

117TH CONGRESS
1ST SESSION

S. 1264

To amend the Federal Land Policy and Management Act of 1976 to improve the management of grazing permits and leases, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2021

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Federal Land Policy and Management Act of 1976 to improve the management of grazing permits and leases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Resiliency for Ranch-
5 ing and Natural Conservation Health Act”.

1 **SEC. 2. TEMPORARY USE OF VACANT GRAZING ALLOT-**
 2 **MENTS FOR HOLDERS OF GRAZING PERMITS**
 3 **OR LEASES DURING EXTREME NATURAL**
 4 **EVENTS AND DISASTERS.**

5 Title IV of the Federal Land Policy and Management
 6 Act of 1976 (43 U.S.C. 1751 et seq.) is amended by add-
 7 ing at the end the following:

8 **“SEC. 405. VACANT GRAZING ALLOTMENTS MADE AVAIL-**
 9 **ABLE TO HOLDERS OF GRAZING PERMITS OR**
 10 **LEASES DURING EXTREME NATURAL EVENTS**
 11 **AND DISASTERS.**

12 “(a) DEFINITION OF SECRETARY CONCERNED.—In
 13 this section, the term ‘Secretary concerned’ means—

14 “(1) the Secretary of Agriculture, with respect
 15 to National Forest System land; and

16 “(2) the Secretary, with respect to public lands.

17 “(b) ALLOTMENTS.—

18 “(1) IN GENERAL.—To the maximum extent
 19 practicable, the Secretary concerned shall make
 20 available to the holder of a grazing permit or lease
 21 issued by either Secretary concerned the temporary
 22 use of a vacant grazing allotment if 1 or more graz-
 23 ing allotments covered by the grazing permit or lease
 24 of the holder of the grazing permit or lease are tem-
 25 porarily unusable, as determined by the Secretary
 26 concerned, because of resource conditions from un-

1 foreseen natural events or disasters (including an ex-
2 treme weather event, drought, wildfire, infestation,
3 or blight).

4 “(2) TERMS AND CONDITIONS.—In establishing
5 the terms and conditions in a permit or lease for the
6 temporary use of a vacant grazing allotment made
7 available pursuant to this subsection, the Secretary
8 concerned—

9 “(A) shall take into consideration the
10 terms and conditions of the most recent permit
11 or lease that was applicable to the vacant graz-
12 ing allotment;

13 “(B) if there are no terms or conditions
14 available for consideration under subparagraph
15 (A), may assign temporary terms or conditions,
16 after considering ecological conditions of, or
17 terms on, adjacent grazing allotments;

18 “(C) shall base the terms and conditions
19 on local ecological conditions, as determined by
20 the applicable official;

21 “(D) shall take into consideration other
22 factors, including any prior agency agreement
23 that resolved or sought to resolve a manage-
24 ment conflict, including a conflict related to
25 State management of wildlife; and

1 “(E) may authorize the placement and use
2 of temporary portable corrals and water troughs
3 on the vacant grazing allotment to accommo-
4 date the temporary use.

5 “(3) COORDINATION.—To the maximum extent
6 practicable, the Secretaries concerned shall coordi-
7 nate to make available to holders of grazing permits
8 or leases the use of vacant grazing allotments, re-
9 gardless of agency jurisdiction over vacant grazing
10 allotments, pursuant to paragraphs (1) and (2).

11 “(4) ADDITIONAL CONSIDERATIONS; EFFECT.—

12 “(A) ADDITIONAL CONSIDERATIONS.—For
13 purposes of determining whether to make avail-
14 able the temporary use of a vacant grazing al-
15 lotment under paragraph (1), the Secretary
16 concerned shall consider whether there is a
17 court-issued injunction in effect as of the date
18 of the determination that constrains or other-
19 wise limits the use of an allotment for which
20 the permit or lease has been issued.

21 “(B) EFFECT.—The temporary use of a
22 vacant grazing allotment under this subsection
23 shall not—

24 “(i) preclude or otherwise alter other
25 ongoing or future actions or assessments

1 evaluating the potential of the vacant graz-
2 ing allotment to be used or otherwise as-
3 signed; or

4 “(ii) alter—

5 “(I) the terms and conditions of
6 the original grazing permit or lease of
7 the holder of the grazing permit or
8 lease;

9 “(II) the preference or ability of
10 the holder of the grazing permit or
11 lease to return to the original allot-
12 ment once access to, or the use of, the
13 original allotment is restored; or

14 “(III) the animal unit months in
15 future authorizations, or conditions of
16 a permit, of the holder of the grazing
17 permit or lease.

18 “(c) DURATION.—The Secretary concerned shall de-
19 termine the duration of the temporary use of a vacant
20 grazing allotment made available pursuant to subsection
21 (b), after considering the period of time necessary for the
22 original allotment of the holder of the grazing permit or
23 lease to return to use, not to exceed 3 consecutive grazing
24 seasons.

25 “(d) GUIDELINES.—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this section, the Secretary
3 concerned shall establish guidelines to expeditiously,
4 efficiently, and effectively carry out activities author-
5 ized under this section.

6 “(2) CONSIDERATIONS.—In establishing the
7 guidelines under paragraph (1), the Secretary con-
8 cerned may consider—

9 “(A) eligibility criteria for the holders of
10 grazing permits or leases;

11 “(B) prioritizing holders of grazing per-
12 mits or leases in close proximity to a vacant
13 grazing allotment;

14 “(C) any class or change in class of live-
15 stock on the temporary use of a vacant grazing
16 allotment, with consideration given to local eco-
17 logical conditions, disease, wildlife conflicts, and
18 other factors based on localized conditions;

19 “(D) processes for coordinating with allot-
20 ments adjoining or within the vicinity of a va-
21 cant grazing allotment; and

22 “(E) any other processes intended to expe-
23 dite procedures for making vacant grazing allot-
24 ments available during emergent cir-
25 cumstances.”.

1 **SEC. 3. PUBLIC RANGELAND RESILIENCY FUNDS.**

2 (a) INVESTMENT OF AMOUNTS IN THE LAND AND
3 WATER CONSERVATION FUND.—Section 200302 of title
4 54, United States Code, is amended—

5 (1) by redesignating subsection (c) as sub-
6 section (d); and

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c) INVESTMENT OF AMOUNTS.—

10 “(1) IN GENERAL.—On request of the Sec-
11 retary, the Secretary of the Treasury may invest any
12 portion of the Fund (including amounts in the Fund
13 that are appropriated but not disbursed) that is not,
14 as determined by the Secretary, required to meet the
15 current needs of the Fund, but not to exceed such
16 amounts as are necessary to generate \$15,000,000
17 in investment income per year under paragraph (2).

18 “(2) REQUIREMENT.—An investment of
19 amounts made available under paragraph (1) shall
20 be made by the Secretary of the Treasury in a pub-
21 lic debt security—

22 “(A) with a maturity suitable for the au-
23 thorized uses described in subsection (c)(2) of
24 section 401 of the Federal Land Policy and
25 Management Act of 1976 (43 U.S.C. 1751);
26 and

1 “(B) bearing interest at a rate determined
 2 by the Secretary of the Treasury, taking into
 3 consideration current market yields on out-
 4 standing marketable obligations of the United
 5 States of comparable maturity.

6 “(3) RANGE BETTERMENT ACCOUNT.—The in-
 7 come on investments of the Fund under this sub-
 8 section shall be credited to, and used for purposes
 9 of an account established in the Treasury, to be
 10 known as the ‘range betterment account’, to be used
 11 in accordance with subsection (c) of section 401 of
 12 the Federal Land Policy and Management Act of
 13 1976 (43 U.S.C. 1751).”.

14 (b) RANGE BETTERMENT ACCOUNT.—Section 401 of
 15 the Federal Land Policy and Management Act of 1976
 16 (43 U.S.C. 1751) is amended by adding at the end the
 17 following:

18 “(c) RANGE BETTERMENT ACCOUNT.—

19 “(1) DEFINITION OF SECRETARY CON-
 20 CERNED.—In this section, the term ‘Secretary con-
 21 cerned’ means—

22 “(A) the Secretary of Agriculture, with re-
 23 spect to National Forest System land; and

24 “(B) the Secretary, with respect to public
 25 lands.

1 “(2) USE OF FUNDS.—Of the amounts available
2 in the account established under section
3 200302(c)(3) of title 54, United States Code (re-
4 ferred to in this subsection as the ‘account’)—

5 “(A) \$10,000,000 shall be made available
6 for each fiscal year to carry out rangeland im-
7 provement projects under subsection (b)(1), in-
8 cluding for all forms of rangeland betterment,
9 management, and improvement activities, in-
10 cluding seeding and reseeding, fence construc-
11 tion, the use of a temporary structure (such as
12 a corral), an invasive plant or weed control
13 measure or treatment, water development, and
14 any other activity that advances healthy range-
15 land improvement, habitat, and resiliency; and

16 “(B) \$5,000,000 shall be available for each
17 fiscal year to enhance, expand, or improve ac-
18 cess opportunities producing co-benefits for
19 hunting and recreation activities on public lands
20 or National Forest System land under the juris-
21 diction of the Secretary concerned through pub-
22 lic access agreements (including cooperative
23 agreements or special use agreements) that im-
24 prove or provide for permanent, temporary, or
25 seasonal access to private land through which

1 individuals would need to traverse to access the
 2 public lands or National Forest System land,
 3 subject to paragraph (5)(B).

4 “(3) ADDITIONAL FUNDS.—Amounts made
 5 available from the account for rangeland improve-
 6 ment projects under paragraph (2), shall be—

7 “(A) available, without further appropria-
 8 tion; and

9 “(B) in addition to amounts received from
 10 fees or other appropriations for those projects
 11 or public access agreements.

12 “(4) AVAILABILITY.—To provide sufficient
 13 flexibility for multiyear contracts, procurement, and
 14 agreements, amounts made available under sub-
 15 section (b)(1) and paragraph (2) shall remain avail-
 16 able for expenditure, without fiscal year limitation,
 17 until expended.

18 “(5) COORDINATION; AGREEMENTS.—

19 “(A) RANGELAND IMPROVEMENT
 20 PROJECTS.—

21 “(i) COORDINATION.—In carrying out
 22 rangeland improvement projects using
 23 amounts made available under subsection
 24 (b)(1) and paragraph (2)(A), the Secretary
 25 concerned shall coordinate with holders of

1 grazing permits or leases to ensure collabo-
 2 rative and coordinated efforts.

3 “(ii) COOPERATIVE AGREEMENTS.—
 4 The Secretary concerned may enter into a
 5 cooperative agreement with the holder of a
 6 grazing permit or lease to carry out range-
 7 land improvement projects using amounts
 8 made available under subsection (b)(1) and
 9 paragraph (2)(A) that would benefit land,
 10 regardless of ownership, within the grazing
 11 allotment associated with the applicable
 12 grazing permit or lease.

13 “(B) PUBLIC ACCESS AGREEMENTS.—

14 “(i) REQUIREMENTS, PROHIBITIONS,
 15 AND AUTHORIZATIONS.—A public access
 16 agreement entered into under paragraph
 17 (2)(B)—

18 “(I) shall—

19 “(aa) be negotiated by the
 20 Secretary concerned with willing
 21 landowners;

22 “(bb) establish the terms of
 23 the public access or any enhance-
 24 ment project carried out under
 25 the public access agreement, in-

1 including the duration of the public
2 access agreement; and

3 “(cc) be entered into volun-
4 tarily by a willing landowner;

5 “(II) shall not convey to the pub-
6 lic any right to hunt or otherwise
7 carry out recreational activities on the
8 private land subject to the public ac-
9 cess agreement; and

10 “(III) may—

11 “(aa) be entered into with-
12 out reimbursement to the willing
13 landowner, if the willing land-
14 owner volunteers to not receive
15 reimbursement; or

16 “(bb) provide for reimburse-
17 ment by the Secretary concerned,
18 as applicable, to the willing land-
19 owner, with the amount of the re-
20 imbursement to be determined by
21 the Secretary concerned—

22 “(AA) using the prin-
23 ciples of ‘roughly equivalent
24 value’ or another cost or
25 valuation method; and

1 “(BB) which may not
2 require a formal appraisal, if
3 the Secretary concerned de-
4 termines that an appraisal is
5 unnecessary because the
6 valuation is uncomplicated
7 and the anticipated value is
8 estimated to be \$10,000 or
9 less, based on a review of
10 available data.

11 “(ii) PRIORITY.—In entering into
12 public access agreements under paragraph
13 (2)(B), the Secretary concerned may give
14 priority to a public access agreement that
15 provides public access to public lands or
16 National Forest System land under the ju-
17 risdiction of the Secretary concerned of at
18 least 640 acres with respect to which there
19 is restricted or no public access.

20 “(iii) NO FEDERAL INTEREST.—In
21 entering into a public access agreement
22 under paragraph (2)(B), the Secretary
23 concerned shall not acquire a Federal in-
24 terest in private land and, as a result, shall

1 not be subject to Federal acquisition regu-
 2 lations.

3 “(iv) EFFECT.—If a landowner elects
 4 not to enter into a public access agreement
 5 under paragraph (2)(B), the election shall
 6 not affect a grazing permit or lease held by
 7 the landowner.”.

8 **SEC. 4. RENEWAL TERM OF GRAZING PERMITS OR LEASES.**

9 Section 402 of the Federal Land Policy and Manage-
 10 ment Act of 1976 (43 U.S.C. 1752) is amended—

11 (1) in subsection (a), by striking “ten years”
 12 and inserting “not more than 20 years”; and

13 (2) in subsection (b)—

14 (A) in the matter preceding paragraph (1),
 15 by striking “shorter than ten years” and insert-
 16 ing “of less than 20 years”;

17 (B) in paragraph (1), by striking “or” at
 18 the end;

19 (C) in paragraph (2)—

20 (i) by striking “ten years” and insert-
 21 ing “20 years”; and

22 (ii) by striking “or” at the end;

23 (D) by redesignating paragraph (3) as
 24 paragraph (4);

1 (E) by inserting after paragraph (2) the
2 following:

3 “(3) the initial environmental analysis under
4 the National Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.) with respect to a grazing allot-
6 ment, permit, or lease has not been completed; or”;
7 and

8 (F) in paragraph (4) (as so redesign-
9 nated)—

10 (i) in the first proviso, by striking
11 “shorter than ten years” and inserting “of
12 less than 20 years”; and

13 (ii) in the second proviso—

14 (I) by striking “shorter than ten
15 years” and inserting “of less than 20
16 years”; and

17 (II) by striking “items (1)
18 through (3) of this subsection” and
19 inserting “paragraphs (1) through
20 (4)”.

1 **SEC. 5. NEPA REVIEW IN RENEWAL OF GRAZING PERMITS**
 2 **AND LEASES AND CERTAIN ACTIONS DURING**
 3 **EXTREME NATURAL EVENTS AND DISASTERS.**

4 Section 402(h) of the Federal Land Policy and Man-
 5 agement Act of 1976 (43 U.S.C. 1752(h)) is amended by
 6 adding at the end the following:

7 “(3) RENEWAL.—The Secretary or the Sec-
 8 retary of Agriculture, as applicable, shall be subject
 9 to a rebuttable presumption that use of a categorical
 10 exclusion under the National Environmental Policy
 11 Act of 1969 (42 U.S.C. 4321 et seq.) would apply
 12 with respect to the renewal of a grazing permit or
 13 lease under this section, if—

14 “(A) the renewal of the grazing permit or
 15 lease is consistent, or substantially consistent,
 16 with the use authorized in the permit or lease
 17 being renewed;

18 “(B) the renewal of the grazing permit or
 19 lease is the same as, or has a minor adjustment
 20 in, as determined by the Secretary or the Sec-
 21 retary of Agriculture, as applicable, the season
 22 of use authorized in the permit or lease being
 23 renewed; or

24 “(C) the applicable permittee or lessee is
 25 in compliance with the terms, conditions, and

1 applicable regulations of the permit or lease
2 being renewed.

3 “(4) AUTHORIZED USE DURING EMERGENCIES
4 AND NATURAL EVENTS AND DISASTERS.—The Sec-
5 retary or the Secretary of Agriculture, as applicable,
6 shall be subject to a rebuttable presumption that use
7 of a categorical exclusion under the National Envi-
8 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
9 seq.) would apply to the temporary use of a vacant
10 grazing allotments or other minor adjustment in
11 terms and conditions of a permit or lease necessary
12 to respond and adapt to resource conditions, if—

13 “(A) there is an unforeseen, uncontrollable
14 natural event or disaster (including extreme
15 weather conditions, drought, and infestation),
16 that impedes the use by the permittee or lessee
17 of the grazing allotment under established
18 terms and conditions;

19 “(B) the use of the vacant grazing allot-
20 ment or the adjustment in the authorized use
21 would be limited to 2 grazing seasons;

22 “(C) a temporary adjustment in the exist-
23 ing season of use to immediately respond to lo-
24 calized resource conditions does not fluctuate

1 more than 14 days prior to, or immediately fol-
2 lowing, the existing season of use date;

3 “(D) the permittee or lessee is in compli-
4 ance with—

5 “(i) all other terms and conditions of
6 the applicable permit or lease; and

7 “(ii) any applicable regulations;

8 “(E) the vacant grazing allotment consid-
9 ered for temporary use pursuant to section 405
10 has been assessed or evaluated; and

11 “(F) the use of the vacant grazing allot-
12 ment or adjustment in the authorized use does
13 not alter the original grazing allotment of the
14 permittee or lessee.”.

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