

118TH CONGRESS
2D SESSION

S. _____

To provide for the establishment of an Operational Flexibility Grazing Management Program on land managed by the Bureau of Land Management, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide for the establishment of an Operational Flexibility Grazing Management Program on land managed by the Bureau of Land Management, 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 “Operational Flexibility
5 Grazing Management Program Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) BUREAU.—The term “Bureau” means the
9 Bureau of Land Management.

1 (2) FEDERAL LAND.—The term “Federal land”
2 means land managed by the Bureau.

3 (3) OPERATIONAL FLEXIBILITY.—The term
4 “operational flexibility”, with respect to grazing on
5 Federal land, means changes made to grazing man-
6 agement of an allotment or allotment area that—

7 (A) differ from—

8 (i) the terms and conditions of the ap-
9 plicable grazing permit or lease; or

10 (ii) the administration of grazing on
11 the applicable allotment or allotment area
12 during the preceding year; or

13 (B) are based on emerging landscape con-
14 ditions or producer needs.

15 (4) PROGRAM.—The term “program” means
16 the Operational Flexibility Grazing Management
17 Program authorized under section 3(a).

18 (5) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 **SEC. 3. OPERATIONAL FLEXIBILITY GRAZING MANAGE-**
21 **MENT PROGRAM.**

22 (a) IN GENERAL.—The Secretary may carry out a
23 grazing management program on Federal land, to be
24 known as the “Operational Flexibility Grazing Manage-
25 ment Program”, in accordance with applicable law (includ-

1 ing regulations) and the memorandum entitled “Bureau
2 of Land Management Instruction Memorandum 2018–
3 109” (as in effect on September 30, 2021), to provide to
4 authorized grazing permittees and lessees increased oper-
5 ational flexibility to improve the long-term ecological
6 health of the Federal land.

7 (b) FLEXIBLE GRAZING USE ALTERNATIVE FOR A
8 GRAZING PERMIT OR LEASE.—

9 (1) IN GENERAL.—At the request of an author-
10 ized grazing permittee or lessee, for purposes of re-
11 newing a grazing permit or lease under the program,
12 pursuant to the National Environmental Policy Act
13 of 1969 (42 U.S.C. 4321 et seq.), the Secretary
14 shall develop and authorize at least 1 alternative to
15 provide operational flexibility in livestock grazing use
16 to account for changing conditions.

17 (2) CONSULTATION.—The Secretary shall de-
18 velop alternatives under paragraph (1) in consulta-
19 tion with—

20 (A) the authorized grazing permittee or
21 lessee;

22 (B) affected Federal and State agencies;

23 (C) applicable Indian Tribes; and

24 (D) other landowners, permittees, or les-
25 sees in the affected allotment.

1 (c) IMPLEMENTATION OF INTERIM OPERATIONAL
2 FLEXIBILITIES.—At the request of an authorized grazing
3 permittee or lessee, the Secretary shall, using new and ex-
4 isting data, allow a variance to the terms and conditions
5 of the existing applicable grazing permit or lease for a pe-
6 riod not to exceed the remaining term of the grazing per-
7 mit or lease to address significant changes in weather, for-
8 age production, effects of fire, drought, market conditions,
9 or other temporary conditions—

10 (1) by adjusting the season of use, the begin-
11 ning date of the period of use, the ending date of
12 the period of use, or both the beginning date and
13 ending date, the stocking level, water placement and
14 transportation, and other necessary operational flexi-
15 bilities, as applicable, under the grazing permit or
16 lease, subject to the requirements that—

17 (A) unless otherwise specified in the appro-
18 priate allotment management plan or any other
19 activity plan that is the functional equivalent to
20 the appropriate allotment management plan
21 under section 4120.2(a)(3) of title 43, Code of
22 Federal Regulations (or a successor regulation),
23 the applicable adjusted date of the season of
24 use occurs—

1 (i) not earlier than 14 days before the
2 beginning date specified in the applicable
3 grazing permit or lease; and

4 (ii) not later than 14 days after the
5 ending date specified in the applicable
6 grazing permit or lease; and

7 (B) the authorized grazing permittee or
8 lessee provides notice of the adjustment to the
9 Bureau not later than 2 business days before
10 the date of adjustment; and

11 (2) by authorizing the immediate implementa-
12 tion and adoption of operational flexibilities in cases
13 in which operational flexibilities are necessary to
14 achieve ecological health, avoid immediate ecological
15 degradation of the allotment or allotment area, or
16 respond to an emerging management need.

17 (d) MONITORING PLANS.—To monitor and evaluate
18 outcomes from the use of operational flexibilities under the
19 program, the Secretary, in coordination with grazing per-
20 mittees and lessees, shall use—

21 (1) cooperative rangeland monitoring plans that
22 comply with any applicable monitoring requirements
23 under the Federal Land Policy and Management Act
24 of 1976 (43 U.S.C. 1701 et seq.) and any applicable
25 Federal grazing regulations; and

1 (2) rangeland health objectives.

2 (e) REPORTING REQUIREMENTS; REVIEW.—

3 (1) REPORTING REQUIREMENTS.—

4 (A) ANNUAL REPORTS.—

5 (i) IN GENERAL.—Annually, program
6 staff shall submit to the Secretary a report
7 on the program.

8 (ii) FAILURE TO SUBMIT.—The fail-
9 ure of program staff to submit an annual
10 report required under clause (i) shall not
11 affect the ability of authorized grazing per-
12 mittees or lessees to participate in the pro-
13 gram.

14 (B) REPORTS TO CONGRESS.—Not later
15 than 3 years after the date of enactment of this
16 Act and every 3 years thereafter, the Secretary
17 shall submit to the appropriate committees of
18 Congress a report that describes the use of
19 operational flexibilities under the program and
20 any associated information relating to ecological
21 outcomes and land health standards under the
22 program.

23 (2) REVIEW.—

24 (A) IN GENERAL.—Subject to subpara-
25 graph (B), not earlier than the date that is 8

1 years after the date of enactment of this Act,
2 the Secretary shall conduct a review of the use
3 of operational flexibilities under the program,
4 including a review of ecological outcomes and
5 other relevant outcomes under the program.

6 (B) NO EFFECT ON GRAZING AUTHORIZA-
7 TIONS OR USE.—The review of the program
8 under subparagraph (A) shall not affect the ex-
9 istence, renewal, or termination of a grazing
10 permit or lease entered into under the program.

11 (f) NO EFFECT ON GRAZING PREFERENCE OR AC-
12 TIVITIES.—Nothing in this Act—

13 (1) affects grazing preferences or authorizations
14 provided under the Act of June 28, 1934 (commonly
15 known as the “Taylor Grazing Act”; 43 U.S.C. 315
16 et seq.), the Federal Land Policy and Management
17 Act of 1976 (43 U.S.C. 1701 et seq.), or any other
18 applicable Federal law;

19 (2) requires grazing permittees or lessees to
20 pursue operational flexibilities during the renewal,
21 extension, or authorization of a new grazing permit
22 or lease;

23 (3) requires the Secretary to consider modifying
24 or terminating any grazing activity, authorization, or
25 use; or

1 (4) precludes the Secretary from modifying or
2 terminating an existing grazing permit or lease in
3 accordance with applicable law (including regula-
4 tions).

5 (g) NO TERMINATION OF GRAZING PERMIT OR
6 LEASE FOR USE OF OPERATIONAL FLEXIBILITIES.—The
7 Secretary may not terminate or fail to renew an applicable
8 grazing permit or lease for a violation of the applicable
9 grazing permit or lease that is due to the use of an oper-
10 ational flexibility under the program.