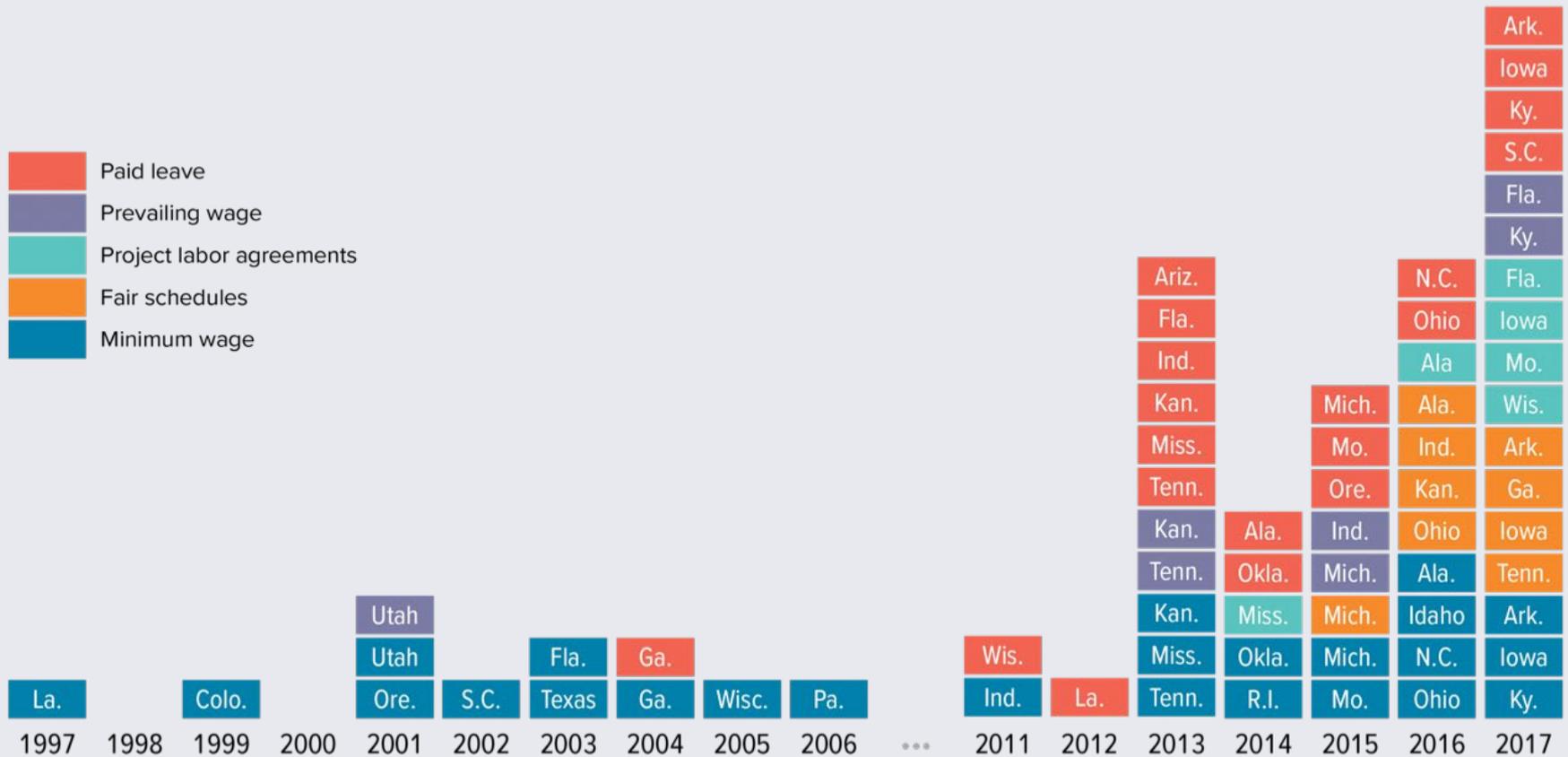


# PROTECTING LOCAL DEMOCRACY

## A MESSAGING AND RESEARCH TOOLKIT



# State interference in local law making has picked up significantly in recent years



Source: EPI analysis of preemption laws in all 50 states

# INTRODUCTION

American cities and counties have become centers of innovation across an array of policy areas that advance inclusion, equitable opportunity, and social justice. Local governments have taken the lead in enacting minimum wage and paid sick time policies, expanding the boundaries of civil rights, responding to emerging environmental threats, tackling public health challenges, and advancing other cutting-edge problem-solving policies.

In recent years however, state legislators have become measurably more aggressive in their efforts to limit local lawmaking. States are increasingly “preempting” local governments — passing bills that stop local governments from enacting their own laws or overturning local laws already in place. Preemption is being used to overturn ballot initiatives, limit local anti-discrimination efforts, perpetuate racial and economic inequality, and systematically strip local governments of their power to set standards that protect the health and wellbeing of their communities and reflect the views and values of their citizens. Some states now use preemption laws to punish cities and individual local officials who defy them.

**IT'S A TACTIC THAT THREATENS NOT ONLY LOCAL POLICYMAKING, BUT THE VERY HEART OF LOCAL DEMOCRACY.**

To help explain preemption and its consequences, and communicate the value of local decision-making and democracy, the Local Solutions Support Center has developed this communications guide based on national public opinion research.



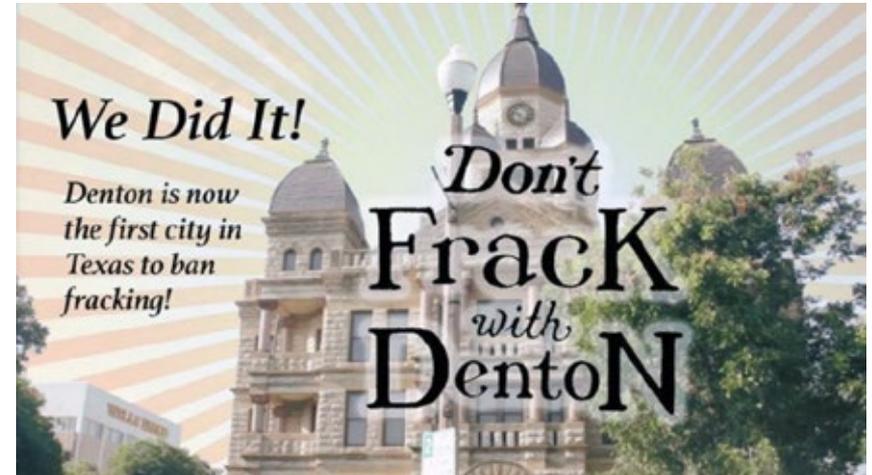
# THE NEW

# OPERATING ENVIRONMENT

**P**reemption is not inherently bad or good, nor is its use inherently partisan. It is a tool, like the filibuster, that can and has been used by both political parties. In the past, preemption has mainly occurred when a local law was found to be inconsistent with a state law. And historically, preemption has been used to advance well-being and equity. The federal Civil Rights Act of 1964, for example, allowed states and cities to increase protections, but prohibited them from falling below what was required under federal law. But today the misuse of this tool threatens the fundamental ability of cities to act on the unique views, values and needs of their communities.

- The number of preemption bills expressly prohibiting local laws has increased, and are now being used across a broader range of issues that used to be reserved for city oversight.
- Preemption bills have become hostile to the authority of cities and counties, known as “home rule”. States are increasingly introducing sweeping “blanket” preemption bills that seek to end local regulation of whole sectors of the government. According to The New York Times, “The states aren’t merely overruling local laws; they’ve walled off whole new realms where local governments aren’t allowed to govern at all.”
- An especially dangerous form of “punitive” preemption is now being used to punish cities by threatening to cut state funds and to subject local elected officials to fines, removal from office, or jail.





The efforts across dozens of states to consolidate power at the state level and end local authority are no coincidence. They are part of a national long-term strategy — driven by corporate interests and very often orchestrated by the American Legislative Exchange Council (ALEC), an industry-funded organization of state lawmakers and lobbyists. Their strategy has succeeded at an alarming rate:

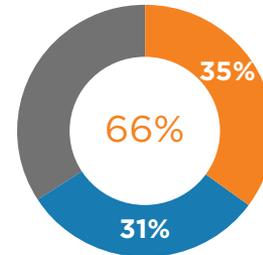
- 25 states now prohibit cities from raising their own minimum wage.
- 19 states now preempt cities from enacting paid sick days.
- At least 10 states have made it illegal for cities to refuse to help federal authorities detain and deport undocumented immigrants.
- At least seven states now forbid local fracking bans, and eight states prohibit plastic bag bans or fees.

New preemption measures frequently outlaw local action on an issue, even when the state itself has no existing policy standard or regulation set in place. Increasingly, preemptive state laws are aimed at preventing any regulation at all.

Of course, when state lawmakers preempt local cities and counties, it's not just governments that lose — local citizens, whose voices are silenced and rights denied, lose too.

# RESEARCH FINDINGS

In early January 2018, the Local Solutions Support Center commissioned a nationwide public opinion poll to survey voter opinions of preemption. This groundbreaking research studied public perceptions of the relationship between state and local governments; the new data confirmed earlier research findings from 2015 — most people are unfamiliar with preemption:



Two-thirds (66%) have either heard very little about it (35%) or nothing at all (31%).

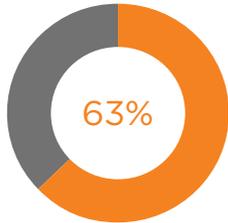
Once people learn about the existence and extent of preemption, they are surprised by how often it is used to benefit special interests, the scope of issues it impacts, and how closely it hits home for them.

**This toolkit will distill some of the key findings.**

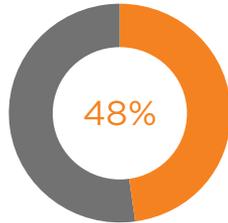


**FINDING: Voters trust the government closest to them.**

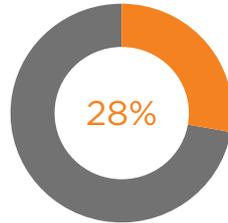
By a large margin, voters feel most positively about local government:



Feel favorably about local government



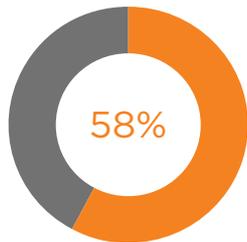
Feel favorably about state government



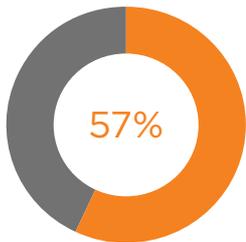
Feel favorably about the U.S. Congress

“Locals know best” is the best, strongest argument for protecting local democracy and power from preemption. And that holds true across political parties.

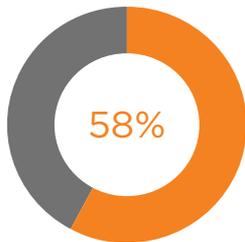
Local governments are more connected to the needs of the community and therefore can pass policies that reflect their community’s values.



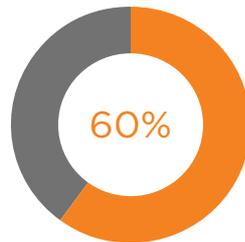
All Agree



Democrats



Republicans



Independents

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**What works for people in 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. Voters view local government as their best opportunity to get what matters to them done.**

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**FINDING:** Special interests are too powerful and self-serving at citizens' expense.

Voters believe corporate special interests have too much power over legislators and prevent progress at the federal and state levels. The polling shows that people believe that local governments are less likely to be pressured by special interest lobbyists and that state lawmakers are heavily influenced by corporate lobbying:

**70%** of people believe that preemption happens frequently or sometimes because corporate special interests and lobbyists convince state lawmakers to block a local law because it would hurt profits.

**Notably, they believe preemption is imposed to protect profits more than for any other motive:**

**53%** say state lawmakers block local laws to avoid creating a patchwork of laws — where cities inside the same state have different laws.

**48%** of people think that state lawmakers pass preemption laws because local laws are oppressive.





**FINDING:** Local communities should set their own economic policies.

On economic issues, more information about the importance of local democracy shifts voters' attitudes dramatically.

Originally a slight majority believed the state should preempt cities if local laws threaten the state's economy. But after hearing more about the threat to and importance of local democracy, voters move towards supporting the local argument by a net 40 points:

**68%** said that "Local communities should have the ability to determine their own economic policies and regulations without state intrusion" (up from 48%).

ONLY **32%** said that "State legislators should have the ability to overrule local economic policies if they jeopardize the state's economy." (down from 52%)



**FINDING: Voters overwhelmingly support local democracy — support that grows even stronger when faced with facts about preemption.**

The polling indicated that voters — by a 16-point margin — are naturally inclined to believe in local democracy. After learning about the consequences of state interference, that margin expands significantly.

**68%** said that “When state legislators prevent local communities from passing laws or striking down local laws, they threaten local democracy and silence the voices of the people” (up from 58%);

**32%** said that “When state legislators prevent local communities from passing laws or overturn election results, they are using checks and balances to make sure our system is fair.” (down from 42%).

# KEY TAKEAWAYS FROM POLLING



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## THE BEST MESSAGES TO COUNTER STATE PREEMPTION COMBINE 3 FINDINGS:

Local communities know best how to meet the needs of the people living there. It is wrong for the state government to come in and dictate to local people what is best for them.

Local communities pass policies to help their local businesses thrive and create an economy that works for the people who live there. When state lawmakers prevent communities from passing economic policies that work for them, they hinder economic growth and development.

It is sad to say, but political gridlock and corporate special interests have made it hard to get anything done at the state level. At least at the local level, we can make our voices heard and demand change and accountability.



# MAKING THE CASE

**S**tate interference in local lawmaking is a layered assault on democracy that will take a combination of education and persuasion to raise awareness and shift opinions. Education is key: Voters — even some elected officials — lack a foundation of understanding on the issue and its consequences.

**1) Start with the normative value:** We need to reinforce voters' belief in local control, and the power and agency citizens and communities should have over passing their own laws.

Americans agree that local democracies are best qualified to address and solve community problems and to act on the needs, views and values of their residents. Local governments are your mayors, commissioners, and councilmembers — the people you see at the grocery store, at worship, and at Little League. They are accountable to you because they are in your community every day.

**2) Then, introduce the policy imperative:** Our only opportunity to bring the change we want to see is through local action within our communities.

To respond to local economic and social problems and opportunities, cities and towns must be able to decide their own (INSERT ISSUE: minimum wage, environmental, non-discrimination, public health) laws and standards.

**3) Then, identify the threat:** Special interests are taking away the voice and power of the people in order to line their pockets.

**The threat is NOT preemption.** This is about the ever-expanding power of corporate special interests and the consequences of their influence on local democracy and the quality of life in our communities. It's about putting people over profits once again. Special interests have too much influence at the state level, and they are leveraging it to limit the power of local communities — that includes overturning initiatives passed by citizens directly.

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**Local governments must be able to determine the laws and policies that best meet the needs of the people living there. When state legislators stop communities from passing their own laws, they silence the voice of the people; rob local democracies of their power; and hurt the health, safety, and economic wellbeing of our communities.**

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**4) Finally, be clear about the negative consequences:** Not only does state interference in local lawmaking strip communities of their right to pass laws that align with their values and protect their health and safety, but it can be dangerous.

**Provide consequences that impact them personally:**

- State preemption of local minimum wage laws means suppressed wages and longer hours for low-income people.
- State interference in local paid sick days laws means people have to go to work sick or can't take care of a sick child or parent without losing a day's pay.
- State preemption of local wage theft laws mean low-wage workers can't recover millions in wages illegally kept from them by some unscrupulous employers.
- State preemption of local anti-discrimination laws not only goes against our values as a community, it drains top talent from our region, diminishes the quality of our workforce, and makes us less economically competitive.
- State preemption of local environmental laws keeps us from having the clean air, water, and public spaces that make our community a great place to live.
- State preemption of local public health and gun violence laws make our community less healthy and our children and families less safe.

# DO'S AND DON'TS

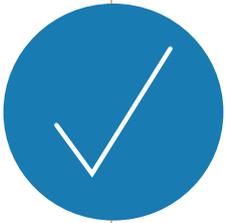
## DO: FIGHT VALUES WITH VALUES.

**THEM:** Preemption advocates argue that preemption is necessary to escape the “oppression of local control” and that local regulations are being used to violate “personal liberty” and freedom.

**US:** Counter their claim with the VALUES of local democracy, control, and the community’s ability to best meet unique views, values and needs.

Voters believe city councils, county commissions, and local governments know the values of their community and what is best for the people who live there. They too are local citizens who live there every day; they can see changes and quickly respond to the needs of the community.





The strongest values behind protecting local government’s ability to make their own laws without state interference include:

- Local communities know best what the people and economy need to thrive.
- Corporate special interests and politicians create gridlock at the state level — local governments are where things get done.
- Government needs to respect and act on the unique values and needs of local communities.

President Franklin D. Roosevelt once said, “The true test of government is that people want to know that their government walks on the same side of the street that they do.” Connect with those values by reminding others: local elected officials are their neighbors — the local government their neighbors elected them to is better able to meet their needs than state or federal lawmakers.



## **DO: GIVE EXAMPLES OF PREEMPTION LAWS THAT HAVE A NEGATIVE IMPACT.**

Highlight how preemption hurts workers (laws blocking local wage increases, benefits, or nondiscrimination protections) or public health (laws blocking local fracking bans and environmental protections like clean water and air). Voters cannot grasp the consequences of preemption in the abstract — they have a more visceral reaction to it when they understand specific instances of it:

- The polling confirms that voters are **deeply concerned** upon learning that state legislators have undone workplace policies and protections, and are preventing communities from protecting public health.
- Past research has also found that prohibitions on localities from passing non-discrimination policies are **incredibly unpopular** and a powerful demonstration of the wrong ways that preemption bills are being used.
- There is also power in highlighting that preemption is being used to overturn election results, which has a **direct impact** on individual voters and negates the local decision-making powers given to communities in our democracy.





## **DO: ASSIGN MOTIVE TO PREEMPTION.**

Counter the opposition's rationale and highlight the national corporate agenda driving preemption efforts.

Voters are conflicted about the relationship between local and state governments, and do not oppose preemption in all cases. That's why voters need to understand **why** state lawmakers are preempting local policies, and disabuse the notion that it is to protect the state, or avoid a patchwork of laws.

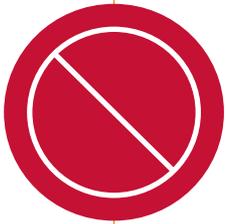
### **Based on our research, there are a few critical elements:**

- Explain that corporate special interests and lobbyists are pushing preemption to block laws that hurt their profits. When voters understand that profit-seeking corporations and special interests are behind state intervention in local matters, they understand why state legislators would interfere in local lawmaking 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 being misused — legislators are walling off whole sectors of the economy from local regulation, meaning local communities are powerless to do anything to help the local economy, protect their citizens, or pass policies that improve their health, safety, and economic well-being.

## **DO: USE LANGUAGE THAT CONNECTS TO VOTERS.**

- Don't talk about "preemption." Make it clear what's actually transpiring: Use the term "state interference" instead.
- Talk about the "misuse" or "abuse" of preemption. As a legislative tool, voters believe preemption is value-neutral, neither good nor bad — even when they know what the term means.
- Use the terms "local democracy" and "local control" — but be aware that even though the term "local control" tested well nationally, in the South, the term can evoke the memory of local racism and Jim Crow laws. Above all, always be sensitive to your listener's values first.





## **DON'TS**

**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.

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

**DON'T disparage the role of state government.** People believe that there are issues best dealt with by the state. But 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.

**DON'T accept the argument that preemption is needed to avoid a patchwork of laws inside a state.** Businesses deal with different city laws, tax rates and health standards every day. Here's the truth — corporations know it is easier to defeat policies in 50 state capitols than in the over 19,000 incorporated cities and towns in the United States. If state lawmakers actually believed that “one size fits all,” they would pass statewide standards and protections, rather than blocking them altogether.

**DON'T use terms like “an attack on cities” or the legislature is “waging war on cities.”** Voters find the language too hot and not believable — if there was a war going on they would have heard of it.

# SAMPLE MESSAGING



Our local community knows how to best meet the needs of residents, help local businesses thrive, and create an economy that works for the people who live there.

To solve problems, local governments must be able to determine the laws and set standards that reflect the unique views, values and needs of their citizens.

But in [STATE], corporate special interests are using their power to push state legislators to keep local governments from passing workplace, health, safety and anti-discrimination protections — even overturning election results — to push a national, corporate agenda.

When state legislators stop communities from passing their own laws, they silence the voice of the people, rob local democracies of their power, and hurt the communities' health, safety, and economic wellbeing.

## SAMPLE MESSAGE 1

## SAMPLE MESSAGE 2

To solve problems, local governments must be able to determine the laws and set standards that reflect the unique views, values and needs of their citizens. But in [STATE], corporate special interests are abusing their power and limiting local democracy by preventing local communities from passing protections that keep the economy and communities healthy, including clean air, water, and public health protections.

With special interests keeping politicians at the state level trapped in gridlock, local government is the best way to make our voices heard and demand accountability. But when state legislators stop communities from passing their own laws, they silence the voice of the people, rob local democracies of their power, and hurt the communities' health, safety, and economic wellbeing.

## SAMPLE MESSAGE 3

I think my community is great. I love living here, our region is culturally unique and our economy is strong. And I trust my local mayor and commissioners to do the right thing and keep that progress going.

But recently I learned that state lawmakers are giving in to special interests in [STATE CAPITAL], who care more about their profits than about my voice. They're blocking my city's ability to ensure workers like me earn higher wages and paid sick leave, they've stopped them from protecting our clean air and water, and they've even banned them from passing local gun violence prevention laws.

If the state wants to get involved, they should make these laws a "floor" — not a ceiling, and lay a foundation we can build on to reflect the facts of life in my community. I think my local leaders know best what our community needs and wants. They know best how to keep our economy growing without state interference. My rights and our local democracy matter more than the special interests abusing their power for profits.



## METHODOLOGY

The Local Solutions Support Center (LSSC) commissioned public opinion research from Anzalone Liszt Grove Research and Moore Information. That research included:

### **PHASE 1: Online QualBoards**

From December 12-14, 2017, the research firms conducted three-day online focus groups, known as QualBoards. The audience was likely 2018 voters living in the following states: Arizona, Florida, Georgia, Louisiana, Michigan, Minnesota, North Carolina, and Tennessee. The states were selected based on frequent state legislative preemption.

Beyond screening for state of residence and intention to vote, participants were also selected based on age (35-55 years old) and did not strongly identify with either political party.

### **PHASE 2: Online survey with MaxDiff**

From January 9-11, 2018, the research firms conducted a national online survey of N=811 registered voters.

**T**he **Local Solutions Support Center (LSSC)** is a national hub created to reframe and respond to preemption as a danger to the advancement of local policies that promote health, well-being, and equity. To meet that goal, the LSSC is developing, supporting and implementing nonpartisan strategies and tactics designed to educate the public and policymakers on negative preemption efforts, repeal existing laws that stifle local innovation and equity-promotion, inoculate local officials and government against attack and, where possible and appropriate, to affirm and strengthen home rule.



<http://www.supportdemocracy.org>