers Union (NTU), America's oldest taxpayer advocacy organization with many supporters in the Commonwealth of Virginia, I urge you to veto SB 143. This legislation could, if implemented, endanger the freight rail infrastructure that has served taxpayers inside and outside Virginia ably over some 45 years.

As NTU [has noted](#) in [other contexts](#), taxpayers have an abiding interest in maintaining a rail policy environment that stresses reasonable taxes and regulations, private investment, and technological innovation rather than government micromanagement, subsidies, and stagnation. In the case of SB 143, the risk to the former and the likelihood of the latter are considerable. Since the passage of the deregulatory federal Staggers Act and the government's divestiture of Conrail more than 40 years ago, the freight rail system has emerged as an economic success story in providing the movement of goods without burdening taxpayers.

This is in stark contrast to the Amtrak passenger system, which continues to struggle financially despite the infusion of tens of billions in taxpayer support since its creation over 50 years ago. Today the federal government faces much greater fiscal challenges than it did in the 1970s, among them a \$34 trillion national debt with few signs of unsustainable federal entitlement program expenditures abating soon. Neither the Commonwealth nor the federal government can afford policies that could shift more liabilities onto taxpayers in the future, as SB 143 could portend.

While SB 143 is ostensibly intended to improve safety on rail lines, its language has long had the support of organized labor, which ostensibly stands to benefit. SB 143 requires "a crew consisting of at least two qualified individuals." Nonetheless, this tactic could force the creation of unnecessary jobs, and in turn force rail industry leadership to shift hiring away from other critical, unfilled positions in the rail network.

In the past, [NTU wrote on a hearing](#) at the U.S. House Transportation and Infrastructure Committee's Subcommittee on Railroads, Pipelines, and Hazardous Materials. At that hearing, government officials and labor union representatives provided the majority of the commentary and cited the importance of expanded crews for rail safety. This is in direct contradiction to a 2019 [report](#) from the Federal Railroad Administration (FRA). The FRA statement outlined that there is no clear indication larger crews would prevent accidents, noting "it is possible that one-person crews have contributed to the [railroads'] improving safety record", and that requirements for larger crews and adherence to traditional practices

could actually inhibit innovation in the industry. NTU further explained how and why this issue affects taxpayers:

[Government] edicts create burdens on rail carriers that raise overhead costs ... thereby potentially affecting the shipping rates with which STB [Surface Transportation Board], more of an economic than a safety regulator, is concerned. Shipping rates, in turn, impact supply chain economics and the financial stability of both railroads and shippers – raising concerns among taxpayers that they could be on the hook if this sector’s health declines. Such is also the case with ... recent move[s] to propose a new rule mandating minimum crew sizes on trains. Here again, the added labor costs from this dictate would be passed along to shippers and their customers. Or, equally troubling, these higher costs could artificially shift shipping decisions to favor other transportation modes, creating additional economic and fiscal repercussions.

On the federal level, numerous pro-market, fiscally conservative organizations have also weighed in on the crew-size mandate as contained in the “Railway Safety Act” proposed in Congress. As several dozen national and state groups and prominent experts (some based in Virginia) [wrote](#) in July of last year:

The bill seeks to mandate that large railroads maintain two-person crews – the current standard set by voluntary collective bargaining – in perpetuity. Public policy groups have [opposed](#) this measure, also being pursued by the Biden administration’s Department of Transportation, because it is unneeded, ignores technology backstops, and would lessen competition. Two may seem better than one, and perhaps two will be the voluntary standard into the future, but lawmakers should not cement this into law, especially not in reaction to a February [2023] train derailment that included a three-member crew.

Furthermore, other think tanks across the ideological spectrum have thoughtfully raised concerns over the type of personnel micromanagement that SB 143 would entail. As Elliott Long, a senior economic policy analyst with the Progressive Policy Institute observed in a [2021 article](#) appearing in the *Virginia Mercury*: “Railroads would have to keep track of each state’s requirements and then have to go hire new crew for specific states or reorganize shipping routes. It would be more time-consuming, and shipping costs are already a significant proportion of consumer spending.” Robert D. Atkinson, President of the Information Technology and Innovation Foundation insightfully [wrote about](#) the two-person crew mandate: “The rail workers’ efforts are fundamentally about protecting rail workers at the expense of all other workers. If rail workers limit automation, rail costs will go down more slowly, which means that all other workers in America will not see the savings in terms of reduced costs for goods shipped by rail.”

This is not idle speculation. Ultimately, the prospect of the already-challenged interstate supply chain having to accommodate a checkerboard of state regulations will only further strain the network on which the majority of America's shipments depend. Indeed, virtually any goods coming from the Southeastern and South Central United States into Virginia could be impacted, as no other state in that region, from Texas to Florida, currently has enacted the crew-size mandate in SB 143.

NTU applauds your Administration for pursuing policies that conserve taxpayer resources and allow the ingenuity and energy of the Commonwealth's citizens to drive the economy forward for the prosperity of all. You have the opportunity to maintain this dynamic by vetoing SB 143. Thank you for your consideration, and if you or your staff have any questions, we are at your service.

Sincerely,

Pete Sepp
President