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Obamacare allies eye ballot initiatives

By: Kyle Cheney and Jason Millman – May 19, 2013

Obamacare backers stymied by conservative legislatures in red states may have a new approach: letting the voters break logjams with state ballot initiatives in 2014.

Frustrated by conservative opposition to extending Medicaid even in states where Republican governors have embraced it, the president's allies are strategizing about asking voters to do what their elected leaders have not: accept billions of federal dollars to cover millions of poor people under Obamacare.

Putting anything as volatile as President Barack Obama's health law on the 2014 ballot is risky — more so if the rollout of the law is rocky next year, less so if people start seeing tangible benefits. The health law, after all, was a big reason the Republicans captured the House and made gains in the Senate in the last midterms, in 2010. And ballot initiatives could stoke emotions and affect turnout in unpredictable ways in the 2014 midterms, when the health law is still likely to be a raw political issue.

“If Obamacare is on the ballot, people will line up to vote against it again,” said Bowen Greenwood, executive director of the Montana Republican Party. “Historically, it's always a major turnout driver for us.”

Nevertheless, local groups in Montana and Ohio that back the law say they've begun mobilizing for 2014. Florida stakeholders say a ballot initiative is “on the table” if a bitter standoff continues there. And there's some early-ballot talk among stakeholders and lawmakers in Arizona, too.

“I'm for it however we can get it,” Ohio Gov. John Kasich told reporters after a pro-Medicaid expansion rally this month when asked whether he'd support a ballot initiative measure if his Legislature continued to balk.

Advocates in many stalemated states — from Michigan to Missouri — say they're not quite ready to commit to a ballot push, hoping lawmakers and governors can still strike an expansion deal in the next few months, even if that requires governors to convene special sessions. But they aren't ruling out the direct-to-the-voter option.

After all, the other side did it first. The health law's critics used voter initiatives effectively to mobilize and motivate voters since the law was enacted in 2010. Some of those state ballot wins were symbolic, like saying a state didn't have to recognize the individual mandate or declaring that state officials couldn't cooperate with the feds.

Others, like a Missouri measure that blocked the Democratic governor from creating an insurance exchange unilaterally, crushed key elements of state implementation.

The advocates say Obamacare, as a whole, may still be unpopular, but many of its components — including the Medicaid piece — poll extremely well. Plus, the federal government is paying the Medicaid bill for the first three years, and even in the out years it will pay 90 percent. That's a good deal, Medicaid champions say, and if the legislatures won't take it, the voters should overrule them.

"If you're an opponent of Obamacare, opposing free money is not a place to make your stand," said Ethan Rome, executive director of Health Care for America Now.

In addition, proponents of expansion would have a natural and powerful alliance. Every state already features a ready-made, deep-pocketed coalition of hospitals, labor unions, insurers, public health advocates and even local chambers of commerce that support expansion.

"I would say [a ballot] is an idea and an option that ought to be considered in every state where they are finding this blockage," said John McDonough, who in 2006 led a coalition of Massachusetts advocates in support of a ballot measure that got skittish state lawmakers moving on the health care bill that ultimately became "Romneycare." A former aide to Sen. Edward Kennedy, he's now at the Harvard School of Public Health.

Some of the Medicaid proponents hope that the prospect of a ballot initiative could spur stalemated legislatures to grind out a compromise. But if not, they'll look to actually getting it on the ballot.

"Absent leadership there, we would have to support letting voters decide," said a spokesman for Sen. Bill Nelson (D-Fla.), days after Medicaid expansion talks in his state's Legislature collapsed and lawmakers adjourned for the year. Nelson and other Democrats want Gov. Rick Scott to call a special session to revisit Medicaid expansion, but Scott hasn't shown any interest.

Jose Suarez, a spokesman for Florida's chapter of Service Employees International Union 1199, said activists would consider several options but a ballot initiative is "something you can't take off the table."

Families USA, a key supporter of the president's health law, still prefers that state lawmakers find a way of moving ahead. But Executive Director Ron Pollack said if interest groups do mobilize behind ballot efforts, Families would lend its support.

"We are not, at this juncture, promoting it," he said. "But if this becomes a more significant discussion item among colleagues and allies, we will participate."

Some other big national backers of Medicaid see it as a possible route to victory. "I stand behind those across the country who are pushing back against state legislatures or governors opposing the Medicaid expansion," Sen. Jay Rockefeller (D-W.Va.) said in a statement to POLITICO about these early-ballot efforts.

The ballot process has limits. According to the National Conference of State Legislatures, more than half the states don't allow citizen-initiated ballot measures, and that includes states such as Wisconsin, Pennsylvania and Texas, where Medicaid expansion would cover large numbers of low-income, uninsured people.

Timing is another drawback. Most ballot measures would face the voters late next year, which means expansion couldn't start until 2015 at the earliest and states would miss out on the first year of full federal funding.

Of course, losing at the polls is always a possibility — and that could also affect other House and Senate races in 2014.

“In a referendum, expansion opponents may not have as much money. But they would have lots of assets, including more grass-roots support, greater intensity, the ability to frame the issue as a tax increase to implement Obamacare,” said Michael Cannon, health policy director at the libertarian Cato Institute, which opposes the health law.

Ben Domenech, research fellow at the Heartland Institute, also said governors could have a rude awakening if they go the referenda route. “While Medicaid expansion may poll well in some states and I expect the providers to spend big bucks trying to get more taxpayer dollars flowing their way, that's only because citizens have yet to learn the truth about the costs and defects of the expansion approach,” he said in an email. “Politicians may think in the short term of election cycles — citizens don't.”

But that's not how some of the advocates see it in their states. Ohio-based advocate John Begala, whose Center for Community Solutions first floated the notion of a ballot push in that state, said, “There is a very broad coalition of organizations supporting expansion of health care benefits under the Affordable Care Act in Ohio.”

Talk of a Montana ballot initiative started swirling near the end of the legislative session, when Democrats failed by one vote — mistakenly cast by one of their own — to push through expansion legislation. Montana's Legislature isn't due back until 2015.

Montana state Sen. David Wanzonried, who led the failed legislative push, says he has “no doubt” expansion backers can round up support for the ballot initiative. And Stephanie Larsen of the Center for Rural Affairs said measures tend to pass in Montana once they get on the ballot.

But not all state advocates are ready to move on ballot efforts yet. Medicaid supporters in Tennessee, Louisiana and Oklahoma — all conservative states with strong opposition to the health law — say they just aren't ready to take it to the voters.

In Arizona, Gov. Jan Brewer — another GOP supporter of expansion — said through spokesman Matthew Benson that a ballot measure shouldn't be necessary. Brewer's Medicaid plan passed the state Senate on Thursday, but it faces a tough battle in the House.

“Gov. Brewer believes legislators were elected to make the tough decisions, so she opposes punting the Medicaid question to the ballot,” Benson said.

But state House Speaker Andy Tobin has suggested that Republican leaders opposed to the expansion may take the issue to the voters — if only to break the stalemate that's keeping the state lawmakers from getting much else done.

Pollack, of Families USA, said ballot measures might turn out to be moot. He expects more governors and legislatures will warm to expansion as the political calendar flips closer to 2014 and primary matchups materialize.

“There are a number of governors and state legislators who are silently inclined to move forward with the Medicaid expansion but won't do so until it's clearer who their primary opposition is going to be,” he said. “The major political concern that they have is that if they supported this now that that might make it more likely that they'll have a far right-winger oppose them in the primaries.”