

**BRIDGING THE GAP BETWEEN RESEARCH AND ADVOCACY**  
**At-A-Glance: Research on Preemption, Health, and Equity**

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**Introduction**

Local governments are on the front lines for adopting policies aimed at improving health outcomes and reducing health, racial, and gender inequities. But the misuse of state preemption threatens the ability of cities, counties and towns to adopt health- and equity-promoting laws and policies. This resource from [ChangeLab Solutions](#) and the [Local Solutions Support Center \(LSSC\)](#) provides advocates with the research and data they need to document the harmful consequences of preemption and advocate for repealing inequitable preemption laws.

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**COVID-19 Response and Recovery**

Widespread [misuse of state preemption](#) has chilled local policymaking, forced localities to start from behind when responding to the pandemic, and prevented effective, timely responses to rapidly evolving public health and economic threats.<sup>1</sup>

- A [research brief](#) found that in states with more preemption laws, both local and state governments were substantially less likely to adopt innovative policy responses to COVID-19.<sup>2</sup>
- A [series of case studies](#) examining how state preemption of local housing policies has affected crisis response and recovery efforts during COVID-19 found that:
  - Local governments failed to consider adopting local policies that would conflict with existing state preemption laws even if such policies could help stabilize housing for at-risk renters.<sup>3</sup>
  - Local policies that were not directly preempted were nonetheless “chilled” and not pursued due to concerns that acting would spark legal challenges or new preemption efforts at the state level.<sup>4</sup>

## Public Health and Cross-Cutting Research

State preemption has [kept local governments](#) from enacting laws to improve public health, such as regulating the sale of commercial tobacco and alcohol, promoting healthy eating, and enacting gun safety regulations,<sup>5,6</sup> as well as local laws that address [social determinants of health](#) such as economic security, access to safe, stable, and affordable housing, antidiscrimination protections, and access to quality education.<sup>7</sup>

- Research shows that the misuse of state preemption often blocks policies that promote health and equity, with severe – and preventable – consequences such as [lower life expectancy](#), [increased infant mortality](#), and worse [overall health outcomes](#).<sup>8,9</sup>
- [Research suggests](#) that growing disparities in life expectancy are attributable to the combined effects of deregulation, devolution, and state preemption. For example, between 1980 and 2014, the difference between life expectancy at birth in Mississippi and New York more than tripled from 1.6 years to 5.5 years. Whereas New York allows local governments to raise the minimum wage, mandate paid sick leave, regulate firearms, and require calorie counts on restaurant menus, Mississippi preempts all four of these policies.<sup>10</sup>
- A [recent survey](#) found that over 70% of local health officials and 60% of mayors reported abandoning or delaying local policymaking efforts because of the threat of state preemption. Local policies chilled by the threat of preemption included efforts to regulate commercial tobacco, environmental hazards, firearms, minimum wage, safe housing, and transportation, among others.<sup>11</sup>
- [Research has debunked](#) the claim that state preemption is necessary to prevent a “patchwork” of local laws inside one state from harming residents, businesses, and consumers. To the contrary, analysis shows that people who use the patchwork argument to support preemption are generally arguing against *any* regulation at all, not against local variation.<sup>12</sup>

## Worker Protections and Economic Regulation

[Research shows](#) that women, particularly women of color, and workers in low-wage jobs are disproportionately harmed by state preemption of local worker protection laws.<sup>13</sup>

### Minimum Wage

[State preemption of minimum wage laws](#) prevents local governments from redressing health, social, and economic inequities. Increased minimum wages reduce wage inequality, disproportionately benefit women and individuals with lower education levels, and do not result in business closures or employment losses.<sup>14</sup>

- State preemption of local minimum wage laws prevent communities from [improving health outcomes](#) such as decreased adult body weight, increased infant birth weight, declined rates of preterm birth, declined child maltreatment reports,<sup>15</sup> and [lower rates](#) of suicide.<sup>16</sup>
- [A study](#) assessing how preemption affects birth outcomes – a key indicator of population health – found that state preemption of local minimum wage laws accounted for as much as 3.5% of infant deaths,<sup>17</sup> resulting in more than 600 infant deaths in 2018 alone.<sup>18</sup> [The same study](#) also found that the largest metro counties could reduce the infant mortality rate by 1.5 to 1.8% by increasing the minimum wage by one dollar.<sup>19</sup>

- A [report](#) examining minimum wage laws found that state preemption of previously enacted minimum wage laws in 12 cities and counties affected nearly 346,000 workers and resulted in nearly \$1.5 billion of lost income per year. These preemption laws disproportionately harmed women, people of color, and communities with high rates of poverty.<sup>20</sup>

### **Paid Leave**

[Research finds](#) that laws mandating universal paid leave reduce racial disparities, increase economic security, and improve health outcomes, including reduced emergency department use, increased use of preventive care, and fewer occupational injuries. The [same research](#) did not find evidence that paid leave laws reduce employment, wages, or labor force participation.<sup>21</sup>

- A large portion of [those without paid sick leave](#) are low-wage, part-time workers who are disproportionately Latinx, Black Americans, and women, meaning state preemption that prevents cities and counties from adopting paid leave laws adds to racial and socioeconomic inequities.<sup>22</sup>
- When a worker without paid leave must miss work because of their own illness or caregiving responsibilities, two days of [lost wages](#) equate to a month’s worth of gas, three days equal a monthly utility payment, and roughly a week of lost wages equals an entire month’s rent or mortgage payment.<sup>23</sup> State preemption of local paid leave laws prevents local governments from addressing these economic injustices.

## **Equitable Housing Policies**

Despite a serious and worsening housing crisis and an unprecedented [public health emergency](#), widespread [state preemption of equitable housing policies](#) has prevented local governments from ensuring access to safe, stable, and affordable housing. [Evidence shows](#) that housing instability is associated with poor health outcomes, particularly for children and adolescents, and that the lack of access to safe, stable, and affordable housing leads to stress, poor mental health, and reduced access to key health-promoting opportunities. Housing safety and stability is particularly important in light of the COVID-19 pandemic and widespread stay-at-home orders.

- A [study suggests](#) a relationship between state preemption of local mandatory inclusionary zoning (IZ) policies and both increased rates of self-reported poor or fair health status and a greater likelihood that Black adults report delaying medical care because of cost.<sup>24</sup>
- Austin, Texas, sought to address racial and socioeconomic discrimination in rental housing by prohibiting landlords from rejecting otherwise qualified tenants based solely on their source of income (e.g., federal housing assistance).<sup>25</sup> Across the country, only one in three voucher households is protected by nondiscrimination laws like those Austin adopted. The Texas state legislature responded by invalidating Austin’s ordinance and preempting localities from adopting similar antidiscrimination laws,<sup>26</sup> despite the absence of any statewide protections for recipients of housing assistance and despite clear evidence that source-of-income discrimination disproportionately harms people of color.<sup>27</sup>

## **Preemption in the South**

[Longstanding state preemption](#) of local governments in the South is a continuation of “state-sanctioned policies and practices rooted in racism and designed to uphold white supremacy” by suppressing the political power of communities of color.<sup>28</sup>

- [Research shows](#) that the abuse of state preemption is particularly prevalent in the South, where overwhelmingly white, male, and conservative state legislatures have blocked the ability of local communities – often Black and Brown communities – from responding to the needs and values of their residents. These communities have been prevented from enacting policies on a multitude of work-related issues, such as minimum wages, fair scheduling laws, paid leave programs, local hire laws, prevailing wage laws, and other workplace protections.<sup>29</sup>
  - When the Alabama state legislature preempted a minimum wage increase in Birmingham, Alabama, they denied pay raises to an estimated 65,000 low-wage workers, disproportionately harming Black people and women.<sup>30</sup>
  - When Texas preempted local paid sick leave laws, they excluded millions of workers – overwhelmingly people of color – from the opportunities and health benefits that those laws would provide.<sup>31</sup>
- The [misuse of state preemption](#) has also undermined the ability for [local governments in the South](#) to respond to the health, social, and economic crises resulting from COVID-19, which has disproportionately harmed many communities of color.<sup>32,33</sup>

## Local Fiscal Authority

Preemption of [local authority to raise and spend money](#) often results in the loss or diversion of municipal revenues, harming urban, suburban, and rural communities alike.<sup>34</sup>

- During the time of COVID-19, [restrictions on municipal revenues](#) force cities and counties to cut services when the community needs them most, lay off and furlough employees, and mothball capital projects, which has consequences for local employment, business contracts, and overall investment in the economy and community.<sup>35</sup>
- State laws that [limit local fiscal authority](#) to raise and spend revenue—known as tax and expenditure limits (TEs)—force local governments to turn to alternative forms of revenue generation, which often means fines and fees.<sup>36</sup> [Research shows](#) that people of color and residents who have low income are disproportionately affected by fines and fees, which can “affect credit scores, plunge families into debt, result in loss of a driver’s license, or lead to incarceration”—all outcomes that negatively affect health.<sup>37</sup>

## References

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*The 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.*

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