

Congress of the United States
Washington, DC 20510

March 30, 2021

VIA ELECTRONIC DELIVERY

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Secretary Buttigieg:

We write in response to growing concerns from regional commuter rail operators about their ability to secure critical liability insurance protection amidst a lack of domestic policy options, increasing liability caps and growing operational demands during the coronavirus disease 2019 (COVID-19) pandemic. These dynamics make it increasingly difficult for some railroads to operate, threatening service to thousands of daily commuters.

As required by the Fixing America's Surface Transportation Act (Public Law 114-94), the U.S. Department of Transportation (USDOT) recently adjusted the passenger rail liability cap for both public and private passenger rail operators, including regional commuter railroads, increasing the existing cap from \$294 million to nearly \$323 million. The FAST Act also included automatic 5-year adjustments pegged to the Consumer Price Index (CPI).

While commuter railroads carry liability insurance to cover unlikely catastrophic incidents, the law unintentionally forces operators to navigate a shrinking coverage options and associated skyrocketing premiums. In many cases, commuter operators may be unable to meet Federal requirements as the insurance marketplace typically does not offer this type of coverage. This lack of opportunity and competition represents a broken system and often forces operators into partnerships with a decreasing number of international insurers at inflated costs.

The systemic challenges of a limited, non-competitive insurance marketplace results in significant year-over-year premium increases pitting rail operators against riskier, non-rail policyholders resulting in premium increases of 60 percent to 300 percent over the previous year. Worse yet, the opportunity to secure any policy at all is decreasing, threatening operators' ability to provide reliable service and could cause some to cease operations.

As we begin to consider new Federal infrastructure legislation, including a multi-year surface transportation reauthorization, we strongly encourage USDOT to work proactively with Congress, rail stakeholders and others to identify cost-effective solutions to this unusual challenge.

Joint Letter to Secretary Buttigieg

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We look forward to working with you in the weeks and months ahead to reinforce safe and reliable passenger rail transportation. Thank you in advance for considering our bipartisan request.

Sincerely,



Tammy Duckworth
United States Senator



Mike Braun
United States Senator



Bradley S. Schneider
Member of Congress



Jesús G. "Chuy" García
Member of Congress



Marie Newman
Member of Congress