Ballot Measures in the Upcoming 2016 General Election: Potential Impact on State Budgets

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Overview

There are 154 ballot measures in 34 states this year in the upcoming general election. Since this is a presidential election year, there are far more ballot initiatives than in the previous year when voters in nine states considered 28 ballot measures. Tax measures being considered in the upcoming general election include extending personal income tax increases on upper income taxpayers in California for 12 years and increasing corporate taxes in Oregon. In most cases tax increases would allocate additional revenue to education and health care programs.

Marijuana measures are on the ballot in Arizona, Arkansas, California, Florida, Maine, Massachusetts, Montana, Nevada and North Dakota; this includes both measures that would legalize marijuana for recreational purposes as well as for medical purposes only. Some of the measures stipulate specific taxes, control and distribution mechanisms, and dedication of revenue streams.

Health care is also on several ballots. In Colorado, a constitutional amendment would establish a health care payment system to fund health care for all individuals whose primary residence is in Colorado that would be partially funded by a 10 percent payroll tax. In California, state agencies would be prohibited from paying more for a prescription drug than the lowest price paid for the same drug by the United States Department of Veterans Affairs.

Voters in California, Colorado, Missouri and North Dakota will decide on measures that would increase tobacco taxes. In most cases the additional revenue generated would be dedicated primarily for health programs.

In Maine, voters will be asked about approval for a three percent tax on individual taxable income above $200,000 to generate additional revenue for education, and in Oklahoma, voters will be asked about a one cent increase in the sales and use tax dedicated for education purposes.

Minimum wage measures are on the ballots in Arizona, Colorado, Maine, South Dakota and Washington and mostly would increase the minimum wage over a several year period. In South Dakota, the previously approved minimum wage would be modified for those under 18.

Gaming measures are also on the ballots in several states and would expand gaming in Massachusetts, New Jersey and Rhode Island.

Bond measures are also being addressed in several states including a measure in Montana to create a biomedical research authority, a bond measure for schools in California, and bond measures for purposes such as transportation, ports, higher education, and the environment in Maine, New Mexico and Rhode Island.

In all, about half of the states allow initiatives and/or referenda on statewide issues. Since the passage of Proposition 13 in California in 1978, ballot measures have had a significant impact on finances in some states and localities. Provisions to limit class size, earmark revenues, significantly increase and/or decrease state revenues, compensate landowners, and allocate set portions of the budget are all products of ballot measures throughout the years. In addition to the states with a popular initiative process, most states have provisions for popular votes on a variety of constitutional provisions and other measures.
About half of the measures in 2016 were placed on the ballots by citizen initiatives.

The following are some notable ballot measures in the upcoming 2016 election that could affect state finances. When available, the fiscal impact is included in the description.

**State Revenues**

*California Proposition 55*
This measure extends the temporary personal income tax increases enacted in 2012 on earnings over $250,000 for single filers; over $500,000 for joint filers; and over $340,000 for heads of household for 12 years. This measure is estimated to increase state revenues by $4 billion to $9 billion annually from 2019-2030, depending on the economy and stock market. Increased funding would be allocated for schools, community colleges, health care for low-income people, budget reserves, and debt payments.

*Louisiana Amendment 3*
This measure eliminates the deductibility of federal income taxes paid in computing state corporate income taxes.

*Missouri Amendment 4*
This constitutional amendment would prohibit a new state or local sales/use or other similar tax on any service or transaction. This amendment only applies to any service or transaction that was not subject to a sales/use or similar tax as of January 1, 2015.

*Oregon Measure 97*
This measure would increase the annual minimum tax on corporations with Oregon sales of more than $25 million and applies to tax years beginning on/after January 1, 2017. The revenue from the tax increase would be used for education, health care, and services for senior citizens. This measure would raise approximately $6 billion in revenue each biennium, according to estimates from the Legislative Revenue Office.

*Washington Initiative 732*
This measure imposes a carbon emission tax on the sale or use of certain fossil fuels and fossil-fuel-generated electricity, at $15 per metric ton of carbon dioxide in 2017, and increasing gradually to $100 per metric ton, with more gradual phase-in for some users. It would reduce the sales tax rate by one percentage point over two years, increase a low-income sales tax exemption, and reduce certain manufacturing taxes.

*Washington Initiative 1464*
This measure repeals a retail sales tax exemption for certain nonresidents on purchases of tangible personal property, digital goods and digital codes that will not be used in the state. During the first six fiscal years, the estimated net new revenue to the general fund from the repeal of the nonresident retail sales tax exemption is $173.2 million.

**Marijuana**

*Arizona Proposition 205*
This measure would establish a 15 percent tax on retail marijuana sales with revenue allocated to public health and education. This allows adults twenty-one years of age and older to possess and to privately consume and grow limited amounts of marijuana and would create a system in which licensed businesses can produce and sell marijuana. This would establish a Department of Marijuana Licenses and Control to regulate the cultivation, manufacturing, testing, transportation, and sale of marijuana and provide local governments with the authority to regulate and limit marijuana businesses.

*Arkansas Issue 6*
This constitutional amendment would make the medical use of marijuana legal under state law and establish a system for the cultivation, acquisition, and distribution of marijuana for qualifying patients through licensed medical marijuana dispensaries and cultivation facilities and granting those dispensaries and facilities limited immunity.

*California Proposition 64*
This measure would legalize marijuana and hemp under state law and designate state agencies to license and regulate the marijuana industry. This would impose a state excise tax on retail sales of marijuana equal to 15 percent of sales price and state cultivation taxes on marijuana of $9.25 per ounce of flowers and $2.75 per ounce of leaves. It would exempt medical marijuana from some taxation.

*Florida Amendment 2*
This measure would allow the medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician and allow caregivers to assist patients’ medical use of marijuana. The Department of Health
shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers.

Maine Question 1
This measure would allow the possession and use of marijuana under state law by persons who are at least 21 years of age, and allow the cultivation, manufacturing, distribution, testing, and sale of marijuana and marijuana products subject to state regulation, taxation and local ordinance.

Massachusetts Question 4
This measure controls the production and distribution of marijuana under a system that licenses, regulates and taxes the businesses involved in a manner similar to alcohol and to make marijuana legal for adults 21 years of age or older.

Montana Initiative 182
This measure would allow a single treating physician to certify medical marijuana for a patient diagnosed with chronic pain and includes post-traumatic stress disorder as a “debilitating medical condition” for which a physician may certify medical marijuana. Licensing requirements, fees and prohibitions are detailed for medical marijuana dispensaries and testing laboratories.

Nevada Question 2
This measure proposes statutory amendments that would regulate and tax marijuana similar to alcohol. If passed, persons at least 21 years old would be allowed to possess and use a limited amount of marijuana. An excise tax of 15 percent would be imposed on wholesale sales of marijuana. The existing sales tax would apply to retail sales of marijuana. Net revenue generated under this proposal would be deposited in the distributive school account and used for support of K-12 education.

North Dakota Measure 5
This initiated measure would provide for the medical use of marijuana for defined debilitating medical conditions.

Health Care
California Proposition 52
This would make permanent the Hospital Quality Assurance Fee which is collected from private hospitals to generate additional federal dollars for the Medicaid program. It has been collected since 2009 and the charging of the hospital fee by the state is set to end on January 1, 2018.

California Proposition 61
This would prohibit state agencies from paying more for a prescription drug than the lowest price paid for the same drug by the United States Department of Veterans Affairs. This applies to any program where the state is the ultimate payer for a drug, even if the state does not purchase the drug directly and exempts certain purchases of prescription drugs funded through the state's Medicaid program.

Colorado Amendment 69
This constitutional amendment would establish a health care payment system to fund health care for all individuals whose primary residence is in Colorado. The program would be partially funded by a 10 percent payroll tax with employers paying 6.67 percent and employees paying 3.33 percent. Other non-payroll income would also be taxed at 10 percent.

Tobacco Taxes
California Proposition 56
This measure would increase the cigarette tax by $2.00 per pack, with equivalent increases on other tobacco products and electronic cigarettes containing nicotine. Revenues would be used primarily to augment spending on health care for low-income individuals for existing health care programs. This measure would increase net state revenue by $1 billion to $1.4 billion in 2017-18, with potentially lower annual revenues over time.

Colorado's Amendment 72
This measure would increase the state's cigarette tax by $1.75 per pack of 20 cigarettes and on other tobacco products by 22 percent of the manufacturer's list price. Additional revenue would be allocated by specified percentages to health-related programs and tobacco education programs.

Missouri Amendment 3
This proposed constitutional amendment would increase cigarette taxes each year through 2020, at which point this additional tax will total 60 cents per pack of 20. This amendment also creates a fee paid by cigarette wholesalers of 67 cents per pack of 20 on certain cigarettes. The funds generated by these taxes and fees would be deposited into a newly established Early Childhood Health and Education Trust Fund.
Missouri Proposition A
This measure would increase cigarette taxes in 2017, 2019, and 2021, at which point this additional tax would total 23 cents per pack of 20. This amendment also increases the tax paid by sellers on other tobacco products by five percent of the manufacturer’s invoice price. The funds generated by these taxes would be used exclusively to fund transportation infrastructure projects. In the event that both Proposition A and Amendment 3 pass, Amendment 3 would supersede Proposition A since it is a constitutional amendment and Proposition A is an initiated state statute.

North Dakota Measure 4
This measure would increase cigarette taxes from 44 cents a pack to $2.20 per pack and increase the tax on all other tobacco products from 28 percent of the wholesale purchase price to 56 percent of the wholesale price. Half of the new revenues generated by the increase would create a veterans’ tobacco trust fund.

K-12 Education/Tax Increases

Maine Question 2
This measure would add a three percent tax on individual taxable income above $200,000 to create a fund for kindergarten through 12th grade public education.

Oklahoma State Question 779
This measure would increase the sales and use tax by one cent to provide additional funds for education. It requires an annual audit of school districts’ use of monies from the fund, prohibits school districts’ use of these funds for administrative salaries, and would increase teachers’ salaries. It requires that monies from the fund not supplant or replace other education funding.

Minimum Wage

Arizona Proposition 206
This initiative would increase the minimum wage to $10 in 2017, then gradually to $12 by 2020, and provide 40 hours annual earned paid sick time for employees of large employers.

Colorado Amendment 70
This would increase the minimum wage effective January 1, 2017 to $9.30 per hour and increased annually by $0.90 each January 1 until it reaches $12 per hour effective January 2020, and is adjusted annually by the consumer price index.

Maine Question 4
This measure would raise the minimum hourly wage of $7.50 to $9 in 2017, with annual $1 increases up to $12 in 2020, and annual cost-of-living increases thereafter.

South Dakota Referred Law 20
This would lower the existing state minimum wage to $7.50 per hour for non-tipped employees under age 18. In addition, no annual cost-of-living wage adjustment would be required for the youth minimum wage.

Washington Initiative 1433
This measure would increase the minimum wage from $9.47 in 2016 to $11.00 in 2017, $11.50 in 2018, $12.00 in 2019, and $13.50 in 2020. Beginning in 2021, the minimum wage would be adjusted with inflation. Based on the fiscal analysis, this would increase state revenues, and state and local government expenditures, during the next six fiscal years.

Gaming

Massachusetts Question 1
This would grant the Gaming Commission the ability to issue an additional slots license.

New Jersey Question 1
This would permit casino gambling in two additional counties with one casino limit in each.

Rhode Island Question 1
This measure would authorize a pari-mutuel facility that would have state-operated video lottery games and casino gaming. If approved, the measure would require that the state receive 15.5 percent of table games and 61 percent of video lottery terminal revenues.

Bond Measures

Arkansas Issue 3
This measure removes the cap on the amount of bonds the state is allowed to issue to a corporation, association, institution or individual to help finance economic development projects and services and require voter approval.
California Proposition 51
This measure authorizes $9 billion in general obligation bonds with $3 billion for new construction and $3 billion for modernization of K-12 public school facilities, $1 billion for charter schools and vocational education facilities, and $2 billion for California Community Colleges facilities.

California Proposition 53
This measure requires statewide voter approval before any revenue bonds can be issued or sold by the state for projects that are financed, owned, operated, or managed by the state if the bond amount exceeds $2 billion.

Maine Question 6
This measure would be for a $100 million bond issue for construction, reconstruction and rehabilitation of highways and bridges and for facilities, equipment and property acquisition related to ports, harbors, marine transportation, freight and passenger railroads, aviation, transit and bicycle and pedestrian trails, to be used to match an estimated $137 million in federal and other funds.

Montana Initiative 181
This proposes creating $20 million a year in state bonds for 10 years to finance a biomedical research authority to promote development of therapies and cures for brain diseases.

New Mexico Bond Issues A Through D
These measures would authorize general obligation bonds up to $15.4 million for senior citizen centers and services, up to $10.2 million for academic, public school, tribal, and public library resource acquisitions, $142.4 million for tribal education-related capital improvement projects, and up to $18.2 million for state police, public safety communications, and statewide National Guard facilities improvements and acquisitions.

Rhode Island Questions 3 to 7
These measures would authorize general obligation bonds of $27 million for veterans’ homes, $45.5 million for higher education projects, $70 million for port infrastructure projects, $35 million for environmental and recreational purposes, and $50 million for affordable housing and urban revitalization.

Higher Education

Alaska Measure 2
This would amend the constitution to allow state borrowing for higher education loans for students.

Louisiana Amendment 2
This measure authorizes the postsecondary education management boards to establish the tuition and mandatory fee amounts charged by institutions under their supervision and management, without legislative approval.

Initiatives

Colorado Initiative 71
This proposed constitutional amendment would require that any petition for a citizen-initiated constitutional amendment be signed by at least two percent of the registered electors who reside in each state senate district for the amendment to be placed on the ballot. It would increase the percentage of votes needed to pass any proposed constitutional amendment from a majority to at least fifty-five percent of the votes cast, unless the proposed constitutional amendment only repeals, in whole or in part, any provision of the constitution.

Transportation

Illinois House Joint Resolution 36
This proposes to amend the constitution and add a new section concerning highway funds.

New Jersey Question 2
This provides that an additional three cents of the current motor fuels tax on diesel fuel, which is not dedicated for transportation purposes, be dedicated to the Transportation Trust Fund.

Budget Process

Hawaii Amendment 2
This measure would amend the constitution to add alternatives for the use of excess general fund revenues and allows the appropriation of general funds for the pre-payment of general obligation bond debt service or pension or other post-employment benefit liabilities.

Louisiana Amendment 5
This establishes the Revenue Stabilization Trust Fund for the deposit of recurring mineral and corporate tax revenues and restricts the use of the fund to 10 percent of the balance when the balance reaches $5 billion. This would restrict the use of the fund to construction projects and transportation infrastructure, and to allocate recurring mineral revenues to the payment of state employee retirement debt.
Louisiana Amendment 6
This authorizes the use of up to five percent of current year appropriations or allocations from statutorily or certain constitutionally created funds or up to one percent of the current year’s balances in certain constitutionally created funds to eliminate a projected deficit in the next fiscal year and exempt certain funds and mandates from being used to eliminate a projected deficit.

Investments

Oregon Measure 95
This would allow public universities to invest in equities.

Wyoming Amendment A
This measure would allow investments of state funds in equities.

Parks and Land

Alabama Amendment 2
This constitutional amendment would prohibit funds from the state parks fund, the parks revolving fund, and any funds currently designated for the use of the state parks system from being transferred for another purpose other than the support, upkeep, and maintenance of the state parks system.

NASBO will provide an update on the status of these measures following the election as well as keep you informed of other measures that may qualify in upcoming elections. If you would like additional information, please contact Stacey Mazer (smazer@nasbo.org or 202-624-8431) or John Hicks (jhicks@nasbo.org or 202-624-8804).