

THE COUNCIL OF STATE GOVERNMENTS

RESOLUTION MAINTAINING OVERSIGHT AND REGULATION OF 529 COLLEGE SAVINGS PLANS WITH THE MUNICIPAL SECURITIES RULEMAKING BOARD

Resolution Summary

This resolution supports the federal legislative initiatives of NAST and CSPN in opposing any effort by the federal government to remove or transfer oversight and regulation of the 529 college savings plans from the Municipal Securities Rulemaking Board (MSRB) to any other federal entity.

In the early 90s, states were concerned about the rising costs of college and the increasing debt burden on families. Acting on those concerns, states began creating prepaid tuition and savings trust plans to help families cope. These efforts, in conjunction with the support of Congress, have worked -- the plans provide families at all income levels a tax-advantaged, disciplined, effective way to save for college expenses. In 1996, there was uncertainty over the federal tax treatment of these new and innovative programs. The states – through the National Association of State Treasurers and the College Savings Plans Network – asked Congress to confirm that, as state instrumentalities, these college savings plans would not be taxed by the federal government. Thus, Section 529 of the Internal Revenue Code was born, and the states’ college savings plans became known as Section 529 plans.

Although the MSRB currently has oversight and regulatory authority over 529 college savings plans, recent proposals by Congress and the administration could transfer that authority to a newly created Consumer Financial Protection Agency (CFPA). The CFPA would serve as an independent federal agency, and would regulate a wide variety of financial products and services to consumers. Since states currently provide consumer protection oversight of 529 college savings plans, in addition to the plans not traditionally falling under the definition of a “consumer financial product”, CSG opposes any efforts to transfer oversight and regulation of 529 college savings plan from the MSRB.

This resolution was originally adopted by the National Association of State Treasurers at the 2009 NAST Annual Conference.

Additional Resource Information

- National Association of State Treasurers
www.nast.org
- College Savings Plans Network
www.cspn.org
- United States Securities and Exchange Commission,
<http://www.sec.gov/investor/pubs/intro529.htm>

CSG Management Directives

Management Directive #1: CSG will support its affiliates, the National Association of State Treasurers and the College Savings Plans Network, in their legislative efforts to oppose any effort to remove or transfer oversight and regulation of the 529 college savings plans from the Municipal Securities Rulemaking Board to any other federal entity.

Management Directive #2: CSG staff will post approved resolution on CSG's web site and make available through its regular communication venues at the state and local level to ensure its distribution to the state government and policy community.

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WHEREAS, oversight and regulation of the 529 college savings plans has resided in the Municipal Securities Rulemaking Board since the inception of such plans; and

WHEREAS, the Municipal Securities Rulemaking Board is overseen by the Securities and Exchange Commission and offers comprehensive regulation and oversight of 529 college savings plans; and

WHEREAS, the Municipal Securities Rulemaking Board has established a satisfactory working relationship with the states in providing oversight of 529 college savings plans; and

WHEREAS, 529 college savings plans do not traditionally fall under the definition of a “consumer financial product” and are not involved with activities such as brokering home mortgages, providing check guaranty services, engaging in debt collection, providing real estate settlement services, acting as an agent in leasing property, money transmitting, or extending credit; and

WHEREAS, 529 college savings plans are municipal fund securities and are established under state aegis and are offered to the public by municipal brokers and dealers who have entered into specific selling agreements to do so ; and

WHEREAS, states currently provide consumer protection oversight for 529 plans, thus obviating the need for additional federal oversight of such plans.

NOW THEREFORE BE IT RESOLVED, that The Council of State Governments opposes any effort to remove or transfer oversight and regulation of the 529 college savings plans from the Municipal Securities Rulemaking Board to any other federal entity, including any organization that might be established to provide oversight and regulation of consumer credit.

Adopted this ____Day of November, 2009 at the CSG Annual Conference in La Quinta, California

Governor Joe Manchin III, West Virginia
2009 CSG President

Sen. Bart Davis, Idaho
2009 CSG Chair