

Speaker 1 ([00:00](#)):

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Jared Walczak ([00:17](#)):

There were over 20 state-level tax-related ballot measures across the country, but there were eight that we really focused in on that had significant impacts that were worth following.

Nikki Dobay ([00:34](#)):

Hello and welcome to GeTtin' SALTy, a state and local tax policy podcast hosted by Greenberg Traurig. My name is Nikki Dobay, shareholder in the Portland, Oregon and Sacramento, California offices. I am very pleased to be once again joined by Jared Walczak. Jared is the vice president of state projects at the Tax Foundation. Jared, thank you so much for joining me again.

Jared Walczak ([00:59](#)):

Thank you for having me.

Nikki Dobay ([01:00](#)):

And we are bringing the folks some late breaking news talking about hot-off-the-presses ballot initiative results. So, Jared, you and your team have been spending a lot of time tracking a whole bunch of ballot initiatives this election season. How many initiatives were you all following heading into the election?

Jared Walczak ([01:24](#)):

There were over 20 state-level tax-related ballot measures across the country, but there were eight that we really focused in on that had significant impacts that were worth following. And so we were doing exactly what I imagine everyone else was doing, just on tenterhooks watching very closely on election night to see what the tax ballot measures looked like. I'm sure that's what everyone else was doing, but that was indeed what my team was doing.

Nikki Dobay ([01:45](#)):

I was right there with you. I was trying to block out some of the other noise, and then it was pretty late because the one ballot initiative that I was uber-focused on was Oregon Measure 118. So let's get into it on 118. This is the one I know Tax Foundation was very involved and focused on this. This proposal would've created a 3% gross receipts tax essentially on most businesses that had more than 25 million in Oregon sales. So it was a modification to Oregon's corporate minimum tax, which has been around for quite a while, but would've made some pretty significant tweaks to that that would've had huge impacts. So, Jared, what's coming out of Oregon, some good news?

Jared Walczak ([02:33](#)):

The good news is no new tax is coming out of Oregon. This is anticlimactic, and that's what we wanted to see, that 79% of Oregon voters, at least with the results that we have in thus now, have rejected Measure 118. So clearly a pretty broad coalition of voters who said, "This is a bad idea," that this is an 8 to \$9 billion a year tax, that it actually shrinks the general fund because it eliminates a lot of the revenue that would've come in under the corporate income tax and went to the general fund; it obligates

funding in unique ways that stretch the general fund; and of course, it's raising all this revenue, but it was designed to put it into rebates, so it wasn't funding anything new. So I think even those who might've supported higher taxes to fund certain programs were saying, "Well, if we raise taxes by 8 or \$9 billion a year and don't get an additional penny out of it, actually lose money for the general fund, how do we ever go back to the well?" So it had this broad coalition against it at the end of the day.

[\(03:30\)](#):

I think the really good news here is that Oregon won't have a very high rate gross receipts tax. Unfortunately, this discussion of gross receipts taxes in Oregon and across the country is not over, but this was, I think, welcome news that this really aggressive gross receipts tax is not on the table.

Nikki Dobay [\(03:48\)](#):

Yeah. It was really good to see the 79% no coming out against this because I think there was some significant fear going in. Measure 97 also was defeated in 2016 by a pretty high margin, but this sends a clear message to the legislature that they shouldn't try to do anything else, and hopefully it sends a clear message to others that think maybe we can come back to Oregon and try to tweak this corporate minimum tax statute once again. So this is a pretty huge win, huge victory for the opposition here.

[\(04:27\)](#):

I think it's also worth noting, as you mentioned, broad-based coalition, all of the legislative leadership. The governor was against this, and there was even the very left-leaning group, Tax Fairness Oregon, that came out against this as being a misguided idea. So hopefully we can put this one to bed for a bit. I think we may also see some efforts over the next few legislative sessions to maybe also put to bed our Oregon minimum tax, which kind of opens the door for this type of ballot initiative in the future. So great news out of Oregon. Where to next? What's your next big one?

Jared Walczak [\(05:08\)](#):

Well, I think the other one we were really focused on, again, a result that wasn't particularly close, but that would be North Dakota. Whereas Oregon was talking about a massive new tax, North Dakota was talking about eliminating a major tax with the property tax elimination measure that went before them under Measure 4. I don't know how you were looking at that one, but quite an interesting measure.

Nikki Dobay [\(05:29\)](#):

Yeah. And so this one was defeated, 63%. Was that a simple majority they had to get, or did they have to get a supermajority on that one?

Jared Walczak [\(05:42\)](#):

That would've been simple majority.

Nikki Dobay [\(05:43\)](#):

Okay. So I know you all have been really active in the conversation about the elimination of property taxes in Nebraska earlier this year and over the last few years, and now this one. How do you see this as part of the broader conversation about states looking at eliminating whole tax types, in particular the property tax?

Jared Walczak [\(06:07\)](#):

Yeah. Clearly there's a lot of discontent, voter or taxpayer discontent, over property taxes and the way that they've risen in recent years. Nationwide, since the start of the pandemic, property-assessed values are up about 54%, and that's about twice the rate of inflation over that period, so there's like a 26, 27% increase in real property values. And if you haven't seen your millages roll back, that's a significant tax increase. So there's, I think, legitimate angst and frustration, and some of that is then being communicated to lawmakers, and some of it is yielding ballot measures like this one. Unfortunately, these are not the ways to deal with those legitimate concerns. Their completely repealing really essential tax like the property tax is not going to solve the problem, and I think that what we saw is that across the nation there were some ballot measures on property taxes that prevailed. I don't think they were very good, but they were in the ordinary range of things that lawmakers and voters have considered, assessment limits, changes in classification systems, things like this.

[\(07:07\)](#):

The complete repeal of North Dakota's property tax, one and a half billion dollars a year, with no replacement specified, just this mandate that state government would somehow make local governments whole, North Dakota voters, I think, looked at that and said, "That doesn't sound possible," and they are, of course, correct. More importantly, even if there was a replacement revenue mechanism, they could have doubled their income tax and doubled their sales tax, and that would've maybe even just enough to pay for it. 12% sales tax, 5% income tax, then maybe you're talking about paying for it. That's way worse for your economy than the property taxes replacing and it severs that tie between the property owner and the services they're receiving to that property. So really bad direction had they gone there. Thankfully, in my mind, voters said no to that one, but clearly this broader issue of addressing high property tax rates and high property tax bills, but also this broader discontent about property taxes generally, that's not going away. That's going to be a big issue in 2025.

Nikki Dobay [\(08:09\)](#):

For purposes of the campaign, was there a broad-based coalition against this as there was in Oregon with Measure 118, or what was kind of the political landscape on the ground? And again, I guess the question is, do we see these ideas spreading in other states, the complete repeal, or is this sending a message maybe more broadly that we're going to have to work on tweaks to make the property tax more palatable, but full elimination is another bad idea?

Jared Walczak [\(08:38\)](#):

It seems to me like there is some reticence in North Dakota for some people to say, "This is a really bad idea," that they didn't want to be tied with protecting and defending the property tax, even though I'm sure they knew that repeal wasn't possible. But there was certainly enough of a message out there that this is fiscally imbalanced, that this isn't going to work. I think voters understood that, and probably there was an expectation in the state that this could not pass. If it can't pass in North Dakota, it's probably not going to pass anywhere else either. I'm not so worried about a contagion of other states really trying to repeal their property tax in a serious way in the next couple of years.

[\(09:14\)](#):

I am concerned about ways to curtail it that shift to far less economically efficient taxes. You have tax swaps that aren't going to work very well and may in fact result in higher overall tax burdens or shift who's paying those taxes, or change the incentive structure to shift burdens onto new homeowners or different classes of property. I think that's realistic. I think we've seen in states like Wyoming and Nebraska that there's a real interest among a decent number of legislators, and in Nebraska, the

governor, in a change, I think a very detrimental change in property taxation. Not as elimination, but still something pretty radical.

Nikki Dobay ([09:52](#)):

Yeah, I think these conversations about property tax, what always worries me is what you noted, is taking away the local aspect of the funding, because if you tie it to most other things, you're just going to lose a lot of that. And as you well know, the property tax does what it's supposed to do when home values go up. Now there are relief mechanisms that you also talk to legislators about, and so hopefully they will start listening to, more, listening more to your advice and making some of those types of tweaks as opposed to these radical proposals that you're talking about.

([10:29](#)):

All right, so that was North Dakota. I think you were also following something in South Dakota. Catch us up there.

Jared Walczak ([10:35](#)):

Yeah. Well, another example of ballot measures sometimes not doing exactly what it says on the label... We saw this to some degree in Oregon, where I think that those who drafted it didn't quite know what it did. In South Dakota there was a measure that seems pretty straightforward. It's to exempt groceries from the sales tax. I actually think that's bad policy, but I also admit I'm on the losing side of this in a lot of places.

Nikki Dobay ([10:57](#)):

I'm with you on this one.

Jared Walczak ([11:00](#)):

Okay. Most states have exempted groceries from the sales tax. It's not the progressive move that a lot of people think it is because most groceries are already exempt for SNAP and WIC purchases. Again, there's some complexity, and we've written about this, but this is not an uncommon thing. Lots of states do it. They do it by legislation. There's the substantial changes to the code to define what groceries are and exempt them, and when you do it at the ballot, there's no definitions, or at least there's practically no definitions. It's basically just things for human consumption.

Nikki Dobay ([11:30](#)):

I know. I loved that one when I read it.

Jared Walczak ([11:32](#)):

And then people have to ask, "Well, is tobacco for human consumption?" It specifically exempted alcohol, so alcohol wasn't going to be part of it, but tobacco products. Do we have to make distinctions, like do you consume some types of tobacco products and not consume others? And I think that probably contributed to the pretty robust rejection. 70% of the voters said no to this thing, and part of that probably is no one knew what it did. And that's a problem. You don't want to leave this to the regulatory agencies. You don't want to know, is this going to cost twice as much as perhaps we anticipated it would cost?

([12:11](#)):

I hope that South Dakota voters would recognize in the future if it came to this that, hey, we forego a lot of the major taxes. We don't have an individual income tax, we don't have corporate income tax, the sales taxes are bread and butter, and therefore we actually have to tax the bread and the butter. We actually have to tax these things for it to work. I don't know if that's how they were voting, or if they were voting more on the just inherent design flaws of this, but it is interesting that they pretty overwhelmingly rejected something that is perceived to be very popular.

Nikki Dobay ([12:43](#)):

Yeah, I agree. I was a little surprised to see this one, again with the overwhelming rejection of it. And you're spot on. It's like, you read this, and anything sold for human consumption is so broad. If you're the taxing agency trying to administer this, you're in a really difficult position because you've got to make calls about things that are going to impact people at the grocery store, which we already know people are feeling impacts there. But I'm with you. I've always thought food should be taxed. There's other ways to address the regressivity of the sales tax in that concept, but good to see the voters of South Dakota, I think, getting that one right.

([13:25](#)):

So where are we going next? How about Illinois? I loved their advisory question. I just love that they get to ask their citizens questions, and then nothing can happen. So what happened in Illinois?

Jared Walczak ([13:40](#)):

Yeah, this is like an Illinois and Washington thing. Washington voters can actually sometimes go back and try to repeal a statute, and they had some things like that on the ballot. But Illinois and Washington, maybe a couple of other states, can just ask questions, and it's like a state-sponsored poll at the elections. And this year the question was, should we have a millionaire's tax, basically one additional income tax rate, an additional 3% on high earners? And voters said yes. What's interesting here is that they said no in a real question, not advisory, but actually being asked on a constitutional question a few years ago, do you want to create a graduated rate income tax and create that authority? Because the constitution currently requires it to be a single rate. And they pretty resoundingly said no.

([14:26](#)):

I don't think much has actually changed since then. I think there's two differences here. One, no one's putting money behind an advisory question, so there's less thought by voters in, "What's the consequence of this?" But two, more importantly, when you change the constitution to say you can have a graduated rate income tax, and you're in Illinois, you think, "Hey, you know what? It's not just going to be those millionaires. It's going to be me too." There's going to be a lot of rates. And this one, the question was just what do you think about taxing those millionaires more, and that apparently polled differently.

([14:59](#)):

Now I think that's still a pretty bad idea because pass-through businesses pay this tax and they already have a surcharge. They're paying an additional tax above and beyond the standard rates, so this would've gotten them up to 9.45%. That's really high for your significant base of employers in the state. But there does seem to be this distinction that voters are definitely more comfortable with saying some specified number of higher earners are going to pay a higher tax than they are just handing the keys over to lawmakers in Springfield and saying, "Do whatever you want with the income tax." They seem to be pretty uncomfortable with the potential consequences of that.

Nikki Dobay ([15:37](#)):

Well, and what is also interesting about this is they're supportive of this, so there was more yeses than nos, so that you're saying, "Yes, you should amend the state constitution," but in order for that to happen, they're going to have to vote again. So I think we'll see if that issue actually comes up and we see what voters do when they're actually changing the constitution and putting this thing in place. And as you've said, we've seen this in other states, and it leads to a whole host of other issues and is pretty bad policy as well.

([16:11](#)):

Let's move over to Washington because they had a couple interesting initiatives, and would love to get your thoughts on that. So two initiatives, 2109, this would have repealed Washington's capital gains tax. This has only been in effect for a few years. There was a lot of litigation as to whether or not it was constitutional. The constitutionality of it was upheld. Initially going into this, I thought this had a shot of passing. It did fail by over 60% because I felt like there was a message in Washington that this was a slippery slope to a general income tax, and that seems to have legs and resonate with Washington voters. But any surprises here of this failing from your perspective?

Jared Walczak ([16:57](#)):

I wouldn't say a surprise necessarily, but you're absolutely right that voters do seem to be concerned about losing their status as a state that doesn't have a wage income tax, and that Supreme Court ruling very much opened the door for this. The constitution doesn't outright prohibit income taxes, but functionally makes it impossible to impose an income tax. Essentially the Supreme Court ruled that this is more of a privilege tax. It's on the privilege of earning income, capital gains income, denominated in your capital gains income, and the same logic, of course, applies to the privilege having a job or earning income in other ways. There's no real distinction. Using this logic, legislators could, I would think, adopt the wage income tax even though the constitution would appear to prohibit one.

([17:42](#)):

Now if voters had reversed this tax, that wouldn't have changed the logic that the court gave. Legislators could still come back and do something else, but it might've sent a message that they really don't want to go down this path. They didn't do that. They kept the capital gains income tax. I do think it's unconstitutional, though I am aware, obviously, that when the Supreme Court says otherwise, that's the constitution as it is in effect. But it's going to be interesting to see what lawmakers do because we're already seeing discussions about lowering the threshold, so more capital gains, not just those of the higher earners, are subject to tax. And then the next question is what about local income taxes? What about a state wage income tax? That's where I think the conversation gets way more interesting, and voters are likely to get way more potentially upset. But even just with this tax, they've missed their estimates dramatically. One person, like Jeff Bezos leaving the state cost them hundreds of millions of dollars in revenue, and that's a really volatile tax that you probably don't want to hang your hat on, but that's to some degree what they're doing.

Nikki Dobay ([18:41](#)):

Yeah. And I guess that, to me, was why I thought this had a chance of passing to send that clear message that Washington is just going to stand strong and they're not going to tolerate income taxes. Because I do think the court's ruling with respect to this tax really does open the door and, exactly to your point, they can lower the thresholds of when this kicks in, they can raise the rates. This is high. This is, I think, 7, 7.5% on capital gains. That's a big number. I know living in between Oregon and Washington, there's a lot of folks that like to go to Washington if they're going to have an event where they may have some

capital gains, and it just doesn't pencil out anymore. So we'll see if there's further tweaks to the capital gains tax.

[\(19:29\)](#):

The other one, there was a cap-and-trade that went into effect a few years ago. That initiative, 2117, this also failed. That would've repealed that. I know that's just been a challenge for businesses when it comes to implementation. Any thoughts on that one?

Jared Walczak [\(19:46\)](#):

Not a lot. I'm not surprised that it didn't change. I would just say that in the states that have cap-and-trade systems, like Washington and California, you sometimes have lawmakers complain, "Why are gas prices so much higher in our state? Why are these costs higher?" And sometimes you even see... In California the governor sort of challenged the oil companies and the service stations, "Why are you charging more in my state?" It's like, maybe because you have a cap-and-trade system? Maybe because you have driven the cost up. I don't actually have a strong opinion. Maybe this is good policy. Maybe this is the right thing to do to price in that carbon, all of that, but the whole point of it is that it's going to drive up some of the prices. And then there's this reaction like, "How could it possibly have done that?"

Nikki Dobay [\(20:28\)](#):

Yeah. This has been one that's been a little bit of a trap for the unwary of folks not realizing that they may be impacted by it and it catches them off guard. And from my... I'm with you. It's like, this is an area where I've done some work in it, but I don't have any strong, "This is good policy," "This is bad policy." What I think is bad is doing it at the state level as opposed to a national level because we get this patchwork. And to your point, yes, that means these prices are going to be higher in states that adopt this. But again, that's your policy. You've put this in place to impact that.

[\(21:02\)](#):

And the last one out of Washington that failed was an opt-out for payroll tax purposes. That was 2124. That one didn't surprise me too much, but yeah, that's another failure there.

Jared Walczak [\(21:15\)](#):

Yeah, and it's a strange one because you have this new payroll tax to pay for long-term care and you could have different opinions on whether you should have that program at the state level, whether it should be funded by a payroll tax, but this basically just let people opt out. And as I read it, you could potentially opt out for a long time, and then as long as you opted back in like 10 years before you might need it, you could get the benefits. So it broke the system. It didn't eliminate the system. It just broke it. And I understand voters saying, "That seems like a really irresponsible way to approach this." I probably wouldn't have approached it that way. Even if one thought this was a bad system, it seems like you either repeal it or you keep it. You don't break it. But that's what voters were given the choice of.

Nikki Dobay [\(21:58\)](#):

Yeah. We're seeing some of the Western states add these types of payroll taxes for long-term care, leave, things like that, and it is complicating the system. It also is an additional taxes coming out of employees' and employers' pockets, and folks don't necessarily love that when they don't know if they're going to receive these benefits, if at all. But again, these are policy choices that are being made. We see the voters here, though, rejecting it, to your point, of it would break the system.

[\(22:30\)](#):

The last one that I had been following was San Francisco, Measure M. This did pass by a pretty significant margin, it appears, and this is going to make some pretty big tweaks to the San Francisco taxing system, their gross receipts tax and some of their other rates and surcharges. Not surprising this is going to shift the burden to more out-of-state, I'm sorry, out-of-jurisdiction businesses, but again, there there's a lot of little changes there that I think are going to have some significant impacts, though, for folks.

Jared Walczak ([23:04](#)):

Yeah. To me, Measure M seems like a mixed bag. It was endorsed by a decent amount of the business community. It didn't have significant opposition, so unsurprisingly it passed pretty overwhelmingly. There was an effort to reduce tax burdens on smaller businesses and on more local businesses, to take a lot of the restaurants out of compliance challenges, the hotels, the sort of local operations and, like you said, shift more of the burdens to larger and particularly multi-state, multinational businesses.

([23:36](#)):

This is a gross receipts tax, but it's always been a very peculiar one. It has a payroll component to a gross receipts tax, which seems a little inherently contradictory. So they're taking that out and going to a pure gross receipts tax. And gross receipts taxes are bad. This is not how you want to fund government. If you're going to be taxing businesses on some source of revenue, you'd like it to be profits, the net, not the gross. But they were already at gross, and it just had this weird payroll element to it, which of course discouraged companies from locating employees in San Francisco. So it's unsurprising that local officials and voters said, "Well, that seems like a perverse incentive," and made these changes.

([24:17](#)):

Like I said, a mixed bag. The replacement is not good, but the existing system was also very flawed. For now, it's actually a tax cut. In the out years, it will become a tax increase, and that's potentially going to create some problems a few years from now when there's a pretty substantial tax increase.

Nikki Dobay ([24:34](#)):

Well, I think the other thing that's interesting about San Francisco is we'll see how long these changes stick because this thing changes, it seems to me, every couple years, and so we'll see how long these changes are around. But I think you're right. I think it was trying to make this more business-friendly for the locals.

([24:53](#)):

Jared, before we get to the fun part, the surprise non-tax question, any other initiatives out there that you want to mention, took you by surprise, or maybe we don't have results for yet? This is just a flavor. There are a whole host of other initiatives that were out there and that voters voted on this session.

Jared Walczak ([25:14](#)):

Yeah. I wouldn't say anything else took me by surprise. The other measure that I would highlight was Georgia. I think it was Amendment A, which created authority for what they called a local homestead exemption. In fact, some call it a floating homestead exemption. If you squint, it actually looks a lot like an assessment limit. It's not really a homestead exemption. It would be capping a parcels increase in assessed value for tax purposes. It's designed differently than maybe some of the assessment limits you see in other states, but it would have many of the similar effects.

([25:45](#)):

It's kind of like California Prop 13 or some of the others out there. It's just very peculiarly designed. I need to spend more time understanding exactly how it's going to vary from some of those others, but it would seem to have that lock, in effect. It would seem to shift burdens to newer homeowners, new construction. Yeah, it seems like the wrong direction for a state to take if they're trying to solve housing affordability in the long run, rather than just providing relief for a select set of current homeowners. So I'm not surprising that that's happening, but probably not a good development for Georgia.

Nikki Dobay ([26:20](#)):

Yeah. I think this all goes to this trend of as home values go up, this is when we see these types of... Generally value caps come in in some way, shape, or form, and they just have really distortive effects. I can say from living in Oregon where we have Measure 50, which is our version of Prop 13, it has all sorts of consequences that people just don't really realize when they... They think, "Oh, a cap, that's a great idea," and there's just a ripple effect that can really move things in the wrong direction.

([26:55](#)):

Well, Jared, thank you for catching us up on the big ones, and we're glad to see some of those fail, for sure, particularly Oregon. Before I let you go, it's a bit of a weird day, so I was having a little bit of trouble coming up with a really fun surprise non-tax question. I thought, "I know Jared likes to travel, and maybe he's going to get a little time off." Maybe you'll be in Nashville next week for NCSL. Not sure. But do you have any time off before we get back into the craziness of the legislative sessions? And if so, are you going to get to do something fun or go somewhere fun? We're headed to Cabo for two weeks, which I'm very excited about. It's kind of our first proper vacation in a few years, so looking forward to having some tacos on Thanksgiving and a mezcalita. So for you, anything fun before the end of the year and the craziness starts all over again?

Jared Walczak ([27:52](#)):

Well, I hope so, but I'm not entirely sure. I was trying to add it up recently, and I think I've been in 30 cities since July for work and it just is still piling up. I've been married for about a year, and my wife and I have been talking about going to Europe this year. We haven't found the time in our schedules to make that work, but after Christmas, maybe there's a window. We haven't booked yet because we haven't been sure there's a window, but maybe we'll find a way. I would love to have some travel that isn't just in for a conference, in for legislative testimony, and then rushing to the next city, but we will see.

Nikki Dobay ([28:24](#)):

All right. Well, good luck with that. I hope on the next podcast you can report back that you've gone to Europe and it was amazing. Thank you again for this discussion, this very timely discussion, and thank you for the listeners for listening. We'll be sending out more analysis on some of these impactful ballot initiatives. And always check out the Tax Foundation's website. They've got a ton of great information. So thanks again for listening, and I'll be with you again on the next GetTin' SALTy.