Sale Lease Back Financing
Talking Points for Mayors to Members of Congress

I am calling about legislation pending in both Houses of Congress that would shut down lease financing and drive up the cost of leasing equipment and property to cities and other tax-exempt organizations.

- The provision is included in S. 1637 in the Senate and H.R. 3971 in the House. I understand these are both broad tax proposals which mainly aim to provide tax relief to manufacturers and repeal a corporate tax break that the World Trade Organization has ruled illegal.

- According to the Joint Committee on Taxation these provisions will harm us in two ways: (1) they will shut down lease financing which will cause cities to lose $5.4 billion over the next ten years; and (2) impose a $21 billion tax-increase on leasing companies and investors who lease equipment and property to state and local governments. **We are convinced this huge tax increase will be passed on to state and local governments in increased leasing costs.**

- If these provisions are enacted, new strict limits will be imposed on tax deductions for companies that lease to cities and other tax-exempt organizations. While we understand these provisions aim to shut down certain lease arrangements, they are written so broadly that they would apply to all leasing transactions.

- The provisions are designed to do away with leasing arrangements where an investor (like a bank) leases infrastructure property (like a subway line) from a city, and then leases the property back to the city. Under this financial arrangement, the investor pays the city a significant sum up front which can be used to expand or improve the infrastructure project. The investor is allowed to depreciate the property over the term of the lease and receive a tax deduction.

- This type of financing has been around since the early 80s and has been available in both the public and private sector. **But now some in Congress want to eliminate it, but only for cities and other tax-exempt entities. The question is why?**

- To qualify for a deductions under the proposed strict rules, investors will not be allowed to take deductions for property that was financed directly or indirectly by tax-exempt bonds; and they must maintain a 20 percent equity investment in the property.

- These new limits, along with others outlined in the bills, run contrary to common practice in the leasing industry. Under these new limits, not only will current investors who engage in lease financing with tax-exempt entities be disqualified for a tax break, but companies that engage in traditional leasing of cars, trucks, computers and copy machines will be disqualified as well.

- We strongly urge you to work to ensure that these limits on tax-exempt leasing are not included in any final legislation.

THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
TELEPHONE (202) 293-7330
FAX (202) 293-2352
URL: www.usmayors.org

TO: The Mayor

FROM: Tom Cochran
Executive Director

Tom Cochran

DATE: March 17, 2004

SUBJECT: Proposals Threaten to Drive Up Leasing Costs and Eliminate Sale-Lease Back Financing for Cities

---

ACTION ALERT

Immediate Action

Contact your Senators and Representatives and tell them you are concerned about provisions in the Jumpstart Our Business Strength Act (JOBS Act), S. 1637 and H.R. 3967, that would (1) drive up the cost of traditional leasing by severely limiting tax deductions for companies that lease equipment and property to cities and other tax-exempt entities; and (2) shut down sale-lease back transactions used by these entities to finance critical infrastructure needs. Moreover, while the legislation is aimed at shutting down sale-lease back transactions, it is written so broadly that it would apply to all leases including traditional leasing of cars, trucks, copy machines and computers. The effect of these changes will be to drive up the cost of leasing as well as shut down sale-lease back financing, which is a significant revenue source for local governments. **Senators and Representatives should be urged not to include these provisions in any final legislation. See attached sample letter.**

Sale-Lease Back Financing

Some members of Congress have mounted a campaign to undercut sale-leaseback financing, which has been a commonly used and accepted practice for many years in the public and private sectors. Under this practice, both tax-exempt entities and private sector companies sell assets to lessors who can use the depreciation and other tax benefits to reduce their taxes and then lease those assets back to the tax-exempt entities or companies. Local governments that engage in these transactions typically use the proceeds to meet critical infrastructure and other budgetary needs.

Status of Legislation

Senate—By unanimous consent the Senate approved an amendment on March 3 that would impose severe limits on tax deductions for companies that lease equipment and property to cities, counties, states and other tax-exempt organizations. The bill-underlying bill (S. 1637) was pulled from the Senate floor on March 4 after Senators stacked up more