



NATIONAL ASSOCIATION OF
STATE TREASURERS

RESOLUTION

OPPOSING AMENDMENT OR REPEAL OF THE TOWER AMENDMENT

WHEREAS, The regulatory structure of the municipal market is unique. Underwriters, brokers, and dealers in municipal securities are regulated by the Municipal Securities Rulemaking Board (“MSRB”); and

WHEREAS, State and local government issuers of municipal securities are subject to the antifraud provisions of the federal securities laws; and

WHEREAS, Under a provision of the federal securities laws known as the “Tower Amendment,” the United States Securities and Exchange Commission (“SEC”) and the MSRB are prohibited from requiring state and local government issuers of municipal securities, either directly or indirectly through their underwriters, to file any document prior to sale of securities; and

WHEREAS, The MSRB is prohibited from directly or indirectly requiring any document or information to be furnished by an issuer to prospective purchasers after the securities have been sold; and

WHEREAS, State and local government issuers are subject to state securities laws pertaining to the issuance of municipal securities. Each state’s securities laws specify whether municipal securities issuers must disclose any information at all, and if so, what type of information must be provided; and

WHEREAS, The Tower Amendment recognized the constitutional prerogatives of state and local governments, and was crafted to balance those prerogative with the perceived need for additional market regulation. The legislative history of the Amendment makes it clear that Congress sought to limit federal oversight of state and local municipal issuers. A Senate report of the legislation states that “nothing in the legislation contemplates direct regulation of issuers or the registration of their securities” Further, the report states that the SEC’s rulemaking authority with respect to transactions in municipal securities is limited to control of fraudulent, manipulative, and deceptive practices; and

WHEREAS, The securities and Exchange Commission has presented recommendations to Congress regarding federal oversight of municipal securities issuers that would require the Tower Amendment to be altered or repealed; and

WHEREAS, Repeal or amendment of the Tower Amendment could result in the federal government dictating to issuers the timing, form, and content of Official Statements and annual financial reports; requiring federal review and approval of bond issues; dictating state and local accounting standards and practices; and preempting state oversight of the debt issuance process; and

WHEREAS, Repeal or amendment of the Tower Amendment could lead to substantial increases in the issuance costs for state and local governments.

NOW, THEREFORE BE IT RESOLVED, that the National Association of State Treasurers opposes preemption of state and local finance authority and oversight of the debt issuance process through revision or repeal of the Tower Amendment or enactment of legislation to subject state and local government issuers to federal disclosure laws.

BE IT FURTHER RESOLVED, that the National Association of State Treasurers supports the self-regulatory structure of the municipal market, and the commitment of all issuers of municipal securities to provide annual financial, operating, and other information in timely manner consistent with federal and state laws and Securities and Exchange Commission rules.

Approved in 2007. Amended and renewed in 2010, 2013, 2016 and 2019.