

**Calendar No. 226**

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. J. RES. 37**

To provide for the extension of a temporary prohibition of strikes or lockout and to provide for binding arbitration with respect to the labor dispute between Amtrak and certain of its employees.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 1997

Mr. JEFFORDS introduced the following joint resolution; which was read the first time

OCTOBER 27, 1997

Read the second time and placed on the calendar

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**JOINT RESOLUTION**

To provide for the extension of a temporary prohibition of strikes or lockout and to provide for binding arbitration with respect to the labor dispute between Amtrak and certain of its employees.

1        *Resolved by the Senate and House of Representatives*  
2        *of the United States of America in Congress assembled,*

1 **SECTION 1. CONDITIONS DURING RESOLUTION OF DIS-**  
2 **PUTE.**

3 With respect to the disputes referred to in Executive  
4 Order 13060 dated August 21, 1997, between Amtrak and  
5 the Brotherhood of Maintenance of Way Employees, no  
6 change, except by agreement, shall be made by the parties  
7 in the conditions out of which the dispute arose until the  
8 expiration of the 90-day period beginning on the date of  
9 enactment of an Act authorizing appropriations for Am-  
10 trak for fiscal year 1998, and a decision is rendered under  
11 section 3(a)(4). Prior to such date, there shall be no resort  
12 to strike, lock-out, or other self-help by either party.

13 **SEC. 2. APPOINTMENT OF ARBITRATORS.**

14 (a) IN GENERAL.—

15 (1) BY PARTIES.—Within 3 days (excluding  
16 Saturdays, Sundays, and Federal holidays) after the  
17 date of enactment of an Act authorizing appropria-  
18 tions for Amtrak for fiscal year 1998, Amtrak and  
19 the Brotherhood of Maintenance of Way Employees  
20 shall each select an individual from the entire roster  
21 of arbitrators maintained by the National Mediation  
22 Board. Within 6 days (excluding Saturdays, Sun-  
23 days, and Federal holidays) after such date of enact-  
24 ment, the individuals selected under the preceding  
25 sentence shall jointly select an individual from such  
26 roster to serve as arbitrator for the unresolved dis-

1        disputes involved in the Executive Order referred to in  
2        section 1.

3            (2) TENTATIVE AGREEMENTS.—For purposes  
4        of this subsection and section 1, a dispute as to  
5        which tentative agreement has been reached but not  
6        ratified shall be considered an unresolved dispute.

7        (b) QUALIFICATIONS.—No individual shall be selected  
8        under subsection (a) who is pecuniarily or otherwise inter-  
9        ested in any organization of employees or any railroad,  
10       or who has served as a member of Presidential Emergency  
11       Board No. 234.

12       (c) COMPENSATION AND EXPENSES.—The compensa-  
13       tion of individuals selected under subsection (a) shall be  
14       fixed by the National Mediation Board. The second para-  
15       graph of section 10 of the Railway Labor Act shall apply  
16       to the expenses of such individuals as if such individuals  
17       were members of a board created under such section 10.

18       **SEC. 3. BEST OFFER BINDING ARBITRATION.**

19        (a) SUBMISSION OF OFFERS.—

20            (1) IN GENERAL.—If, on the expiration of the  
21        90-day period described in section 1, no agreement  
22        has been reached between the parties described in  
23        such section with respect to wage rates and com-  
24        pensation, both the labor organization and the car-  
25        rier shall, within 5 days after the end of such period,

1 submit to an arbitrators appointed under section 2  
2 and the other party, a proposed written contract em-  
3 bodying its last best offer for agreement concerning  
4 rates of pay, rules, and working conditions.

5 (2) CONTRACTS.—A written contract under  
6 paragraph (1) shall address only—

7 (A) issues that the relevant Presidential  
8 Emergency Board dealt with by a recommenda-  
9 tion in its report issued on August 22, 1997; or

10 (B) other issues that the parties agree may  
11 be addressed by the written contract.

12 (3) NEGOTIATION.—Upon submission to the ar-  
13 bitrators of the proposed written contracts described  
14 in paragraph (1), and for a period of 7 days there-  
15 after, the parties shall, with the assistance of the ar-  
16 bitrators, attempt to reach agreement.

17 (4) DECISION OF ARBITRATORS.—If the parties  
18 fail to reach agreement within the period described  
19 in paragraph (3), the arbitrator, within 3 days  
20 thereafter, shall render a decision, after giving due  
21 consideration to the financial status of Amtrak, se-  
22 lecting 1 of the proposed written contracts submitted  
23 under paragraph (1), without modification and shall  
24 immediately submit such decision and selected con-  
25 tract to the President. The selected contract shall be

1 binding on the parties and have the same effect as  
2 though arrived at by agreement of the parties under  
3 the Railway Labor Act (45 U.S.C. 151 et seq.).

4 (b) JURISDICTION OF COURT.—At the request of  
5 Amtrak or an organization representing employees of Am-  
6 trak, a United States District Court shall have jurisdiction  
7 with respect to a civil action to enforce this subsection,  
8 and the decision of any arbitration panel under paragraph  
9 (2), and may grant equitable or declaratory relief.

10 (c) SPECIAL RULE.—With respect to any tentative  
11 agreement reached during the 90-day period referred to  
12 in section 1, if the ratification of such tentative agreement  
13 fails, both the labor organization and the carrier party to  
14 such tentative agreement shall, within 5 days after the  
15 date of such failure, submit to the arbitrators and to the  
16 other party (or parties) a proposed written contract under  
17 subsection (a).

18 **SEC. 4. PRECLUSION OF JUDICIAL REVIEW.**

19 Except as provided in section 3(b), there shall be no  
20 judicial review of any decision of an arbitrator under this  
21 joint resolution.

22 **SEC. 5. MUTUAL AGREEMENT PRESERVED.**

23 Nothing in this joint resolution shall prevent a mutual  
24 written agreement to any terms and conditions different  
25 from those established by the joint resolution.

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