Calendar No. 589

105TH CONGRESS, *2d Session* | SENATE | REPORT 105–338

FORAGE IMPROVEMENT ACT OF 1997

SEPTEMBER 21, 1998.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 2493]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2493) to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

H.R. 2493, as ordered reported, would provide for more uniform administration and management of domestic livestock grazing in the sixteen contiguous Western States on National Forests administered by the Forest Service (excluding the National Grasslands) and public lands administered by the Bureau of Land Management.

BACKGROUND AND NEED

Federal statues controlling grazing on lands now administered as National Forests, Bureau of Land Management (BLM) grazing districts, and the BLM scattered parcels outside of organized grazing districts evolved from customary open range control practices of the nineteenth century. Prior to 1905, domestic livestock grazing on

Federal domain lands in the West were regulated only under State and territorial laws.

In 1905 the first Chief of the Forest Service, Gifford Pinchot, was delegated authority under the 1897 Organic Administration Act (Act of June 4, 1897) to issue permits to ranchers to graze their stock on Forest Reserve allotments (Congress renamed the Forest Reserves as National Forests at the request of the Forest Service in 1907). These permits were preferentially allocated to property owners who had historically used and depended upon forested grazing lands located near their privately owned homesteads. In the absence of explicit statutory authority, Pinchot issued a Regulatory Use Book explaining that the objectives of the new grazing regulations were to conserve public resources and, among other things, protect the financial welfare of ranchers dependent on federal forest forage supplies by shielding them from outside competition. Forage supplies were apportioned among local ranchers based on prior use rates, but the total amount of forage allocated to livestock could not exceed the carrying capacity of the range.

It was not until the Taylor Grazing Act (June 28, 1938, ch. 865, 48 Stat. 1269) was signed into law by President Roosevelt that grazing on the public domain lands became subject to similar regulations. The preamble to the Taylor Grazing Act declared that the purpose of the Act was "to stop injury to the public grazing lands by preventing overgrazing and soil deterioration; to provide for their orderly use, improvement, and development; [and] to stabilize the livestock industry dependent on the public range." Emulating the Forest Service, the Grazing Service in the Department of the Interior (which was merged with the General Land Office to become the Bureau of Land Management in 1946) issued grazing permits to ranchers owning or leasing private property adjacent or near the public domain lands upon which their stock had customarily grazed. These grazing permits and leases were issued to ranchers with a base property of sufficient productivity to permit the proper use of lands, water, or water rights, owned, occupied, or leased by them.

Grazing fees have been charged for domestic livestock grazing on National Forests since 1906, a year after the Forest Reserves were transferred to the Forest Service from the General Land Office in the Department of the Interior. Although the Forest Service relied on the broad administrative powers given to its Chief in the Organic Administration Act of 1897 as an early rationale for setting grazing fees, explicit statutory authority did not exist until the Granger-Thye Act was passed in 1950. The Taylor Grazing Act gave the Secretary of the Interior authority to charge grazing fees on rangelands now administered by the BLM. But neither the Taylor Grazing Act nor the Granger-Thye Act gave specific direction on fee levels.

It was not until 1969 that both agencies adopted a uniform fee system. The purpose of the 1969 Federal grazing fee system was to charge a single grazing fee in the West (except for the National Grasslands). The goal of this fee was to keep total grazing costs on BLM and National Forest lands equal to total grazing costs on comparable privately-owned rangelands. Because of its unpopularity, the Congress imposed a series of moratoria on this

grazing fee. Congress temporarily settled the grazing fee debate by enacting the Public Rangelands Improvement Act of 1978 (Public Law 95–514), establishing statutory grazing fee formula commonly known as the PRIA fee system. However, authority for the PRIA fee system expired December 31, 1985. Since February, 1986 the PRIA formula has remained in effect because of Presidential Executive Order 12548 which set a minimum grazing fee of $1.35 per Animal Unit Month. Since 1987 numerous bills to create a new statutory grazing fee formula have been introduced in Congress but none were enacted.

Not since passage of the Public Rangelands Improvement Act in 1978 has Congress passed significant Federal rangeland or western livestock grazing legislation. However, the Department of the Interior did undertake a major administrative revision of its grazing regulations known as Range Reform '94. These revisions were accomplished through a regulatory process with final rules taking effect on August 21, 1995.

In response to numerous concerns voiced by western public land livestock interests, Representative Robert F. (Bob) Smith, Chairman of the Committee on Agriculture, introduced H.R. 2493. This bill addresses five broad categories of issues which the grazing community did not believe had been adequately addressed in existing livestock grazing legislation or regulations. These included: (1) the need to clarify relevant terms widely used in Federal grazing administration and in range science; (2) ways to increase science-based monitoring of changes in vegetation and other resources on rangelands by trained professionals; (3) putting in place methods to encourage coordinated resource management which involve all interests, not just Federal land ranchers; (4) clarification of circumstances under which subleases of Federal land grazing allotments would be subject to surcharges by the Federal Government; and (5) establishment of a statutory grazing fee formula.

Public land livestock operators believe that the uncertainty associated with the current method of establishing grazing fees makes long range financial backing and planning efforts extremely difficult. They also believe that not having a fee formula established through legislation makes them vulnerable to changing Administration policies.

LEGISLATIVE HISTORY

H.R. 2943 was introduced in the House of Representatives by Congressman Robert F. (Bob) Smith on September 18, 1997 and was jointly referred to the Committee on Resources, and the Committee on Agriculture. On October 24, 1997, H.R. 2493 was reported to the House (Amended) by the Committees on Agriculture and Resources. On October 30, 1997 the bill, as amended, passed the House by a vote of 242–182.

H.R. 2493 was referred to the Senate Committee on Energy and Natural Resources. At its business meeting on July 29, 1998, the Committee ordered H.R. 2493 favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on July 29, 1998, by a majority vote of a

quorum present recommends that the Senate pass H.R. 2493 without amendment.

The rollcall vote on reporting the measure was 11 yeas, 9 nays as follows:

YEAS	NAYS
Mr. Murkowski	Mr. Bumpers
Mr. Domenici	Mr. Ford [1]
Mr. Nickles	Mr. Bingaman
Mr. Craig	Mr. Akaka
Mr. Campbell [1]	Mr. Dorgan [1]
Mr. Thomas	Mr. Graham [1]
Mr. Kyl [1]	Mr. Wyden [1]
Mr. Grams	Mr. Johnson
Mr. Smith	Ms. Landrieu
Mr. Gorton	
Mr. Burns	

[1] Indicates vote by Proxy

SECTION-BY-SECTION ANALYSIS

Section 1. Short title, table of contents

The Forage Improvement Act of 1997.

Sec. 2. Rules of construction

States that the Act does not apply to lands administered as part of the National Park System, the National Wildlife Refuge System, or to Indian trust lands. Clarifies that the Act will not limit or restrict the use of any affected Federal lands for purposes of hunting, fishing, recreation, or any other multiple use currently permitted under Federal and State law. Nor will the Act affect any valid existing rights, reservations, authorizations, or agreement under Federal and State law.

Sec. 3. Coordination and administration

To promote uniform direction in administration of these Federal lands and their forage resource, the Act requires that the Secretary of the Interior and the Secretary of Agriculture provide for consistent and coordinated administration of livestock grazing and applicable Federal land management activities.

TITLE I. MANAGEMENT OF GRAZING ON FEDERAL LANDS

Sec. 101. Application of title

The provisions of the Forage Improvement Act apply to National Forest System lands administered by the Secretary of Agriculture under eight primary statutes, and to lands administered by the Secretary of the Interior under four significant statutes. It also applies to lands managed by either Secretary for grazing purposes on behalf of the head of any other agency.

Sec. 102. Definitions

Establishes and defines key terms used in the legislation.

Sec. 103. Monitoring

States that the monitoring of resource conditions and trends shall be performed by qualified persons from Federal, State, and local governments; grazing permittees and lessees, and/or professional consultants retained by the United States or a permittee or lessee. This monitoring is to be conducted according to regional or state criteria and protocols. The criteria must be site specific, scientifically valid, and subject to peer review. Data collected in the monitoring phase shall be used to evaluate the effects of ecological changes and management actions, the effectiveness of actions in meeting management objectives contained in applicable land use plans, and the appropriateness of resource management objectives. This requirement is not designed to preclude agencies from using other data collection methods as long as the information gathered is scientifically-valid, verifiable, and reproducible.

Sec. 104. Subleasing

This section specifies that a person issued a grazing permit or lease may not enter into an agreement with another person to allow grazing on the Federal lands covered by the grazing permit by livestock that are neither owned nor controlled by the person issued the grazing permit.

Sec. 105. Cooperative management plans

Specifies that allotment management plans authorized under existing law (section 402 (d) of FLMPA) may include a written agreement with a qualified grazing permittee, (as described in this Act), that provides for outcome-based standards for managing grazing activities. Activities authorized under this section shall be exempt from the Federal Advisory Committee Act.

Sec. 106. Fees and charges

Section 106(a). Grazing Fees.—Directs that the grazing fee formula shall be calculated as a fee per Animal Unit Month which shall be equal to the 12 year average of the total gross annual value of production of beef cattle multiplied by the 12 year average of 6 month Treasury bills divided by 12. In addition, this section establishes a separate fee for foreign-owned or controlled grazing permits. In this new foreign-owned fee is to be either; the average grazing fee charged by the State during the previous grazing year, or, the average grazing fee charged for grazing on private lands in the particular State, whichever is higher.

Section 106(b). Definition of Animal Unit Month.—Directs that for the purposes of billing only, an animal unit month shall be one month's use of range by one cow, bull, steer, horse, burro, or mule, seven sheep, or seven goats.

TITLE II. MISCELLANEOUS

Section 201. Effective Date.—Specifies that this Act and the amendments made by this Act shall take effect on the first day of the first grazing season beginning after the date of the enactment of this Act.

Section 202. Issuance of New Regulations.—Directs the Secretary of Agriculture and the Secretary of the Interior to coordinate in promulgating new regulations, that the new regulations need to be published simultaneously, and that they be put into effect not later than 180 days after the date of enactment of this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 5, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2493, the Forage Improvement Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2493—Forage Improvement Act of 1997

Summary: H.R. 2493 would modify how the Bureau of Land Management (BLM), within the Department of the Interior, and the Forest Service, within the Department of Agriculture, administer livestock grazing on public lands.

H.R. 2493 would change the formula for computing grazing fees. The act also would redefine "animal unit month" (AUM) by increasing the number of sheep and goats allowed per AUM from five to seven. These changes would apply to grazing on federal land administered by BLM and the Forest Service (excluding the National Grasslands). CBO expects that these changes would increase the government's net income from grazing fees by about $10 million over the 1999–2003 period. Because H.R. 2493 would affect direct spending, pay-as-you-go procedures would apply.

This legislation also would make several other changes to the management of grazing on public lands that would increase discretionary spending by an estimated $10 million over the next five years, subject to appropriation of the necessary amounts.

H.R. 2493 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: CBO estimates that enacting H.R. 2493 would increase gross income from grazing fees by about $12 million over the 1999–2003 period. Because a portion of that income is shared with states, CBO estimates that enacting H.R. 2493 would result in a net decrease in direct spending of

about $10 million over the 1999–2003 period. In addition, discretionary spending totaling about $10 million over the next five years would result from this act, assuming appropriation of the estimated amounts. The estimated budgetary impact of H.R. 2493 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and the environment) and 800 (general government).

	By fiscal years, in millions of dollars—				
	1999	2000	2001	2002	2003
CHANGES IN DIRECT SPENDING					
Change in Offsetting Receipts:					
Estimated Budget Authority	−2	−2	−2	−2	−2
Estimated Outlays	−2	−2	−2	−2	−2
Change in Direct Spending:					
Estimated Budget Authority	0	(1)	(1)	(1)	(1)
Estimated Outlays	0	(1)	(1)	(1)	(1)
Net Change:					
Estimated Budget Authority	−2	−2	−2	−2	−2
Estimated Outlays	−2	−2	−2	−2	−2
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	6	1	1	1	1
Estimated Outlays	6	1	1	1	1

[1] Less than $500,000.

Basis of estimate: The act states that its provisions would become effective on the date of enactment. For purposes of this estimate, CBO assumes that H.R. 2493 would be enacted in time to implement the new fee for the 1999 grazing year, which begins March 1, 1999.

Offsetting receipts

CBO estimates that the new formula would increase the amount of grazing fee receipts that would be collected over the next five years compared to current law. The increase in the amount charged per AUM would be partially offset by the act's revised definition of AUM. Overall, CBO estimates that offsetting receipts would increase by a little more than 2 million annually beginning in fiscal year 1999 and by total of about $12 million over the 1999–2003 period.

Grazing fees.—Section 106 would base the new grazing fee on two factors: the value of beef cattle and the interest rate. Specifically, in all 16 western states, the act would set the basic grazing fee for each animal unit month at the average of the total gross value of production for beef cattle (as complied by the Economic Research Service (ERS) of the Department of Agriculture) for 12 years preceding the grazing fee year, multiplied by the average of the "new issue" rate for six-month Treasury bills for the 12 years preceding the grazing fee year, and divided by 12.

H.R. 2493 does not define total gross value of production but refers to data published annually be ERS in "Economic Indicators of the Farm Sector: Cost of Production." (ERS has discontinued that publication but provides data on cow-calf production costs in other publications.) The total gross value of production, as defined by ERS, is equal to the price of cattle multiplied by the quantity produced (number of pounds). Therefore, the new formula would yield

a grazing fee that increases or decreases over time, depending largely on changes in the price of cattle. In contrast, the current fee varies in response not only to changes in the price of cattle, but also to changes in the private lease rate for grazing land and the cost to produce beef. In addition, the current fee formula sets a minimum of $1.35 per AUM and limit the annual change in the fee to 25 percent. Both formulas are likely to result in varying fees from year to year.

The fee for each of the last three grazing fee years (1996–1998) has been $1.35 per AUM on most public rangelands. Using ERS's most recent data for the total gross value of production and projecting changes in cattle prices and interest rates, CBO estimates that the proposed new formula would result in a grazing fee averaging about 25 cents more per AUM over the 1999–2003 period in the western states than the grazing fee under current law.

Under current law, CBO projects grazing fee receipts of $22 million a year over the next five years. We estimate that implementing the formula contained in H.R. 2493 would yield an average increase in offsetting receipts of almost $3 million annually beginning in fiscal year 1999, taking into account the reduced volume of grazing that would result from the higher fee. This figure excludes the reduction in offsetting receipts attributable to the act's change in the definition of animal unit month discussed below.

Section 106 would establish a new grazing fee for foreign-owned or foreign-controlled permits or leases. The fee would be equal to the average annual grazing fee charged by the state for grazing on state lands, or the average charged on private lands within that state, whichever is higher. CBO expects that enacting this provision could increase receipts, but because BLM does not track whether permits are foreign-owned or controlled, we cannot estimate the magnitude of any increase based on current permits.

Animal unit month redefined.—Section 106 also would revise the definition of animal unit month (AUM) by increasing the number of sheep and goats per AUM from five to seven. That change would effectively decrease the cost of grazing sheep and goats by almost one-third. Owners of sheep and goats could purchase fewer AUMs to support the same number of animals under the new definition. Some producers might increase the size of their sheep and goat herds in response to lower effective costs for grazing on public land. Because grazing fees are only a fraction of the total cost to raise sheep and goats, however, we expect a net drop in the number of AUMs and an associated decrease in offsetting receipts of roughly $500,000 a year beginning in 1999.

Other direct spending

Current law (7 U.S.C. 1012, 16 U.S.C. 500, and 43 U.S.C. 315) requires the Forest Service and BLM to distribute a portion of the offsetting receipts from grazing on public lands to the states. Payments are made in the fiscal year following the year that grazing fees are received by the federal government, and are currently projected to total roughly $5 million a year. CBO estimates that enacting H.R. 2493 would increase payments to states by approximately $500,000 a year beginning in fiscal year 2000 and by about $2 million over the 1999–2003 period.

Spending subject to appropriation

CBO estimates that additional discretionary spending would be about $6 million in fiscal year 1999 and a total of about $10 million during the 1999–2003 period, assuming appropriation of the estimated amounts. Specific provisions are discussed below.

New rulemaking.—Section 202 would direct the Secretaries of Agriculture and the Interior to coordinate the promulgation of new regulations to carry out H.R. 2493 and to publish such regulations simultaneously within 180 days after enactment of the act. Based on information from BLM and the Forest Service, CBO estimates that completing this new rulemaking and modifying existing grazing permits would cost about $6 million in fiscal year 1999.

Range improvements.—The Federal Land Policy and Management Act of 1976 authorizes appropriations for range improvement of 50 percent of the income from grazing fees received during the prior fiscal year. If H.R. 2493 were enacted and the Congress appropriated 50 percent of grazing fee receipts for range improvements, then appropriations for range improvements would increase by about $5 million over the 2000–2003 period.

Other potential changes in discretionary spending.—Section 106 would require the Economic Research Service to continue to compile and report the total gross production value for beef cattle for the purpose of calculating the grazing fee. ERS has conducted a survey on which to base total gross value of production about every five years and has indexed the data based on changes in cattle prices for annual updates. If section 106 is interpreted to mean that ERS must conduct annual surveys, CBO estimates that each year's survey costs could be as high as $500,000. However, because it is unclear whether surveys would have to be conducted more often, we have not included any additional discretionary spending for such surveys in this estimate.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. As shown in the following table, CBO estimates that enacting H.R. 2493 would decrease direct spending by about $2 million in fiscal year 1999 and by about $20 million over the 1999–2008 period. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, budget year, and the subsequent four years are counted.

By fiscal years, in millions of dollars—1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	−2	−2	−2	−2	−2	−2	−2	−2	−2
Changes in receipts	Not applicable									

Estimated impact on State, local, and tribal governments: H.R. 2493 contains on intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The act would increase payments to states by almost $500,000 per year beginning in fiscal year 2000, because they receive a portion of receipts from grazing on public lands. For the 1999–2003 period, payments to states would increase by a total of almost $2 million compared to payments under current law.

Estimated impact on the private sector: The act would impose no new private-sector mandates as defined in UMRA.

Previous CBO estimates: On October 1, 1997, CBO prepared a cost estimate for H.R. 2493, as ordered reported by the House Committee on Agriculture on September 24, 1997. On October 15, 1997, CBO prepared a cost estimate for H.R. 2493, as ordered reported by the House Committee on Resources on October 8, 1997. The version approved by the Senate Committee on Energy and Natural Resources includes a number of changes to both previous versions of H.R. 2493 and this cost estimate differs accordingly. Furthermore, both previous cost estimates assumed that H.R. 2493 would be enacted before the start of the 1998 grazing year, which began March 1, 1998. In contrast, this estimate assumes that H.R. 2493 will be enacted before the start of the 1999 grazing year. This estimate also reflects more recent baseline assumptions and data from ERS.

Estimate prepared by: Federal Costs: Victoria V. Heid. Impact on State, Local, and Tribal Governments: Marjorie Miller.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2493.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little if any additional paperwork would result from the enactment of H.R. 2493.

EXECUTIVE COMMUNICATIONS

On July 28, 1998, the Secretary of the Interior and the Secretary of Agriculture sent the following letter to the Committee expressing the Administration's views on H.R. 2493:

THE SECRETARY OF THE INTERIOR,
Washington, DC, July 28, 1998.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It is our understanding that the Committee on Energy and Natural Resources of the United States Senate plans to consider H.R. 2493, the Forage Improvement Act, on July 29. We would like to take this opportunity to raise a number of serious concerns we have with the bill. Based on the significant problems described below, we both would recommend that the President veto the bill as it is currently drafted.

Monitoring (section 103)

Section 103 has not improved substantially from the original draft and continues to raise serious concerns. The underlying concept of who may monitor, and how, continues to be too limiting. For example, the Bureau of Land Management (BLM) occasionally contracts with land grant and other State universities to inventory

and monitor the public lands. Universities often use their own students to conduct the actual work. Under this provision, the Department believes this practice might not be permitted.

The monitoring provision could be extraordinarily costly, resulting in scarce dollars spent on paperwork, not on the resource. For example, BLM's monitoring methods are selected based on resource condition according to bureau-wide standards. Forest Service monitoring is based on direction in individual Forest Plans and aims for consistency nationwide. Although the methodologies are resource-condition specific, they are not site specific. Adding a site specific requirement, as your bill would require, would add a costly administrative layer.

The potential for litigation is also increased. The Departments believe more money would be spent on legal costs than on the lands, debating issues such as who is qualified and not qualified to conduct monitoring studies, and when the 48-hour notice requirement is triggered. The 48-hour requirement, likewise, could prohibit local managers from combining related tasks and add to the burden of red tape and paperwork.

Overall, Section 103 introduces rigidity into monitoring, takes away the flexibility of the local manager, and may delay the agencies' ability to act quickly and respond to resource degradation.

Cooperative allotment management plans (section 105)

Section 105 is not consistent with the Federal Land Policy and Management Act and the Taylor Grazing Act. Both the BLM and the Forest Service currently offer flexibility in daily operations of the permit or lease to the most responsible operators (determined at the local level). These arrangements are such that they still allow rapid response to changing conditions.

However, the agencies do not allow grazing use over and above mandatory terms and conditions of the permit or lease as allowed by Section 105 of H.R. 2493. The bill could allow livestock to graze unsupervised, uncontrolled, and in numbers and seasons beyond those allowed by the permit or lease (i.e., above recognized grazing capacity). Under such a scenario, the agencies could be restricted from taking corrective action until after serious damage was inflicted on the resource.

As with the monitoring provision, implementation of this section could lead to additional scarce resources being tied up in legal disputes, rather than in assuring progress towards healthy public rangelands. The description of a "qualified grazing permittee" is so broad that the BLM and the Forest Service could not separate the exceptional permittee from the marginal or average permittee. The result would be to allow the vast majority of permittees to qualify for Cooperative Allotment Management Plans, or would be so restrictive the agencies would find themselves in litigation deciding who is qualified and who is not. The consequence of allowing marginal permittees or lessees to graze under this scenario could lead to serious degradation of the public rangelands. Likewise, the performance goals are so vague they could prevent the agencies from using any realistic qualitative or useful measurement and realistic predictors.

Fees and charges (section 106)

The Departments continue to have concerns about the administration of the grazing fee and its ultimate fairness to the American taxpayer. While the proposed formula could result in marginal increases in current grazing fees, it would not achieve an equitable return to the U.S. Treasury for grazing privileges. However, the cumbersome fee formula will result in nearly impossible deadlines for billing and would use two-year old data to determine the fee.

National grasslands (sections 2 and 102)

We also strongly oppose how the bill deals with the national grasslands. The definition of "National Forest System" lends itself to conflicting interpretations regarding national forest system management. If the definition is intended to exclude four million acres of national grasslands from the rest of the national forest system, it would force duplicative range management regulations and directives.

The Forest Service recently made several changes to national grassland management that address many resource management concerns while balancing multiple use principles and taxpayer interests. The Forest Service has put in place administrative actions to increase national leadership and emphasis on national grasslands, including establishing a new national grasslands supervisor's office in North Dakota. The treatment of the grasslands in this bill is unnecessary, unbalanced, unclear and contributes to our overall objections to the bill.

Finally, we want to point out that the BLM's new regulations have now been in place for nearly three years and the program is working well. To ensure that the 1995 regulations are being consistently applied, did not create unintended adverse effects and to assess their effectiveness, the BLM is performing a review of how the regulations are being implemented and what their impact has been. The information gathered in this review will be used to identify existing or potential problems and aid in the search for effective solutions. The review will occur throughout this fiscal year. The BLM will be more than happy to share the results of this review with you when they are available.

In summary, the Departments of the Interior and Agriculture believe that, aside from the need to address the grazing fee, legislation in this area is unnecessary.

Thank you for the opportunity to comment on this bill.

Sincerely,

BRUCE BABBITT,
Secretary of the Interior.
DAN GLICKMAN,
Secretary of Agriculture.

MINORITY VIEWS OF SENATOR BUMPERS

The House of Representatives passed H.R. 2493 on October 31, 1997. Between that date and the Committee's vote to report the bill on July 29, 1998, the Committee held over 50 hearings on various measures. However, the committee held no hearings on H.R. 2493, despite the significance of the bill and the controversy associated with it.

In my opinion, there is no need for this legislation. When Secretary Babbitt first put out his Rangeland Reform regulations four years ago, we were told by many Western Senators that if the regulations were implemented, it would be the end of public land ranching operations. These regulations have now been in place for a few years, and they have not been the disaster that some predicted. We should not now disrupt everything again.

My primary objection to this bill is its excessively low grazing fee. H.R. 2493 establishes a new Federal grazing fee formula which, in my opinion, has little or no relevance in determining the fair market value of Federal grazing privileges. While the bill's proponents will claim that the new formula represents a modest increase over the current fee, the fact is that this bill will perpetuate the below-market valuation of grazing privileges on public land.

While the Federal grazing fee has remained at the statutory minimum of $1.35 per animal unit month (AUM) for the past few years—a decrease of 32 percent from the fee in the early 1990s and a decrease of over 40 percent from the fee in the early 1980s—the fees for grazing on State and private lands have steadily increased. It should be noted that if the 1966 base fee of $1.23/AUM (which is used in the existing PRIA formula for calculating the Federal grazing fee) was simply adjusted for inflation, the fee would now be over $6.00.

By comparison, the fee formula in H.R. 2493 will ensure that the fee will remain below $2.00 for the foreseeable future. The Congressional Budget Office has estimated that over the next few years, this fee will result in an average increase of only about 25¢ per AUM over the current PRIA formula. In fact, over the past 20 years, the fee in this bill would have been as low as $1.18 per AUM, and would have never been higher than $2.29. In three of those years, the fee in this bill would have actually been lower than the PRIA fee. Since H.R. 2493 removes the statutory floor of $1.35, this bill could actually reduce grazing fees even further than the absurdly low fees that the United States now receives.

Furthermore, this bill has retained a provision from the bill last Congress which changes the definition of an animal unit month for sheep. Currently, five sheep comprise one animal unit month. Under this bill, seven sheep will now equal one AUM, which means that the effective fee for grazing by sheep will decrease by 28 percent.

Furthermore, the bill's prohibition against the BLM and Forest Service from using monitoring information gathered by members of the public about grazing activities on public land is unnecessary and contrary to sound public policy. The bill will mandate expensive new management requirements whose cost will likely exceed any nominal increase in grazing fee revenues.

As was the case with previous unsuccessful attempts to legislate new grazing policies during the 104th Congress, this bill does not have the broad bipartisan support that is necessary if it is to be successful. If legislation is to enacted this year, it must provide for the consideration and protection not only of ranching interests, but also of rangeland resources and the American taxpayer.

DALE BUMPERS.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 2493, as ordered reported.

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