Preemption in Public Health
A Toolkit and Case Study from North Carolina

February 2013
Dedication

This is dedicated to the many heroes who have worked around a preemptive “dirty air law” in North Carolina to …

- Make all public school campuses 100% tobacco free;
- Make all hospital grounds 100% tobacco free;
- Make the N.C. General Assembly Buildings smoke free;
- Make all N.C. state government buildings 100% smoke-free indoors;
- Make all prisons and grounds 100% tobacco free;
- Make all long-term care facilities and day care facilities smoke-free;
- Clarify that Community Colleges can go 100% tobacco free, including buildings, grounds and vehicles;
- Make all restaurants and bars smoke-free;
- Reinstate local authority to make local government buildings, grounds and public places smoke free;

And then ... to date...

- Making government buildings smoke free in 85 of the 100 counties;
- Making 60% of the 58 N.C. Community Colleges 100% tobacco free;
- Making government grounds smoke free/tobacco free in 13 counties and 41 municipalities;
- Making parks in smoke free or tobacco free in 82 counties and municipalities;
- Making public places smoke free in two counties and four communities;
- And working towards making all mental health/substance abuse treatment facilities 100% tobacco free

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Purpose

Despite its position as the leading tobacco producing state in the nation, North Carolina’s tobacco control movement has made major progress over the years in reducing tobacco use and building support for evidence-based policies and programs.

Two major factors that have shaped North Carolina’s approach to tobacco prevention and control are 1) to make incremental progress in smoke-free policies despite a preemptive “dirty air law” which set a weak state standard and then preempted stronger local policies, and then 2) to gain and maintain local authority over decision-making on smoke-free air laws. The purpose of this toolkit is to provide a primer on preemption as a barrier to changing social norms and policies that make the healthy choice the easy choice.

We hope this toolkit on preemption, with illustrations from the N.C. experience, will help other states and communities working toward population health measures, whether they are in tobacco prevention and control or other key areas of prevention and public health.

Special thanks to the N.C. Tobacco Prevention and Control Branch, and Katherine Randall with Youth Empowered Solutions! for their support in creating this toolkit.

“All public health is local - it’s got to start and be sustained at the local level.”

Howard Koh, Assistant Secretary for Health in the U.S. Department of Health and Human Services
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Background

What is Preemption?

Preemption is a legislative or judicial principle in which a higher level of government (state or federal) prohibits the authority of local governments to enact regulations on a specific subject matter.

Essentially, preemption at the state level is a “trump card” used to remove local communities' ability to enact stronger laws at the local level. Often, preemption laws do two major things. They restrict the will of the people and local policy-makers by overturning an initiative that has already passed, and they can prevent the introduction of local regulations on that subject area from being introduced in the future.

For example, some states preempt, or prevent, local communities from enacting local ordinances that are more stringent than or differ from the state level. The three broad types of state preemption tracked by Center for Disease Control and Prevention (CDC) related to tobacco control include preemption of local policies that restrict 1) smoking in workplaces and public places, 2) tobacco advertising, and 3) youth access to tobacco products. A state may preempt local tobacco control laws in all or only in some categories. The Healthy People 2020 objective (TU-16) calls for eliminating state laws that preempt any type of local tobacco control law.

The tobacco industry has historically supported state preemption laws as a way to reverse existing local tobacco control ordinances and prevent future enactment of such ordinances. (1) Preemption is the tobacco industry’s top legislative goal, because it concentrates authority at the state (or federal) level, where the industry is stronger and can more readily protect its interests. Over the past 20 years the industry has passed some form of preemption in the majority of states, abolishing many local tobacco control laws and preventing hundreds more from passing. The number of states with preemptive tobacco control provisions was 28 states at the end of 2000 and 27 states at the end of 2010. (2) Tobacco control is not the only public health issue that can be preempted through state law. In recent years several states have restricted local communities’ ability to pass laws related to childhood obesity prevention.

Background: N.C. Public Health is a system with a state Division of Public Health, whose leaders and programs work with 87 independently managed Local Health Departments serving 100 counties. The N.C. Association of Local Health Directors (NCALHD) is organized under the N.C. Association of Public Health Agencies (NCAPHA) that also includes the N.C. Public Health Association. Public health is planned and carried out as a local and state partnership. The N.C. Association of Local Health Directors meets formally in Raleigh each month, with State Division of Public Health Leaders and staff. Work is accomplished through a formal and collaborative process.
The North Carolina Tobacco Preemption Story Begins:
The Early Years

North Carolina enacted a law in 1993 (HB957) that preempted all local smoke-free air laws.

North Carolina advocates began a strategy of building support to chip away at preemption, but it took over a decade of education and advocacy prior to making progress in restoring authority to local governments to enact smoke-free regulations.

Beginning in 2006, on the heels of the release of the Surgeon General’s Report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, the legislature began taking a number of important initial steps to restore aspects of local control. State laws were enacted to partially repeal preemption to allow health departments and social services departments to enact smoking restrictions in their buildings.

In 2007 additional laws chipped away at preemption by allowing smoke-free regulations in local government buildings and local government vehicles. Also, separate laws allowed University of North Carolina campuses and community college campuses to adopt smoke-free policies.

“The N.C. has a very long and proud history of tobacco and of public health. Local public health departments in all 100 N.C. counties have struggled over the years to foster the transition of our State to a non-smoking culture. Our Local Boards of Health have faced multiple legal challenges as well as social ostracism as they have strived to protect and promote public health for the benefit of their fellow citizens. Preemption of local authority to regulate smoking has been tried more than once by both legislative and judicial bodies in N.C. In the last session of our General Assembly, yet another bill was introduced that would have preempted local authority. Thanks to the many strong public health partners across the state, the bill never passed. However, we must remain vigilant to the persisting threat and continue to push for policies and laws that lead to less smoking and better health.”

-Dr. John Morrow
Pitt County Public Health Director

The 2009, North Carolina’s smoke-free restaurants and bars law also partially repealed preemption, stating that a local government may adopt and enforce ordinances, board of health rules, and policies restricting or prohibiting smoking that are more restrictive than state law and that apply in local government buildings, on local government grounds, in local government vehicles, or in public places.
As of November 15, 2013, there are:

- **85 counties** that have a written regulation prohibiting smoking or tobacco use in government buildings;
- **13 counties** and **41 municipalities** that have adopted a 100% smoke-free or tobacco-free grounds regulation;
- **82 counties and municipalities** reporting written regulations prohibiting smoking or tobacco use on ALL (100%) grounds of parks; and
- **Six written regulations** prohibiting smoking or tobacco use in public places, including Durham and Orange County Board of Health Rules.

Local governments are still prohibited from adopting smoke-free laws in state exempted cigar bars; state exempted non-profit private clubs; private residences and vehicles; tobacco shops; facilities of tobacco manufacturers/growers/dealers; hotel/motel rooms; and movie and theatrical sets.

**Sources**


Existing National and State Level Resources Related to Preemption

Tobacco Control Legal Consortium: Fact Sheet on Preemption of State and Local Authority

National Association of County and City Health Officials: Policy Statement on Preemption

American’s for Nonsmokers’ Rights: Preemption- Tobacco Control’s #1 Enemy

Journal of Environmental and Public Health: The Impact of State Preemption of Local Smoking Restrictions on Public Health Protections and Changes in Social Norms
http://www.hindawi.com/journals/jeph/2012/632629/

Top Ten Reasons Preemption is Harmful
http://www.sctobacco.org/UserFiles/sctobacco/Documents/TOP10NOPREMPT.pdf

American Medical Association: Preemption, Taking the Local out of Tobacco Control

Department of Health and Human Services: Letter from Tim McAfee related to preemption in North Carolina
http://www.ncallianceforhealth.org/Media/Tobacco/North%20Carolina%20preemption%20LOE%204%2015%202013.pdf

Americans for Nonsmokers’ Rights and American Cancer Society: Cancer Action Network: Protect Local Control
http://www.protectlocalcontrol.org/

Grassroots Change: Preemption
http://grassrootschange.net/preemption/
Coalitions That Work:

N.C. Alliance for Health as a Model of a Tobacco and Obesity Prevention Coalition

The North Carolina Alliance for Health (NCAH) is an independent, statewide membership-based coalition of public, private, professional and nonprofit organizations advocating for obesity and tobacco use prevention policies before North Carolina’s legislative and executive branches. NCAH members and partners include the American Heart Association, the American Cancer Society Cancer Action Network, American Lung Association, American Diabetes Association, N.C. Pediatric Society, N.C. Prevention Partners, N.C. Local Health Directors Association, N.C. Center for Health and Wellness, March of Dimes, N.C. State Alliance of YMCA’s, N.C. Council of Churches, and many others. Employees of state government provide factual assistance to the coalition, but may not join as organizational members. An Executive Committee of 11 members and two staff supports the coalition, and the N.C. Pediatric Society serves as the coalition’s fiscal agent. The coalition holds quarterly membership meetings. In addition, the coalition has subcommittees for tobacco-use and obesity prevention policy work that meet on a regular basis.

The coalition strives to make all policy priority decisions by consensus. NCAH’s Obesity and Tobacco Prevention Policy Committees, comprised of North Carolina’s best experts on preventative health issues and chronic diseases, are responsible for guiding the development of policy priorities and implementation strategies to promote those priorities. Once the committees determine recommended priorities, the NCAH Executive Committee reviews the proposed policy targets and then sends it on to the full NCAH membership for approval.

NCAH began its work on tobacco-use prevention policies in 2002 and achieved its first policy success in 2005 after working to increase the state cigarette excise tax. Further accomplishments came with the passage of incremental smoke-free laws. In 2008, NCAH began working in obesity prevention policy. The following are demonstrations of policy successes in both focus areas.

Tobacco Prevention Policy Successes Include:
• Increasing cigarette tax to 35 cents in 2005/2006 (two tiered increment: 25 cents in September 2005 and another five cents in July 2006);
• Eliminated smoking in General Assembly buildings in 2006;
• Eliminating smoking in state government buildings and restored authority to local governments to make local government buildings smoke free in 2007;
• Making state government motor fleet smoke-free and restored authority to local government to make local government motor fleets smoke-free in 2008; and
• Passing House Bill 2 in the legislative long session 2009 (signed May 19) implementing smoke-free restaurants and bars effective January 2, 2010.
• During the 2013 legislative session, NCAH was successful in defending several efforts to weaken NC’s smoke-free law.

_Obesity Prevention Policy Successes Include:_
• Passing of HB 901, PE and Health Honors Courses, in 2010, creating the option for schools to offer healthful living honors courses to provide an advanced level of learning and training in allied health for high school students;
• Passing of HB 1757, Fitness Testing in Schools, in 2010, requiring fitness testing (FitnessGram) in schools as a part of a comprehensive physical education program; and
• Passing of HB 503, Nutrition Standards for all Competitive Foods sold in Schools, by the North Carolina House of Representatives in 2011. However, in the short session of 2012, the bill became a target of political competition between the House and Senate, and it was ultimately not passed in the same form by the House and Senate.
Strategic Planning

Strategic planning is an ongoing, daily/weekly/monthly/yearly practice with the N.C. Alliance for Health and all the key partners who work on tobacco prevention and control. It involves:

- Gaining knowledge and understanding about the problem of tobacco use and addiction, secondhand smoke exposure, and how these problems affect North Carolina and North Carolinians;
- Understanding what works to prevent and reduce tobacco use and secondhand smoke exposure;
- Setting policy goals and outcomes to achieve progress in the long term, intermediate term and short term; and
- Evaluating progress, including facilitating factors, barriers, and plans to overcome barriers toward the policy goals and outcomes.

Policy Priorities: When and how to determine

The focus on policy is based on the evidence of what works. The Guide to Community Preventive Services has documented what strategic interventions are effective in preventing and reducing the burden of tobacco addiction and secondhand smoke exposure. (See www.thecommunityguide.org.) The N.C. Alliance for Health focuses its tobacco policy objectives on the statewide policies that are most effective in tobacco control.

Policy Priorities are determined by consensus of the NCAH coalition each year, well before the legislative session. Long term policy priorities tend to be focused on meeting the Healthy N.C. 2020 Objectives that have achieved consensus with a broader coalition; intermediate policy objectives are incremental steps toward the long term policy outcomes and short term policy objectives are set for the upcoming legislative session. North Carolina’s legislature meets on a biannual basis, with odd numbered years holding a long session to determine policy and budget for two years and even numbered years holding a short session to make budget adjustments and take up legislation that either 1) met the crossover deadline from the previous session; 2) have budget implications; or 3) come from a legislatively appointed committee.
The N.C. Alliance for Health also discusses and is aware that the policy priorities can change on a moment’s notice for two reasons:

1) A threat to an existing policy or program that is effective in tobacco prevention and control surfaces. An example of this is SB703, which was introduced in 2013 to remove the authority of local governments to restrict smoking in certain outdoor spaces. This case study is examined thoroughly on page 25; or

2) An opportunity arises that provides an even greater chance to achieve evidence-based tobacco control policy success. An example of this would be if legislative or executive branch leaders are seeking revenue for a particular agenda item, and tobacco tax increase is considered as a source of revenue.

**N.C. Alliance for Health 2013 Tobacco Use Prevention Policy Priorities**

- Secure full CDC-recommended funding of evidence-based tobacco prevention and cessation programs in North Carolina.
  - Secure at least 25% of Master Settlement Agreement (MSA) funds to fund evidence-based tobacco use prevention and cessation to improve health and save health care costs.
  - Advocate for $17.3 million in recurring state funds for evidence-based tobacco use prevention and cessation programs.
- Protect public health by eliminating exposure to secondhand smoke:
  - Protect existing smoke-free law which made restaurants and bars smoke-free on January 2, 2010;
  - Expand existing smoke-free law by advocating for legislation to make all N.C. worksites and public places 100% smoke-free, in combination with;
  - Advocate for legislation that expands local control so local communities can pass ordinances to eliminate exposure to secondhand smoke in worksites (in addition to public places granted in 2010).
- Support an increase in North Carolina’s cigarette excise tax BY at least $1.00 and support an excise tax increase on other tobacco (non-cigarette) products to a tax rate equivalent with that of cigarettes;
- Support reinstating North Carolina’s cigarette tax stamp to promote health, safety, crime prevention efforts and increased state revenue.
Gaining Consensus Upfront
Criteria for policy adoption

The N.C. Alliance for Health is a cohesive coalition that works hard to build consensus prior to taking action on any policy.

What is necessary for support? Knowing Who Can Do What!

- Many coalition partners must first understand what they can do related to advocacy work, as well as their boundaries related to advocacy work. This is based in federal and state law, and may vary from state to state. Some partners, like the American Heart Association and American Cancer Society Cancer Action Network, are able to support the coalition through lobbying work at the North Carolina General Assembly. Other non-profits do not engage in direct lobbying activity, and support the work through engaging their grassroots networks, assisting with media creation, financial support, or other means.

- Many coalition members must reconcile their coalition work with their state and sometimes national organization’s policy priorities. This may require internal advocacy to build support among organizational members of the NCAH. For example, coalition members such as the American Heart Association and American Cancer Society have national policy agendas for tobacco prevention and control that apply to regional and state chapters.

- State government partners who may be at the table but are non-voting members of the NCAH have a separate process for determining priorities. In N.C., state government partners determine public health priorities for chronic disease and injury prevention through vetting it within internal processes that go from the Tobacco Prevention and Control Branch through the Chronic Disease and Injury Section’s Policy Community of Practice, and to the Division of Public Health. The Division determines policy priorities that go to the Department of Health and Human Services, which in turn determines policy priorities to go to the Governor.

- In N.C., local government partners are independent from state government, and local health directors work within the N.C. Association of Local Health Directors to determine their policy priorities each year. Two items related to tobacco prevention and control were in the NCALHD legislative agenda for 2013:
  - Oppose any bill or amendment that weakens the smoke-free restaurant and bars law.
- Support the recommendation to raise state tax on tobacco to the national average and support funding for evidence-based tobacco prevention and cessation programs through the tobacco master settlement dollars.
  - There are legal aspects to the understanding of what a coalition member organization can do or should not do as a policy advocate, as well as judgment related to public perception.

What is necessary for support? Understanding Clearly What is Needed/What do we want?
  - Defining a policy priority specifically so as to achieve the policy outcome/goal is an important step to gaining support.
  - The legislative intent statement is an important indicator that will guide the decision making process, so it is important to be clear, accurate and precise in this language. The saying “the devil is in the details” can often apply to policy work and the drafting of legislation.

When do we “walk away”?
  - This is an important part of consensus building, and should take place well before the legislative session begins. N.C. Alliance for Heath’s voting members work to develop scenarios where a policy priority has become so compromised in the process that it becomes necessary to walk away from it, or even work to defeat it.
  - Note that state government partners, by the very nature of their jobs, are never in a position to “walk away,” as they must work within the Executive Branch’s priorities and be responsive to requests for information from the Legislative Branch. However, they can be useful in educating and informing decision makers about evidence based policy options.

What is necessary for support? Knowing What the Constituents (Voters) support!
  - Poll data is a good tool for educating strategy.
  - Poll data that shows strong support for policy can be a tool to educate and inform decision-makers.
  - Poll data that shows that the public and/or voters are either unaware of a problem or unsupportive of evidence-based solutions lead the coalition to work on strategies to educate and inform the public. This can be done through earned media (news stories) followed by opinion pieces (letters to the editor, OpEds and educating Editorial Boards.
How do we play these out with partners and still maintain trust?
Communication, Communication, Communication!

- An important aspect of the NCAH process is to work through a lot of hard issues and possible scenarios well before the legislative session begins. Things can change quickly during the legislative session, and NCAH advocates need to know their coalition is with them if they have to “turn on a dime” due to a change, a threat or an opportunity.
- NCAH staff and key partners work weekly together on strategy just before, during and immediately after session. Weekly calls are open to all key strategists working on legislative policy, media and grassroots/grass-tops strategies to build awareness of the problem and support for policy solutions.
  - Legislative strategy focuses the policy ask and refines it as needed to ensure the best outcome while at the same time building support.
  - Media strategies may include paid media, but are more likely to include earned media, or the development of news stories and events to build awareness of the problem and educate and inform on effective solutions. Earned media strategies also include Opinion pieces – letters to the editor, OpEds or Editorials.

Inside Strategies vs. Outside Strategies/ Full out campaign: When to do what and why?

- One decision point is often whether to launch a full out and very public campaign versus an inside strategy campaign that focuses on key decision-makers. This decision requires skill and a good understanding of the state decision-makers and their needs and interests.
- The tobacco control movement nationally has made great progress through educating the public through very public paid and earned media campaigns, which in turn, build support for public policy.
- There are times, however, when an inside ball game strategy is likely to get the best result, and in these cases, the NCAH has shown that their skill and understanding of the needs and interests of those decision-makers at that time may be more likely to produce the desired impact than conventional wisdom of the national tobacco control movement leadership. This skill comes from listening and building relationships with decision-makers and their trusted advisors.
Building Bi-partisan Support through Communication and Grassroots Strategy

Framing Messages to Fight Preemption

Media advocacy is the “strategic use of mass media for advancing a social or public policy initiative.” Media messaging is a well-established tool for fighting back a proposed preemptive law or rolling back an established one. “In practice, media advocacy is the act of strategically mobilizing community interest in a problem and its solutions.”

Media advocacy usually relies on working with the news media; it uses many of the same tactics as public relations does, such as news events, news releases, letters-to-the-editor, editorial board meetings and op/eds. In recent years, successful media advocates also takes advantage of web 2.0 tactics, such as blogging and the use of social media platforms.

A media advocacy campaign is a way to influence the outcome of a policy debate by applying media and public pressure to “do the right thing,” in terms of protecting public health. Media advocacy is a necessary tool to use when an inside strategy to correct a policy or regulation is unsuccessful or is unlikely to be successful. Making public the arguments in support of local control can bring forward additional spokespeople from local government and local communities and building overall public support for your issue. Going public, however, when an inside strategy can quietly fix the problem may backfire, turning friends into enemies. If inside partners need public support, a media advocacy campaign may be helpful to them; the issue is to ask first, before launching a media advocacy campaign.

Sometimes the mere threat of a campaign is enough to encourage a decision-maker to support the necessary policy change. For example, offering to do an op-ed or a news conference either thanking a lawmaker for helping establish a law that supports local control, or blaming them for taking local control away. This is also a very risky strategy that should only be undertaken if inside meetings have not resulted in success.

Framing is one of the tactics of media advocacy. It involves creating messages that are tailored to be convincing to the audience, and that establish the policy solution you are seeking as the best way to address the issue at hand. Everyone has mental “frames” that organize information for us and link them together. A very typical frame in the United States, for example, states that “The United States is the best country in the world.”
When someone subscribes to this frame, their minds try to fit any information they receive into this frame. Information that will not fit is often rejected, because it does not fit the individual’s “frame.”

Those who promote laws that preempt local communities from adopting stronger protections for its citizens’ health have two main messages they use to frame this action in a positive light.

- Allowing local communities to develop many different laws around this issue is confusing for people who visit different areas of our state. It won’t be clear to them what the law is where they are, if it is different from the law one county over.
- A state standard which sets a ceiling to regulation creates a “level playing field,” which allows businesses to be treated the same across the state.

While messages like these sound logical, they can be overcome by simply re-framing the argument to support local control.

Here are some framed talking points to support local control over preemption, when it comes to any public health issue.

1. Preemption is Big Government.
   - Preemption is centralized Big Government action that takes control away from counties and municipalities. It’s another power-grab from the state that ties the hands of counties, cities and towns that really do know best what types of regulations make sense in their communities.

2. Local governments should have the authority to protect their residents from known public health threats.
   - Local control allows for meaningful, open local debate, which allows more voices to be heard.
   - Locally elected officials should have the authority to protect their residents, especially children and older people, from hazards that may harm their health.
   - Local regulations are often easier to enforce, because they don’t have to rely on often-distant agencies.
   - Residents tend to have higher awareness of and compliance with local regulations than state ones.
   - Rather than causing confusion, allowing different standards for local communities allows local governments to tailor public health regulations so they address that community’s particular needs, culture and level of readiness.
• Local governments can be more flexible and responsive than the state is in dealing with emerging problems by seeking local solutions that make sense.

3. State government usually sets floors on regulation, not ceilings.
   • Traditionally, state laws serve as a “floor,” or minimum requirement for a policy, allowing communities to enact stronger ordinances if they see fit. Preemption reverses this traditional relationship, causing the state law to become the “ceiling” for regulation, and forbidding anything stronger. It does not make sense to reverse the normal relationship between state and local laws, especially when public health is at stake.
   • Local control is popular. Poll data is likely to show both support for your health issue and support for legislating locally, rather than at the state level, to regulate.

When developing messages, it’s also important to be ready to respond to critics. Here are responses to the two main messages used in support of preemptive public health laws.
   • Allowing local communities to develop many different laws around this issue is confusing for people who visit different areas of our state. It won’t be clear to them what the law is where they are, if it is different from the law one county over.
      o Businesses and travelers already have to comply with various local laws. For example, local variations already exist in zoning laws, parking and traffic laws, alcohol sales laws, health regulations and tax laws.
      o People expect laws in different communities to vary somewhat, as they do in many areas, anywhere they travel.
   • A state standard which sets a ceiling to regulation creates a “level playing field,” which allows businesses to be treated the same across the state.
      o State laws normally provide a “floor,” or a minimum requirement to a regulation, which local governments can choose to exceed. With public health at stake, why would we restrict local governments from being more protective, if they feel their community needs that level of protection?
      o Local governments are close to the community and are more likely to understand its needs and problems. Counties and towns can be more effective in addressing public health issues and behaviors than can the distant state.
**Message Testing**

Whether an inside or outside strategy is being used, messages should be tested for effectiveness with your audience. Some prior audience testing may be useful. The Campaign for Tobacco Free Kids, for example, has tested the message: “Everyone should have the right to breathe safe, smoke-free air” on many U.S. audiences, and has found it to be one of the most effective messages around aimed at a general audience.

Starting with the Talking Points list above, and combining it with messages around the health issue you are working on, should help your communication committee draft a list of possible messages and talking points. Thinking through a list of potential audiences, reframe each message to be as effective as possible for each audience. For example, local government representatives are likely to be very persuaded by a “local control” message. State legislators are less likely to like that message, but may understand local communities’ need to be flexible and trouble-shoot problems locally. When you finish you should have a list of talking points or messages for each audience you intend to reach.

If it is possible, test the messages by sharing with colleagues who represent or very close to the audience. For example, a friendly legislator may help vet and update messages for his or her fellow lawmakers. A municipal government professional organization may help with that list. For the general public, you may want to bring in some people to respond to your list in an informal focus group. The main things you are looking for are that the messages 1) Resonate with the audience and 2) Do not offend in any way.

When do you know you are finished testing? When you start hearing the same feedback over and over, you have probably heard enough to finalize your lists and select the main messages you will use, either internally or externally, or both, to carry your position.

**Message Delivery**

One of the main methods of delivering your messages with be out of the mouths of advocates. Framing your best messages to have them delivered by constituents through emails, letters or phone calls is one of the most powerful methods of advocacy. Provide training to advocates on the best way to do this – and make sure they have a clear understanding of the issue and the messages you have selected.

One-pagers or legislative “drops” are also great tools. These simple one-page educational pieces are hand-delivered to legislators at meetings, dropped off with
legislative staff, or are dropped into their mail boxes. It is critical that these educational pieces never exceed one page and that they don’t try to cover every aspect of your issue. They should be simple and specific. Graphs and other visuals are important. Quotes and photos of individuals can be helpful. Reprints of supportive editorials, Op/Eds or letters-to-the-editor make great “drops”.

If you are using an outside strategy, you will most likely be relying on earned media. Holding media events or news conferences is one of the main tactics of earned media. Others include placing Op/Eds or letters-to-the-editor and holding editorial board meetings. Social media sharing is another way to build public support. Having links to supportive media pieces “shared” with lawmakers on their Facebook pages or Twitter feeds is another way to impress the importance of your issue. Sending editorial board memoranda is a newer method of requesting a favorable editorial from a newspaper without needed to schedule a face-to-face visit. Simply make your case in the memo and provide any sources they may want to look at before crafting their own editorial.

Paid media is fairly rare in media advocacy campaigns. Usually the advocates don’t have the funding to run paid ads, but if there are funds available, paid ads can help move the issue along. For example, the N.C. Tobacco Prevention and Control Branch and the N.C. Health and Wellness Trust Fund both ran ads promoting tobacco-free schools policies. These radio, TV and print ads helped build support in North Carolina communities for local tobacco-free policies in schools.

Spokespeople

Deciding who to deliver your messages can be complicated, but must be planned ahead in order to be effective. When opposing preemption, local officials make some of your best spokespeople. When House Bill 703 threatened to take away tobacco-free policies on North Carolina community college campuses, college presidents spoke up. They, their students and their staff members were happy with their tobacco-free policies, and did not want to revert back to having required smoking areas. Their voices, as the ones directly affected by changes to the law, were very powerful.

Many times members of the general public don’t have a strong understanding of preemption or local control, but they can be trained to speak to the negative impact preemption will have on their health or the health of others in their community. Personal stories can be effective with legislators. In North Carolina legislators said that on health issues, they were most influenced by local health directors and local hospital administrators. These can be important advocates and spokespeople for local control on public health issues.
For samples of media generated during North Carolina’s preemption campaign in 2013 in support of local smoke free air laws, please see Appendix A.

For a sample editorial board memo, please see Appendix B.

Sources:
Staples, A.H. NC Medical Journal, March/April 2009
Americans for Nonsmokers’ Rights, “Preemption: Arguments and Responses,” August, 2004
CDC, MMWR, November 3, 1995
CDC, SGR Report, 2000
Strategic Planning Tools

Nine Key Questions to Consider in the Development of an Advocacy Strategy

ADVOCACY INSTITUTE, WASHINGTON, D.C.
A common confusion in the development of advocacy strategy is the difference between "strategy" and "tactics." Tactics are specific actions – circulating petitions, writing letters, staging a protest – that are the building blocks of advocacy. Strategy is something larger, an overall map that guides the use of these tools toward clear goals. Strategy is a hard-nosed assessment of where you are, where you want to go, and how you can get there. By asking the Nine Key Questions, you’ll quickly develop your own road map to success.

1. What do we want? (GOALS)
Any advocacy effort must begin with a sense of its goals. Among these goals, some distinctions are important: What are the long-term goals and what are the short-term goals? What are the content goals (e.g., policy change) and what are the process goals (e.g., building community among participants)? These goals need to be defined at the start, in a way that can launch an effort, draw people to it, and sustain it over time.

2. Who can give it to us? (AUDIENCES, KEY PLAYERS, POWER-HOLDERS)
Who are the people and institutions you need to move? This includes those who have the formal authority to deliver the goods (i.e., legislators) as well as those who have the capacity to influence the authority figures (i.e., the media and key constituencies, both allied and opposed). In both cases, an effective advocacy effort requires a clear sense of the audience and the access or pressure points available to move them.

3. What do they need to hear? (MESSAGES)
Reaching these different audiences requires crafting and framing a set of messages that will be persuasive. Although these messages must always be rooted in the same basic truth, they also need to be tailored to different audiences. In most cases, advocacy messages will have two basic components: an appeal to what is right and an appeal to the audience’s self-interest.

4. Who do they need to hear it from? (MESSENGERS)
The same message has a very different impact depending on who communicates it. Who are the most credible messengers for different audiences? In some cases, these messengers are "experts" whose credibility is largely technical. In other cases, we need to engage the "authentic voices," those who can speak from personal experience. What do we need to do to equip these messengers, both in terms of information and to increase their comfort level as advocates?
5. How can we get them to hear it? (DELIVERY)
There are many ways to deliver an advocacy message. These approaches range from the genteel (e.g., lobbying) to in-your-face (e.g., direct action). The most effective means varies from situation to situation. The key is to evaluate the situation carefully and apply the delivery appropriately, combining the two elements together in a winning mix.

6. What have we got? (RESOURCES)
An effective advocacy effort takes careful stock of existing advocacy resources. This includes past advocacy work that is related, alliances already in place, staff and other people's capacity, information and political intelligence. In short, you don't start from scratch; you start from building on what you've got.

7. What do we need to develop? (GAPS)
After taking stock of the advocacy resources, the next step is to identify the advocacy resources you need that aren't set into place yet. This means looking at alliances that need to be built, and capacities such as outreach, media, and research, which are crucial to any effort.

8. How do we begin? (FIRST STEPS)
What would be an effective way to begin to move the strategy forward? What are some potential short term goals or projects that would bring the right people together symbolize the larger work ahead and create something achievable that lays the groundwork for the next step?

9. How do we tell if it's working? (EVALUATION)
As with any long journey, the course needs to be checked along the way. Strategy needs to be evaluated by revisiting each of the questions above (i.e., are we aiming at the right audiences; are we reaching them, etc.) It is important to be able to make mid-course corrections and to discard those elements of a strategy that don't work once they are actually put into practice.

© 2002 Advocacy Institute, Washington D.C.
**Strengths Weaknesses Opportunities Threats Model**

SWOT analysis is a planning method used to analyze your advocacy campaigns Strengths, Weaknesses, Opportunities, and Threats. Identification of the positives and negatives of your campaign can inform later steps as you work toward your advocacy goal.

**Analysis**

How to increase the coalitions’ strengths?

How to see and/or create opportunities?

How to decrease coalitions’ weaknesses?

How to reduce or eliminate threats?
Case Story: Defeating a Threat to Partially Repeal Local Authority to Ban Smoking Outdoors in N.C. in 2013

“Life is what happens when you are busy making other plans” – John Lennon

At the start of the 2013 North Carolina Legislative Session, health advocates were nervous about what they might see from the North Carolina General Assembly. Pat McCrory had recently been elected Governor, and he was the first Republican Governor in North Carolina in over twenty years. Republicans gained control of both chambers during the 2010 elections, and increased their majorities in 2012. All but one of the sponsors of North Carolina’s smoke-free restaurants and bars bill had left the General Assembly, and the new majority had significantly decreased state funding for tobacco prevention and cessation programs over the last two years.

"Durham County has been a leader in North Carolina when it comes to tobacco prevention and control, and our county recently banned smoking in all public places, including outdoors settings, to protect the public’s health. SB 703 would have undone all the work that had happened in our county, so I was relieved that the bill did not pass. Health directors from across the state worked closely with the North Carolina Alliance for Health to make sure that legislators heard our concerns about the importance of protecting the right of local communities to make their own decisions around tobacco control and other public health topics."

-Gayle Harris
Durham County Public Health Director

In April, Senate Bill 703 was introduced in the General Assembly by Senator Buck Newton. SB 703 would have repealed the authority of local governments and community colleges to prohibit smoking on outdoor grounds, including parks. "Grounds" were defined as "an unenclosed area owned, leased, or occupied by State or local government."

The bill stated that a local government may adopt and enforce ordinances, board of health rules, and policies restricting or prohibiting smoking on local government grounds as long as they are not more restrictive than state law. State law does not regulate smoking on state government grounds in North Carolina; therefore, the bill would have preempted local governments from regulating smoking on local government grounds. The bill also repealed the authority of local community college boards of trustees to adopt and enforce policies prohibiting smoking on local community college grounds or at outdoor community college-related or community college-sponsored events.
In addition, Senate Bill 703 would have repealed any such adopted local government or community college ordinance, rule or policy related to bans on outdoor smoking. At the time, 33 of the 58 community colleges had adopted and implemented a tobacco-free campus policy, including all grounds. Several campuses were in the process of adopting policies, and of the remaining community colleges, all but two community colleges allowed smoking only within designated areas on their grounds.

Health advocates were hopeful that the bill would not be heard, however in the middle of May, SB 703 was discussed in the Senate Agriculture Committee, and passed out of committee on a voice vote, followed by immediate adjournment of the committee to avoid a recorded vote on the bill. However, after so many local advocates and leaders communicated their opposition to the bill, the bill was neither heard by the subsequent committee nor by the full Senate Chamber. Hence, SB 703 did not make the "cross-over" date of May 16, the date by which bills have to be approved by one house or the other in North Carolina or be declared "dead" for the session.

In 2013, another bill related to preemption and public health was introduced in the North Carolina General Assembly. HB 683, the Common Sense Consumption Act (also known as the Anti-Bloomberg Bill), was introduced in April 2013. The bill restricted the ability of local governments to limit the size of sodas to a particular size. The bill also limited the right of a person to sue a food packer, distributor, manufacturer, seller, marketer, or advertiser for weight gain or obesity. The North Carolina Alliance for Health worked with Alliance members to raise concern about the legislation, but unfortunately, it was passed into law that year.

The North Carolina Alliance for Health will continue to stay vigilant in defending the right of local communities to pass laws to protect public health. See below for a Nine Strategy Questions analysis of SB 703.

"The Spring Lake City Council banned smoking in our parks in 2013 so that we would limit the locations where residents of our city could be exposed to secondhand smoke. I have heard time and time again from our local residents how they enjoy the smoke free parks and our community's effort to implement smoke-free policies. I was so disappointed to see legislation introduced this year to take away our rights to make the best decisions for the health of our local community. We are especially proud of the Alliance for Health and their continued commitment to providing assistance to all N.C. communities to provide smoke free environments for its citizens. Local elected leaders know best the desires and interests of their citizens, and their power to protect the public health through laws and ordinances should not be taken away."

-Chris Rey, Mayor of Spring Lake
NCAH Decision Points Using Nine Strategy Questions: SB 703

Looking Outward:
1) What do you want?
   - Maintain local authority to ban smoking in government buildings, on government grounds and in public places

2) Who can give it to you?
   - N.C. General Assembly Leadership
   - Senate Agriculture Committee

3) What do they need to hear?
   - The current law that provides local government authority to ban smoking in government buildings, government grounds and public places is working
   - Bipartisan local government officials like it
   - 38 of 56 Community colleges have already gone 100% tobacco free
   - Community college leaders like having the local authority to decide about smoke-free/tobacco-free policies
   - The public/voters like it that their local governments and community colleges can decide on smoke-free policies, especially in parks and recreation areas where families and children play
   - That eliminating smoking in parks and other government grounds can also help with a litter problem
   - That there is no safe level of exposure to secondhand smoke
   - That smoke-free laws save lives and money – since the N.C. restaurant and bars law went into effect, there has been a 21% drop in weekly emergency department visits due to heart attacks
   - The BEST MESSAGES WERE:
      - The lists of local government smoke-free/tobacco free policies already passed! (See Appendix D for related handout from NCAH)

4) Who do they need to hear it from?
   - Constituents
   - Local elected officials
• Community college staff, faculty, students and presidents
• Local health directors and other health leaders (like hospital CEOs who have already gone smoke-free and are working to eliminate smoking in public places near hospitals).

5) How can we get them to hear it?
• The NCAH used an inside strategy to convey these messages. They are working to build relationships and credibility with new elected leaders, and chose not to go public, but rather to work with bi-partisan and especially majority party committee members who have constituents that have used the local authority to pass popular smoke-free provisions. This paid off!

Looking Inward:

6) What have we got to build upon?
• Strong local support
• Local lists and maps
• Champions among Community College Presidents and Local Health Directors

7) What do we need to develop?
• Updated lists and maps
• Trusting relationships with new majority party leaders

8) How do we begin?
• Educate key stakeholders about the threat, especially the grass-tops such as the Community Colleges Presidents and Local Health Directors/Boards of Health and County Commissioners.
• Invite the key stakeholders to join NCAH in educating and communicating the popularity of the local authority to committee members where bill is assigned and majority leaders.

9) How do we tell if it’s working? OUTCOME IN 2013
• Bipartisan legislators questioned the repeal of local authority to ban smoking in outdoor places.
• The bill died without getting out of committee.

“In 2013 a bill was introduced that would have prohibited municipalities from regulating outdoor smoking on public property. The bill would have included city-owned and public properties, such as municipal buildings, public beaches, and parks. Our members know the value of protecting public health, and decisions like this are best made at the local level by government that is closest to the people. Thanks to quick action by city officials, League Governmental Affairs staff, and many public health partners, the bill did not meet the crossover deadline.”

-Erin Wynia
Legislative & Regulatory Issues Manager, N.C. League of Municipalities

For samples of media generated during North Carolina’s 2013 work related to preemption, please see Appendix A.
Appendix A
Sample opinion media generated during SB 703 fight in N.C. in 2013

Letter to the Editor

Smoke-free progress undone by SB 703
By Gary Miner Sr.
Published: May 9, 2013, Jacksonville Daily News

To the editor:
Sound the alarm — the smoke alarm!
In 2007, North Carolina implemented a very good law that allowed local authority for community colleges to decide whether their buildings and grounds should be smoke-free. Some have chosen to go completely tobacco-free. This was a great step forward the health of North Carolina — especially since we now have so many high-school students taking classes on community college campuses. Currently, most community colleges have taken local action to protect students and faculty from the dangers of second-hand smoke, but that could all change if a bill pending in the state Senate gains any traction. Introduced recently, SB 703 would repeal all community college smoking regulations on their campus grounds and eliminate the choice that local community college trustees have in protecting the health of workers and students. That means that with the stroke of a pen, years of local work and effort would be undone in communities across our state — many miles from Raleigh and the state legislature.
Those Onslow County residents who have been around for the past 15 years know my story and about my battles with cancer, partly due to smoking. My determination to work with school students across North Carolina to bring awareness to their school districts to go smoke free paid off a few years ago.
My next goal was to work toward making every restaurant across N.C. smoke-free and here again it happened. A huge thank-you goes to our legislators for listening to our pleas across the state.
Please call or write your legislators to sound the alarm and let them know that SB 703 is a bad bill and it deserves to be defeated.
Gary Miner Sr.
Jacksonville
Editor’s note: Gary Miner Sr. is director of the Tobacco Awareness Program (TAP).

http://www.jdnews.com/opinion/letters/smoke-free-progress-undone-by-sb-703-1.140304
Limiting local government control a bad idea
By Carmen Procida
Published May 10, 2013, Asheville Citizen Times

Bills in general can be difficult to understand. When I first looked over House Bill 683, it sounded as if it was about limiting soft-drink size, while in actuality, it is limiting local government’s control to limit soda size. House Bill 683 states “local governments may not regulate the size of soft drinks offered for sale.” As a youth I may not understand some things about bills, but I know that limiting local government’s control is a bad thing. Furthermore, as a youth leader at Youth Empowered Solutions, I know that if this bill were passed, our local government would not be able to regulate or limit the size of soft drinks. We as citizens deserve the right to choose for ourselves whether or not to limit the size of soft drinks. Moreover, we as community members and local government deserve to make any decisions that we see fit. With this bill, the state is limiting local government’s control, and I think that is immoral.

http://www.citizen-times.com/comments/article/20130511/OPINION02/130510012/Limiting-local-government-control-bad-idea

Editorials

Effort to snuff smoking bans the latest in a line of assaults on local control

Published: May 15, 2013, Wilmington Star-News

The concept of home rule is one that Republicans claim to hold dear. People are best equipped to govern themselves at the local level. Yet in Raleigh we are seeing a General Assembly determined to strip local governments, especially some of our major cities, of local control.

The latest shot in Raleigh’s war on local government is a bill that would negate outdoor smoking bans adopted – often at the public’s request – by many local governments and institutions. The bill also would nullify the will of Wrightsville Beach voters who used the democratic process to enact a smoking ban along the beach strand.

The provision, Senate Bill 703, was scheduled to go to the State and Local Government Committee on Wednesday and would have to be pushed hard to make today’s crossover bill deadline.

Also under way are efforts to restrict the ability of cities and counties ability to adopt environmental rules that go beyond often inadequate federal standards. Some measures
come with a dollop of vindictiveness, such as the bill that will strip Asheville of its water system without compensation, sticking city taxpayers with the remaining debt on the transfer.) The city of Charlotte would lose control of its airport – one of the busiest in the nation – to an authority whose members do not have to include anyone with knowledge of airports or aviation. A similar coup in Asheville – apparently a favorite target of legislative overreach – took control of that city’s airport, and expensive problems have ensued.

Republican Honorables have taken their first two-chamber majority since Reconstruction to mean that the voters want them to tear down the house and throw everything out, good public policy along with the cumbersome. Local governments, elected by local voters that took it upon themselves to implement protections when state and federal rules wouldn’t are now being punished. Many smoking bans in public parks and on college campuses are driven by citizen petitions and enjoy strong public support. While sometimes difficult to enforce, they nevertheless manage to get good compliance when signs are posted and people understand the expectations.

Sen. Buck Newton, a Wilson Republican and one of the bill’s sponsors, says it’s all about the right to enjoy a legal product in public. No matter that some studies link even outdoor secondhand smoke to ill effects on the health of others, especially those with respiratory conditions. Newton says people who are worried about the effect of secondhand smoke on their children should simply “move their children to another spot if this is really a problem.”

More than 65 percent of Wrightsville Beach voters supported banning smoking on the strand, and state law long ago gave the town the power to control its own beach. This bill is a slap in the face to those voters, as well as to residents of more than 80 communities that ban smoking in certain outdoor venues.

A provision requiring designated smoking areas – clearly marked, so people who don’t wish to pollute their lungs can steer clear – is a more reasonable solution than gutting existing smoking bans.

On a broader scale, residents who desire more local control ought to pelt their state legislators with letters, emails and phone calls. Otherwise, they may find that they no longer have a say in what happens in their own backyard.

http://www.starnewsonline.com/article/20130515/ARTICLES/130519779
Let local governments set smoking policies

Published: May 15, 2013, Rocky Mount Telegram

We continue to wonder why Republican state lawmakers want so much to tell local governments what to do. The latest chapter comes as N.C. Sen. Buck Newton fights for a bill that would eliminate local tobacco use guidelines. Newton has noted that a number of community colleges, beaches and parks in different parts of the state have implemented no smoking policies for outdoor areas. “I just personally find that objectionable,” Newton said in comments reported by The (Raleigh) News & Observer.

Newton represents parts of Wilson and Nash counties, an area with a rich history of tobacco farming. But we have confidence that the Rocky Mount City Council, Wilson City Council, Nash County commissioners and Wilson County commissioners are fully capable of listening to the constituents they live and work beside each day and make reasonable policies based on those experiences. They really don’t need a group of lawmakers in Raleigh making those calls for them. Neither do the rest of us.

If Newton’s bill passes, it would go even beyond the wishes of at least one local government on the North Carolina coast. The town of Wrightsville Beach put an outdoor smoking ban on the ballot for voters to consider last December. Voters approved the measure by a 2-1 margin. Newton might “just personally find that objectionable,” also, but should his personal view overturn those of 966 residents who voted for the ban?

Surely, there are bigger statewide issues for the N.C. Senate to address.


Smoking bans: Legislature should respect local decisions
Published: June 1, 2013, Winston-Salem Journal

Legislative service can be intoxicating. Elected to serve, legislators can get the sense that solutions to all of the state’s troubles are within their grasp. That’s when legislators often overstep their bounds. State Sens. Buck Newton, Brent Jackson and Andrew Brock apparently don’t like that many local governments and community colleges have banned outdoor smoking.
They’re the primary sponsors of a bill that would have the legislature supersede all of these local decisions in one fell swoop. Fortunately, the legislature did not find the time to accommodate them.

Senate Bill 703 said that no local government or community college could have an anti-smoking ordinance stricter than state anti-smoking laws. Because state law does not cover outdoor smoking, his bill would have wiped out anti-smoking measures enacted by county boards of commissioners, city councils and community-college administrations.

In each of those cases, either the elected politicians or the appointed leaders of a community college who voted on the anti-smoking measures proceeded with what had to be a difficult decision. We all know how instrumental tobacco has been in North Carolina’s history, how significant it remains in our economy and how powerful pro-tobacco political forces still are.

In short, all of those officials did not take lightly the decision to ban smoking in parks, on beaches and in public areas on campus. They did so for both public-health reasons and because their constituencies wanted these regulations.

SB 703 did not survive what is known as the crossover deadline and, if that deadline rule is enforced, the bill should be dead for this biennium. But, there are always sneaky ways to get a bill enacted. It might get slipped into the budget, for example.

Legislative leaders should respect local decision-making and not allow this bill to see the light of day again. Many a conservative politician has ranted about heavy-handed lawmaking from Raleigh, legislating that supersedes local decisions. Here is a chance to live by that conservative principle.

When it comes to smoking bans, local decisions should be respected.

http://www.journalnow.com/opinion/editorials/article_5e9a661a-ca19-11e2-93f2-001a4bcf6878.html
APPENDIX B: SAMPLE Editorial Board Memorandum

Date: 
To: 
From: 
Subject: Information for Editorials

I am sending this note on behalf of (ORGANIZATION).

As you consider editorial topics for the weekend and days ahead, please weigh the following points. If you have questions or would like additional information, I can get you in touch with our public health partners or our legislative champions to explain our position regarding (BILL NUMBER).

Last Thursday (BILL NUMBER AND NAME) was introduced in the legislature. On the surface the passage of this bill into law looks like a win for public health. But the bill has a flaw that makes it unacceptable to public health advocates and organizations like (LIST ORGANIZATIONS).

1. (BILL NUMBER) is Big Government at its worst. While protecting health with one hand, it is taking away home rule and local control that communities in (STATE) treasure and deserve to maintain.
2. As it is written (BILL NUMBER) would ban local communities from taking stronger action than the state law, when it comes to protecting public health. The concept of home rule has been very important in our state, and our legislative leaders have traditionally set health and safety standards that require communities to meet a “floor” minimum standard, allowing them to adopt stricter standards, if that is what the county or community wishes.
3. Local governments are closer and more responsive than the state, and can move quickly with more flexibility to solve problems that arise. Counties, cities and towns are more likely to understand their specific community needs, and may address those needs by developing stricter standards to protect the public’s health.
4. Local regulations may be more effective, better enforced and better complied with than state laws, which are often enforced by distant agencies from the state capital. Communities can be more effective and should not, therefore, be banned from taking action.
5. (BILL NUMBER) should be modified to remove the preemptive language that limits local, stronger action, or it should be killed.

Please let me know if you have any questions or would like more information.
OPPOSE SB 703 and Preserve Local Control
For more information, go to www.ncallianceforhealth.org or contact pam@ncallianceforhealth.org

PRESERVE LOCAL DECISIONS:
Allow Local Governments and Community Colleges to Continue to Determine How Best to Protect the Health of their Communities

- SB 703 will restrict the authority of local governments and community colleges to decide for themselves about protecting their citizens from the dangers of secondhand smoke in outdoor places.
- SB 703 takes away the ability of local governments and community colleges to enact tobacco-free policies that promote healthy role modeling for our kids.
- SB 703 will repeal existing outdoor tobacco and/or smoke-free policies across our state.

Tobacco use costs NC $2.7 billion annually in excess health care costs and $3.5 billion in lost productivity. Add to that the $293 million in NC's annual excess health care costs from exposure to secondhand smoke.

SB 703 would repeal the authority of local governments and community colleges to prohibit smoking on outdoor grounds, including parks. SB 703 states that a local government may adopt and enforce ordinances, board of health rules, and policies restricting or prohibiting smoking on local government grounds as long as they are not more restrictive than state law. State law does not regulate smoking on state government grounds; therefore, the bill preempts local governments from regulating smoking on local government grounds.

In addition, SB 703 would repeal any such adopted local government ordinance, rule or policy. An analysis by the NC Tobacco Prevention and Control Branch for current adopted smoking regulations on local government grounds shows that the following facilities would be impacted by the repeal of current law:

- Smoking prohibited on all county government grounds: 15
- Smoking prohibited on all municipal government grounds: 41
- Smoking allowed only within designated areas/perimeters for local county government grounds: 12 (in addition to the 15 above)
- Smoking allowed only within designated areas/perimeters for municipal government grounds: 14 (in addition to the 41 above)
- Smoking prohibited on all grounds or allowed only within designated areas/perimeters for county and municipal government parks and recreational area grounds: 110
- Smoking prohibited on all grounds or allowed only within designated areas/perimeters for county health department government grounds: 57

Community Colleges
SB 703 also repeals the authority of community college boards of trustees to adopt policies prohibiting smoking on local community college grounds or at outdoor community college-related or sponsored events. This bill would repeal all existing community college smoking regulations on their campus grounds, including:

- 33 of the 58 community colleges currently have adopted tobacco-free campus policies, including all grounds. Two other community colleges, Mitchell Community College and South Piedmont Community College have adopted tobacco-free campus policies that go into effect on May 13 and 28 respectively—taking the number to 35 of 58. One other community college (Forsyth Tech) has a smoke-free campus policy.
- Of the remaining community colleges, all but two community colleges allow smoking only within designated areas on their grounds.
Summary of Senate Bill 703  
April 2013

Brief Summary: Senate Bill 703 is a partial repeal of the authority for local governments and community colleges to prohibit smoking. Specifically, the bill repeals the authority of local governments and community colleges to prohibit smoking on outdoor grounds, including parks. The bill refers to the definition of "grounds" contained in G.S. 130A-492. "Grounds" are defined as "an unenclosed area owned, leased, or occupied by State or local government".

Specifically, the bill repeals the authority of local governments to adopt and enforce ordinances, board of health rules, and policies restricting or prohibiting smoking on local government grounds. The bill states that a local government may adopt and enforce ordinances, board of health rules, and policies restricting or prohibiting smoking on local government grounds as long as they are not more restrictive than state law. State law does not regulate smoking on state government grounds; therefore, the bill preempts local governments from regulating smoking on local government grounds. The bill repeals the authority of local community college boards of trustees to adopt and enforce policies prohibiting smoking on local community college grounds or at outdoor community college-related or community college-sponsored events.

What existing regulations would be repealed?
Senate Bill 703 would eliminate all local government authority to regulate smoking on any outdoor government grounds and repeal any such adopted local government ordinance, rule or policy. To date, an analysis by the NC Tobacco Prevention and Control Branch for current adopted and implemented smoking regulations on local government grounds shows the following:

- Smoking prohibited on all county government grounds: **15**
- Smoking prohibited on all municipal government grounds: **41**
- Smoking allowed only within designated areas / perimeters for local county government grounds: **12** *(in addition to the 15 above)*
- Smoking allowed only within designated areas / perimeters for municipal government grounds: **14** *(in addition to the 41 above)*
- Smoking prohibited on all grounds or allowed only within designated areas / perimeters for county and municipal government parks and recreational area grounds: **110**
- Smoking prohibited on all grounds or allowed only within designated areas / perimeters for county health department government grounds: **57**

Community Colleges
A 2007 law amended G.S. 115D-20.1 and granted local authority for community colleges to prohibit all tobacco use in buildings, in facilities, in vehicles owned or leased by the community college, on campuses, at community college-sponsored events and on all other community college property. Senate Bill 703 would repeal all community college smoking regulations on their campus grounds.

Currently, **33** of the **58** community colleges have adopted, implemented and enforce a tobacco-free campus policy, including all grounds. Two other community colleges, Mitchell Community College and South Piedmont Community College have adopted tobacco-free campus policies that go into effect in May 2013—taking the number to **35** **of 58**. One other community college (Forsyth Tech) has a smoke-free campus policy. Of the remaining community colleges, all but two community colleges allow smoking only within designated areas on their grounds.
Detailed list of county and municipal smoking regulations that would be affected by Senate Bill 703 by region

**Smoking prohibited on county government grounds: 27**
(15 all, 12 with exceptions – designated area / perimeters)

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**Smoking prohibited on municipal government grounds: 55**
(41 all, 14 with exceptions – designated area / perimeters)

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**Smoking prohibited on municipal government grounds: 55**
(41 all, 14 with exceptions – designated area / perimeters)

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**Smoking prohibited on all grounds or allowed only within designated areas / perimeters for county government parks and recreational area grounds: 29**

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**Smoking prohibited on all grounds or allowed only within designated areas / perimeters for municipal government parks and recreational area grounds: 81**

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Source: NC Division of Public Health, Tobacco Prevention and Control Branch, Local Policies Database, Data as of April 11, 2013
### Detailed list of county and municipal smoking regulations that would be affected by Senate Bill 703 by region

#### Smoking prohibited on county government grounds: 27
(15 all, 12 with exceptions – designated area / perimeters)

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Source: NC Division of Public Health, Tobacco Prevention and Control Branch, Local Policies Database, Data as of April 11, 2013
NC Community College Campuses
April 2013

100% Tobacco-Free Campuses (all campus grounds are Tobacco-Free - 35)
100% Smoke-Free Campuses (all campus grounds are Smoke-free - 1)
Partial Smoke-Free Campuses (smoking restricted to outdoor designated areas or a distance from buildings or entrances - 20)
No Current Smoking Regulation on Campus Grounds - 2