

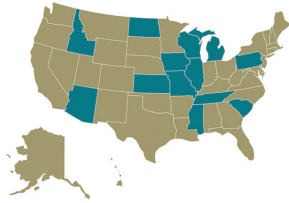
Protecting Local Control

A Research and Messaging Toolkit



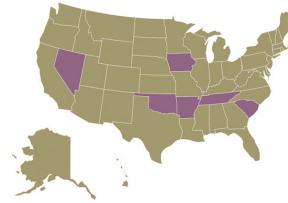
A LOOK AT PREEMPTION BY STATE

Factory Farms



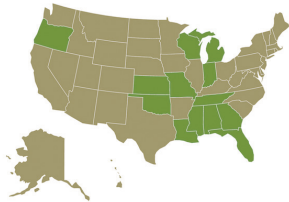
Grassroots Change

E-Cigarettes



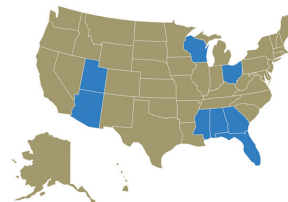
Americans for Nonsmokers' Rights

Paid Sick Days



National Partnership for Women & Families

Nutrition



Grassroots Change

The power of local governments to pass laws that

protect the health, safety and welfare of their citizens is waning and under increasing attack. Over the past four years, a historic number of local interference (preemption) bills have been filed and passed in state capitals across the country.

Over time, these bills, crafted to strip local governments of their power to act on everything from fracking bans to anti-discrimination measures, have become wider in scope and more hostile to home rule. More industries and special interest groups now consider preemption a legislative imperative, including the oil and gas industry and groups opposing LGBTQ rights.

The efforts to consolidate power at the state level and stop local progress across a wide range of issues are part of a long-term strategy. The ability of elected officials and the public interest community to make the most effective counter arguments using language that engages the public and persuades their peers is essential to protecting local control. This toolkit was developed to meet that need.

The framing and messaging guidance offered here was informed by a national survey, focus groups and in-depth interviews with state and local lawmakers all conducted in late fall, 2015.

The public knows little about preemption.

Once they find out about the existence and extent of preemption, people are shocked how often it is used to benefit special interests, the scope of issues it impacts and how closely it hits home.

By a large margin, they believe local governments should be allowed to build and improve on minimum standards set by the state to reflect the unique character and needs of their communities. They believe that one size does NOT fit all.

Voters believe corporate special interests have too much power over legislators and prevent progress at the federal and state levels. They view local government as their best opportunity to get what matters to them done.



When voters understand corporations and special interests are behind state intervention in local matters, they understand why state legislators would interfere in local law-making and are offended.

They know special interests have influence over state legislation, but they draw a hard line when communities or individuals stand to get hurt (especially when they are personally affected) and when the intervention is blatantly about making money and protecting corporate profits.

Preemption is not the issue.

This is about the ever-expanding power of corporate special interests to pass policies that are harmful to local communities. No one is arguing that preemption should be restricted or rolled back – it is the power of special interests that needs to be restricted.

We must be very clear about who benefits and who is harmed when corporations, special interests and state legislators interfere in local law-making.

We need to communicate that preemption is a BAD thing when it is used to protect profits over people. (This also allows us to acknowledge that preemption can also be a GOOD thing).

We need to reinforce voters' belief in local control and the agency citizens and communities should have over passing their own laws. Special interests are taking away their voice and power in order to line their pockets.

“Our basic rights are for sale. Whoever has the most money is making major decisions that could affect our daily lives.”

— (Hispanic TX Woman)

“It’s scary because I didn’t think special interests were even involved, now they are coming a little close to home.”

— (White MI Woman)

FOUR TOP-TESTING MESSAGES:

1 It is wrong for the state government to take a one-size-fits-all approach to governing. What works for a big city is not always the same as what works for people in a small town, which is why local governments exist – to pass laws that work for the people who live there. As long as these laws do not promote discrimination or violate national law, the state government should stay out of it.

2 It is dangerous to let special interests dictate to state governments that they must pass policies that protect corporate profits while putting local communities at risk. Natural gas drilling called fracking causes environmental and often health risks for the people who live near there which is why many communities have decided to ban it. It is wrong for outside groups to have the final say when it is local communities that take all the risk.



FOUR TOP-TESTING MESSAGES:

3 **It is sad to say, but members of Congress and state legislators have become beholden to corporate special interests who have more of a say in the laws that get passed than voters do.** Our only opportunity to bring the change we want to see is through local action within our communities. We have to stand up to these special interests who pad their profits by standing in the way of progress where it can still happen – at the local level.

4 **City Councils and local governments know the values of their community and what is best for the people who live there – they live there every day, they can see changes and quickly respond to the needs of the community.** State legislatures often only meet for a few months a year, and legislators who live hundreds of miles away from a town should not be able to decide what is best for the people there.



MAKING THE CASE

Step 1: Define the problem

- Special interests have too much influence at the state level and they are leveraging it to gain power over local communities in order to pad their pockets.
 - This includes initiatives passed by citizens directly
- Cities and local communities – increasingly the best and only places policies move – have no voice to stop it.

Step 2: Provide real and alarming consequences that impacts them personally

- Not only does this strip communities of their right to pass laws that align with their values and protect their health and safety, but it can be dangerous.
 - Fracking
 - Pollution standards
- Preemption of anti-discrimination measures is harmful and dangerous to individuals, and goes against our values as a community.

Step 3: What can they do about it?

- Need a call to action – despite public disillusionment with politicians and the pervasiveness of preemption, this needs to be recognized as a problem that can be fixed or people will feel push-back is futile.

DO'S AND DON'TS

DO

Affirm the value of local government.

People have more trust in local government to get things done and to be held accountable for their actions.

Local government 65%

State legislature 46%

The U.S. Congress 20%

The closer the government, the much more positively it is viewed.

People believe local officials make the best decisions. There is also a sense that because local government is tackling small-ball issues and since they are more accountable to the people, there is less outside influence at this level.

“The local government knows the needs and wants of the individuals who live in that area. Someone who lives in a different part of the state shouldn’t have anything to do with that.”

— *(White MI Man)*

DO'S AND DON'TS

DO

Emphasize that this is not about undermining state law, but building on it and improving it.

Allowing localities to expand and improve on state laws is a massively popular concept. Voters agree by a more than three to one margin, **69% to 22%** that local communities should be allowed to strengthen state laws.





Be specific when talking about special interests – understanding that all special interests are not created equal.

Without assigning a motive to the frequency and extent of state intervention, it remains a confusing and highly abstract concept. By explaining that special interests win when the power of local communities is curbed and profits are valued over people, we make it clear who benefits and who is harmed by preemption.

Be clear who the “special interests” are. The public believes the special interests with the worst reputations and most potential to do harm are the oil and industry, pharmaceutical companies and the tobacco industry.



DO'S AND DON'TS

DO

Make it clear who benefits and who gets hurt – and make it personal.

Most people are angered by the idea that their local government – which knows their wants and needs most directly – can be told what to do by the state **even when it harms the community**. But they are most engaged when they know special interests are involved, state interference could harm their families and communities or it offends their core values.



“If people are harmed, the environment is harmed, too much money is being spent, [that’s where I have a problem].”

— (White MI Woman)

DO'S AND DON'TS

Preemption of pollution standards, fracking bans and LGBTQ anti-discrimination laws were the most motivating to voters.

It should be noted that preemption on LGBTQ anti-discrimination is different from fracking and smoking bans. This is a more polarizing issue for the voters who see the opposition as motivated by ideology rather than corporate special interests. But it is still a powerfully motivating example for people who find discrimination morally offensive.

“There are some things that are higher ranking, and I think human rights are pretty high up.”

— *(White PA Woman)*

“I think fracking is most bothersome to me, dictating what towns can do with their ecology.”

— *(White TX Man)*



DO'S AND DON'TS

Don't

Use the word “preemption”.

Preemption doesn't mean anything to most people. Let's make it clear what is actually transpiring: Use the terms “state intervention” “state interference” or “state intrusion” instead.

Don't make this a process discussion about the role of state versus local government and when preemption is appropriate.

Don't

Make this a partisan issue.

Research shows that people are more willing to believe corporations and special interests are influencing state politicians to act – not just Republicans or Democrats. They do not see this as a partisan strategy.

DO'S AND DON'TS

Don't

Shut them down.

Focusing on special interest motives and the negative impacts of preemption can tap into voters' existing frustrations about government. But unless we provide them with avenues for change, their belief that nothing can be done will be confirmed and keep them from acting.



DO'S AND DON'TS

Don't

Disparage the role of state government. People believe there are issues best dealt with by the state.

People understand there are some actions the state handles best. This is particularly true on “big” issues, or issues that do not seem to have a uniquely local angle. Voters’ affinity for local government alone is not enough to making the case against preemption. Without explaining the special interests influence, voters hesitate to assign blame to the state for intervening in local issues.

“If the state legislature sees something wrong being passed by a local, why shouldn’t [they] be able to block it?”

— *(White PA Senior)*

“If you let the local governments choose whatever they want, it’s willy-nilly. You go to one place and you broke the law, and you go to another you didn’t. You never know whether you are breaking a law. Like with cellphone laws. There needs to be some standards.”

— *(White TX Man)*

LAWMAKERS, POLICY ADVOCATES AND PREEMPTION

Twenty in-depth interviews conducted with state legislators, municipal officials and policy advocates provide insight into their experiences with and attitudes about preemption.

Findings

Everyone interviewed had experienced preemption, though some do not know it by that name. Several lawmakers, particularly at the local level, mentioned recent (within the past 3–4 years) examples of an issue they were working on that had been preempted.



LAWMAKERS, POLICY ADVOCATES AND PREEMPTION

The importance of local control is also the most oft-cited argument lawmakers use to persuade legislators in their states against preempting. Both state and local officials believe local government is more connected to the people and more accountable, that local communities are hubs of innovation, and that progress at the local level can serve as a catalyst for statewide change.

State legislators do not see preemption itself as a bad thing and want to be able to use it to ensure that a local law does not unwittingly hurt the state or its citizens, or jeopardize the stability of the economy.

“It’s hard to imagine that [state legislators] could make a better decision than we could make for ourselves at a local level. I believe in politics at the local level. When you get to the state, they are trading favors, they are not focused on the local aspect.”

– County Commissioner from Alabama

“I would worry if a town wanted to do something draconian, like something around immigration or food stamps. Something like ‘no immigrant can live in our public housing.’”

– State representative from Massachusetts

LAWMAKERS, POLICY ADVOCATES AND PREEMPTION

All interviewees recognize the role that special interests play in triggering preemption. Some believe that a hyper-partisan culture in their legislature also drives much of it. Policy advocates who work across several states simultaneously are more inclined to believe national conservative legislative groups like ALEC are at the helm.

The potential for preemption is having a chilling effect. Local elected officials say they consider the impact state law and the threat of preemption before taking up new policies. Some local elected officials feel hamstrung by threats of preemption. Staff at advocacy groups describe the threat of preemption as a major factor in determining where to invest in policy changes.

“When we think about doing something we first have to say, is the state gonna allow us to do this? Or are we going to have to deal with the preemption/approval issue? If the answer to that question is yes, then the second question is can we do it another way?”

– City Council member from Pennsylvania

“When people come to us with ideas, we have to say, ‘What is your strategy to make sure that the legislature doesn’t sink this?’”

– City Council member from Arizona

LAWMAKERS, POLICY ADVOCATES AND PREEMPTION

Lawmakers express pessimism that the public will take action over such as process-heavy topic and tend to rely on insider strategies to stop it like lobbying, favor-trading, and finding ways to make policy changes without having to be subject to preemption.

Lawmakers and policy advocates are flying blind when it comes to messaging to combat preemption and report having to come up with their own arguments against preemption.

More information is needed, but trusted sources are critical.

ALEC and special interest groups are organizing lawmakers nationally, and there is not a comparable organization aimed at educating and training lawmakers at the state or local levels on why these types of bills are dangerous and wrong.



RECOMMENDATIONS

Coordination, coordination, coordination.

Lawmakers are suffering from a lack of coordination on this issue. Several were unfamiliar with the issue, or did not believe it warranted high levels of concern. Those involved in combating it lack access to best practices from other states, information about the consequences, best messages to beat it, or help unveiling the true sponsors of preemption.

Take the successful model national advocacy

groups use to the states. National advocates from the LGBTQ and anti-tobacco communities have a tremendous amount of information about the best ways to organize against and defeat preemption. There can be increased pressure on legislators by local advocacy groups affected by preemption if there can be better organization and communication at the state level.

“It can’t be Pittsburgh convincing [the state legislature not to preempt]. It’s got to be bipartisan. The good thing is, it is bipartisan. We just don’t organize ourselves well. We’re not strategic”

– City Council member from Pennsylvania

RECOMMENDATIONS

Provide evidence about the rise of preemption, where it is happening and around which issues.

Lawmakers need better data on how and when preemption happens. For local elected officials, this information can be helpful to convince lower-information elected officials that preemption is a concerted effort to block their authority.

Fight fire with fire. Lawmakers need help combating special interest money, organization, and influence from allies in business and trade associations who can lobby and persuade legislators who are considering supporting preemption. A few legislators cited the power of the business community in preventing preemption of non-discrimination laws that impact the LGBTQ community.

Find bipartisan coalitions of support for local control. Progressive legislators and policy advocates believe that increased partisanship within the legislatures is to blame for many instances of preemption. This challenge can become an opportunity, by forming a coalition with lawmakers who support less government and more local control.

METHODOLOGY

In fall of 2015, Anzalone Liszt Grove Research conducted a multi-phased research project aimed at understanding voters' and opinion elites' perceptions of and reactions to the rise of preemption.

Focus Groups

We conducted six (6) in-person focus groups: two (2) in Pittsburgh, PA, two (2) in Grand Rapids, MI, and two (2) in San Antonio, TX. The groups were segmented by race, gender, and education attainment (college and non-college educated). All participants were registered voters.

National Survey

A survey of 800 likely 2016 voters was conducted by telephone using professional interviewers, including 35% of all interviews conducted via cell phone. Interviews were conducted November 6–12, 2015. The margin of error for the sample as a whole is plus or minus 3.46 percentage points at the 95% level of confidence.

In-depth Interviews

We conducted twenty (20) in-depth interviews with state legislators, local elected officials, and policy advocates at the state and national levels.

