

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. \_\_\_\_\_  
OFFERED BY MS. TITUS OF NEVADA**

At the end of subtitle C of title X add the following:

**1 SEC. \_\_\_\_ . RAIL IMPROVEMENT GRANT CONDITIONS.**

2 Section 22905(b) of Title 49, United States Code is  
3 amended to read:

4 “(b) OPERATORS AND CERTAIN RAILROAD TRANS-  
5 PORTATION SERVICE PROVIDERS DEEMED RAIL CAR-  
6 RIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A  
7 person that (1) conducts passenger or freight rail oper-  
8 ations over, or (2) performs work for, or in support of  
9 passenger rail operations that is work performed by em-  
10 ployees in railroad industry crafts and classes recognized  
11 under the ninth paragraph of section 2 of the Railway  
12 Labor Act (45 U.S.C. 152) on rail infrastructure con-  
13 structed or improved with funding provided in whole or  
14 in part in a grant made under this chapter shall be consid-  
15 ered a rail carrier, and an employer only for the purposes  
16 of making it subject to the laws of the United States re-  
17 ferred to in section 10501(c)(3)(A) and therefore shall be  
18 subject to (A) the Railroad Retirement Act of 1974 (45  
19 U.S.C. 231 et seq.); (B) the Railway Labor Act (45 U.S.C.

1 151 et seq.); and (C) the Railroad Unemployment Insur-  
2 ance Act (45 U.S.C. 351 et seq.) but is not deemed to  
3 be a rail carrier for the purposes of, or subject to, any  
4 other law of the United States.

5 “Notwithstanding subsection (b) above, (1) an em-  
6 ployer engaged primarily in the building and construction  
7 industry, as that term is used in section 8(f) of the Na-  
8 tional Labor Relations Act (29 U.S.C. 158(f)) that is per-  
9 forming construction work as a contractor for a rail car-  
10 rier shall not itself be considered a rail carrier solely as  
11 a result of performance of that work and shall be per-  
12 mitted to perform the work with employees who are not  
13 covered by—

14 “(i) the Railroad Retirement Act of 1974 (45  
15 U.S.C. 231 et seq.); (ii) the Railway Labor Act (45  
16 U.S.C. 151 et seq.); and

17 “(ii) the Railroad Unemployment Insurance Act  
18 (45 U.S.C. 351 et seq.).

19 “The exception described in paragraph (1) does not  
20 apply to the performance of railroad maintenance and re-  
21 pair work that is, and has been, historically and custom-  
22 arily performed by employees in railroad industry crafts  
23 and classes recognized under the ninth paragraph of sec-  
24 tion 2 of the Railway Labor Act (45 U.S.C. 152).

1       “(2) An employer performing work as a contractor  
2 or subcontractor for (a) a railroad that owns, uses, or is  
3 contracted to perform work on, rail infrastructure con-  
4 structed or improved with funding provided in whole or  
5 in part in a grant made under this chapter, or (b) an oper-  
6 ator that uses such infrastructure, shall not itself be con-  
7 sidered a rail carrier solely as a result of performance of  
8 that work, and shall be permitted to perform the work  
9 with employees who are not covered by (1) the Railroad  
10 Retirement Act of 1974 (45 U.S.C. 231 et seq.), (2) the  
11 Railway Labor Act (45 U.S.C. 151 et seq.), and (3) the  
12 Railroad Unemployment Insurance Act (45 U.S.C. 351 et  
13 seq.), when such work is performed consistent with a col-  
14 lective bargaining agreement between the railroad or oper-  
15 ator and a union representing employees in a railroad in-  
16 dustry craft or class recognized under the ninth paragraph  
17 of section 2 of the Railway Labor Act (45 U.S.C. 152  
18 Ninth) covering work performed by that craft or class.”.

