

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

# H. R. 1379

To require the Secretary of Agriculture to issue new term permits for grazing on National Forest System lands, to replace previously issued term grazing permits that have expired, soon will expire, or are waived to the Secretary, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 1995

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To require the Secretary of Agriculture to issue new term permits for grazing on National Forest System lands, to replace previously issued term grazing permits that have expired, soon will expire, or are waived to the Secretary, 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. FINDINGS AND PURPOSE.**

4       (a) FINDINGS.—Congress finds that—

5               (1) the Secretary of Agriculture (referred to in  
6       this Act as the “Secretary”) administers the

1 191,000,000-acre National Forest System for mul-  
2 tiple uses in accordance with Federal law;

3 (2) where suitable, one of the recognized mul-  
4 tiple uses for National Forest System land is graz-  
5 ing by livestock;

6 (3) the Secretary authorizes grazing through  
7 the issuance of term grazing permits that have  
8 terms of not to exceed 10 years and that include  
9 terms and conditions necessary for the proper ad-  
10 ministration of National Forest System land and re-  
11 sources;

12 (4) as of the date of enactment of this Act, the  
13 Secretary has issued approximately 9,000 term graz-  
14 ing permits authorizing grazing on approximately  
15 90,000,000 acres of National Forest System land;

16 (5) of the approximately 9,000 term grazing  
17 permits issued by the Secretary, approximately one-  
18 half have expired or will expire by the end of 1996;

19 (6) if the holder of an expiring term grazing  
20 permit has complied with the terms and conditions  
21 of the permit and remains eligible and qualified, that  
22 individual is considered to be a preferred applicant  
23 for a new term grazing permit in the event that the  
24 Secretary determines that grazing remains an appro-

1        appropriate use of the affected National Forest System  
2        land;

3                (7) in addition to the approximately 9,000 term  
4        grazing permits issued by the Secretary, it is esti-  
5        mated that as many as 1,600 term grazing permits  
6        may be waived by permit holders to the Secretary in  
7        favor of a purchaser of the permit holder's permitted  
8        livestock or base property by the end of 1996;

9                (8) to issue new term grazing permits, the Sec-  
10        retary must comply with the National Environ-  
11        mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
12        and other laws;

13                (9) for a large percentage of the grazing per-  
14        mits that will expire or be waived to the Secretary  
15        by the end of 1996, the Secretary has devised a  
16        strategy that will result in compliance with the Na-  
17        tional Environmental Policy Act of 1969 and other  
18        applicable laws (including regulations) in a timely  
19        and efficient manner and enable the Secretary to  
20        issue new term grazing permits, where appropriate;

21                (10) for a small percentage to the grazing per-  
22        mits that will expire or be waived to the Secretary  
23        by the end of 1996, the strategy will not provide for  
24        the timely issuance of new term grazing permits;  
25        and

1           (11) in cases in which ranching operations in-  
2           volve the use of a term grazing permit issued by the  
3           Secretary, it is essential for new term grazing per-  
4           mits to be issued in a timely manner for financial  
5           and other reasons.

6           (b) PURPOSE.—The purpose of this Act is to ensure  
7           that graving continues without interruption on National  
8           Forest System land in a manner that provides long-term  
9           protection of the environment and improvement of Na-  
10          tional Forest System rangeland resources while also pro-  
11          viding short-term certainty to holders of expiring term  
12          grazing permits and purchasers of a permit holder's per-  
13          mitted livestock or base property.

14   **SEC. 2. DEFINITIONS.**

15          In this Act:

16           (1) EXPIRING TERM GRAZING PERMIT.—The  
17           term “expiring term grazing permit” means a term  
18           grazing permit—

19                   (A) that expires in 1995 or 1996; or

20                   (B) that expired in 1994 and was not re-  
21                   placed with a new term grazing permit solely  
22                   because the analysis required by the National  
23                   Environmental Policy Act of 1969 (42 U.S.C.  
24                   4321 et seq.) and other applicable laws has not  
25                   been completed.

1           (2) FINAL AGENCY ACTION.—The term “final  
2           agency action” means agency action with respect to  
3           which all available administrative remedies have  
4           been exhausted.

5           (3) TERM GRAZING PERMIT.—The term “term  
6           grazing permit” means a term” grazing permit” or  
7           grazing agreement issued by the Secretary under  
8           section 402 of the Federal Land Policy and Manage-  
9           ment Act of 1976 (43 U.S.C. 1752), section 19 of  
10          the Act entitled “An Act to facilitate and simplify  
11          the work of the Forest Service, and for other pur-  
12          poses”, approved April 24, 1950 (commonly known  
13          as the “Granger-Thye Act”) (16 U.S.C. 580l), or  
14          other law.

15 **SEC. 3. ISSUANCE OF NEW TERM GRAZING PERMITS.**

16          (a) IN GENERAL.—Notwithstanding any other law,  
17          the Secretary shall issue a new term grazing permit with-  
18          out regard to whether the analysis required by the Na-  
19          tional Environmental Policy Act of 1969 (42 U.S.C. 4321  
20          et seq.) and other applicable laws has been completed, or  
21          final agency action respecting the analysis has been  
22          taken—

23                 (1) to the holder of an expiring term grazing  
24          permit; or

1 (2) to the purchaser of a term grazing permit  
2 holder's permitted livestock or base property if—

3 (A) between January 1, 1995, and Decem-  
4 ber 1, 1996, the holder has waived the term  
5 grazing permit to the Secretary pursuant to  
6 section 222.3(c)(1)(iv) of title 36, Code of Fed-  
7 eral Regulations; and

8 (B) the purchaser of the term grazing per-  
9 mit holder's permitted livestock or base prop-  
10 erty is eligible and qualified to hold a term  
11 grazing permit.

12 (b) TERMS AND CONDITIONS.—Except as provided in  
13 subsection (c)—

14 (1) a new term grazing permit under subsection  
15 (a)(1) shall contain the same terms and conditions  
16 as the expired term grazing permit; and

17 (2) a new term grazing permit under subsection  
18 (a)(2) shall contain the same terms and conditions  
19 as the waived permit.

20 (c) DURATION.—

21 (1) IN GENERAL.—A new term grazing permit  
22 under subsection (a) shall expire on the earlier of—

23 (A) the date that is 3 years after the date  
24 on which it is issued; or

1 (B) the date on which final agency action  
2 is taken with respect to the analysis required by  
3 the National Environmental Policy Act of 1969  
4 (42 U.S.C. 4321 et seq.) and other applicable  
5 laws.

6 (2) FINAL ACTION IN LESS THAN 3 YEARS.—If  
7 final agency action is taken with respect to the anal-  
8 ysis required by the National Environmental Policy  
9 Act of 1969 (42 U.S.C. 4321 et seq.) and other ap-  
10 plicable laws before the date that is 3 years after the  
11 date on which a new term grazing permit is issued  
12 under subsection (a), the Secretary shall—

13 (A) cancel the new term grazing permit;  
14 and

15 (B) if appropriate, issue a term grazing  
16 permit for a term not to exceed 10 years under  
17 terms and conditions as are necessary for the  
18 proper administration of National Forest Sys-  
19 tem rangeland resources.

20 (d) DATE OF ISSUANCE.—

21 (1) EXPIRATION ON OR BEFORE DATE OF EN-  
22 ACTMENT.—In the case of an expiring term grazing  
23 permit that has expired on or before the date of en-  
24 actment of this Act, the Secretary shall issue a new  
25 term grazing permit under subsection (a)(1) not

1 later than 15 days after the date of enactment of  
2 this Act.

3 (2) EXPIRATION AFTER DATE OF ENACT-  
4 MENT.—In the case of an expiring term grazing per-  
5 mit that expires after the date of enactment of this  
6 Act, the Secretary shall issue a new term grazing  
7 permit under subsection (a)(1) on expiration of the  
8 expiring term grazing permit.

9 (3) WAIVED PERMITS.—In the case of a term  
10 grazing permit waived to the Secretary pursuant to  
11 section 222.3(c)(1)(iv) of title 36, Code of Federal  
12 Regulations, between January 1, 1995, and Decem-  
13 ber 31, 1996, the Secretary shall issue a new term  
14 grazing permit under subsection (a)(2) not later  
15 than 60 days after the date on which the holder  
16 waives a term grazing permit to the Secretary.

17 **SEC. 4. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW.**

18 The issuance of a new term grazing permit under sec-  
19 tion 3(a) shall not be subject to administrative appeal or  
20 judicial review.

21 **SEC. 5. REPEAL.**

22 This Act is repealed effective as of January 1, 2001.

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