

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2106

To establish a fee schedule for users of communications sites on public lands, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 11 (legislative day, MAY 2), 1994

Mr. CRAIG (for himself, Mr. DOMENICI, Mr. DECONCINI, Mr. WALLOP, Mr. BENNETT, Mr. BINGAMAN, Mr. BURNS, Mr. HATCH, Mr. KEMPTHORNE, Mr. MURKOWSKI, Mr. PRESSLER, Mr. SIMPSON, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To establish a fee schedule for users of communications sites on public lands, 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 “Equitable Communica-  
5 tion Site Fee Act of 1994”.

6 **SEC. 2. RADIO AND TELEVISION USE FEE.**

7 The Federal Land Policy and Management Act of  
8 1976 (43 U.S.C. 1701 et seq.) is amended—

1 (1) by redesignating sections 510 and 511 as  
2 sections 511 and 512, respectively; and

3 (2) by inserting after section 509, the following  
4 new section 510:

5 **“SEC. 510. USE FEES FOR USERS OF COMMUNICATIONS**  
6 **SITES ON PUBLIC LANDS.**

7 “(a) DEFINITIONS.—For the purposes of this sec-  
8 tion—

9 “(1) the term ‘ADI TV households’ means the  
10 area of dominant influence for television, an exclu-  
11 sive geographic area based on measurable television  
12 viewing patterns, as described in section  
13 73.3555(e)(3)(i) of title 47, Code of Federal Regula-  
14 tions, or any succeeding regulation;

15 “(2) the term ‘commercial mobile radio commu-  
16 nications site’ means a multipurpose communica-  
17 tions site that is—

18 “(A) operated for profit;

19 “(B) operated by a site owner, manager, or  
20 permittee who leases space to a variety of users,  
21 including individuals and businesses of all sizes,  
22 for the purpose of providing—

23 “(i) land mobile radio communications  
24 services;

25 “(ii) paging services;

1 “(iii) cellular telephone services;

2 “(iv) private or commercial mobile  
3 services;

4 “(v) radio or television broadcasting  
5 services;

6 “(vi) microwave transmissions; and

7 “(vii) satellite receiver stations; and  
8 other related and compatible users and  
9 services; and

10 “(C) is located on a site managed by either  
11 the United States Forest Service or the Bureau  
12 of Land Management under the terms of a  
13 lease, permit, or right-of-way;

14 “(3) the term ‘FM translator station’ means a  
15 station in the broadcast service operated for the pur-  
16 pose of retransmitting the signals of an FM radio  
17 broadcast station or another FM broadcast trans-  
18 lator station without significantly altering any char-  
19 acteristic of the incoming signal other than its fre-  
20 quency and amplitude, for the purpose of providing  
21 FM broadcast service to the general public;

22 “(4) the term ‘holder’ means an individual,  
23 partnership, corporation, association, or other busi-  
24 ness entity, and any Federal, State, or governmental

1 entity that has applied for, and received, a site use  
2 authorization;

3 “(5) the term ‘MSA population’ means the met-  
4 ropolitan market survey area for radio in an exclu-  
5 sive geographic area based on measurable listening  
6 patterns;

7 “(6) the term ‘private radio communication  
8 site’ means a communications site that—

9 “(A) is operated by an entity to provide in-  
10 ternal telecommunications capabilities;

11 “(B) is operated by an individual, industry,  
12 or other entity with private telecommunications  
13 service requirements;

14 “(C) provides land mobile, aeronautical,  
15 maritime, microwave, or satellite radio services;  
16 and

17 “(D) is located on a site managed by ei-  
18 ther the National Forest Service or the Bureau  
19 of Land Management under the terms of a  
20 lease, permit, or right-of-way;

21 “(7) the term ‘radio broadcast communications  
22 site’ means a site on which is located a commercial  
23 broadcast station that—

1           “(A) is licensed for the dissemination of  
2 aural communications intended to be received  
3 by the general public;

4           “(B) is operated on a channel in either—

5               “(i) the AM broadcast band of fre-  
6 quencies, which extends from 535 to 1705  
7 kHz; or

8               “(ii) the FM broadcast band, which  
9 extends from 88 to 108 MHz;

10           “(C) is located on a site managed by either  
11 the United States Forest Service or the Bureau  
12 of Land Management under the terms of a  
13 lease, permit, or right-of-way; and

14           “(D) does not include the operation of—

15               “(i) FM translators;

16               “(ii) FM boosters;

17               “(iii) AM synchronous transmitters;

18           or

19               “(iv) passive repeaters that operate  
20 pursuant to part 74 of title 47, Code of  
21 Federal Regulations, or succeeding regula-  
22 tion;

23           “(8) the term ‘Secretaries’ means the Secretary  
24 of Agriculture and the Secretary of the Interior;

1           “(9) the term ‘site use authorization’ means a  
2 permit, term permit, lease, easement, or right-of-way  
3 that authorizes occupancy, use, rights, or privileges  
4 on public land for the transmission or reception of  
5 radio, television, telephone, telegraph, and other  
6 electronic signals and other means of communica-  
7 tion;

8           “(10) the term ‘television broadcast commu-  
9 nications site’ means a site on which is located a  
10 commercial broadcast station that—

11                   “(A) is licensed for the transmission of si-  
12 multaneous visual and aural signals intended to  
13 be received by the general public;

14                   “(B) is operated on a channel in the tele-  
15 vision broadcast band, which extends from 54  
16 to 806 MHz;

17                   “(C) is located on a site managed by either  
18 the United States Forest Service or the Bureau  
19 of Land Management under the terms of a  
20 lease, permit, or right-of-way; and

21                   “(D) does not include the operation of—

22                           “(i) low power television stations;

23                           “(ii) UHF or VHF television trans-  
24 lator stations; or

1           “(iii) passive repeaters that operate  
2           pursuant to part 74 of title 47, Code of  
3           Federal Regulations, or succeeding regula-  
4           tion; and

5           “(11) the term ‘television translator station’  
6           means a station in the broadcast service operated on  
7           a VHF or UHF channel for the purpose of  
8           retransmitting the programs and signals of a tele-  
9           vision broadcast station, without significantly alter-  
10          ing any characteristic of the original signal other  
11          than its frequency and amplitude, for the purpose of  
12          providing television reception to the general public.

13          “(b) BROADCAST COMMUNICATIONS SITES.—

14                 “(1) ESTABLISHMENT OF FEE.—The Secretary  
15                 of Agriculture, with respect to National Forest Sys-  
16                 tem land administered by the Forest Service, and  
17                 the Secretary of the Interior, with respect to public  
18                 lands administered by the Bureau of Land Manage-  
19                 ment, shall establish and collect an annual fee for  
20                 the use of radio and television communications sites  
21                 and commercial mobile radio communications sites  
22                 located on public lands in accordance with the fol-  
23                 lowing fee schedules:

24                         “(A) TELEVISION AND RADIO BROADCAST  
25                         COMMUNICATIONS SITES.—

**“Television Rental Fee Schedule**

<b>“ADI TV Households (Rank)</b>	<b>Rental Fee</b>
1-10	\$42,000
11-30	21,000
31-70	10,500
71-120	5,250
121-210	2,625
Non-ADI	2,500.

**“Radio Rental Fee Schedule**

<b>“MSA Population (Rank)</b>	<b>Radio Rental Fee</b>
1-10	\$29,400
11-30	14,700
31-90	7,350
91-160	3,675
161-261	1,838
Unrated	1,500.

1 “(B) COMMERCIAL MOBILE RADIO COMMU-  
2 NICATIONS SITES.—

**“Nonbroadcast Fee Schedule**

<b>“Population Served</b>	<b>Rental Fee</b>
1,000,000 +	\$12,000
500,000-999,999	5,000
250,000-499,999	3,500
150,000-249,999	2,000
75,000-149,999	1,000
30,000-74,999	500
29,999 and fewer	300.

1           “(2) ANNUAL REVIEW.—The fees established  
2           under this section shall be reviewed annually by the  
3           Forest Service and the Bureau of Land Manage-  
4           ment.

5           “(3) ADJUSTMENT.—

6           “(A) IN GENERAL.—Subject to subpara-  
7           graphs (B) and (C), the fee established under  
8           this section shall be adjusted annually to reflect  
9           changes in the Consumer Price Index published  
10          by the Department of Labor.

11          “(B) LIMITATIONS.—

12           “(i) The fee charged for a television  
13           or radio broadcast communications site for  
14           any given year shall not increase less than  
15           3 percent or more than 5 percent of the  
16           fee charged to the holder in the preceding  
17           year.

18           “(ii) The fee charged for a commercial  
19           mobile radio communications site for any  
20           given year shall not increase less than 1  
21           percent or more than 3 percent of the fee  
22           charged to the holder in the preceding  
23           year.

24          “(C) NOTICE.—Not later than 60 days be-  
25          fore the effective date of an adjustment under

1           this paragraph, the Secretaries shall transmit  
2           to Congress notice of such adjustment.

3           “(4) LIMITATION ON FEE.—During the first  
4           year in which the schedule established pursuant to  
5           paragraph (1) is in effect, if the amount of the fee  
6           charged for a holder pursuant to the schedule is—

7                   “(A) greater than the amount that the  
8           holder paid for the use of the site on January  
9           1, 1993, plus \$1,000, the holder shall pay an  
10          amount equal to the sum of—

11                           “(i) the amount the holder paid for  
12                           the use of the site on January 1, 1993;  
13                           and

14                           “(ii) \$1,000; or

15                           “(B) less than the amount the holder paid  
16           for the use of the site on January 1, 1993, the  
17           holder shall pay the greater amount until such  
18           time as the fee charged under the schedule  
19           equals or exceeds the amount charged on Janu-  
20           ary 1, 1993.

21           “(5) ADDITIONAL USERS.—In the case of a tel-  
22           evision or radio communications site—

23                           “(A) if a holder is permitted under the  
24           terms of the site use authorization to grant ac-  
25           cess to the site to users other than the holder,

1 the Secretary concerned shall charge an annual  
2 fee in an amount equal to 25 percent of the  
3 gross income the holder receives from additional  
4 users during each year;

5 “(B) each site use authorization shall re-  
6 quire the holder to provide to the Secretary  
7 concerned a certified list identifying all addi-  
8 tional users of the site and gross revenues re-  
9 ceived from each additional user; and

10 “(C) additional users shall not be required  
11 to obtain separate authorization to use the site.

12 “(6) TRANSLATOR STATIONS.—The Secretary  
13 of the Interior, with respect to public lands adminis-  
14 tered by each of its internal bureaus, including the  
15 Bureau of Land Management, shall establish and  
16 collect an annual fee for the use of television trans-  
17 lator stations and FM translator stations located on  
18 public lands, in accordance with the regulations gov-  
19 erning the collection of such fees on National Forest  
20 System land administered by the National Forest  
21 Service of the Department of Agriculture.

22 “(7) REGULATIONS.—The Secretaries shall pro-  
23 mulgate and implement appropriate regulations to  
24 carry out this section. The regulations shall imple-  
25 ment consistent policies and procedures between the

1 Department of Agriculture and the Department of  
2 the Interior.

3 “(8) ADVISORY GROUPS.—

4 “(A) ESTABLISHMENT.—Not later than 10  
5 years after the date of enactment of this sec-  
6 tion, the Secretaries shall establish a broad-  
7 based advisory group for each of—

8 “(i) the television and radio broadcast  
9 industries; and

10 “(ii) the commercial mobile radio in-  
11 dustry.

12 “(B) MEMBERS.—The members of each  
13 advisory group shall include representatives  
14 from the relevant communications industries.

15 “(C) DUTIES.—The advisory groups shall  
16 review the fee schedule and other criteria for  
17 determining fair market value for the use of  
18 communications sites on public land.

19 “(D) REPORT.—Not later than 1 year  
20 after the date on which the advisory groups are  
21 established under this paragraph, the advisory  
22 groups shall report their findings to Congress.

23 “(c) ADVISORY COMMITTEE FOR PRIVATE RADIO  
24 COMMUNICATIONS SITE USERS.—

1           “(1) ESTABLISHMENT.—The Chief Forester of  
2 the National Forest Service and the Director of the  
3 Bureau of Land Management shall jointly establish  
4 a broad-based advisory committee. The advisory  
5 committee shall be comprised of an equal number of  
6 representatives from—

7           “(A) private radio communications site  
8 users from public and private communications  
9 sites;

10           “(B) the National Forest Service; and

11           “(C) the Bureau of Land Management.

12           “(2) DUTIES.—The advisory committee shall—

13           “(A) review recommendations for accept-  
14 able criteria for determining fair market values  
15 and next best alternative uses;

16           “(B) review existing methodology for de-  
17 termining fair market value and next best alter-  
18 native uses;

19           “(C) assess the validity of the methodol-  
20 ogy, taking into account all reasonable alter-  
21 natives; and

22           “(D) evaluate and recommend appropriate  
23 fee waivers or discounts for public services by  
24 communications site users who provide for the  
25 public convenience, interest, and necessity, as

1           required for licensing under the Communica-  
2           tions Act of 1934.

3           “(3) REPORT.—Not later than 8 months after  
4           the date of enactment of the Equitable Communica-  
5           tion Site Fee Act of 1994, the advisory committee  
6           shall report its finding to the Committees on Appro-  
7           priations of the Senate and the House of Represent-  
8           atives.”.

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