IN THE WEEDS

The Pot Experiment Turns 1

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Teacher Training
Gas Taxes
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"Congress hasn’t been very productive, but that’s just not the case in the states."
—NCSL’s Max Behlke in a CQ Roll Call article, States Six Times More Productive Than Congress.

"Voter ID is a perennial question. Working with biometrics is a relatively new idea."
—NCSL’s Wendy Underhill on a New Mexico proposal to study using technology, such as retinal scans, to identify voters, in the Associated Press.

“How do you write a policy that covers every situation? That is where states are struggling.”
—Peggy Kerns, Director of the NCSL Center for Ethics in Government, in the Columbus Dispatch, regarding “the very gray area” of personal social-media pages.

U.S. Senator Tom Udall (D) of New Mexico, left, celebrates with Senator John Pinto (D) on his 90th birthday during the NCSL Forum in Washington, D.C. Pinto is the longest serving state senator in New Mexico, and one of a few surviving Navajo code talkers.

Louisiana Representative Julie Stokes (R) catches up with James Cox of the American Institute of CPAs at NCSL’s Executive Committee meeting in January.

Massachusetts Representative Jay Kaufman (D), left, popped in to visit his friend, Hawaii Senator Les Ihara, Jr. (D), on the opening day of Hawaii’s legislative session Jan. 21. They first met at an NCSL meeting on citizen engagement, a shared interest.

NCSL Staff Vice Chair Karl Aro of Maryland (left), along with NCSL Executive Director Bill Pound (right), listen to NCSL Vice President and Iowa Senate Majority Leader Mike Gronstal (R) during policy discussions at NCSL’s Executive Committee meeting in January.
Defending Against Breaches

It's not if, but when.

With the enormous amount of personal data Americans are sharing online and businesses are amassing, experts agree that it's just a matter of time before hackers and cyber thieves get their hands on all that treasure.

Legislatures have worked to protect citizens by passing laws that require businesses with computerized personal information to notify customers if that information is leaked or accessed without authorization. The laws also allow consumers to monitor their records or close their credit card accounts to protect themselves against theft and fraud. Many credit these data breach laws with prompting better security practices among businesses—such as encryption, which makes documents unreadable except to the intended recipient.

Still, data intrusions continue. The credit reporting agency Experian predicts thieves will be focusing more on usernames and passwords stored in the cloud this year, as well as patients' confidential health information.

This increased vulnerability has lawmakers searching for ways to improve upon the laws already on the books to make them more effective. California expanded its law requiring reasonable security practices to include businesses that maintain—not just own or license—personal information. Kansas, Louisiana, West Virginia and Wyoming expanded notification requirements to educational institutions. Florida amended its law to include notification of medical and insurance information breaches and to require businesses to notify consumers within 30 days. (Most states simply require notification in the “most expeditious time possible and without unreasonable delay.”) And South Carolina now requires state agencies to report breaches to the Division of State Technology along with developing security plans.

As awareness and security practices improve, so do the skills of those determined to break into systems and steal confidential data. Businesses and governments will have to run fast to stay ahead of them.

— Pam Greenberg, NCSL

A “Data Security Breach” is the potential or actual unauthorized access to or acquisition of sensitive, protected or confidential personal information, such as names with Social Security or driver’s license numbers, or credit card numbers with access codes.

A BUNCH OF BREACH LAWS

States vary in who they require businesses to notify when breaches occur.

- Customers when personal electronic information is breached
- Patients when medical information is breached
- Attorneys general or another state entity after a breach
- Customers after breaches of paper records, in addition to computerized records

Source: Verizon, 2014 Data Breach Investigations Report

Note: Twenty-nine states also require government entities to notify people when a breach occurs, and at least 31 states require businesses or government to destroy, dispose of, or otherwise make all personal information—electronic and paper—unreadable or undecipherable.

Source: NCSL, January 2015

Note: Web applications are browser-based programs in which all or some parts of the software are downloaded from the Internet each time the program runs. Point of Sale devices are software applications used for retail sales.

Source: Verizon, 2014 Data Breach Investigations Report

A TOP 10 INFORMATION MOST OFTEN STOLEN

- Real Names
- Birth Dates
- Social Security Numbers
- Home Addresses
- Medical Records
- Phone Numbers
- Financial Information
- Email Addresses
- Usernames and Passwords
- Insurance Policy Numbers

Source: Symantec

HOW DO THEY DO IT?

At least 90 percent of all breaches can be attributed to one of these methods.

- Point of Sale Intrusions
- Web Application Attacks
- Insider Misuse
- Physical Theft or Loss
- Miscellaneous Errors
- Crimeware
- Card Skimmers
- Denial of Service Attacks
- Cyber Espionage
- Other

Source: Verizon, 2014 Data Breach Investigations Report

Note: Web applications are browser-based programs in which all or some parts of the software are downloaded from the Internet each time the program runs. Point of Sale devices are software applications used for retail sales.
“Our society has evolved to a point where people aren’t looking at gender as much as they used to. There’s not as much of a glass ceiling.”

Oregon Senate President Pro Tem Ginny Burdick (D) on how women hold half the leadership positions in the state House and Senate, in the Statesman Journal.

“It’s more important to save a life than to be able to charge someone with a drug offense.”

North Dakota plastic surgeon and Representative Rick Becker (R) in The Washington Times, supporting a proposal to grant immunity to those who seek medical help for someone who overdoses.

**Rebecca Lockhart (R), the first female speaker of the Utah House of Representatives, died** in January of a rare and fatal neurodegenerative brain disease 12 days after her diagnosis. She was 46. Lockhart was remembered as a remarkable role model and a stateswoman who was tireless, inclusive and compassionate. “Utah is a better place because Becky Lockhart served here and contributed so much to all of us,” Governor Gary Herbert said during a memorial at the State Capitol, with more than 1,000 people in attendance. Lockhart, a nurse, was first elected to the Legislature in 1998. Then, in 2010, as assistant majority whip, she made history when she challenged Speaker Dave Clark and won by a single vote. She served as speaker until the end of her term in 2014. She did not seek re-election in November. Lockhart’s successor, House Speaker Greg Hughes (R), paid tribute to her at the opening ceremony of the House. Hughes presented her family with a copy of her official portrait that hung in the Capitol during her term as speaker and a painting of the Capitol. Lockhart was active in NCSL’s Women’s Legislative Network and leaders’ meetings. NCSL will dedicate its 2015 Symposium for Women Legislative Leaders in her honor.

**Texas Representative Joe Straus (R) won easy re-election** to his fourth term as speaker, surviving a rare challenge vote from a small group of dissident Republicans who claimed he was not conservative enough. He defeated Scott Turner, a tea-party-backed, second term lawmaker on a roll-call vote, the first such formal vote for speaker in 40 years. Straus won 127-19.
Tennessee lawmakers returned their two top leaders to their posts. Lt. Governor Ron Ramsey (R) and Speaker Beth Harwell (R) were overwhelmingly re-elected to their posts. Ramsey, who served two terms in the House and was elected to the Senate in 1996, became lieutenant governor and speaker of the Senate in 2007. He is the longest serving Republican lieutenant governor in Tennessee history. Harwell is Tennessee’s first woman speaker. Elected to the House in 1988, she became speaker in 2011.

New York Representative Carl Heastie (D) clinched the votes to become New York’s speaker of the Assembly days after former Speaker Sheldon Silver (D) stepped down from the post he held for 21 years amid federal corruption charges. Silver denies any wrongdoing. Heastie was first elected to the Assembly in 2000. Before that he served as a budget analyst in the New York City Comptroller’s office. He is the first African American to serve as speaker of the Assembly.

Six years ago, Massachusetts Speaker Robert DeLeo (D) imposed term limits on the office of the speaker, saying they were good for ethical government. In January, the House voted overwhelmingly to abolish them. Without the vote, DeLeo’s speakership would have ended in January 2017. He said he had “evolved” on the question of term limits and that a strong leader with solid track record was good for the House. It’s not the first time the House has imposed term limits. Representative George Keverian (D), won the speakership in 1985 on a platform of rules reform that included term limits. In 2001, House Speaker Thomas Finneran (D), dumped them and was dubbed “speaker for life.” Both Finneran and the next speaker, Salvatore DiMasi (D), resigned amid scandals, so DeLeo reinstated the eight-year limit—for a while.

New Hampshire Representative Fred Rice (R) in The Boston Globe, on how permitting concealed weapons in the House allows members to exercise their Second Amendment rights no differently than they do in their daily lives.

“We’re not talking about the Wild West.”

Indiana Representative Dave Ober (R), on his bill to eliminate straight party-line voting, in the Indianapolis Star Tribune.

“We don’t put donkeys and elephants on our signs anymore.”

Alabama House Speaker Mike Hubbard (R) easily sailed to his third term as speaker on a roll call vote of 99-6, despite being indicted on 23 charges of using his office for personal gain. Hubbard, a media executive, became the first Republican speaker since Reconstruction when the Republicans took control of the House after the 2010 election. He wrote a book about the experience, entitled “Storming the State House: The Campaign That Liberated Alabama from 136 Years of Democrat Rule.” Representative Micky Hammon (R) nominated Hubbard for speaker, saying, “He is a man of honor, integrity and honesty. There is no one that I respect more than Mike Hubbard.” In seconding the nomination, Representative Mike Hill (R) said Hubbard had done “a fantastic job being as honest and truthful as anybody can possibly be, regardless of which side you’re on.” Hubbard has pleaded not guilty.
Cheap Gas Fuels Tax Talk

With gasoline prices at the lowest this country has seen since mid-2008, raising taxes on gas and diesel fuel has become a hot topic not only in Congress, but also in statehouses. As of Feb. 6, lawmakers in at least 12 states had proposed increases in motor fuel taxes, either by setting a new fixed amount or by indexing it to inflation.

According to state highway departments, many roads, highways and bridges are deteriorating, and new ones are not being built, due to a lack of funding. Some lawmakers believe now is a good time to reduce the growing gap between infrastructure needs and declining revenues.

For months, states have been uncertain about the future of federal transportation funding. Groups like AAA, the U.S. Chamber of Commerce and the American Trucking Association support increasing what they call the federal fuels user fee “to provide a reliable revenue stream to support jobs, address maintenance needs and provide Americans with a safe and efficient transportation system.” It hasn’t increased since 1993.

Even if Congress finds a way to pass a long-term bill, more responsibility for paying for transportation likely will fall on states, so lawmakers are showing a greater willingness to take a look at state gas taxes.

But it’s still a hard sell to the public. In a HuffPost/YouGov poll conducted in January, 55 percent of the respondents opposed a proposal to raise the federal gas tax by 12 cents over the next two years and link further hikes to inflation. Only 25 percent approved the increase, while 20 percent were unsure.

Opposition to gas tax hikes comes from groups like Americans for Prosperity, the Club for Growth and the Cato Institute, who argue tax hikes would do nothing to solve the greatest transportation challenge facing the country: congestion. They don’t buy the idea that the roads and bridges are crumbling and argue that the problem is not a lack of funding, but government’s penchant for overspending.

“Rather than raise gas taxes,” writes the Cato Institute’s Randal O’Toole, in a commentary called 5 Reasons Not to Raise the Gas Tax, “Congress should take steps toward implementing a new user fee system that preserves privacy, ends congestion and eliminates highway subsidies.”

Despite the opposition, in 2013, six states and the District of Columbia enacted legislation that allows the possibility of increasing state gas taxes. In 2014, three more followed suit. For example, Virginia replaced its per-gallon gas tax with an innovative hybrid gas tax, which included a new wholesale tax on gasoline and increased the portion of the general sales tax dedicated to transportation by 0.475 percent. Rhode Island tied its tax to inflation. Wyoming raised the total tax on gasoline and diesel by 10 cents, from 14 cents per gallon to 24 cents per gallon.

Whether or not Congress makes changes to the federal gas tax, this issue is sure to ignite in more statehouses this year. — Kevin Pula

Gas Tax Increases and Proposed Increases

No state approved an increase in the gas tax in 2010, 2011 or 2012, compared to the 20 states that have or are considering doing so since 2012.

- Enacted indexed tax in 2013 or 2014
- Enacted fixed per-gallon tax in 2013
- Considering fixed per-gallon tax in 2015
- Considering indexed tax in 2015

* Note: In Massachusetts, legislation in 2013 included an indexing mechanism, but voters overturned it in November.

Source: NCSL
More Elderly Go Hungry

The percentage of older Americans facing the threat of hunger is rising, according to a 2014 report by the National Foundation to End Senior Hunger. Of Americans age 60 and older, 15.3 percent, or 9.3 million, are “food insecure,” without safe, affordable food available to them at all times.

Seniors who don’t eat well, or don’t eat enough, are 60 percent more likely to develop depression, 53 percent more likely to report heart attacks, 40 percent more likely to report congestive heart failure and 200 percent more likely to develop asthma, according to the foundation. Food insecure seniors also experience decreased resistance to infections and lengthened hospital stays.

For older Americans with chronic diseases, food can make a huge difference in their health. In general, seniors who eat well respond better to medication, maintain and gain strength faster and have higher rates of recovering and maintaining their health. Often, patients are required to take food with their medications. Access to proper nutrition is paramount in the prevention of various illnesses and disabilities, including diabetes, hypertension and heart and lung problems.

Hunger-related health care costs for all Americans total $130.5 billion each year, according to researchers at Brandeis University and the Center for American Progress who compiled statistics from numerous sources.

Seniors often don’t eat well because they lack enough money to pay for all their expenses. In 2012, the median income for men 65 and over was $27,612 and $16,040 for women 65 and over, according to the U.S. Department of Health and Human Services Administration on Aging. Because of the high cost of some medications, it is not uncommon for seniors to have to choose between medications or food.

The U.S. Department of Agriculture offers older Americans several nutrition assistance programs, but lawmakers can help as well. NCSL’s Hunger Partnership suggests the following actions for lawmakers interested in addressing hunger in their senior communities.

• Raise awareness of the problem through media events, district newsletters, websites or resolutions.
• Bring community organizations, food banks, and seniors together to evaluate existing programs.
• Visit local senior centers or food banks to learn more about programs and see how they operate.
• Lead a meeting with state agencies or governors to reach vulnerable seniors in the community.
• Work with local hospitals and health care entities to promote programs aimed at improving seniors’ health.

—Gilberto Mendoza

NCSL’s Hunger Partnership

The NCSL Foundation for State Legislatures launched the Hunger Partnership in 2010 to raise the visibility of hunger in America and improve the availability of healthy food for hungry families. Composed of legislators, legislative staff and public and private-sector partners, the Hunger Partnership has connected lawmakers to several local efforts working in collaboration with farmers’ markets, senior centers, early child care programs, and schools and summer meal programs to find solutions to hunger. Under the leadership of Georgia Senator Renee Unterman (R) and Pennsylvania Representative Dwight Evans (D), the partnership also has advanced program accountability, food waste recovery and federal food assistance programs such as the Special Supplemental Nutrition Program for Women, Infants, and Children. After its successful launch, The Hunger Partnership has left the umbrella of the Foundation and continues its work as an independent project at NCSL.

Learn more about the NCSL Hunger Partnership at www.ncsl.org/hunger.

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**More Elderly Go Hungry**

Very few World War II and Korean War veterans are still in the labor force, and the majority of the Vietnam-era veterans are at or nearing retirement age. But Gulf War veterans—divided between the first Persian Gulf conflict from 1990 to 2000 and the second, from 2001 to the present—are in their prime working years. Here’s a look at some statistics on the second group, whose average age is 31.

19.6 million
U.S. military veterans of all wars

2.1 million
Number who served in Gulf War II (2001 to present)

78%
Portion of male vets employed full time, compared to 75 percent for male civilians

40%
Portion of these male vets who are not working because they are in school

13%
Portion of these vets who are police officers, security guards or firefighters, the largest occupation group. For civilian men, it’s 3 percent.

9%
Portion of Gulf War II vets in management jobs.

Advertising apples as oranges? Such type of misleading advertising occurs with health care services, too. In some states the term “physical therapy” is misrepresented or inappropriately advertised to the public by individuals who are not licensed as physical therapists. This characterization is misleading to the public, illegal in some states, and an issue of public protection for patients who think they are under the care of a licensed physical therapist, but in reality are not.

“Physical therapy” is not a generic term—it describes the care provided by or under the direction of licensed physical therapists. When people seek “physical therapy” they deserve to know their care is in the hands of a licensed physical therapist. Other health care providers might share some of the same treatment techniques or rehabilitative procedures used by physical therapists, but the care should only be described or advertised as “physical therapy” or “physiotherapy” when provided by or under the direction of a licensed physical therapist.

While two health care professions may share common elements, labeling them the same thing is not right—it’s like comparing apples to oranges.

To obtain information about what you can do to ensure your constituents have term protection for “physical therapy” in your state please contact the American Physical Therapy Association State Government Affairs Department at 800/999-2782 ext. 3161.
Energy Financing From the Future

Winter and summer extremes are especially harsh on many Americans—and their energy bills. Increasing energy costs put a crimp on economic development for industry, business and households. Since saving energy can help Americans save money and promote job growth, legislatures are exploring ways to improve energy efficiency and put money in consumers’ pockets.

Improving energy efficiency offers a range of benefits to consumers and states, including lower energy bills, lower air emissions, a more productive economy, and the avoided capital costs of having to build new power plants.

In legislative sessions last year, lawmakers in several states enacted more than 100 energy efficiency-related bills, including legislation in 14 states—California, Colorado, Connecticut, Delaware, Florida, Kentucky, Maryland, Minnesota, Mississippi, North Carolina, New Hampshire, New Mexico, Oregon and Vermont—to help finance energy efficient building upgrades and technology enhancements.

The goal of energy efficiency financing is to remove the main barrier to upgrading older buildings: the high up-front costs. The method allows building owners to “pay” for improvements with the future savings promised from the upgrades. Typically, these projects pay for themselves within two to 20 years. This kind of financing may also help to lower loan default rates as well as increase property values.

There is, however, more demand for upgrading the energy efficiency of buildings than the current available financing can supply. State legislatures are helping bridge this gap by seeking other avenues to increase financing opportunities. Some of the common tools they are using or considering using include bonds, loans, energy savings performance contracting and state energy banks.

Several state policies in 2014 focused on increasing consumers’ access to financing while protecting them, along with financial institutions and the state, from financing that is too risky or not cost-effective.

Other state innovations include legislation that:

• Permits small or rural communities in Colorado to combine their energy efficiency projects in order to attract more private financing.
• Allows electric and gas utility customers in Minnesota to pay back the cost of privately financed loans for energy efficiency improvements through their monthly utility bills—called on-bill repayment.
• Streamlines “Property Assessed Clean Energy” financing loans for property owners with existing mortgages in California, New Hampshire and Oregon, allowing owners to pay for the cost of energy efficiency improvements over several years through assessments on their property.

—Jocelyn Durkay
A FEDERAL CASE FOR FOIE

Foie gras, made from the livers of fattened ducks and geese, is back on menus in California. State lawmakers banned the classic French delicacy in 2012, arguing that force-feeding ducks and geese to fatten their livers amounts to cruelty. But in January, a federal judge overturned the ban, agreeing with foie gras producers that California law is preempted by a federal act that gives the U.S. Department of Agriculture jurisdiction over the ingredients allowed in poultry products. California may appeal. In the meantime, California chefs are hailing the decision and piling on the pâté.

RED LIGHT FOR TRAFFIC CAMERAS?

A staunch critic of red light and speed-enforcement cameras has filed a bill to ban them in Iowa. Senator Brad Zaun (R) believes cities use traffic cameras mainly as a revenue source; proponents argue they save lives and reduce crashes. State legislatures are moving in both directions. Massachusetts considered a bill and North Carolina enacted legislation to expand red light camera use last year. While New Jersey recently ended a red light camera pilot program, and a new Ohio law requires a police officer to be present at camera locations before citations can be issued. Ten states ban both red light cameras and speeding cameras. In states that don’t specifically prohibit them, communities can use them, and many claim they improve safety as well as produce some revenue. Since 2012, the number of communities using red light cameras has fallen 13 percent, to 469, while the number of communities that use speeding cameras has inched up, from 115 in 2011 to 137 today.

DON’T MESS WITH TEXAS CUPCAKES

For opening day of Texas’ 84th Legislature, 181 cupcakes were delivered to the Capitol, one for every lawmaker. They were gifts from new Texas Agriculture Commissioner Sid Miller, who had called a press conference to grant cupcakes “full amnesty.” Pundits called it a publicity stunt, since legislation protecting cupcakes is already on the books. In 2004, when childhood obesity was big news in the state, school officials barred a father from delivering birthday pizzas to his child’s class. Lawmakers responded by passing the so-called Safe Cupcake Amendment, guaranteeing parents the right to bring less healthy treats to classrooms—and Capitols.

ON AND OFF WITH GUN BANS

The New Hampshire House will allow concealed weapons in its chambers following a 228-to-149 vote. The action was one of the first taken this session by the new Republican majority. A supporter of the rule change, Representative John Burt (R), told the Boston Globe he’s concerned Capitol police may need help handling threats. The nation’s largest legislative chamber (with 400 members) has had an on-off relationship with gun bans. The first ban in 1970 was lifted in 2006, then was reinstated and now has been lifted again. Also in January, a bill was introduced to allow residents who can legally own a gun to carry it out of sight without having to get a separate concealed-carry license, as they must now. Alaska, Arizona, Arkansas, Wyoming and Vermont allow concealed carry without a license.
THE WEALTH OF A RIVER
Economists at Arizona State University have completed a comprehensive study of the total value of the endangered Colorado River to the economies of the seven states that depend on it. Commissioned by a business coalition called Protect the Flows, researchers examined gross state product, employment and labor income in each state and calculated that, in one year, more than $1.4 trillion in economic activity, $871 billion in wages and 16 million jobs would be lost should the river run dry. Currently, in addition to the 30 million people in the seven basin states, the river supplies water to 15 Native American tribes, seven national wildlife refuges, five national parks and four national recreation areas.

SALARY STARTERS
What’s a fair starting salary for a public school teacher? A Florida senator says it should be $50,000—considerably more than the current $38,000 in his central Florida county. Senator Darren Soto (D) says the state is losing too many good teachers because pay is so low. His bill doesn’t specify a funding source, but it would require the Legislature to put enough money in the state’s school-funding formula to ensure that districts could meet the salary standard and maintain other programs.

CONCERN OVER COYOTE KILLINGS
Two New Mexico legislators are co-sponsoring a bill to outlaw coyote-killing contests that award cash and prizes for killing the most or biggest animals. Senator Mark Moores (R) and Representative Jeff Steinborn (D) call the contests inhumane and unethical. Contest supporters say they help control coyote populations. The bill would not ban ranchers and others from killing coyotes but would make organizing a contest a misdemeanor. Last year, there were at least 20 such contests in New Mexico, wildlife advocates told the Albuquerque Tribune. In 2014, the California Fish and Game Commission banned the contests, which are not uncommon in other states, especially in the West.

ONLINE SALES TAX
Michigan joins at least 17 other states in passing legislation aimed at leveling the playing field among retailers when it comes to collecting sales taxes. The legislation goes into effect Oct. 1 and will require large online retailers to collect and remit the state’s 6 percent sales tax. For decades, “brick and mortar” stores have questioned the fairness of having to collect taxes when remote sellers don’t. Those in favor of a tax-free Internet say it encourages growth and development and argue that the differences in state sales taxes make them just too difficult to collect. In Michigan, as elsewhere, state residents are asked to pay the tax voluntarily through their income tax returns, but few do. The new law is expected to generate $60 million in fiscal year 2016, according to the governor.

SHUTTER STOPPED
Wisconsin senators have banned themselves from taking photos or videos during floor sessions. The new rule, which passed 25-6, is focused on members who snap photos during debates and votes, then post them immediately on Facebook and Twitter. Senators in favor of the crackdown argued that even members of the public who observe floor sessions from the gallery are not allowed to take photos.
By Jennie Drage Bowser

By now we’ve all read about voters’ contradictory behavior in the 2014 elections. Although they overwhelmingly favored conservative candidates at the state and federal levels, they leaned left on several citizen-initiated ballot measures. Voters increased the number of states with GOP majorities in both legislative chambers to 30, the highest number since 1920, while also raising the minimum wage, legalizing recreational marijuana, strengthening gun control laws and rejecting abortion restrictions.

What’s even more remarkable about the recent two-year election cycle was the scarcity of initiatives—only 38 made it onto statewide ballots. That’s quite a drop from 70.2, the average number of ballot measures during the “boom years” between 1987 and 2012. It’s even remarkably lower than 43.7, the all-time average going back to 1904, when voters in Oregon faced the nation’s first initiatives.

The number of initiatives in the 24 states that allow them hasn’t dropped uniformly, but in the three states that have traditionally used the process the most, the number has dropped significantly.

Consider California: In 2006, there were 17 initiatives on the ballot; in 2014, just three. Oregon’s experience is similar. There were 10 initiatives in 2006, but just four in 2014. And in Colorado, initiatives peaked in 2008 at 10, dropping to half that last year.

This decline may be welcomed by some lawmakers and staff involved in the budget process. Initiatives can require quite a scramble to implement and a squeeze to fit into the budget. But a decline in initiatives may also result in even fewer citizens turning out to vote. And that concerns many Americans.

What’s Really Happening?

So why are citizen initiatives, in general, declining? Are lingering traces of the recent recession still making it tough for initiative sponsors to raise the funds necessary to collect signatures and run a campaign? Are regulations making it more difficult to qualify initiatives?

In 2008, when the number of initiatives dropped to 59, from 76 in 2000, it seemed reasonable to hypothesize that the recession was at fault.

The slide in numbers began with the 2007–2008 cycle, which correlates with the financial crisis beginning at the end of 2007. With the economy in the dumps, one could assume interest groups were having trouble raising the money necessary to qualify initiatives for the ballot. It didn’t even seem far-fetched to blame the slow economic recovery in 2010 for only 42 initiatives on general election ballots.

But when that low number repeated itself in November 2012, observers began to wonder if something else was at play. And after the drop last year they are no longer just wondering. They are now asking: Why hasn’t the current revitalization of the economy had an impact on the initiative process?

Data released in November 2014 by the Center for Public Integrity cast further doubt on the idea that the cost of qualifying an initiative and running a campaign had squeezed out all but the wealthiest sponsors.

Campaign spending on statewide ballot measures, according to the center, swelled in 2014—to $196 million. That’s more than double the $87 million spent in 2010. Given that increase, a shortage of cash doesn’t appear to be the cause for the continuing decline in initiatives.

Maybe a recession, by itself, isn’t enough to send the initiative into a bust cycle. In 2007, the country was not only heading into a bad recession, it was also approaching its sixth year of war. Perhaps the boom years simply proved to be unsustainable throughout a major recession combined with more than a decade of war. Instead of looking at the recent low numbers as a sign of a downward trend, perhaps they indicate more of a return to normal.

Are We Asking the Right Question?

The drop in initiatives may be more about politics than economics. “The R vs. D, blue vs. red, in legislative and congressional battles have taken so much attention in the past few elections that people are just not as active on the initiative side,” says Paul Jacob, president of the Liberty Initiative Fund, a national organization based in Virginia that helps citizens qualify initiatives on conservative issues like term limits and government seizure of private property.

Jacob thinks the tight presidential race in 2012 and the fight for control of the U.S. Senate in 2014 simply sucked organizations’ and fundraisers’ time and attention away from initiative campaigns.

Ben Morris, communications and political manager at the Ballot Initiative Strategy Center, has a different perspective. The center, based in Washington, D.C., offers advice to liberal groups. He equates the
decrease in initiatives to the increase in Republican majorities in state legislatures. Conservatives—previously big users of initiatives—haven’t had to turn to the process as often, he says, because they have found more success in legislatures.

“What you’re seeing now is a temporary lull rather than an ongoing trend,” says Morris. “Progressives are just beginning to ramp up their initiative efforts, and I predict you’ll see the number of initiatives bounce back over the next several elections.”

Other Factors at Play

Of course, changes in state laws, along with a wide variety of rules governing the process in the 24 states, influence how many citizen initiatives make it onto ballots as well.

When initiative use was at its highest, between 1988 and 2012, California averaged 12.6 initiatives per election. In 2014, the number was just three. Mark Baldassare, president and CEO of the Public Policy Institute of California, speculated at the time that the passage of Senate Bill 202 in 2011 might have been the reason for the drop.

The bill limited initiatives to general election ballots; before that, it wasn’t uncommon to see them on primary ballots. Baldassare speculated that some groups might have shied away from the 2014 ballot because they support causes that might be more likely to succeed in primaries, when turnout is lower and voters tend to be older and more conservative.

Another law in California might also have an effect on the number of initiatives, although it was never the goal of the legislation, says former Senate President Pro Tem Darrell Steinberg (D), author of the bill.

Senate Bill 1253, which passed in 2014, adds a 30-day public review of initiative proposals, allows proponents to make certain amendments in response to public comment, and requires legislative committees to hold hearings on any initiative that gathers 25 percent of the necessary signatures.

The legislation adds opportunities for public deliberation, debate and compromise into the process—elements critics argue are vital to good policymaking, but missing in the initiative process.

Steinberg says the intent of the legislation was to “make sure that when an initiative is presented to the people, all opportunities for compromise have been exhausted.”

The law, he says, “will allow two parallel sources of power, the initiative and representative government,” to be used together to create better solutions.

Lawmakers in Arizona have also changed the rules governing initiatives. They passed three bills between 2008 and 2010 that cracked down on deceptive practices by petition circulators, such as describing an initiative falsely in order to obtain signatures. The laws make petition fraud a misdemeanor and a pattern of fraud a felony, and grant election officials more time to verify signatures and more leeway in discarding those that are questionable.

Other states’ rules on the time allowed for collecting signatures, the number of signatures required and the locations where they must be gathered have an obvious effect on how easily initiatives get approved as well.

Mississippi’s rules, for instance, are significantly tougher than those in some other states, restricting the subject matter an initiative may address and requiring the initiative to specify how it will be funded and implemented. Oregon, on the other hand, has virtually no restrictions on the subject matter of initiatives.

Mississippi has had five initiatives that have qualified for the ballot in the 23 years since the state re-adopted the initiative process. During the same period, Oregon has averaged more than seven every two-year election season.

The degree of regulation can’t explain the drop in initiative use in all states, though. In Montana, with no significant new regulations imposed, for instance, initiatives dropped from an average of 2.6 in elections between 1988 and 2010 to just one in 2012 and none in 2014.

And the nation’s most prolific users of the initiative, California and Oregon, have highly regulated processes. In these states and a few others—mostly west of the Mississippi—the initiative is simply a more vibrant part of the political and electoral culture than elsewhere.

Why Does It Matter?

A decline in the number of ballot initiatives may result in even fewer voters turning out to cast their ballots, lowering the nation’s already abysmal voter turnout rate. In a typical off-year election, fewer than half of voting-age Americans bother to cast a ballot, according to the U.S. Census Bureau.

Having an initiative on the ballot has been tied historically to higher voter turnout. During the ’90s, initiatives bumped turnout by at least 7 percent in midterm elections and by at least 3 percent in presidential elections, according to a 2001 study from the University of Iowa.

Voter engagement is why: Initiatives highlight current and often controversial issues and capture the attention of voters, making them more likely to vote.

The Citizen Initiative: A Primer

Twenty-four states, in varying degrees, allow citizens to change state law or the state constitution by obtaining enough valid signatures to place a citizen initiative on the ballot.

The process varies among states—from how many signatures are required for an initiative to be placed on the ballot to how many voters are needed to approve it. No legislature, however, may stop a petition with enough signatures from being placed on the ballot.

**PROS**

- The initiative is an important safety valve for representative democracy because it allows the people to make policy changes that legislatures are unable or unwilling to make.
- It keeps people engaged in the political process and knowledgeable about the key issues facing their communities.
- The process ensures the rights of citizens to have control over—not just participation in—governments’ public policymaking.

**CONS**

- This form of direct democracy removes compromise, deliberation and meaningful public input from the process, offering voters an over-simplified yes-or-no choice on highly complex policy matters.
- Citizen initiatives often mandate expensive programs or policies without creating new revenue.
- Initiatives can present impossible mandates when they appear in tandem on a ballot but are at odds with each other.
What About Legislatures?

The citizen initiative isn’t the only route that lands measures on statewide ballots. Referrals from state legislatures typically far outnumber citizen initiatives on the ballot. That’s because legislatures in 49 states (all but Delaware) have to send any proposed constitutional amendments to voters for their approval. A few states also require votes on general obligation bonds.

Most legislative constitutional amendments and bond proposals are not controversial and tend to be approved by voters at a high rate. Only occasionally does a legislature voluntarily send a proposed statutory change to voters for their approval, and those tend to be more controversial.

Although the data for legislative referenda doesn’t go back nearly as far as the initiative data—it’s reliable only back to 1997-98—it shows that the number of legislative referenda on the ballot mirrored the decline in initiatives over this period.

Legislatures Outpace Citizens

Over the last two decades, legislatures used the referendum process far more often than citizens used the initiative process.

Indeed, voters showed considerably less enthusiasm leading into the 2014 elections than they did before the 2006 and 2010 midterms, according to Gallup polls, which corresponds with the drop in the number of initiatives.

Gallup measures three indicators of voter engagement—the amount of thought voters gave the upcoming election, their degree of motivation to vote and their enthusiasm about voting. Voters demonstrated less enthusiasm on all three indicators.

If ballot initiatives and voter engagement remain low, it’s reasonable to expect a continued decline in voter turnout rates.

The Will of the People

Ballot initiatives can have a turbulent, albeit unintentional, effect on state legislatures, which are tasked with carrying out the will of the people no matter how squeezed a budget may already be.

The difficulties some voter-approved initiatives have posed to legislatures are legendary. California’s Proposition 13 is usually the first example mentioned. Approved by 65 percent of the voters in 1978, it rolled back property taxes to 1976 levels and imposed a strict cap on increases. It also required a supermajority vote in the Legislature to increase taxes and fees.

While supporters praise Prop. 13 for getting a handle on out-of-control property tax increases, opponents argue it has essentially handcuffed lawmakers’ ability to thoughtfully and deliberately develop a budget.

No one, however, would argue that it hasn’t profoundly changed the California Legislature’s ability to raise revenue, and it’s doubtful that anyone would say it has made the job of being a California legislator easier.

California isn’t the only state where the legislature’s discretion in fiscal matters has been constrained by the initiative. Voters in Massachusetts approved their own version of Prop. 13 in 1980 and Arizona voters did so in 2010. Coloradans took a different approach by approving the Taxpayers’ Bill of Rights in 1992 that requires, among other things, voter approval to raise taxes or spend revenues faster than the rate of inflation and population growth.

Tax and revenue policies rank high on the list of what voters target with the use the initiative. But citizens also often turn to the process to make changes to the legislature itself—often to policies legislators are reluctant to impose upon themselves, such as term limits and changes in campaign finance, lobbying and ethics laws.

For instance, initiatives have brought about legislative term limits in 21 states (although they remain in effect in just 15) and significant changes in campaign finance, lobbying and ethics laws all over the country.

And let’s not forget unfunded voter mandates, those big-ticket initiatives that don’t come with a new revenue stream and may even contradict mandates in other ballot measures.

In 2008, for example, voters in Oregon had the opportunity to approve two dueling initiatives. Measure 59 would have cut taxes, reducing the annual budget by about $1 billion, while Measure 61 would have established mandatory minimum sentences for certain crimes, costing the state more than $1 billion in prison-building debt and $800,000 in operating costs over the first five years.

Voters approved neither, but imagine the fiscal conundrum legislators would have faced if they had.

A famous (or infamous, depending on whom you ask) example of an unfunded voter mandate is Florida’s high-speed rail initiative, approved in 2000. It required construction of a monorail system to connect the state’s five largest cities, but provided no new revenue stream for the project, which was estimated to cost—for just the first of five sections—$2.4 billion. The fiscal obstacles to completing the project eventually convinced voters to repeal it via a second initiative in 2004.

More Wiggle Room—Maybe

In short, a decline in the number of initiatives may be good or bad, depending one’s view of representative democracy and the role of citizens within it.

For citizens, and their role within public policymaking, a drop in the use of initiatives could be quite a blow to their power and influence.

For lawmakers, and their role within legislatures, fewer initiatives could give them more wiggle room when it comes to revenue and spending decisions. And no matter where lawmakers stand on policy issues, that should make their jobs just a little easier.
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It’s been a year since Colorado and Washington legalized recreational marijuana, and not all that was predicted has come to pass—with some surprises along the way.

**BY SUZANNE WEISS**

Shortly after 8 a.m. on New Year’s Day 2014, amid a throng of reporters and photographers from across the nation, a 32-year-old former Marine named Sean Azzariti walked into a small shop just north of downtown Denver and purchased 3.5 grams of Bubba Kush cannabis and a bag of pot-infused chocolate truffles.

With that $59 transaction, Colorado’s first-in-the-world commercial marijuana market was up and running.

One year (and roughly $280 million in sales) later, the Centennial State’s experiment with legalized pot remains very much a work in progress, as does the more-limited commercial marijuana market in Washington, which was launched in mid-2014.

Both Colorado and Washington have wrestled with a variety of unanticipated problems, which have been amplified by the close scrutiny the two states are under.

“We aren’t jumping to any conclusions about how we’re doing—the issues are too complex, and there’s not enough data,” says Andrew Freedman, who was appointed by Governor John Hickenlooper to coordinate Colorado’s marijuana policies. “We believe this is a five- to 10-year conversation.”

**Time Will Tell**

Representative Jonathan Singer (D), one of only two legislators who endorsed the legal-pot initiative approved by Colorado voters in 2012, feels the state has, so far, done a good job of handling a major shift in public health and social policy.

“Only time will tell, but at this point I would give us a B-plus,” Singer says, while conceding that, “there were things we didn’t focus enough on to start out with that I wish we had.”

The biggest misstep, by most accounts, was a lack of attention to regulating the potency and packaging of edible cannabis, a large and fast-growing sector.
segment of the commercial pot market, says Singer. He notes that establishing a coherent set of regulations for edible products is high on the agenda of both parties in the 2015 legislative session.

Other problems that have emerged range from flawed tax-revenue projections, to the fact that growers and sellers are dealing almost exclusively in cash because of banks’ reluctance to accept money from the sales of a drug still classified as illegal under federal law.

The most recent headache is a lawsuit filed in December by the attorneys general of two neighboring states, Nebraska and Oklahoma. It claims that Colorado “has created a dangerous gap in the federal drug control system,” and the drugs flowing through that gap “undermine plaintiff states’ own marijuana bans and place stress on their criminal justice systems.”

The challenges Colorado faces are to be expected, says House Minority Leader Brian DelGrosso (R). “We can’t point to other states and say this or that hasn’t worked out for them. We’re breaking new ground. I don’t think many of us are happy we’re in this position, but we are. And we’ve got to figure it out.”

**Building From Scratch**

As for Washington, legalization has been hampered by a host of logistical and policy problems. While Colorado used its highly regulated, 12-year-old medical marijuana system as a guide for its new recreational market, Washington decided to build its market from scratch, which took more than six months. And when a regulatory framework finally was in place, it did not include the network of dispensaries that had been serving medical marijuana patients—with little state oversight—for more than a decade.

“We need to take a whole new look at this in the 2015 session,” says Senator Jeanne Kohl-Welles (D). “Right now, we have a legal system in place for recreational use, but we have really no legal system for medical marijuana growing, processing and selling. So we’re left in a bit of a mess.”

Kohl-Welles has introduced a bill that would incorporate unregulated dispensaries into the system that has been created for recreational customers.

Her bill is also designed to address another emerging challenge: unexpected and widening opposition at the local level. During the past year, nearly half of Washington’s municipalities have enacted bans on retail marijuana outlets. The primary reason: Local communities do not get a cut of the hefty 25 percent state excise tax imposed at each of three levels—growing, processing and retail sales. So, to them, the cost of licensing and...
regulating startup cannabis growers and sellers, while also ensuring public safety, is an added burden with few benefits.

Kohl-Welles’ proposal calls for cutting marijuana taxes, consolidating them into a single levy collected at the retail level, and allowing cities and counties a share of the revenue.

**Half the Tax**

The financial windfall to be reaped from commercial marijuana sales was a major selling point of the legalization initiatives approved by voters in Colorado and Washington. But annual tax revenues from recreational pot sales—initially projected to top $100 million within a couple of years in both states—are on pace for only about half that figure.

In Washington, that’s primarily because of how long it took to put regulations in place, which caused bottlenecks in licensing and a serious mismatch between supply and demand. At one point last summer, many retail shops in Seattle were open only a couple of days a week because of growers’ inability to fill orders.

But forecasting revenue for a new market—particularly for something that was previously illegal—is a tricky undertaking. In Colorado, one reason that recreational marijuana sales have been lower than predicted is that fewer people than expected have shifted from medical marijuana, which isn’t subject to the 15 percent excise tax and 10 percent retail sales tax imposed on non-medical pot. (Medical marijuana, however, is still subject to state and local general sales taxes.)

Another problem, says Representative Dan Pabon (D), who chaired a special legislative committee on marijuana revenue, is a provision in Colorado law that allows “caregivers” to grow medical marijuana for other people. “What we’ve seen is caregivers may be diverting product from their patients and putting it onto the black market,” he says, adding that the committee is considering legislation aimed at tightening regulation of caregivers.

Mason Tvert, who led the pro-legalization campaign in Colorado and currently serves as communications director for the Washington, D.C.-based Marijuana Policy Project, shrugs off criticism about the flawed revenue projections.

“We didn’t make those estimates,” says Tvert. “They were just complete guesses that were put out there by some people in state government and a group called the Colorado Center on Law and Policy.”

Moreover, the structure and scope of Colorado’s recreational marijuana industry is still evolving, Tvert and others point out.

**Potpourri of Pot Policy**

States and territories continue to legalize the use of marijuana for medical as well as recreational purposes.

![Map showing the status of marijuana legalization in different states and territories](source: Marijuana Policy Project, Feb. 9, 2015).

- Legalized medical marijuana
- Removed jail time for small amounts of marijuana
- Legalized medical marijuana and removed jail time
- Legalized medical and recreational marijuana

Note: Voters in D.C. approved a ballot measure last fall legalizing recreational marijuana, but, as of Feb. 9, 2015, it was still under congressional review, so not reflected in this map.


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Edibles: For Experts Only?

Ingesting marijuana, as opposed to smoking it, has come a long way since the days of homemade pot brownies. Today, cannabis shops across Colorado offer a wide variety of products infused with THC, the psychoactive component of marijuana—from cookies, pies, fruit tarts and candy bars, to sodas and liqueurs, to honey, salsa, ice cream, butter and salad dressing.

In 2014, edibles, as they are called, accounted for about 40 percent of the estimated $700 million in medical and recreational marijuana sales in Colorado. Some three dozen companies in the state are churning out such products, the largest of which by far is Dixie Elixirs and Edibles, operating out of a 30,000-square-foot space in northeast Denver.

“Demand has been huge,” says Joe Hodus, Dixie’s chief marketing officer. “Our employees have been just killing it working around the clock.”

But the booming edible marijuana market has emerged as a major source of concern and controversy over the past year, generating a series of troubling headlines.

In March, a college student visiting Denver ate marijuana-infused cookies, began acting wildly and leapt from a hotel balcony to his death. A month later, a Denver man shot and killed his wife while allegedly hallucinating after eating marijuana-laced Karma Kandy.

In both cases other substances were also found in their bodies, but those two deaths, combined with reports of groggy, nauseated children visiting emergency rooms after accidentally consuming pot-infused snacks, forced the state last spring to tighten its labeling and packaging rules for edible marijuana. Regulators are also considering whether to set lower limits on the amount of THC that can be packed into an edible product.

Well before the launch of recreational pot sales in Colorado, the edibles industry had been developing as part of the medical marijuana market—where the clients were anything but casual or first-time users. In drafting the rules and regulations for the state’s new commercial cannabis industry, Colorado policymakers made allowances for serious marijuana users by permitting recreational edibles to contain up to 100 milligrams of THC.

But while state law requires that marijuana-infused products prominently list their total THC content, customers have to read the fine print to figure out that they’re only supposed to eat a tiny portion of the candy bar or other edible they’ve purchased.

State law also says that companies that make marijuana food items must have their products tested for potency and consistency at independent labs. When a batch is determined to be too strong, it must be sent back to the maker to be fixed or thrown away. But so far, only two labs have been cleared to conduct such tests, and the state is scrambling to expand testing capacity.

In the face of growing concerns, Colorado lawmakers argue such lower potencies should be mandatory, capping all recreational edibles at just 10 milligrams THC—one-tenth of the current levels. Late in the 2014 session, legislators approved a bill requiring the Colorado Department of Revenue’s Marijuana Enforcement Division to draft a report laying out options for better regulation of edibles sold in recreational marijuana shops.

Among the changes under consideration: putting dividing lines on products that make it easier to snap off a 10-milligram serving size or stamping products with colored symbols (like the ones on ski slopes), so that a green circle means the product is for beginners and a black diamond means you probably shouldn’t eat it unless you’re an “expert.”

Other options expected to be included in the revenue department’s report range from an outright ban on edibles to the creation of a commission to approve any consumables offered for retail sale.

Mason Tvert, communications director for the Marijuana Policy Project, takes issue with the depiction of edible products as “some sort of public health menace.”

“To put this in perspective, the Rocky Mountain Poison and Drug Center reported in 2011 that 2,700 children in Colorado required treatment after accidentally ingesting cosmetics or personal care products, and 739 after eating large amounts of vitamins,” Tvert says. “Compare that with the dozen or so reports of kids accidentally eating marijuana edibles last year.”

He also noted a January 2015 report from the Centers for Disease Control and Prevention, which states that more than 2,200 alcohol poisoning deaths occur among adults in the United States every year, or about six per day. “As far as I know, no one has died from eating or smoking marijuana,” he says.
requirement is that owners be Colorado residents.

It’s uncertain whether the market has room for such new businesses. Many cities and towns still have bans on recreational pot shops. Denver, which is home to the majority of Colorado’s nearly 600 dispensaries and retail shops, currently has a moratorium on applications from new businesses until 2016.

The Sky Isn’t Falling

Whatever lessons have been learned to date in Colorado and Washington, it is clearly far too soon to draw conclusions about the long-term impact of legalized marijuana in a variety of areas—crime, public health, traffic fatalities, teenage drug abuse and school expulsions, to name a few.

In Colorado, proponents of legalization argue that critics are cherry-picking anecdotes to tarnish a young industry that has been flourishing under intense scrutiny. The vast majority of the state’s medical and recreational marijuana stores are living up to stringent state rules, they say, and the stores have sold marijuana to more than 400,000 customers without incident.

And despite some of the thorny issues that have cropped up, public support for legalized pot remains strong, proponents say. In a Denver Post/Survey USA poll in December 2014, 92 percent of the respondents who voted for Amendment 64—which passed 55 percent to 45 percent—say they would vote the same way today.

“Every major institution says this would be horrible and lead to violence and blood in the streets,” says Brian Vicente, a Denver attorney who helped draft Amendment 64. “None of that’s happened. The sky did not fall.”

Kevin Sabet, executive director of Smart Approaches to Marijuana, an advocacy group opposed to legalization, begs to differ. “I think, by any measure, the experience of Colorado has not been a good one unless you’re in the marijuana business,” he says.

“We’ve seen lives damaged. We’ve seen deaths directly attributed to marijuana legalization. We’ve seen marijuana slipping through Colorado’s borders. We’ve seen marijuana getting into the hands of kids.”

At the same time, Sabet says, “We are now able to point to what legalization looks like in practice, not just in theory. That’s actually very valuable.”

One point on which both sides agree is that Colorado’s and Washington’s successes and failures with regulating marijuana will shape perceptions of legalization for voters considering similar measures in other states.

Last fall, voters in Alaska, Oregon and the District of Columbia approved legalizing cannabis for adult use. The measures in Alaska and Oregon were similar to Colorado’s and Washington’s, but D.C.’s measure is a bit different. It decriminalizes the possession of a small amount of pot or a few marijuana plants.

Campaigns are also under way to legalize recreational marijuana through ballot initiatives in several states, including Arizona, California, Maine, Massachusetts and Nevada.

A Better Approach?

To Mark Kleiman, a professor of public policy at the University of California, Los Angeles, who has studied and written extensively on marijuana legalization, the measure approved by District of Columbia voters, Initiative 71, is particularly noteworthy.

“It embodies a different—and perhaps better—approach to cannabis legalization than systems that involve more or less the same policies that now apply to alcohol: private, for-profit production and sale, regulated and taxed by the state,” Kleiman wrote in a recent article on the Slate website.

By contrast, Initiative 71 won’t allow any commercial activity. District residents will be able to grow a limited number of plants, possess a limited amount of the yield, and give away—but not sell—whatever they don’t want to use themselves. The system is called “grow and give.”

In the commercial models approved by Colorado, Washington, Alaska and Oregon, “the imperative to move the product in volume gives the cannabis industry the same incentive the alcohol industry has to encourage excessive use,” Kleiman says. “Eliminating organized marketing would likely lead to a much smaller increase in cannabis abuse than we would expect if we sell pot the way we now sell beer.”

So Many Options

The “grow and give” model isn’t the only option between full-on prohibition and commercial legalization, Kleiman says. “We could restrict production and sale to consumer-owned cooperatives, or to nonprofit enterprises, or to public-benefit corporations whose chartered purposes include the promotion of moderate consumption.”

He applauded Initiative 71’s focus on “experimenting with something other than the tired commercial formula that serves us so badly when it comes to alcohol.”

“I think, by any measure, the experience of Colorado has not been a good one unless you’re in the marijuana business.”

—KEN SABET, SMART APPROACHES TO MARIJUANA
Q & A With Grower Tim Cullen

Tim Cullen is CEO and founder of the Colorado Harvest Company and Evergreen Apothecary, an expanding business in Denver that grows and sells marijuana. His most lucrative store averages 200 to 300 sales a day, with roughly 80 percent being for recreational purposes. The former high school biology teacher became interested in marijuana when he saw how it helped his father control the pain and nausea of Crohn’s Disease, which Cullen himself developed later. He began growing marijuana in his basement in Colorado, where growing medical marijuana for personal use has been legal for 12 years. He now grows his plants in 55,000 square feet in four warehouses.

Why do you think Colorado voters were the first to legalize recreational marijuana? People were ready for it. They wanted cannabis to be legal. Seventy years of anti-marijuana propaganda was just lost on people who have more experience with it. Before Amendment 64, we [medical marijuana growers] thought we were just tolerated by the community. But it passed by a larger margin than President Obama won the state. We stuck our head out of the store door and said, “Wow, the community actually is OK with us being here. They want us in business, which was really a good feeling.”

Which state laws have had the biggest impact on your business? House Bill 1284, without a question. It laid the groundwork for all the rules we play by today. It provided funding, through licensing, for the development of the Marijuana Enforcement Division, thereby allowing licensing to happen, vetting owners, disqualifying anyone tied to organized crime, setting up rules about where stores could operate and deciding which jurisdictions have final say over what. It cleaned everything up. Among many things, the law requires us to account for every plant we grow, so now we have a good internal tracking system. Each plant has a radio frequency tag with a unique imprint to our store. When the state inspector comes in, he simply takes his scanner gun, points and shoots, and he’s done. The bill isn’t perfect—it’s gone through all sorts of revisions, but at least it’s a starting point.

What more needs to be done? Some social issues could have used more thought. For example, if you smoke cannabis on your patio, and the smoke drifts into your neighbor’s yard, are you intruding on his freedom? What is private versus public consumption and where do you draw the line? With 20 percent to 25 percent of our sales going to people from out of state, some consideration should have been given to where those people are allowed to consume. With no cannabis clubs, they’re almost forced into some kind of public setting, like a park, which Denver has outlawed. If they go to the mountains, they have to be careful not to be on national forest land, which is subject to federal laws, which say possession is illegal. Can they smoke in a hotel, if it’s a smoking-allowed room? These questions have created real conflict in Colorado.

You complain labeling and packaging requirements are stricter for marijuana than for alcohol and tobacco. How so? Every jar of cannabis has to have a label listing everything that’s been added to the soil or sprayed on that plant, and be in child-resistant containers. Also, you have be 21 to walk into my store. I agree with these laws, they give Colorado citizens a level of comfort that marijuana is going to be marketed as an adult product, sold only to adults, correctly labeled and packaged, to prevent it from getting into the hands of minors. Alcohol and tobacco should be regulated at least at the same level. There is no question alcohol is more dangerous. The social damage caused by alcohol—increased domestic violence and driving accidents—is not even comparable to cannabis. Alcohol should absolutely be sold in child-proof containers. And people shouldn’t be allowed to drag a 6-year-old through a liquor store.

How sophisticated are consumers about marijuana? Many aren’t. Today’s cannabis is a more potent product than the pot people remember from college. Today it’s made into concentrates. A store might have two dozen strains, which have different effects on individuals. That’s why we think an education campaign is so important. No one buys a bottle of Jim Beam and thinks they should consume it all in one sitting. The same is true of concentrated cannabis products.

What advice would you give other states? Legalization entails a huge amount of resources and infrastructure: licensing approval, vetting, law enforcement, regulatory bodies. It required a big investment before sales taxes could be collected, but my stores generated more than $1.4 million in city and sales tax in 2014. It seems like each state is reinventing the wheel when it comes to marijuana legislation. But I think Colorado has a pretty good model—one that could be adopted anywhere in the world.

―Mary Winter

―Marijuana grower Tim Cullen

Today’s cannabis is a more potent product than the pot people remember from college.

―Mary Winter
Room for Improvement

How can we expect A+ teachers from C- training programs?

BY SUZANNE WEISS

The nation’s colleges and universities are under mounting pressure to do a better job of training prospective teachers—and, for the first time ever, to prove they are doing it.

Over the years, attempts to reform teacher preparation programs have been largely unfocused and piecemeal, and yielded little in the way of real change and improvement.

But this time, the pressure is coming all at once—from states, the federal government and even from within the profession itself—in the form of wide-ranging policy initiatives aimed at boosting the performance of the 1,200-plus programs that turn out roughly a quarter-million new teachers each year.

And the consequences for programs that fail to measure up are unprecedented: loss of accreditation, state-ordered shutdown and the possible denial of federal financial aid to the students they enroll.

All Eyes on the Board

“There is a lot of attention focused on this issue, and I think it is ripe for action,” says Representative Alice Piesch (D), House chair of the Massachusetts Legislature’s Joint Committee on Education.

Massachusetts is one of seven states in the process of overhauling its teacher preparation and licensing systems under a two-year pilot project created by the Council of Chief State School Officers (CCSSO).

Idaho is also one of the seven, and Representative Wendy Horman (R) believes it’s a good first step toward finding real solutions. “I have appreciated being involved in Idaho’s conversation around teacher preparation,” she says. “As legislators, the more we understand and study the system—and the impact of our decisions—the more progress we have made toward solutions.”

The goal of the pilot project is to show how state leaders can drive reform: raising admission standards for teacher-preparation programs, making licensure contingent on prospective teachers’ demonstration of specific skills, and revamping the way states evaluate and certify programs. Other states participating in the initiative are Connecticut, Georgia, Kentucky, Louisiana and Washington.

Dovetailing with the project are two other significant initiatives aimed squarely at reforming and improving teacher training.

The Council for Accreditation of Educator Preparation has a set of proposed standards for teacher prep programs that would for the first time require accredited programs to be more selective in admitting students; specifically, only those with a collective 3.0 grade-point average or better, and scores in the top third on national tests like the ACT or the Graduate Record Examination (GRE). The standards include improved practice teaching programs and better analysis of their effectiveness in terms of graduation rates, completion of licensing requirements, and satisfaction among both graduates and the school districts that employ them.

Beginning in 2016, teacher prep programs continued on page 29
It’s an exciting time for the electric power industry—and it’s an exciting time for our customers. Today, electricity customers have more choices than ever. They expect their electric companies to develop and sustain a grid that enables them to plug in their new devices or access new services, and they expect that they will communicate seamlessly.

Customers also want more control over their energy usage and costs, and smart appliances are communicating with the grid to meet those expectations. At the end of the day, customers expect that their electric companies will develop and sustain a grid that supports all of these needs, while giving them flexibility and choice in how they use energy.

One area where there is growing customer interest is distributed generation (DG), such as rooftop solar. We believe rooftop and community solar can be attractive, clean energy options for some customers, and electric companies are actively addressing the ways in which these systems can work with and enhance the existing grid.

Offering customers more choice about where their energy comes from is a good thing. Still, it is important to remember that residential rooftop solar is the most expensive form of electricity generation. In fact, according to GTM Research, in the third quarter of 2014, residential rooftop solar had an average cost of $3.60/watt; by comparison, non-residential (or commercial) and large-scale utility solar cost $2.27/watt and $1.88/watt, respectively. Utility-scale solar is about half the cost of residential rooftop solar, and wind-powered energy is often far less costly than all types of solar. Although costs keep declining, the price differentials between residential rooftop and utility-scale solar will remain.

The electric power industry is actively investing in and installing large-scale projects that maximize environmental and economic benefits for all customers. In fact, around 50 percent of the new generation capacity added over the past few years uses renewable energy sources. And, preliminary numbers show that a record-breaking 3.5 gigawatts of utility-scale solar capacity, including community solar, were installed last year alone—enough power at the solar peak output to serve the average annual demand of 2.82 million U.S. homes.

It is also important to remember that rooftop solar is being subsidized through extensive federal and state tax credits and other incentives. This includes state net energy metering policies that were approved to encourage the introduction of these systems and technologies when they first came to market years ago and have since outlived their intended use.
Current state net energy metering policies that are based on outdated economics need to be updated to align with today’s technology and the ongoing transformation of the grid. It is time to apply a regulatory structure that sustainably and fairly supports both the growth of DG systems and the grid facilities that enable the integration of these technologies, while keeping costs to customers in check.

It is also critical and fair that all electricity customers who use the electric power grid continue to share equitably in the costs of maintaining it and keeping it operating reliably at all times. Rooftop solar customers still rely on the grid and its services around the clock. Even at peak output, rooftop solar systems need the support of the grid to start large motors like air conditioners and refrigerators. And, net metering as a policy does not even exist without a grid connection. So, at the end of the day, as long as we are connected to the grid, we still use it and we all should continue to pay for it.

Moreover, installing rooftop solar does not reduce grid investment needs. In fact, experience in California and Hawaii demonstrates that high penetration of rooftop solar actually requires electric utilities to invest in new systems to assure that the grid remains safe, reliable, and resilient.

For these reasons, it is critically important to make sure that public policies recognize the value of the grid to all customers, both those with and those without distributed generation. We need transparent rate design that recognizes the technological changes that are occurring on the system and reflects the true costs of doing business today. Otherwise, if today’s policies fail to evolve and to keep pace with technology, grid costs will continue to be shifted to customers who do not install DG systems, whether for technical or financial reasons. Ultimately, that is unsustainable.

**Consumer education**

As new technologies and services come to the marketplace, it is important that consumers have the information they need to make educated decisions about their energy choices. For example, the economics of buying or leasing a rooftop solar system can be complicated and will be different for every customer.

Two states that have been proactive in providing information to help customers make informed decisions are Arizona and Iowa. Earlier this year, the Arizona Residential Utility Consumer Office released a “Consumer Guide” to help customers in the state “make more informed choices” if they are considering solar. The Iowa Utilities Board also issued an “Informational Guide for On-Site Generation,” which “prompts consumers to consider their energy-related goals, legal requirements, and insurance issues before installing on-site generation.”

As the electric power industry continues to integrate more solar power onto the grid, it is important that we do so in a way that ensures electricity remains reliable and affordable for all customers. Consumer education and awareness will be important to our shared success in transforming our generating fleet for a more sustainable future.
would be put on probation if they fall below the threshold in one of five standards, and would be denied accreditation for falling below it in two or more standards.

**The Federal “Solution”**

And from the federal government comes newly proposed rules for evaluating all teacher preparation programs in the nation, using metrics that could include the number of graduates placed in schools, as well as pass rates on licensing exams, teacher retention rates and job performance ratings of teachers.

U.S. Department of Education Secretary Arne Duncan said the effort is aimed at pushing states to do a better job identifying programs that perform at a high level, and to shut down the weakest programs. He noted that more than half of the states hadn’t rated even one of their teacher prep programs as subpar in the past 10 years.

The new federal regulations—which will be phased in over several years—will likely preclude federal financial aid to students enrolled in low-performing programs.

And that’s not a good way to hold programs accountable, according to the American Association of Colleges for Teacher Education (AACTE). The advocacy group for teacher preparation schools argues that the federal proposal is an example of federal over-reach at its worst, and would only “draw energy, funding and attention away from innovative reforms, proven accountability initiatives and overall program improvements currently happening in teacher preparation programs across the country.”

The federal proposal “falls far short” of containing many of the characteristics the group believes needs to be in any good accountability reform: fairness, transparency, validity, reliability, feasibility and usefulness. The organization argues the federal proposal is unworkable and unproved, and would, among other things, raise privacy concerns and place new burdens on overworked teachers and principals.

**Serious Shortcomings**

“The administration is calling the question here, and it could not be more important,” says Arthur Levine, the former president of Teachers College, Columbia University. He’s been a leading critic of the track record on preparing teachers for more than 10 years, charging education schools with being merely “cash cows,” forced to enroll too many students and lower admission standards.

“There are excellent teacher education programs in America, but far too many are poor,” Levine says. “These programs need to be strengthened or closed, and states need to jump-start the process.”

Critics believe the nation’s teacher-training system is antiquated, insular and too fiercely protective of the status quo. According to them, preparation programs have the following serious shortcomings:

- Only about 25 percent of them limit admission to students in the top half of their high school class.
- They graduate roughly twice as many teachers as the nation actually needs.
- They overproduce elementary school teachers, and don’t turn out nearly enough teachers of math, science, bilingual education and special education.
- They typically do not work collaboratively with school districts that employ their graduates or in which novices do their practice teaching.
- The attrition rate of beginning teachers is troublingly high, with roughly one in three quitting within five years.
- The vast majority of programs do not train prospective educators to teach reading based on the latest research.

- Few adequately prepare teachers in classroom management, effective discipline and the use of varied assessments.

**States Seek Best and Brightest**

The growing dissatisfaction with how teachers are trained has lawmakers’ attention. The Rhode Island General Assembly, for example, will require schools of education, by 2016, to admit students with a mean SAT, ACT or GRE score in the top one-half of the nation—and in the top one-third by 2020.

In Delaware, new legislation requires prospective teachers to have at least a 3.0 grade-point average or demonstrate “mastery” results on college entrance exams before they are admitted to a preparation program.

Ten states have created mechanisms for connecting K-12 student achievement with teacher preparation programs. “We’ve been providing programs with ‘batch data’ for several years,” says Representative Harry Brooks (R), who chairs the Tennessee House Education Committee. “Now we’re working on individualizing the data so that they can look at the performance of each graduate.”

As of the start of this year, 17 states require specially designed assessments of prospective elementary school teachers to ensure that they understand effective reading instruction. Wisconsin is one of those states, where a passing score on the reading assessment is a requirement for licensure. “A couple of
years ago, our third grade reading scores were falling in national rankings—not so much because we had gotten worse, but because other states had really improved,” recalls Senator Luther Olsen (R), chair of the Wisconsin Senate Education Committee.

“We looked at evidence that our teachers weren’t being prepared to teach reading, so we adopted the Read to Lead assessment program, which is modeled on what several other states are doing.”

The new policy requires teacher preparation programs to report their graduates’ scores on the reading test the first time they take it, Olsen says.

Read to Lead is among several policy changes that Wisconsin has made, or is considering, to improve teacher training. One noteworthy effort, Olsen says, is Wisconsin’s participation in the multistate edTPA pilot project, a performance-based assessment designed by the American Association of Colleges for Teacher Education to answer the essential question of whether new teachers are ready for the job. Good preparation is the “bedrock of effective teaching,” says Sharon Robinson, president and CEO of the association, which is, according to its website, committed to “strengthening the preparation of school personnel.”

States are rapidly innovating to ensure that teachers are student-ready when they complete their preparation programs. Innovations such as EdTPA—a valid and reliable teacher performance assessment—are excellent measures for state legislators to consider as they answer the question for taxpayers How do I know a new teacher is ready for the classroom?

Much to Be Done

“We’ve been looking around at the top-performing school systems in the world, like Finland, and it’s clear that their teacher education programs are key to their success,” Olsen says. “But you also can’t help noticing that so much of what they do—in terms of selecting and training teachers, how much teachers are paid, the quality of professional development—is just the opposite of how we do things here.”

Like Olsen, Tennessee’s Brooks says he thinks state policymakers have come to realize that many of the shortcomings of the K-12 education system can be traced directly to the deficiencies of teacher training programs.

“Clearly, there’s a need to do a better job on the front end,” Brooks says, “and the general trend is moving in that direction.”

Senator Joyce Elliott (D) of Arkansas agrees. “There’s much more political will to improve preparation programs than in the past,” Elliott says. As a long-time teacher, Elliott knows the issue “is fraught with practical problems. You can find yourself in the wilderness pretty quickly.”

In Elliott’s view, it’s important to not lose sight of the fact that “we have to change the conditions in which teachers work.”

In Finland and other high-performing countries, she says, “they grow students into great teachers. Here in this country, we have not created the right atmosphere for teachers to thrive. There’s much to be fixed with teacher preparation, but we’re deluding ourselves if we think that is the only thing that needs to be done.

“Yes, we need to build better teachers, but we also need to be building better principals, better schools, better parents and better communities.”

Ideas From Abroad

During a two-week trip to China, members of NCSL’s Study Group on International Education toured schools and met with officials in Beijing and Shanghai to learn about education policy and initiatives in China. The bipartisan group of 28 legislators and six legislative staff with expertise, experience and interest in education is studying the teaching methods and educational strategies used in some of the top performing countries around the world to discover what might work back home.

Members of the group are focusing on these specific questions:

• What is working in other countries and why?
• What can states learn from these experiences?
• What is unique to these countries?
• What fundamental principles support reform in successful countries and are relevant for states?
• What are opportunities and roadblocks for states in pursuing education reform?

The group is planning other educational trips as well, possibly to Singapore, Finland and Canada.

—Julie Bell, NCSL

There’s much to be fixed with teacher preparation, but we’re deluding ourselves if we think that is the only thing that needs to be done.”

—SENATOR JOYCE ELLIOTT, ARKANSAS

Senator Luther Olsen Wisconsin

Senator Joyce Elliott Arkansas

Senator

MARCH 2015 | STATE LEGISLATURES
The Finnish Formula

Finnish students rank on top of the world in student assessments in large part because of how the country prepares its teachers to teach.

Over the past half-century, Finland has transformed itself from a country with a relatively poor agrarian economy and a mediocre education system into a top performer on numerous measures of national well-being—economic competitiveness, student achievement, civil liberties, quality of life, and investment in research and development.

With a population of 5.5 million spread over an area roughly the size of Montana, Finland today is a global hub of innovation, creativity and entrepreneurship—from electronics, engineering and smart energy systems to information and communications technology. It is among the hottest spots in Europe for startup businesses, and currently boasts one of the highest per-capita incomes in the world.

The World’s Best

Finland’s education system is also widely recognized as one of the world’s best. For nearly a decade, Finnish 15-year-olds have ranked No. 1 on international tests in language, math and science administered through the 34-country Organisation for Economic Co-operation and Development.

Ninety percent of Finland’s young people complete what is called upper secondary school, and two-thirds of them enroll in universities or professionally oriented polytechnic schools. More than 50 percent of the Finnish adult population participates in adult education.

One of the keys to Finland’s high levels of educational achievement is its approach to selecting, preparing and supporting teachers.

In the 1970s, Finland had far more teacher training programs than it needed, and they varied widely in terms of selectivity and rigor. A growing and bipartisan consensus among policymakers, educators and business leaders in Finland led to the decision to invest in a uniformly well-prepared teaching force.

The country shut down all existing teacher training programs except those at the country’s eight most elite universities. It recruited top candidates—only 10 percent of those who apply are admitted—and paid for their three-year graduate-level education, along with a living stipend. Candidates are judged on their literacy, communication and math skills, a willingness to learn and the motivation to teach.

Teachers’ preparation includes extensive coursework on how to teach and at least a full year of clinical experience in designated schools, guided by professors and master teachers. These model schools are intended to showcase innovative practices, as well as to foster research on learning and teaching.

In addition to coursework in their content area, prospective teachers are well-trained in both research methods and in curriculum development, psychology, classroom management, assessment models, and how to teach students who learn in different ways.

Finland—with a robust economy and No. 1 ranking on international student tests—has caught the world’s attention.

An Expectation of Excellence

Tony Wagner, a veteran educator at Harvard University’s new Innovation Lab, says Finland is “defining what is excellent teaching, not just reasonable teaching, and having a standard for that. ‘They really think about teachers as scientists and the classrooms are their laboratories,’ says Wagner.

Every teacher has a master’s degree in a content area and teachers have time in the school day and in the school week to work together.”

At a recent meeting of the NCSL International Education Study Group, Finnish educator Pasi Sahlberg noted that the high attrition rate of novice teachers in the U.S. carries a whopping $7 billion-a-year price tag, and is due in large part to the widely varying quality of teacher preparation programs.

“We Finns don’t like a lot of standardization, but there are two things we do standardize: school funding and teacher preparation,” he said. “We have just one way of preparing teachers, and the focus is on academic rigor, high expectations and very strict quality control in terms of entry to the profession.”

In Finland, says Sahlberg, who currently is a visiting professor at the Harvard Graduate School of Education, teachers are viewed “as autonomous, independent professionals, like doctors,” with all the skills and competencies needed to do their job effectively.

“You have wonderful teachers here in the U.S., but you need to empower them to do the right things for children,” he said, adding that teachers in Finland spend at least 10 hours a week working collaboratively to plan and develop curriculum and discuss issues ranging from textbooks to research to professional growth. “It’s about the team—schooling is a team sport.”

And, the pay is good. In Finland, teacher pay is about 95 percent of GDP per capita (compared with 81 percent in the U.S.), and compensation is frontloaded so that the difference between the average starting salary and the maximum teacher salary is just 18 percent.

Notable Differences

• Children in Finland begin school at age 7. But the country heavily subsidizes daycare for children, and 97 percent of Finnish children attend preschool, which starts at age 5.
• Finnish children get 75 minutes of recess a day, which includes a 15-minute break after every lesson. In the U.S., schoolchildren average 27 minutes of recess a day.
• There are few, if any, mandatory tests in Finland until a graduation exam at the end of high school.
• In Finland, a teacher usually stays with the same group of students for five years, and the average class size is 20 students.
• Finland does not track students’ abilities, but to ensure children with learning or behavior disabilities and immigrants struggling with Finnish don’t fall behind, schools hire specially trained teaching aides.
• Finnish language education begins on the first day of school. By age 9, students begin Swedish, and at 11, they start learning a third language, usually English. Many students even take on a fourth language around age 13. Students are tested on their first two languages in a matriculation exam for university placement.
Sir Ken Robinson, international education leader

“Creativity is the great driver of human achievement.”

Sir Ken Robinson is an author, speaker and international education leader whose ideas on creativity, education, the arts and the economy challenge conventional wisdom and inspire a whole new approach to our educational system. He was knighted in 2003 for his services to the arts. He spoke with Julie Bell, NCSL’s director of education, at the 2014 Legislative Summit.

State Legislatures: You say we need to rethink the fundamental principles on which we base education. What do you mean by that?

Sir Ken Robinson: Current systems of education are based on the principles of industrial manufacturing. Most national education systems weren’t invented until the mid- to late-19th century, and they grew up to meet the needs of the industrial revolution.

Schools typically operate in a very linear way with kids moving by age through the different grades. There’s also a big emphasis on standardization, with the assumption that schools should concentrate only on activities or subjects that are directly relevant to work. So it feels like an industrial system. It’s like you’re manufacturing products. And all that’s fine except kids aren’t products and life isn’t like that. So what I’m arguing for is a style of education which is based on the principles that really govern the way human life flourishes, not the way factories work.

How does creativity relate to the fundamental principles of education?

It’s really fundamental to the way we think about education that we should understand what creativity is, why it matters and how it works. If you ask adults if they are creative, they often say they’re not, and if you ask children, they’ll say that they are, up to a certain age. People mistakenly associate creativity with the arts, so when they say they’re not creative, they really mean they’re not very artsy.

I’m a major advocate of the arts in schools. But this is a bigger argument because you can be creative in science, in technology, in mathematics and almost anything at all that involves your intelligence. Creativity is really the great driver of human achievement because human life is characterized by great flights of the imagination and by the development of technologies, ideas, arts, practices and theories that are the fruit of human intelligence and creative thinking.

Why do you believe we educate creativity out of students?

It happens in part because of this industrial culture of education. If you look at how creativity works in any field—whether it’s in music, writing poetry, architecture, science, technology, developing computer programs—there’s a constant process of trial and error. So to be creative in any field means you try things out—hypothesizing, testing. The standardization culture in schools really discourages that type of approach; it’s about finding one answer. There’s no time for nuance. And that’s got nothing to do with education.

If we don’t teach people the skills and process and techniques of being creative while they are in school, there’s no reason why they should naturally fall upon them later. We have to do it deliberately and at the moment, and we’re almost systematically doing the opposite.

Is this a problem only in the United States or do you see in other countries as well?

No, it’s not a unique problem in the United States. It’s a global issue. I think what is different here is that America has bought very heavily into this standardization culture and it’s really not helping. The current standardization culture is probably more acute here than in some countries.

Why do you think China, for example, seems to think that the United States teaches creativity in education well?

America’s scores have been coasting around the middle of the Program for International Student Assessment charts for quite a long time despite the fact that we spend more money on education. The District of Shanghai has come out in the top slots in the past two PISA assessments, and of course this has sent shockwaves through some politicians and policymakers in America saying we’ve got to get to be more like China, or like South Korea. But a number of officials there have said we know we have to help our children become more creative like they do in America.

There’s a quote from Wayne Gretzky, who was once asked why he scored so many more goals than other people. He said, ‘Because I always go to where the puck is going to be, not to where it is.’ And you do get the sense in some policies here we’re rushing to where the puck is while countries who are looking further ahead are rushing to where they know it’s going to be.

Could you paint us a picture of what a classroom incorporating creative thinking or creative expression would look like, in a math class for example?

There’s a school in Southern California called High Tech High. They have a very high graduation rate. Their work is very project-based. They put together math with science, technology, the humanities and the arts. They work on practical projects, they work in teams, they work collaboratively, and they don’t just sit and tell students how to approach mathematical problems—they get them to solve them because they have to apply math practically.

At the moment we have kids who are sitting at desks day after day after day, bored very often. The best learning is active, when people are up and about and moving and doing things. These approaches that work are being discouraged in the name of a system that actually doesn’t work. If the current system of standardization actually was improving graduation rates, raising standards across the country, energizing teachers, thrilling parents...
and motivating students, I’d go home and watch the television. But it isn’t and it won’t because it doesn’t sit with how people actually learn.

**What are your thoughts about technology being an important part of a transition into a more creative or personalized education system?**

Technological development has gone hand-in-hand with human progress, since the dawn of civilization, from the first time we lit a fire and made a flint axe, to how we developed bows and arrows, to designing the jet engine. Human life has a dynamic and creative relationship with tools. The tools themselves don’t do anything; it takes creative people to know how to use them.

The tools we’ve seen evolving over the past 20 or 30 years have created brand new horizons for education. There was a time when you had to go to school because that’s where all the books were. Now, with everything online pretty much, it changes the role of teaching, it changes how kids access information. So it changes the whole equation. I think it’s a fantastic opportunity that we should be grasping, to personalize education, to promote more collaborative forms, and, of course, to promote more creative ways of thinking.

**What one or two pieces of advice could you give state legislators as they struggle to find the right balance among standards, testing and arts?**

First, recognize that there is a need for balance. The best way to get a kid excited about reading standards is to give him really interesting stuff to read. The best way you get them to improve their grammar and literacy is to get them to write interesting things.

If you look at alternative systems like the ones in Europe, particularly in Finland, they have cultivated the profession of teaching. Yes, they have standards, but they give people much more freedom to collaborate.

I think great education is about creating conditions under which people want to learn and be encouraged and stimulated and provoked. The legislator’s job is to create conditions under which schools can do that effectively and responsibly.

Teachers can’t make children learn. They have to create conditions where kids want to learn and teachers can do their job properly.

Legislators have to create conditions where schools are able to carry out at a local level their real roles and responsibility, which is to energize learning, to engage the community, and to raise standards that way. The real way to improve education is not from the top down; it’s from the ground up.

**Editor’s note:** This interview is part of a series of conversations with national leaders. It has been edited for length and clarity. The opinions are the interviewee’s and not necessarily NCSL’s.
29 million children need these. And they need you.

Federal Children’s Health Insurance Program (CHIP) funding to states ends October 1 unless Congress acts.

Medicaid covers more children than any other insurance plan. Payment equity with Medicare ensures there will be pediatricians, pediatric subspecialists, and pediatric surgeons to care for them.

Tell Congress to fund CHIP.

Support Medicaid payment equity.

Contact the American Academy of Pediatrics at stgov@aap.org.
Senator Phil Berger
North Carolina Senate President Pro Tem

Senator Phil Berger is the president pro tempore of the North Carolina Senate, and the first Republican Senate leader in more than a century. An attorney by trade, Senator Berger came to the General Assembly in 2000 and was elected minority leader in 2004. Following the historic turnover in the 2010 election, putting Republicans in charge of the legislature for the first time since the 19th century, Senator Berger was elected president pro tem by his peers for the 2011 session.

What would surprise people most about you? I think it would be that I’m a big Star Wars fan.

What is your proudest accomplishment? I’m proud of the transition we were able to make after the 2010 election. We were coming in with the state facing a $2.5 billion shortfall. We had real problems, as far as the budget was concerned, with recurring obligations being supported by non-recurring dollars. We were able to turn the state—from a policy standpoint—in a different direction in 2011.

What keeps you up at night? Actually, I sleep pretty well. Just ask my wife. She probably says I keep her up.

What book is on your nightstand? I’m one of those people who start multiple books, before finishing any, so I actually have three that I’m working on now. One is the “Guns at Last Light.” It’s the third in a trilogy on World War II by Rick Atkinson. Another is a book I first read 20 to 25 years ago, called “Men At Work” by George Will. I’m rereading that. The third one I have just started is “The Rational Optimist” by Matt Ridley.

What specific policies or goals are you focused on this session? What I’m focusing on this session is a continuation of the reforms that we’ve already initiated. Obviously, the budget is important, but we’d like to continue with our tax policy and education reforms in particular.

How would you describe your leadership style? What I do is try to identify goals that we’d like to work toward, then find people who share those goals and then allow them to work toward achieving those goals. I like to have people who can assume responsibility and who take hold of that responsibility to move forward.

What do you do to replenish yourself and stay at the top of your game? One, I try to exercise. I bought an elliptical a few years ago and try to do 30 minutes in the morning. I’m not very good at that, I’ll be frank. The other thing I like to do is read, and spending time with my family, especially my grandchildren.

What have you learned from your grandchildren? Grandchildren, like most children, pay more attention to what you do than to what you say. Kids are very observant and they watch you very carefully. Sometimes they don’t hear you, but they sure see what you do.

To thrive in the legislature, what is the most important bone—a backbone, a wishbone or a funny bone? I think they are all important. Certainly all three are necessary. But when it comes down to it, particularly when you are in a leadership position, having a strong backbone is the most important.

If we were sitting here in a year celebrating what a great year you had as Senate president pro tem, what would you have achieved? It would be a great year if we were able to balance the budget, to continue to reduce taxes and continue to reform education in North Carolina. If we achieve those three things, I’d look back and think that we had a pretty good year.
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