



## Message Guide: State Preemption and the Effects of Limiting Local Power

Polling done by a variety of sources over the last decade shows that Americans overwhelmingly believe that their local lawmakers are best-qualified to make decisions about the policies affecting their local communities. Yet corporate lobbyists and special interest groups are pushing state lawmakers to pass preemption laws that limit the powers of local governments to act on the unique needs, views and values of their residents.

Preemption occurs when higher-level governments pass laws restricting the policy authority of lower-level governments, and increasingly states are using preemption laws to systematically strip local governments of their power to:

- set standards that protect the health and safety of their communities;
- decide how to use their own money, personnel, and resources;
- overturn ballot initiatives;
- punish local government and local officials; and,
- perpetuate racial and economic inequality.

The effect of this state interference in local decision making is to void the will of local voters and lock out entire groups from participating fully in our democracy. Local governments, local voters and local residents have lost power in every legislative session since 2011. And while local power can be used to block as well as advance equity-promoting policies, at present, the erosion of local authority means that innovative and problem-solving policies have been stopped in many states.

The good news is that counter-measures being used by local governments, elected officials and advocates are gaining traction. Cross-issue coalitions, preemption repeal measures, the emergence of new state and local champions, and favorable court decisions are bolstering efforts to strengthen local democracy.

Local Solutions Support Center is helping to coordinate and create opportunities to counter the increasing abuse of preemption and protect local authority and autonomy. This guide is based on findings from national polling conducted by LSSC in [2015](#) and [2018](#), focus groups conducted in [2014](#), [2015](#), and the latest research into preemption messaging conducted in [summer 2019 by PerryUndem](#). This new round of preemption research was designed to affirm and refine previous messaging and was conducted in summer 2019 by PerryUndem with registered Republican, Democratic and Independent voters in six in-person focus groups in Detroit, Orlando and Phoenix and a national online focus group of 107 likely voters. In addition, findings are derived from [messaging developed by the American Heart Association in 2018](#).

This guide provides topline messages, best examples, and language do's and don'ts to keep in mind when talking about preemption.

## **Preemption Messaging 101**

### ***Key Findings:***

- Most voters don't know what "preemption" is. When they learn more, they generally oppose it - believing that local government should have authority over local issues and the use of local resources without state interference.
- Voters polled and participating in focus groups tend to see state government as more influenced by special interests and money - while local governments are more trusted, in-tune with the community and accountable to its members.
- Voters participating in the focus groups do recognize that preemption is a dual-edged sword and that these laws can be used for good too.
- They also become more engaged when they learn the amount of state interference in local matters is increasing.
- The top-performing message in the recent focus groups is also the most politically-neutral and matter-of-fact: it asserts that every community is different and should have the ability to develop their own policies to reflect the unique needs and values of the people living there.
- "State interference" is the best everyday term to use when describing preemption.
- Almost all of the focus group participants think local governments should be able to pass laws that help "workers in their communities." And, most also think local government should be able to pass laws to help women, people of color, and LGBTQ individuals.
- While preemption isn't partisan, the examples used when describing the issue can trigger partisan responses.
- And if the goal is to engage and mobilize voters, there are messages that have more traction with and for advocates. For example, one way that advocates can convey the true consequences of preemption measures is by framing preemption as "state overreach" – making clear that these laws are often intended to block equity-promoting policies and disproportionately affect people of color and women.
- Voters of both parties who participated in the focus groups do not like the punitive nature of some preemption laws – e.g. cutting off state funding from local government and lawsuits or criminal action against local politicians. This seems petty to voters, not about helping the residents of these communities to thrive.
- The process of overturning ballot election results is seen as an abuse of power, ignoring the will of the people, and a way to undermine the point of voting. It is an especially powerful argument against state interference in local decision making.

### ***Topline Messages:***

#### **Introducing Preemption:**

- Every community in a state is different – their populations, demographic make-ups, and economies are all different. Even their histories and cultures differ.
- All of those differences mean that the policies that may work best for one community may not make sense for another.

- States have historically set minimum health, safety, workplace and social standards. And in the past, cities and municipalities have been able to localize, and when necessary, build on and strengthen state laws to best meet the needs of their communities.
- That's why local government exists - to pass and enforce laws that most accurately reflect the unique views, values and needs of the people who live there.
- But corporate lobbyists are increasingly pressuring state lawmakers across the country to prioritize profits and special interest agendas over all else.
- They do this by pushing preemption bills - essentially, measures that take regulatory power away from local communities – in an effort to protect their profits and avoid local oversight.
- Unfortunately, we're seeing a steady rise in these types of special interest-driven preemption measures being used across a growing set of issues – from plastic bag bans and internet access to minimum wage and local hire laws.
- In fact, local communities have lost power over their own money, personnel and resources and authority to act across a widening range of issues in every single state legislative session since 2011.
- But more and more voters are starting to feel the negative consequences of this abuse of state power. As the effect on our local communities becomes clearer, more local and state officials and advocates are taking action to protect local democracy.

#### Top-Performing Messages:

- Every community is different and needs the ability to develop their own policies to reflect the unique needs and values of the people living there.
- City councils and local governments know the values of their community and what is best for the people who live there. These leaders are people we see every day at the grocery store, at school events, walking their dogs in our community - and they can best respond to the changing needs of the local area.
- Voters believe government is most effective and accountable at the local level. Research shows voters believe local officials are more in-tune with the values and views of the people who live in their communities than state politicians. And, local democracy allows cities to create policies that fit the unique needs of their communities.
- Industry lobbyists have successfully pushed state lawmakers across the country to put their interests and profits ahead of allowing local governments to support healthy families, a clean environment, good jobs, local democracy and safer communities.

#### Importance of Local Democracy:

The research shows that voters are upset about the use of preemption to overturn the results of local ballot elections, punish local governments by cutting off state funds, and as retribution against local elected officials by fining, jailing or removing them from office.

- Local democracy should reflect the will and values of the local people.
- We elect local officials to enact measures to protect the health, safety and civil rights of us all.
- The state legislature should not be interfering in local elections or targeting local officials they disagree with.

- Voters see preemption efforts, especially overturning ballot election results and punishing cities and local officials, as significant abuses of power that undermine democracy and silence their voices.
- When preemption is used by corporate special interest groups as a tool to take away power from local democracy and to diminish local power and decision-making, we all lose.

### Messaging to Advocates:

The research identified messaging that should only be deployed with advocates looking to engage and mobilize voters on the issue of local democracy.

- Think for a moment about who is most impacted when a city can't raise its minimum wage to match the cost of living; when a municipality can't enact a nondiscrimination ordinance that protects all of its citizens; or when a state imposes harsh punitive measures on local elected officials who have embraced policies that acknowledge the dignity of immigrants and their families.
- The truth is, state interference disproportionately affects people of color, women, immigrants, LGBTQ people, and low-wage workers.
- State preemption measures designed specifically to keep wages and benefits low deprive large urban areas – the areas where people of color, LGBTQ people, and so many others live – of the ability to protect the well-being of their residents.

### ***How to Use Examples of Preemption:***

Communicating the consequences of preemption is key to educating, engaging and mobilizing allies to push back against state interference. But be aware that some examples can quickly bias the discussion based on the political leaning of the audience you're communicating with.

Voters participating in focus groups are most likely to think that local and city governments – not state governments – should decide issues around where to allow short-term accommodation rentals or whether to ban plastic bags. They also believe that local government should be able to decide how best to invest their own money, personnel and other resources. They are more conflicted, however, on controversial issues such as minimum wage, gun control, and sanctuary for immigrants. Importantly, almost all voters in the groups believe cities and local governments should be allowed to pass laws that help “workers in their communities.” And, a majority agree that local government should be able to help vulnerable communities including women, people of color and LGBTQ individuals.

The PerryUndem research tested multiple examples, and **these three proved most effective regardless of party:**

- In Oklahoma, the state legislature has stopped local governments from passing environmental laws like city-wide plastic bag bans.
- In Florida, individual elected officials, including former Tallahassee mayor Andrew Gillum, have been sued for their votes or speech defending local gun laws. And now, more than 30 mayors have won a lawsuit challenging the punitive aspects of the state's gun preemption law.

- In Arizona, the state legislature has said it will cut-off state funds to any city that passes laws the state disagrees with.

Using the example of states banning local action to reduce plastic pollution made it clear how powerful industry lobbyists are at the capital and helped make the case that this form of preemption is an instance of state overreach:

- Why should the state care if a town bans plastic bags?
- What is the state's stake in that local law?
- Who gains and who loses when a community cannot regulate the use of plastic products?
- Clearly, the plastics industry is pressuring the state legislature to stop local regulation of their product to protect their profits.

### **Messaging Do's & Don'ts**

- **DO** reaffirm the purposes of local government.
- **DO** emphasize the importance of local decision-making - local decisions should be made locally.
- **DON'T** make this a process discussion about the appropriate role of state versus local government.
- **DO** make this an issue of "state interference" in local decision making.
- **DO** talk about local democracy and local control.
- **DO** acknowledge that local control is a dual-edged sword that is not always used for good.
- **DON'T** make state lawmakers the villains - instead, **DO** remind audiences that it's corporate special interests undermining local democracy.
- **DO** remind people that state efforts to interfere in local policy making are on the rise.
- **DO** use real-world examples that illustrate how preemption hurts people and their local communities – the inability to raise wages to meet local costs, the preemption of plastic bag bans, for example.
- **DON'T** accept the argument that preemption is necessary to avoid a "patchwork" of laws and regulations. The truth is, corporations would rather fight policies they don't like in 50 state capitols instead of the more than 19,000 cities and towns across the country.

### ***PerryUndem 2019 Research Methodology:***

#### **In-person focus groups:**

We conducted six in-person focus groups in three sites (two each in Detroit, Orlando, and Phoenix). We had 48 total participants and every focus group lasted for 2 hours. Participants were recruited from focus group facility lists, and were screened to provide a mix of gender, age, race, income, and party ideology. We also screened to have only politically engaged participants who consume news regularly and take action locally. Each discussion focused on questions regarding local government, preemption, and home rule.

#### **Online Remesh focus group:**

We conducted one national focus group using the online platform Remesh. We had 107 total participants and the discussion lasted 75 minutes. Participants were recruited from Remesh's U.S. panel, and were screened to provide a mix of gender, age, race, income, region, and party ideology. And, all participants were likely voters. Each discussion focused on questions regarding local government, preemption, and home rule.