

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3684
OFFERED BY MR. PAYNE OF NEW JERSEY**

Page 1300, after line 13, insert the following (and
redesignate subsequent sections accordingly):

1 **SEC. 9401. SENSE OF CONGRESS REGARDING COMMUTER**
2 **RAIL LIABILITY INSURANCE.**

3 (a) FINDINGS.—Congress finds the following:

4 (1) Prior to the COVID–19 pandemic, 32 com-
5 muter railroads across America safely carried pas-
6 sengers on more than 500 million trips each year.

7 (2) Commuter rail is a \$9.9 billion industry
8 that creates and supports more than 200,000 public-
9 and private-sector jobs, and continues to grow.

10 (3) Most commuter rail agencies are required to
11 maintain liability insurance up to statutory liability
12 limits.

13 (4) Commuter rail agencies face significant ob-
14 stacles to finding and obtaining liability insurance.

15 (5) Only a handful of insurers offer this cov-
16 erage, and a significant percentage of the railroad li-
17 ability insurance marketplace is provided by foreign
18 companies.

1 (6) The number of insurers in the American
2 and foreign markets willing to even offer potential
3 capacity for this coverage has drastically decreased
4 over the past several years, and, regardless of cost,
5 it is becoming extremely difficult for commuter rail-
6 roads to obtain the needed coverage.

7 (7) Despite commuter railroads' exceptional
8 safety record and recent full compliance with posi-
9 tive train control, a 2021 survey of the American
10 Public Transportation Association's commuter rail
11 agencies revealed that there has been a 60 percent
12 increase in premium costs over the last 3 years.

13 (8) The increase in premiums is largely due to
14 factors outside the control of the commuter rail in-
15 dustry, including major forest fires, hurricanes, and
16 insurers exiting the market.

17 (9) The cost of liability insurance severely im-
18 pacts the operating budgets of many commuter rail
19 agencies and potentially affects their ability to offer
20 these critical public transportation services.

21 (b) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that Congress should address the capacity and cost
23 issues associated with the commuter rail liability insurance

1 market and consider establishing a commuter rail insur-
2 ance program within the Department of Transportation.

