State Grazing Management Authority Act

What does the State Grazing Management Authority Act do?
The bill amends the Federal Land Policy and Management Act of 1976 to authorize the Secretary of the Interior and the Secretary of Agriculture to enter into cooperative agreements with states to provide for state administration of allotment management plans on federal lands.

> "At the request of the Governor of a State, the Secretary concerned shall enter into a cooperative agreement with the State to authorize the State to administer 1 or more allotment management plans on eligible Federal land in the State, including the commencement of a lease or the issuance of a permit for domestic livestock grazing on the applicable allotment, subject to valid existing rights and this subsection."

In 2009, the Utah Department of Agriculture and Food's (UDAF) Grazing Improvement Program (GIP) partnered with grazers in Rich County to implement better rangeland practices on federal and state lands. Thirty-eight producers from 10 neighboring grazing allotments formed Three Creeks Grazing. They teamed up with federal and state land management agencies to change the style of environmental permitting and grazing management, implementing a high density, short-duration grazing plan and improved water infrastructure and fencing to maximize landscape health.[1] This bill allows ranchers and grazers across the West to practice the rangeland management that works best for their environment.

Why is the State Grazing Management Authority Act necessary?
Grazers on federal public lands must comply with agency management from bureaucrats in Washington DC, some of whom have never set foot on a grazing allotment. The federal government, acting usually through the Bureau of Land Management (BLM) or the Forest Service (FS), is often slow or unresponsive to grazers' needs. The result is poor upkeep of federal grazing lands because permittees lack the flexibility and authority to improve rangeland health. Agencies manage the allotments in compliance with strict federal regulations rather than for the mutual benefit of the rangeland and grazers. States are often better equipped, more knowledgeable about local conditions, and more capable of responding to the needs of grazers. The State Grazing Management Authority Act allows for local, adaptable rangeland management under the direction of a state's agriculture department in partnership with the agency of jurisdiction.

Would a participating state be required to conduct a NEPA analysis?
The State Grazing Management Authority Act allows a cooperative agreement to include assigning the responsibilities of a NEPA analysis to the state concerning the authorized Allotment Management Plans (AMP). Otherwise, the applicable Federal agency is required to carry out the NEPA process for each proposed action under an AMP with the applicable state agricultural

[1] UDAF Three Creeks Grazing Project

agency as a cooperating agency. Any other Federal or state agencies may act as cooperating agencies as the state commission deems appropriate.

The bill establishes categorical exclusions for vegetation restoration projects; pinyon or juniper treatments; changes to the type, number, season of use, and permitted animal unit months; installation, repair, and removal of fencing, gates, and cattleguards; water infrastructure improvements, and any other activities that would qualify for a categorical exclusion under an AMP, permit, or lease for domestic livestock grazing.

Would upgrading or constructing water features remain a duty of the federal agency?
A frequent complaint from ranchers operating on federal land is that getting help from federal land managers can be burdensome and slow when water features are damaged or broken. The State Grazing Management Authority Act cooperative agreements include that the state is responsible for approving or constructing water infrastructure improvements that are appropriate and beneficial for public grazing.

Could a federal agency require changes to water rights in developing cooperative agreement terms with a state?
Ranchers often tell stories about federal agencies using their authority to leverage water rights to negotiate land access. To prevent changes in water rights, this bill requires the Secretary concerned to provide access to the land covered by an AMP, including for the construction of water infrastructure improvements, while prohibiting the Secretary from requiring any conditions that affect water rights.

What would happen to grazing fees?
This bill directs the fee charged for livestock grazing under an authorized AMP to be shared between the state and appropriate federal agencies in an amount not to exceed what was established for the applicable year under Executive Order 12548 (43 U.S.C. 1905 note; relating to grazing fees) or a successor Executive Order. Revenue sharing is proportional to the services that the state and the federal agency provide under the cooperative agreement. It allows the state to charge additional fees, subject to a maximum price set by the allotment permittee, the revenue from which would be retained by the state. Allowing states to determine the appropriate grazing fee with permittees creates a more sustainable management regime without the significant operational losses associated with the current management system.

Current grazing fees offer a clear look into the willingness of grazers to work with a non-federal partner. BLM and FS grazing fees have generally been lower than fees charged for grazing on other federal lands as well as on state and private lands. Yet, grazers continue to seek non-federal land for their livestock. GAO reported that in 2004, state fees ranged from $1.35 to $80 per Animal Unit Month (AUM), private fees ranged from $8 to $23 per AUM, and BLM and FS fees were $1.4.

What happens if a wildfire occurs on a state-managed allotment?
In the case of a catastrophic wildfire, the bill directs the Secretary to rehabilitate the land. If the state or the holder of a grazing permit has posted a bond or purchased insurance, the Secretary may seek compensation for any damages caused by a catastrophic wildfire, including rehabilitation efforts. If the Secretary investigates the wildfire (no later than 60 days after the date on which the

wildfire is brought under control), makes the results of that investigation public, and determines that negligent or deliberate behavior by the state or the holder of the grazing permit contributed to the wildfire, then the Secretary may ask for payment of an itemized list of damages from the applicable bond or insurance. If a state or the holder of a grazing permit disagrees with that determination, the bill allows the parties to negotiate, or the Secretary may file an action for damages in an appropriate district court of the United States.

This provision ensures that the federal grazing allotment – a valuable asset – is protected from poor management while under a cooperative agreement. A state must have insurance or bonds when it enters into a cooperative agreement that cannot be revoked based on poor range outcomes.

Federal lands are meant to be multiple-use. Will these lands become exclusive for grazing uses?
The bill directs a governor of a state that enters into a cooperative agreement to establish a commission to advise the governor on the substance and terms of the agreement and any matters relating to its execution. The bill details the membership of the 14-member commission, 11 of whom are appointed by the governor, and the various requirements. These commissioners represent all categories of public land users and will advise on developing allotment management plans.

This bill provides an opportunity to demonstrate that states are more capable of landscape-scale land management in their backyards than the federal government. Effectively balancing land use is a critical component of allotment management.

How long would a permit last under a cooperative agreement?
SGMAA directs cooperative agreements to have a term of 30 years. It requires the Secretary to renew the cooperative agreement for an additional 30 years if the state requests its renewal, the state has satisfied all conditions of the agreement, and the state commission determines that monitoring during the period of a grazing lease or permit has shown positive outcomes in the joint monitoring regimen. The Secretary may not impose additional requirements or conditions when renewing a cooperative agreement. Typical permits only last ten years. The 30-year period allows more flexibility to test best management practices and show positive results.

How could this help decrease confrontations in grazing?
SGMAA allows a state entering into a cooperative agreement to work with any local law enforcement agency to enforce the terms of any permit or lease. Disputes can escalate grazing enforcement situations on the range to dangerous levels. Grazers are more likely to communicate and work positively with local law enforcement officers rather than federal agents to remedy disagreements.

Will states use this authority to avoid compliance with other federal laws?
SGMAA clarifies that AMPs would be subject to the Endangered Species Act of 1973 (16 USC 1531 et seq.), the Federal Water Pollution Control Act (33 USC 1251 et seq.), and any other applicable Federal law, including regulations, that are consistent with state administration of allotment management plans.

What happens if an AMP or cooperative agreement results in a dispute or litigation?
SGMAA requires a cooperative agreement to develop a process to resolve disputes, including resolution through any mediation authority available to the state on the date of enactment. It prohibits any party not directly involved in the administration of an AMP from receiving any costs or fees associated with any action brought to challenge the AMP.

How can we ensure that states don't destroy the federal land they manage? How will we track the success (or failure) of these cooperative agreements? How will the Secretary determine if favorable outcomes have been met that will lead to renewal of a permit?
The bill requires a cooperative agreement to include provisions for a joint monitoring regimen that will comply with the requirements of the AMP as adopted or approved by the state commission. All parties to the agreement must be present when data are collected, and the findings of any monitoring must be available to the Secretary concerned.

What happens if the federal government, state, or permittee no longer wishes to participate in the cooperative agreement?
If the Secretary concerned determines that a state is not adequately carrying out its responsibilities, the bill requires the Secretary to notify the state of the determination of noncompliance with the AMP. At a governor's request, the Secretary must provide the state with a description of each responsibility that needs corrective action. The bill gives the state one year to take corrective actions. The Secretary may provide a 120-day extension if it is deemed appropriate. If the state has not taken satisfactory corrective action, SGMAA directs the Secretary to terminate the AMP. The bill prohibits the Secretary from terminating the AMP if the state or holder of a grazing permit or lease posts a bond or purchases insurance sufficient to cover the cost of any potential harm to the land caused by the State or the holder.

SGMAA allows a state to terminate an AMP at any time. It requires a State to provide notice of any termination at least 90 days before it takes effect.

The bill allows the holder of a grazing permit or lease that has consented to management by the state to revoke that consent at any time, terminating the AMP. If terminated, the management reverts to the Secretary concerned. The allotment would then be managed by the authorities that existed before the cooperative agreement. SGMAA clarifies that no new NEPA process would be required.