Statement of the Honorable Anna G. Eshoo
House Committee on Financial Services
Hearing on *The Effect of the Lehman Brothers Bankruptcy on State and Local Governments*
May 5, 2009

Chairman Frank, Ranking Member Bachus, and Members of the Committee, thank you for the opportunity to speak to you today about a matter of critical importance to local communities across the country.

This hearing is necessary so that any discussion concerning the financial losses of the public entity victims of the Lehman bankruptcy can be put into appropriate context. Chairman Frank rightly called these public entities the "unfair victims of this financial crisis."

On September 15, 2008 -- after 150 years of continuous operation -- Lehman Brothers declared bankruptcy. The Lehman bankruptcy was the largest in U.S. history, with nearly $700 billion in reported debt, and it is described as a triggering event for the resulting international financial crisis. Following the collapse of Lehman, the Executive and Legislative branches of our government responded rapidly and aggressively in order to prevent any further failures of other major institutions by adopting the Emergency Economic Stabilization Act of 2008.

The Act, signed into law by President Bush on October 3, 2008, created the Troubled Assets Relief Program ("TARP") and gave the Secretary of the Treasury both the authority and the responsibility to provide financial assistance to institutions through the purchase of "troubled assets," on such terms and conditions as may be appropriate. (Sections 101 and 102).

In exercising this authority, the Secretary is required to take a number of factors into consideration, including "the need to ensure stability for United States public instrumentalities, such as counties and cities, that may have suffered significant increased costs or losses in the current market turmoil". (Section 103(7).) I proposed this language and it was added to the bill with the support and assistance of Chairman Frank and his staff, as well as Speaker Pelosi.

Since adoption of the Act, the Treasury Secretary committed to provide financial assistance in the approximate amount of $590 billion to more than 535 financial institutions. This assistance includes approximately $45 billion to the Bank of America, $50 billion to Citigroup, $40 billion to insurance giant AIG and $24.8 billion to automakers. <u>To date, however, no assistance under the Act has been provided to any United States public instrumentality</u>. It's been said that some banks are too big to fail. It can also be said that counties, school districts and cities are too small to be noticed. Their losses represent ¼ of 1% of TARP funding.

The fact that TARP was intended to, and should, assist local public instrumentalities is clear. This fact was further confirmed on January 15, 2009, when Chairman Frank, in response to my questions on the Floor of the House of Representatives, reinforced that the Act is intended to provide financial assistance to local governmental entities which were significantly impacted by the Lehman bankruptcy and that the Act expressly provides authority for the Secretary of the Treasury to provide relief to municipalities.

In fact, Mr. Chairman, I think you said it best when you indicated that it was important "not simply to confirm that the authority is there but to say that we expect it to be used and to *demand* that if it is not used, we get a written explanation as to why not."

On November 7, 2008, I wrote to Secretary Paulson, requesting that he exercise his authority under Section 103(7) of the *Emergency Stabilization At of 2008*, to purchase the troubled assets held by local governments. He called me on November 21st and reiterated his decision not to include local governments in the TARP.

On Novermber 25, 2008, I wrote to the Presidential Transition Team, spelling out the case and the authority under the TARP law, and the lack of action on the part of the previous Administration. I strongly urged the new Administration to use its authority to protect taxpayer funds and purchase the troubled assets of local governments.

On February 13, 2009, I wrote to Secretary Geithner and was joined by 26 House Colleagues requesting that he exercise his authority under TARP to purchase the troubled assets held by local governments.

I ask that these letters, as well as a November 21, 2008 analysis I requested of the Congressional Research Service on the Authority of the Secretary of the Treasury under the *Economic Stabilization Act*, and a copy of the January 14, 2009, colloquy between Chairman Frank and myself be included in the hearing Record.

The Treasury's decision to let Lehman Fail is causing catastrophic losses to many localities, resulting in job losses, termination of ongoing construction projects, and elimination or reduction in critical services. Hospitals are reducing services and staff. Schools are laying off teachers. Police and fire departments are reducing patrols and limiting services.

And what 'wrongs' are these school districts, counties and cities 'guilty' of? Investing in highly rated instruments in Lehman Brothers.

If we want our national economy to rebound, our local economies cannot be left behind. This is not just a California problem. It includes public entities from Florida, Colorado, Arizona, Michigan, Massachusetts, Missouri, Oregon and Washington State. And the list goes on.

Local public entities should be able to recover some of the dollars lost. To date, Lehman Brothers is the only financial institution that was allowed to collapse and our schools, public safety, and social services will suffer if we don't return these dollars back to our local governments.

We have a law which is clear.
We have a case that is clear.

What we need is clear, decisive action to right this wrong. Local taxpayers and communities should not have to tolerate losing their most basic services because Lehman Brothers was allowed to go down.