Introduction
Efforts by the National Association of State Auditors, Comptrollers and Treasurers—known as NASACT—to improve the transparency of the municipal market through interim disclosure began in 2003, when a group of stakeholder organizations convened to develop a template for governments to use to disclose interim and related financial information. The group met several times, and NASACT developed a paper outlining the group’s recommendations. Although several states attempted to test the concepts, technological constraints hampered efforts to gather and present the desired information in an efficient manner. Since that time, NASACT has remained engaged in conversations about how to improve disclosure through voluntary market solutions.

In recent years, various statements by regulators have emphasized the continued need for some type of interim financial information to better inform the investor community. Although states over time have made improvements to disclosure practices, questions remained about the timeliness and quality of the disclosures, particularly in the secondary market.

A broad study conducted by the U.S. Securities and Exchange Commission culminated in a July 2012 report that made several recommendations that would, if enacted, give the SEC direct authority over municipal issuers and their disclosure. NASACT and some others believed these recommendations, which included designating a state or local government’s accounting standards setter and controlling the form and content of issuer’s financial statements, showed clear disregard for states’ rights and the basic premise of federalism. NASACT strongly asserted that additional improvements to disclosure can be accomplished without statutory changes.

Toward this end, in January 2013 NASACT developed a Continuing Disclosures Task Force. The task force was convened with the sole purpose of determining what steps state governments can take to address the SEC’s disclosure concerns. The task force conducted its work throughout the spring and summer of 2013. The efforts resulted in the development of 10 best practices to be implemented by states on a voluntary basis. These best practices are intended to augment states’ existing disclosure practices and should be considered with a view toward adapting them to each state’s specific circumstances and available information. The recommended best practices are not standards or requirements.

The best practices were released at the NASACT Annual Conference held in Boston, Mass., in August 2013. Since that time, the best practices have received a favorable reception from the SEC and have been endorsed by the National Federation of Municipal Analysts.

Best Practices for Interim Disclosure
The NASACT task force emphasized that improving continuing disclosure is a progressive process and one that must take into account the varying abilities of, and resources available to, municipal issuers.

Additionally, the task force recognized that all issuers will not be able to immediately implement all 10 best practices because each state’s internal operations are different. The task force, however, recommended that all issuers begin their disclosure enhancement efforts with periodic posting of the unaudited information that officials use to make management decisions during the fiscal year. These postings should occur on a quarterly basis—at a minimum—and should be housed in a central, web-based location that is easily accessible for both investors and the public.

For those issuers with the capability to provide them, the task force recommended 10 items to improve interim disclosure:
1. Tax Revenues
   This report should include all major tax revenues collected during the period. The report also should include information on major changes to a state’s tax base, if any. Such information could include:
   - A substantive change to the applicability of a major tax.
   - Changes in the rate of tax for any major revenue source.
   - Legislative or voter initiatives that would restrict or reallocate a major source of tax revenue.
   - Any changes in the allocation of major tax revenue between a state and its local governments.
   - The amount of revenue collected relative to a state’s benchmark or prior fiscal year collections.

2. Budget Updates
   Most states produce intra-year updates to the governor, the legislature or taxpayers, such as year-to-date, budget-to-actual reports showing major categories of revenues and expenditures for the general fund and major governmental and enterprise funds. The report would be based on appropriations and would not be a GAAP-based financial statement. Such reports are typically unaudited and may include some description of supplemental budgets that may have been passed since the beginning of the fiscal year. States also should post a notice of the budget’s adoption and any midyear budget revisions with a link to the state’s annual budget.

3. Cash Flow
   A cash flow forecast or report detailing the available cash resources that provide liquidity to the state’s operating funds should be provided. Such reports may include the current fiscal year, as well as previous or forthcoming fiscal years.

4. Outstanding Debt
   A report detailing the balances of outstanding debt for the state, including both long-term and short-term debt, should be provided. The report should include changes to the amount of debt outstanding from the previous period. An updated annual debt service schedule also is recommended.

5. Economic Forecasts
   States should provide investors with updated economic forecasts, if such forecasts are being produced by the state already. Such reports likely are the basis for revenue collection assumptions and often are adjusted over the course of a fiscal year.

6. Pensions and OPEB
   If annual actuarial reports on a state’s pension liability or other post-employment benefits, commonly called OPEB, are released, they should be included in that period’s interim disclosures. If legislative changes are enacted that may impact future valuations or liabilities, those also should be included.

7. Interest Rate Swaps and Bank Liquidity
   Interim disclosure reports should include updates to a state’s interest rate swap portfolio, including updates on mark-to-market valuations as of the end of the quarter, and list the credit ratings of its swap counterparties. Information regarding bank liquidity and credit facilities, including standby bond purchase agreements, lines of credit, etc., also should be included. Pertinent details would include any expirations, extensions or replacements of liquidity facilities that are to occur before the next report date, or any failed remarketing of any auction rate securities (if any) since the immediately preceding report date, etc.

8. Investments
   A report detailing the state’s investment holdings, including balances in investment pools, deposits or other investment vehicles should be included. Such a report should detail the liquidity and credit quality of the state’s investment holdings, including weighted average maturity, duration and level of collateral posting for noninsured deposits.

9. Debt Management Policies
   If the state updates its debt management policies, those new policies should be included in the interim disclosure report for the period in which the updated policy became effective.

10. Electronic Municipal Market Access Filings
    A state should include any filings made with the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system, voluntary or mandatory, that have been made
in the most recent period—i.e., that the audited financial statements or actuarial valuations have been published, been completed, and an item required by 15c 2-12 has been filed. A state may wish to direct an investor or interested party to the system website, where they can set up a MyEmma account that will allow notices to be pushed out to the individual.

**Frequency**
Items one through four in the list should be updated regularly, with the remainder of the items being updated as new information becomes available. As a best practice, states should consider providing interim disclosure updates on at least a quarterly basis when possible.

**Format**
Interim disclosure information should be provided to the investor community via a dedicated website or webpage. The most recent information should be clearly represented, with older information being clearly archived. All information should be saved in a format that cannot be edited.

**Assessment of Available Information**
Issuers should assess the types of information and data they are already generating that may be appropriate for inclusion in a continuing disclosure regimen. The task force was careful to point out that any information distributed to investors, whether offered voluntarily or otherwise, is subject to anti-fraud provisions under federal securities laws. Accordingly, much care should be taken to ensure the information is not misleading and that it is comprehensive, relevant and reliable.

**Cautionary Information**
Going back to early efforts in 2003 and continuing to the present, some issuers have resisted participating in a voluntary disclosure program because it increases their exposure to liability under federal securities laws. While it is true that information provided to the market on a voluntary basis is subject to anti-fraud provisions under federal securities laws, the SEC indicated in a 2013 enforcement action that there are circumstances under which information posted on a municipal issuer’s website could be the subject of an enforcement action, whether or not it was specifically intended to be viewed by investors. Thus, it is in the best interest of municipal issuers who maintain websites containing financial information to identify on the website which information is specifically intended for investor review purposes.

The task force recommended that each state should formulate appropriate disclaimer language and terms of use to be included with the voluntary disclosures. This language should be specifically tailored to the issuer and the information being provided and should be closely reviewed by legal counsel.

**Next Steps**
With the release of the best practices, the effort now is to implement them. NASACT is establishing an implementation task force that will work in 2014 and into the future to implement the best practices on interim disclosure. NASACT hopes the efforts of several pilot states will pave the way for widespread adoption of the practices and ultimately result in improvement to market disclosure.

**Conclusion**
While not all states will be equipped immediately to meet all 10 recommended best practices, over time more and more information will become available to the investor community, supporting a healthy and thriving investment market. Issuers want to provide the information that investors need to make informed decisions, and they are proving it is possible for them to do so in a voluntary manner that does not require statutory changes.

**Notes**

**About the Author**
Robert M. “Kinney” Poynter is the executive director of the National Association of State Auditors, Comptrollers, and Treasurers. NASACT is a professional organization whose mission is to assist state leaders to enhance and promote effective and efficient management of governmental resources. Kinney has bachelor’s and master’s degrees in accounting from the University of Kentucky. He is a certified public accountant and a member of the American Institute of Certified Public Accountants. He is a former member of the AICPA’s Governing Council.