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State Minimum Wage Ballot Measures: In Brief

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On November 8, 2016, five states—Arizona, Colorado, Maine, South Dakota, and Washington—with measures on the ballot related to state minimum wages increased, or in South Dakota defeated a scheduled decrease to, state minimum wage rates. These and previous ballot measures provide states one way of establishing minimum wage provisions different from those required by the Fair Labor Standards Act (FLSA; P.L. 75-718).

The Fair Labor Standards Act (FLSA)

The FLSA, enacted in 1938, is the federal legislation that establishes the general minimum wage that must be paid to all covered workers. The Department of Labor (DOL) estimates that more than 130 million workers are subject to the provisions of the FLSA.¹ Since the FLSA established a minimum wage of \$0.25 per hour in 1938, Congress has amended the act numerous times, typically to expand coverage or raise the wage rate. Since its establishment, the minimum wage rate has been raised 22 separate times, most recently in 2007 when it was increased from \$5.15 per hour to its current rate of \$7.25 per hour in three steps (the final step occurring in 2009). For more information on the federal minimum wage and FLSA coverage, see CRS Report R43089, *The Federal Minimum Wage: In Brief*, by (name redacted) .

State Minimum Wages

States generally have three options in setting their minimum wage policies:

1. they can set their own minimum wage provisions that differ from those in the FLSA,
2. they can explicitly tie their minimum wage provisions to the FLSA, or
3. they can include no specific minimum wage provisions in state law.

The FLSA establishes that if a state enacts minimum wage laws more protective of employees than those provided in the FLSA, then state law applies. In the case of minimum wages, this means FLSA-covered workers are entitled to the higher state minimum wage in those states with rates above the federal minimum. On the other hand, FLSA-covered workers would receive the FLSA minimum wage in states that have set minimum wages lower than or equal to the federal rate. As of 2016, 29 states and the District of Columbia have enacted minimum wage rates above the federal rate of \$7.25 per hour. Because of the combination of the increase in the number of states with minimum wages above the federal rate and the federal rate remaining unchanged since 2009, the share of the civilian labor force living in states in which the federal minimum wage is the floor is about 39%. For additional information on state minimum wages, see CRS Report R43792, *State Minimum Wages: An Overview*, by (name redacted) .

State Minimum Wage Ballot Measures

For states with minimum wages above the federal rate, a common method of enactment of these state rates is through ballot measures, the result of either initiatives or referenda. As the data in **Table 1** show, since the enactment of the FLSA in 1938, there have been 27 state minimum wage ballot measures, including 5 on ballots in 2016. It is important to note that **Table 1** includes only measures that appeared on the ballot (i.e., it does include initiatives that did not qualify) and includes only information on the minimum wage rate components of the measures (i.e., additional

¹ Department of Labor, Wage and Hour Division, *Fact Sheet #14: Coverage Under the Fair Labor Standards Act (FLSA)* , <https://www.dol.gov/whd/regs/compliance/whdfs14.pdf>.

provisions, such as expanded coverage of the minimum wage or other labor standards provisions, are not presented). In total, of the 27 minimum wage state ballot measures that have been introduced in 17 states since 1938,

- 24 passed and 3 failed;
- passage rates ranged from 51.3% (Oregon, 2002) to 76.6% (Washington, 1988);
- 9 passed with support between 60% and 70% of the vote and 5 passed with greater than 70% approval;
- 20 passed since 2002, including 5 in 2016; and
- of the 3 measures that failed—Missouri and Montana in 1996 and Arkansas in 1960—similar measures appeared in those same states at later dates and passed.

The five state minimum wage measures on the ballot in 2016 did not increase the total number of states (29 and the District of Columbia) with rates above the federal rate of \$7.25 per hour. The ballot measures did, however, continue the trend of states increasing minimum wage rates further above the federal rate. That is, while Arizona, Colorado, Maine, and Washington all had minimum wages above \$7.25 prior to the 2016 ballot measures, as a result of the 2016 ballot measures the gap between rates in those states and the federal rate will increase. Thus, starting in 2017, Arizona's minimum wage will go from \$0.80 to \$2.75 above the federal rate, Colorado's will go from \$1.06 to \$2.05 above the federal rate, Maine's will go from \$0.25 to \$1.75 above the federal rate, and Washington's will go from \$2.22 to \$3.75 above the federal rate. If the federal rate remains at \$7.25, and given recent trends in state minimum wage rates, these gaps are likely to continue to grow in the future.

Table 1. State Minimum Wage Ballot Measures

State	Year	Description	Results
Alaska	2014	Ballot Measure 3: This initiative proposed increasing Alaska's minimum wage from \$7.75 to \$8.75 on January 1, 2015; and proposed raising the minimum wage to \$9.75 on January 1, 2016. Beginning January 1, 2017, the minimum wage would be adjusted each year for inflation. Additionally, if the adjusted minimum wage is less than \$1.00 over the federal minimum wage, Alaska's minimum wage would be \$1.00 over the federal minimum.	Passed Yes: 69.35% No: 30.65%
Arizona	2016	Proposition 206: This initiative proposed increasing Arizona's minimum wage from \$8.05 to \$10.00 on January 1, 2017; \$10.50 on January 1, 2018; \$11.00 on January 1, 2019; and \$12.00 on January 1, 2020. Beginning January 1, 2021, the minimum wage would be adjusted each year for inflation (Consumer Price Index-Urban consumers).	Passed ^a Yes: 58.33% No: 41.67%
Arizona	2006	Proposition 202: This initiative proposed establishing a state minimum wage law for Arizona of \$6.75 on January 1, 2007. Beginning January 1, 2008, the minimum wage would be adjusted each year for inflation (Consumer Price Index-Urban consumers).	Passed Yes: 65.37% No: 34.63%
Arkansas	1960	Initiated Act 1: This initiative proposed establishing a state minimum wage law for Arkansas of \$0.80 on January 1, 1961; \$0.90 on January 1, 1962; and \$1.00 January 1, 1963. ^b	Failed Yes: 38.79% No: 61.21%
Arkansas	2014	Issue 5: This measure proposed increasing Arkansas's minimum wage from \$6.25 to \$7.50 on January 1, 2015; \$8.00 January 1, 2016; and \$8.50 on January 1, 2017.	Passed Yes: 65.94% No: 34.06%

State	Year	Description	Results
California	1996	Proposition 210: This initiative proposed increasing California's minimum wage to \$5.00 on March 1, 1997; and then \$5.75 on March 1, 1998.	Passed Yes: 61.45% No: 38.55%
Colorado	2006	Amendment 42: This amendment proposed revising the Colorado Constitution to increase Colorado's minimum wage from \$5.15 to \$6.85 on January 1, 2007. Beginning January 1, 2008, the minimum wage would be adjusted each year for inflation (Consumer Price Index for Colorado).	Passed Yes: 53.30% No: 46.70%
Colorado	2016	Amendment 70: This amendment proposed revising the Colorado Constitution to increase Colorado's minimum wage to \$9.30 on January 1, 2017; \$10.20 on January 1, 2018; \$11.10 on January 1, 2019; and \$12.00 on January 1, 2020. Beginning January 1, 2021, the minimum wage would be adjusted each year for inflation (Consumer Price Index for Colorado).	Passed ^a Yes: 55.36% No: 44.64%
Florida	2004	Constitutional Amendment 5: This amendment proposed establishing a state minimum wage law for Florida of \$6.15, beginning six months after enactment, May 2, 2005. Beginning January 1, 2006, the minimum wage would be adjusted each year for inflation (Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W)	Passed Yes: 71.25% No: 28.75%
Illinois	2014	Statewide Advisory Question 1: This advisory legislative referendum proposed increasing Illinois's minimum wage for adults over 18 to \$10.00 on January 1, 2015.	Passed Yes: 66.74% No: 33.26%
Maine	2016	Question 4: This initiative proposed increasing Maine's minimum wage to \$9.00 on January 1, 2017; \$10.00 on January 1, 2018; \$11.00 on January 1, 2019; and \$12.00 on January 1, 2020. Beginning January 1, 2021, the minimum wage would be adjusted each year for inflation (Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W for the Northeast Region).	Passed ^a Yes: 55.50% No: 45.50%
Missouri	1996	Proposition A: This initiative proposed increasing Missouri's minimum wage to \$6.25 on January 1, 1997; \$6.50 on January 1, 1998; and \$6.75 on January 1, 1999. Beginning January 1, 2000, the minimum wage would be increased each year by \$0.15.	Failed Yes: 28.70% No: 71.30%
Missouri	2006	Proposition B: This initiative proposed increasing Missouri's minimum wage to \$6.50 on January 1, 2007. Beginning January 1, 2008, the minimum wage would be adjusted each year for inflation (Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W)	Passed Yes: 75.97% No: 24.03%
Montana	1996	Initiative 121: This initiative proposed re-establishing a state minimum wage law for Montana of \$4.75 on January 1, 1997; \$5.25 on January 1, 1998; \$5.75 on January 1, 1999; and \$6.25 on January 1, 2000.	Failed Yes: 43.53% No: 56.47%
Montana	2006	Initiative 151: This initiative proposed re-establishing a state minimum wage law for Montana of \$6.15 on January 1, 2007. Beginning January 1, 2008, the minimum wage would be adjusted each year for inflation (Consumer Price Index, U.S. city average, all urban consumers, for all items).	Passed Yes: 72.69% No: 27.31%
Nebraska	2014	Initiative 425: This initiative proposed increasing Nebraska's minimum wage to \$8.00 on January 1, 2015, and to \$9.00 on January 1, 2016.	Passed Yes: 59.47% No: 40.53%

State	Year	Description	Results
Nevada	2004	Question 6. (Note: Nevada requires constitutional amendments to be passed in two general elections before going into effect. See 2006 Nevada Initiative.) This amendment proposed revising the Nevada constitution to increase Nevada's minimum wage to \$5.15 if the employer provides health benefits, or \$6.15 per hour if the employer does not provide health benefits. Beginning the year after enactment, the minimum wage would be adjusted each year for inflation (Consumer Price Index), with no CPI adjustment for any one-year period greater than 3%.	Passed Yes: 68.39% No: 31.61%
Nevada	2006	Question 6: (Note: Nevada requires constitutional amendments to be passed in two general elections before going into effect. See 2004 Nevada Initiative.) This amendment proposed revising the Nevada constitution to increase Nevada's minimum wage to \$5.15 if the employer provides health benefits, or \$6.15 per hour if the employer does not provide health benefits. The minimum wage would be adjusted each year for inflation (Consumer Price Index), with no CPI adjustment for any one-year period greater than 3%. The amendment became effective on November 28, 2006, when the Nevada State Supreme Court certified the election.	Passed Yes: 68.71% No: 31.29%
New Jersey	2013	Public Question 2: This legislative referendum proposed revising New Jersey's constitution to increase New Jersey's minimum wage to \$8.25 beginning January 1, 2014. Beginning January 1, 2015, the minimum wage would be adjusted each year for inflation (Consumer Price Index (CPI) for all Urban Wage Earners and Clerical Workers (CPI-W, U.S. City Average)).	Passed Yes: 61.26% No: 38.74%
Ohio	2006	Issue 2: This amendment proposed revising the Ohio's Constitution to increase Ohio's minimum wage to \$6.85 on January 1, 2007. Beginning January 1, 2008, the minimum wage would be adjusted each year for inflation (Consumer Price Index (CPI) for all Urban Wage Earners and Clerical Workers (CPI-W, U.S. City Average)).	Passed Yes: 56.65% No: 43.35%
Oregon	1996	Measure 36: This initiative proposed increasing Oregon's minimum wage to \$5.50 on January 1, 1997; \$6.00 on January 1, 1998; and \$6.50 on January 1, 1999.	Passed Yes: 56.85% No: 43.15%
Oregon	2002	Measure 25: This initiative proposed increasing Oregon's minimum wage to \$6.90 on January 1, 2003. Beginning January 1, 2004, the minimum wage would be adjusted each year for inflation (Consumer Price Index-Urban consumers, U.S City Average).	Passed Yes: 51.33% No: 48.67%
South Dakota	2014	Initiated Measure 18: This initiative proposed increasing South Dakota's minimum wage to \$8.50 on January 1, 2015. Beginning January 1, 2016, the minimum wage would be adjusted each year for inflation (Consumer Price Index-Urban consumers, U.S City Average).	Passed Yes: 55.05% No: 44.95%
South Dakota	2016	Referred Law 20: This legislative referendum proposed decreasing South Dakota's minimum wage for youth under 18 to \$7.50 on January 1, 2017. Beginning January 1, 2017, the minimum wage would not be adjusted each year for inflation.	Failed ^c Yes: 28.87% No: 71.13%
Washington	1988	Initiative 518: This initiative proposed increasing Washington's minimum wage to \$3.85 on January 1, 1989; and \$4.25 on January 1, 1990. The initiative also included language to provide minimum wage coverage for agricultural workers.	Passed Yes: 76.55% No: 23.45%

State	Year	Description	Results
Washington	1998	Initiative 688: This initiative proposed increasing Washington's minimum wage to \$5.70 on January 1, 1999; and \$6.50 on January 1, 2000. Beginning January 1, 2001, the minimum wage would be adjusted each year for inflation (Consumer Price Index (CPI) for all Urban Wage Earners and Clerical Workers (CPI-W, U.S. City Average)).	Passed Yes: 66.14% No: 33.86%
Washington	2016	Initiative 1433: This initiative proposed increasing Washington's minimum wage to \$11.00 on January 1, 2017; \$11.50 on January 1, 2018; \$12.00 on January 1, 2019; and \$13.50 on January 1, 2020. Beginning January 1, 2021, the minimum wage would be adjusted each year for inflation (Consumer Price Index (CPI) for all Urban Wage Earners and Clerical Workers (CPI-W, U.S. City Average)).	Passed ^a Yes: 57.42% No: 42.58%

Source: Compiled by CRS from state government websites (including current and archived Secretaries of State websites), and the National Conference of State Legislatures, Ballot Measures Database, <http://www.ncsl.org/research/elections-and-campaigns/ballot-measures-database.aspx>.

- a. 2016 ballot election results are preliminary. The final outcome may be adjusted when official results are posted.
- b. See "Legal Notice: Initiated Act Number 1 (By Petition) Arkansas Minimum Wage and Overtime Act," *Hope Star*, September 19, 1960, p. 2.
- c. See footnote (a). In addition, for purposes of this analysis in the body of this report, the measure in South Dakota in 2016 is counted as a "passed" measure despite being labeled "failed" in **Table I**. The 2016 vote was a referendum on the state legislature's action to lower the minimum wage for youth, which had been increased as part of the successful 2014 ballot initiative. Thus, the 2016 measure increased the youth minimum wage following the legislature's actions to lower it.

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