



Michigan Municipal League

March 20, 2019

“ “ If Americans don’t start paying closer attention to what’s happening in statehouses across the country, the republic may never recover.” ”

*“The Death of Compassionate Democracy” by Margaret Renkl
New York Times Op-Ed, 3.18.2019*

Historically, preemption was used to:

Nullify local
measures
inconsistent with
state law

Advance well-
being and equity

Establish
uniform “floors”

NEW PREEMPTION

- Sweeping state laws that **clearly, intentionally, extensively**, and at times **punitively** bar local efforts to address a host of local problems.
- Often propelled by trade association and business lobbying
- Designed in many cases to preventing any regulation at all
- **Part of the same corruption and denial of democracy** as gerrymandering, campaign finance abuse, voter suppression

The **quantity** of preemption laws has **skyrocketed**

25 states
preempt
local minimum
wage laws

22 states
ban local paid
sick days

13 states
ban local food
and nutrition
policies

43 states
limit local
authority to
regulate guns
or ammunition

13 states
ban local
control over
CAFOs

10 states
prohibit local
plastic bag
bans

5 states
ban local
fracking bans

10 states
ban local
e-cigarette
regulations

The state is **interfering** on more **policy areas**

LABOR
STANDARDS

PUBLIC
HEALTH &
SAFETY

CIVIL
RIGHTS

TAXING &
REVENUE

5G &
BROADBAND

ENVIRON-
MENTAL
PROTECTION

LOCAL
ELECTIONS &
ZONING

Existing Preemption: MICHIGAN

- Apprentice programs
- Ban the box
- Employee benefits - paid sick time
- Factory farms (CAFOs)
- Firearms
- Grocery and soda taxes
- Minimum wage
- Municipal ID
- Pay equity
- Predictive scheduling
- Project labor agreements (PLAs)
- Remedies for wage and hour disputes
- Smoking
- Transportation Networks - Uber, Lyft

Preemption is being used in **new and disturbing** ways to:

Punish
elected
officials and
cities

Overturn
ballot
elections

Perpetuate
economic &
racial
inequity

End local
regulation

Preemption is being used beyond issues to implement an anti-regulatory agenda

National
strategy to
consolidate
power @ state
level

Often outlaw
local action
even when
the state
has no
policy

End local
regulation of
entire
sectors of
government

“ I am calling for legislation that reduces, restricts and prohibits local regulations. ”

-Texas Governor Greg Abbott

FLORIDA HB 3:

Prohibits local governments from imposing or adopting new regulations on businesses and business entities; eliminates all business regulations as of 2021.

“Death Star”

preemption bills that undo many wage and benefit provisions at once

MI, WI, FL, PA, IA



2019: Examples of Death Star / Blanket Bills

FLORIDA

HB 3 would impose sweeping and severe limitations the ability local governments to pass laws regulating business; preempt local LGBTQ nondiscrimination ordinances

TEXAS

SB 15 preempts sick leave, predictive scheduling and benefit policies, could override local nondiscrimination ordinances; would nullify sick day ordinances already adopted in Austin and San Antonio

2019: Banning Nondiscrimination

FLORIDA

SB 168 and HB 527 compels local participation in federal immigration enforcement efforts. Draconian fines, denial of state funding, and removal from office. Expensive, unfunded mandate; lead to civil rights violations.

TENNESSEE

HB 563 prevents cities from taking action against businesses based on their health insurance, family leave, minimum wage, or nondiscrimination policies.

2019: State Overreach

ARIZONA

H2115 bans local regulation of residential rental properties because “landlord and tenants rights are of statewide concern.”

GEORGIA

SB 131 would allow the state to take over operation of the Hartsfield-Jackson international airport in Atlanta.

VEGETABLE GARDENS

FLHB145/S82 prohibits local governments from regulating vegetable gardens on residential properties; IL HB1612 may not prohibit a private homeowner from gardening on his or her property

Cities are pushing back

30 FL mayors have filed suit challenging the punitive gun preemption

Record number of cross-issue preemption repeal bills

WV, FL, PA and more grassroots groups stopped preemption bills

Preemption bills currently challenged in FL, TX, OH, and PA courts

2019: Repeal Reigns

**Minimum wage
repeal bills**
CO, IN, LA, OK, TX

**Bills to repeal plastic
bag bans**
AZ, FL, ID, IN, MO, TX

Rent control repeal
CO, FL, IL

**Tobacco
preemption repeal**
CO, HI

**CO preemption
repeal bills**
*Minimum wage, rent control,
tobacco, plastic bags, oil and
gas development*

2019: Proactive Actions

WI - Gov. Evers “seeks to restore local control measures wherever possible,” including repealing preemption of family & medical leave, wage claims, employee benefits, hours of work and overtime, and solicitation salary histories.

FL - HJR 1273, a resolution that will create a constitutional amendment requiring a two-thirds majority vote to preempt any subject or regulation to the state.

HI – HB 96 Authorizes each county to establish a minimum wage that is a higher wage than the state minimum wage

Home rule modernization –
Partnership of National League of Cities,
some Municipal Leagues, LSSC

Messaging Research

Research	Details
AHA National Telephone Poll	December 2018 1,101 registered voters (oversample of conservative voters)
LSSC National Online Poll	January 2018 811 registered voters
AHA Focus Groups	December 2018 Green Bay, Reno, Irving, Nashville
LSSC Focus Groups (QualBoards)	December 2017 AZ, FL, GA, LA, MI, MN, NC, TN
LSSC Statewide Polls	July 2018; MO August 2018; MN
LSSC In-Depth Interviews w/ Conservative Lawmakers	FL, GA, IO, MI, NV, OK, OR, PA, TX

Consistent findings

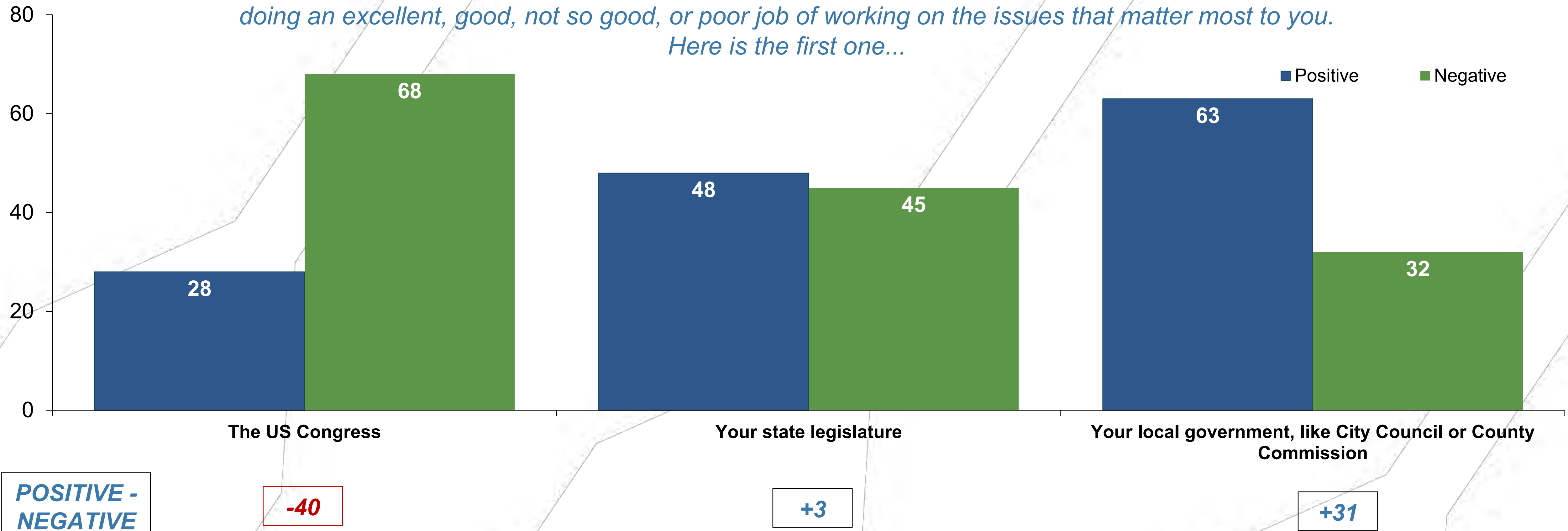
- Voters have a much **higher opinion of local government** than state or federal government
- People believe that government is most effective and accountable at the local level.
- Local communities should be able to pass their own laws...**especially if I agree with the law**
- Localities should be able to build on (enhance) **base-setting state laws** (floor preemption)
- Views on the concept of preemption are **similar across conservatives, liberals and moderates;** and across Democrats, Republicans and Independent
- Views on the topics that get preempted are where there's a difference.
- **Public safety** (public good) is the main reason local laws should exist
- The “patchwork” argument does not trump the need for local laws that reflect local needs and values.
- **Demonstrating consequences** is essential: Voters are deeply concerned about consequences of preemption, especially on workers, public health & protections
- How does this impact *me*?

Recommendations

- **Education is CRITICAL.** Absent information, voters are inclined to assume that legislators are using it to enforce consistency.
- Generally, messages that use illustrative examples of the **consequences of preemption** on people and communities are strongest. **We are better-served using a few individual cases of how preemption has caused harm, rather than showing how sweeping or rampant it is.**
 - **Health, public safety, non-discrimination, worker protection and paid sick time.**
- Tie state interference to special interests and lobbyists.
- **Voters don't like that preemption is being used as a punitive tool.** This punishment is not limited to the lawmakers but impacts the entire community, for instance when state funding is cut off.
- The overturning of ballot election results troubles voters: voters believe state interference can undermine local democracy and authority.

Voters have a high opinion of their local government, and are divided in their feelings towards state government Congress receives incredibly negative reviews.

*Now, you will see a list of different organizations and institutions. Please indicate whether you believe each is doing an excellent, good, not so good, or poor job of working on the issues that matter most to you.
Here is the first one...*



73.2% agreed with this pro-local control message



From education policy to property or land-use zoning to environmental protections, local communities are more in tune with the needs of people who live there than state politicians. Government is most effective and efficient at the local level.



Voters believe preemption happens most frequently due to the influence of special interests.

Reasons for Preemption	%Frequently	%Frequently +sometimes	%Unsure
Corporate special interests and lobbyists convince state legislators to block a local law because it would hurt their profits.	30	70	12
Conservative state legislators vote to block a local law passed by a progressive city because they disagree with it.	18	59	12
State legislators vote to block a local law as a check and balance to ensure that local laws do not contradict or violate state laws.	13	59	18

Preemption and Issue Specific Support

For each one, please indicate whether you believe local governments should have the ability to pass such a policy or whether they should not be allowed to pass such a policy.

Issue	Yes	No	Unsure
Raising the local minimum wage	64.7%	31.4%	4.2%
Raising the age to purchase tobacco to 21	58.7%	37.6%	3.7%
Restricting fracking or oil and gas drilling	61.8%	30.9%	7.2%
Restricting disposable plastic grocery bags	66.9%	26.5%	6.6%
A local tax increase to fund public safety, including police and fire protection	80.5%	16.2%	3.3%
A local tax increase to fund K-12 public education	76.4%	18.8%	4.8%
Requiring nutritional standards on meals marketed to children	60.5%	33.4%	6.1%



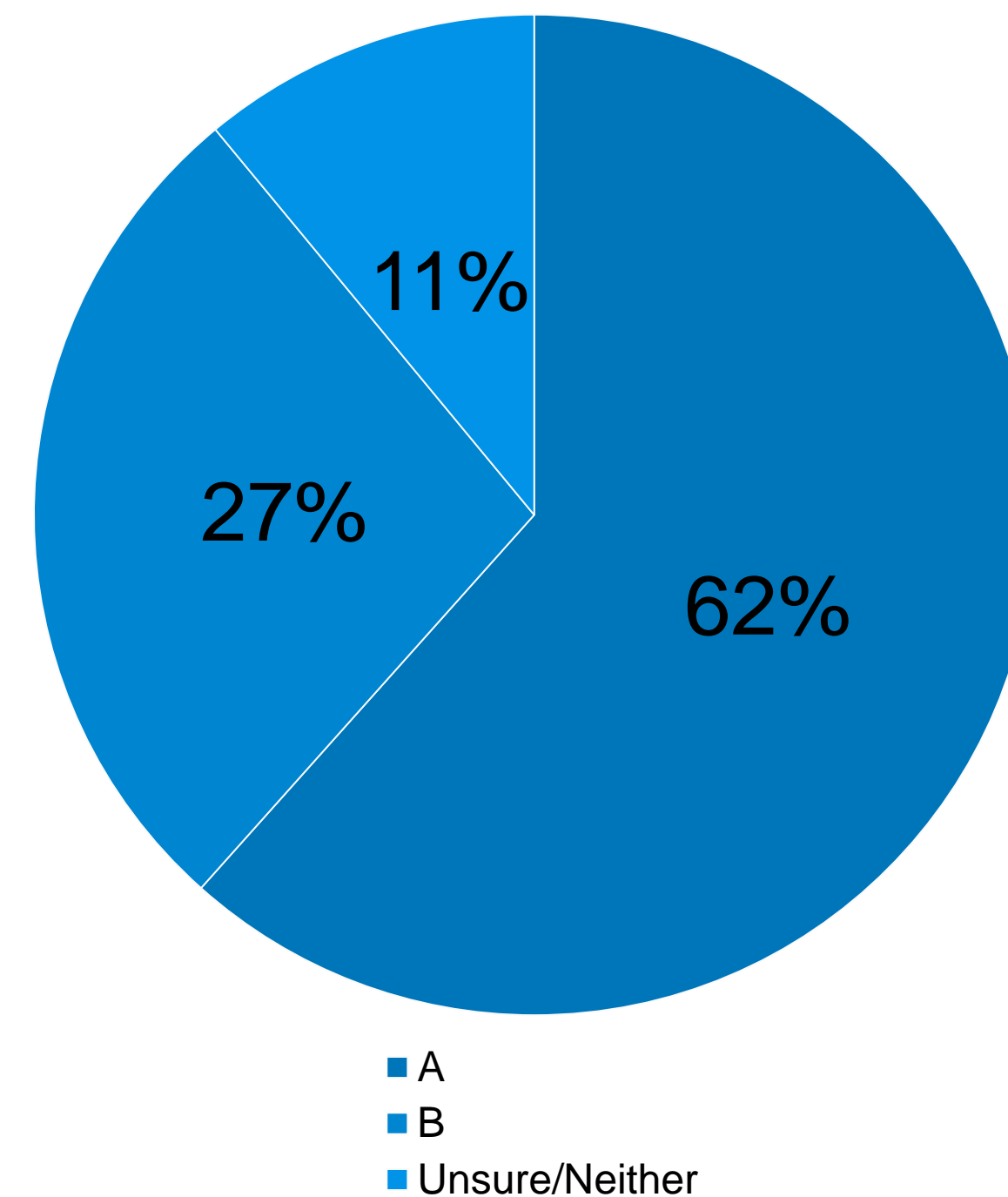
The Patchwork Argument

“ “When local governments each pass their own laws and policies, it creates a **patchwork** of laws across the state, which creates confusion and more red tape or paperwork for businesses. ” ”

Still only 36.6% at highest selecting over pro-local control statements

“What works for the people in a large city may not work for the people in a small town in the same state. That is why local government exists—to create laws that most accurately reflect the unique views, values and needs of the people who live there.”

61.6% of people agreed to this statement over the patchwork message at 27.4%





FIGHT VALUES WITH VALUES

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

US: Stress the value of local government – its effectiveness, accountability and agency. Voters agree that local leaders are best able to meet the community’s unique views, values and needs. A strong local democracy is essential to passing policies they want.

RECOMMENDATIONS: DO'S

Educate voters about the harm caused by state interference in local lawmaking and give examples of its consequences

- The polling confirms that voters are deeply concerned when they learn that
 - *Public safety is being threatened (ridesharing, paid sick time, non-discrimination)*
 - *Public health is being risked (paid sick time, tobacco, fracking)*
 - *People are losing wages and the ability to care for their families*
 - *Cities and local officials who disagree are being punished – and that hurts local democracy*
- Make it personal. How does it affect me and my family?



RECOMMENDATIONS: DO'S



ASSIGN MOTIVE & CONSIDER LANGUAGE

- **Don't talk about "preemption."** Use the term **"state interference"** instead.
- Talk about the **"misuse"** or **"abuse"** of preemption.
- Use the terms **"local democracy"** and **"local control."**
- **Remind voters who's behind this:** deep-pocketed corporate special interests and their lobbyists.

Affirmative messaging

Local governments are designed to support healthy families, a clean environment and good jobs in our cities, towns and counties; and,

Local government exists to act on the values and respond to the needs of the people who live and work there; and,

Special interest groups have successfully pushed state lawmakers across the country to prevent local governments from passing laws that support healthy families, a clean environment and good jobs; and

Blocking local governments' ability to pass laws that support healthy families, a clean environment and good jobs unfairly hurts women, children and people of color.

A strong local democracy is the best, most effective way to enact the policies our community needs and wants. Robbing local government of its power robs the people of power to improve their lives and communities and unfairly hurts women, children and people of color.

RECOMMENDATIONS: DON'TS

*DON'T
MAKE THIS
A PARTISAN
ISSUE*

*DON'T
MAKE THIS
A PROCESS
DISCUSSION*

*DON'T
DISPARAGE
THE ROLE
OF STATE
GOV'T*

*DON'T USE
TERMS LIKE
"AN ATTACK
ON CITIES"*

*DON'T
ACCEPT
PATCHWORK
ARGUMENT*



The Local Solutions Support Center

A hub that connects, supports, and creates cross-issue, coalitional opportunities and efforts to defend local democracy, repeal existing anti-democratic preemption laws, discourage the use of punitive preemption, and strengthen home rule.

LEGAL HOTLINE: 212.430.5989

LSSC: www.supportdemocracy.org

FORDHAM'S URBAN LAW CENTER: <https://www.urbanlawcenter.org/>

A BETTER BALANCE: <https://www.abetterbalance.org/our-campaigns/defending-local-democracy/>

