June 9, 2004

The Honorable William Thomas
Chairman, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

The above organizations would like to thank you for the work that you and your staff have done to H.R. 4520, pertaining to "traditional" leasing arrangements.

We are supportive of your efforts and the changes made which are designed to ensure that traditional leasing transactions will not be adversely affected by this legislation. The modifications incorporated into Section 648 of H.R. 4520 are more narrowly tailored and responsive to several of our concerns. Additionally, the leasing provisions within H.R. 4520 are superior to the ones contained in the bill passed by the Senate last month, S. 1637.

Specifically, we appreciate the following changes:

- Eliminating the prohibition on tax-exempt bond financing language;
- Creating an exception for 'short-term' leases of up to five years in the requirements related to minimum equity investment and minimum risk of loss provisions;
- Allowing an additional two-year renewal on leases for qualified technology equipment; and.
- Impacting leasing arrangements only on a prospective basis.

We are also pleased that your staff has indicated clarification will be provided in legislative history on the following points, which are of great importance to us:

- the 'allowable funds to be set aside' provision will not impact funds that are held within an entity's general funds or accounts - nor apply to any other traditional type of fund or account maintained by a public sector entity;
- the 20% equity provision amount applies only to newly created Section 470 of the tax code; and
- the definition of 'service contracts' does not implicate customary maintenance agreements that may be entered into by a public sector entity with leasing companies.

We will continue to work with your staff, Senate staff, and the Department of the Treasury to ensure that the House's provisions relating to traditional leasing arrangements are adopted into the final bill.

Despite the improvements to the bill, please note that we continue to have fundamental concerns regarding the blanket changes to the Internal Revenue Code rules for depreciation in connection with property leased to State and local governments that are being made in order to deal with a limited class of transactions.

Mr. Chairman, again, we have appreciated working with your staff to improve the complicated components embedded within this legislation related to leasing arrangements with the public sector. We are grateful for the changes that have been made as noted above and we look forward to working closely with you and your staff on additional matters related to the public sector and tax-exempt financings.

If you or your staff would like to discuss this issue with us in further detail, please contact Susan Gaffney, Director of the Federal Liaison Center at the Government Finance Officers Association, 202-393-8020 x209 or any of the other organizations below.

Sincerely,

American Public Power Association, Joe Nipper, 467-2900
Government Finance Officers Association, Susan Gaffney, 202-393-8020
National Association of Counties, Alysoun McLaughlin, 202-393-6226
National Association of State Treasurers, Chris Allen, 202-624-8595
National League of Cities, David Parkhurst, 202-626-3000