

104TH CONGRESS
1ST SESSION

S. 1063

To permit State and local governments to transfer—by sale or lease—Federal-aid facilities to the private sector without repayment of Federal grants, provided the facility continues to be used for its original purpose, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JULY 10), 1995

Mr. ROTH introduced the following bill; which was read twice and referred to the Committee on Government Affairs

A BILL

To permit State and local governments to transfer—by sale or lease—Federal-aid facilities to the private sector without repayment of Federal grants, provided the facility continues to be used for its original purpose, 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 “Federal-aid Facility
5 Privatization Act of 1995”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this title:

1 (a) “Privatization” means the disposition or
2 transfer of an infrastructure asset, whether by sale,
3 lease, or similar arrangement, from a State or local
4 government to a private party.

5 (b) “Infrastructure asset” means any asset fi-
6 nanced in whole or in part by the Federal Govern-
7 ment and needed for the functioning of the economy.
8 Examples of such assets include, but are not limited
9 to: roads, tunnels, bridges, electricity supply facili-
10 ties, mass transit, rail transportation, airports,
11 ports, waterways, water supply and delivery facili-
12 ties, recycling and wastewater treatment facilities,
13 solid waste disposal facilities, housing, schools, pris-
14 ons, and hospitals.

15 (c) “Originally authorized purposes” means the
16 general objectives of the original grant program;
17 however, the term is not intended to include every
18 condition required for a grantee to have obtained the
19 original grant.

20 (d) “State and local governments” means the
21 government of any State of the United States, the
22 District of Columbia, any commonwealth, territory
23 or possession of the United States, and any county,
24 municipality, city, town, township, local public au-
25 thority, school district, special district, intrastate

1 district, regional or interstate government entity,
2 council of governments, and any agency of instru-
3 mentality of a local government, and any federally
4 recognized Indian Tribe.

5 **SEC. 3. PRIVATIZATION INITIATIVES BY STATE AND LOCAL**
6 **GOVERNMENTS.**

7 The head of each executive department and agency
8 shall undertake the following actions:

9 (a) Assist State and local governments in their
10 efforts to privatize their infrastructure assets.

11 (b) Approve requests from State and local gov-
12 ernments to privatize infrastructure assets and
13 waive or modify any grant assurance, consistent with
14 section 4.

15 **SEC. 4. CRITERIA.**

16 The head of an executive department or agency shall
17 approve a request if—

18 (a) the State or local government demonstrates
19 that a market mechanism, legally enforceable agree-
20 ment, or regulatory mechanism will ensure that the
21 infrastructure asset or assets continue to be used for
22 their originally authorized purposes, so long as need-
23 ed for those purposes; and

1 (b) the private party purchasing or leasing the
2 infrastructure asset agrees to comply with all appli-
3 cable grant assurances.

4 **SEC. 5. NO OBLIGATION TO REPAY FEDERAL GRANT**
5 **MONIES.**

6 A State or local government shall have no obligation
7 to repay to any agency of the Federal government any fed-
8 eral grant monies received by the State or local govern-
9 ment in connection with the infrastructure asset that is
10 being privatized.

11 **SEC. 6. USE OF PROCEEDS.**

12 A State or local government may use proceeds from
13 the privatization of an infrastructure asset to the extent
14 permitted under applicable grant assurances and provi-
15 sions. Notwithstanding any other provision of law, the
16 State or local government shall be permitted to recover
17 its capital investment, an amount equal to its unreim-
18 bursed operating expenses in any infrastructure asset, and
19 a reasonable rate of return.

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