

NOTES

Beefing Up Our Tax Policy: Why Local Governments Should Tax Red and Processed Meat

REUBEN ILAN SIEGMAN*

ABSTRACT

Recently, there has been a movement to reduce the total consumption of meat Americans eat. These efforts often focus on the impact red meat has on climate change. This paper takes a closer look at the impact both red and processed meat have on the environment; human health; justice and equity issues; and animal welfare. Looking at red and processed meat's effects, it suggests implementing a local tax on red and processed meat by comparing such a tax to the movement to tax sugar-sweetened beverages. Based on that movement, the paper looks at obstacles that advocates for a meat tax are likely to face and how they can be successful.

TABLE OF CONTENTS

Introduction	418
I. Why Target Reducing Meat Consumption?	418
A. The Environment.	419
B. Human Health.	420
C. Justice and Equity	421
D. Animal Welfare.	423
II. Why and How a Local Tax Would Work: Comparing a Meat Tax to SSB Taxes.	424
A. The Movement Against SSBs Has Been Effective in Changing How Soda is Viewed and Consumed.	425
B. Examining How SSB Taxes Have Worked	426

* Georgetown Law, J.D. expected 2023; Washington University in St. Louis, B.A. 2018. © 2023, Reuben Siegman. This note was originally generated in Lisa Heinzerling's environmental advocacy class. The author would like to thank Professor Heinzerling for creating a space for environmental advocates to meet and discuss important issues as well as her guidance and support throughout the process of writing this paper. Additional thanks to Amy Lieber for her inspiration on this topic and support in writing this paper. The author would also like to express gratitude to all those who work hard to improve the lives of non-human animals.

C. Options for Meat Tax Structure	430
III. Obstacles Advocates are Likely to Encounter and How to Defeat Them	433
A. Meat Companies Will Try to Use Preemption	433
B. Lessons Learned From SSB Preemption	435
C. Political Strategies to Fight Back Against Preemption	436
Conclusion	437

INTRODUCTION

As scientific consensus has repeatedly made clear: the world must undertake significant changes to avoid the most catastrophic effects of a warming planet.¹ One of the largest contributions to global greenhouse gas (GHG) emissions is our current system of food production.² Within this system, the livestock industry produces the most emissions, while plants such as fruits and vegetables produce the lowest levels of emissions.³ There is evidence suggesting that, as consumers reduce the amount of meat they buy, the market will respond, and production of that meat will decrease by nearly that same amount.⁴ Given the evidence regarding meat consumption and its consequences, it is clear: we should significantly reduce our emissions levels by shifting our consumption away from animal-based products to plant-based products.

One way to induce this shift away from animal-based products is a tax on meat. This paper will argue why local governments should work with environmental, health, justice, and animal advocates to implement an excise tax on red and processed meat in conjunction with educating the public on the harms of meat consumption. Further, this paper will examine the movement to tax sugar-sweetened beverages (SSBs) as a model to advocate for and implement a local tax on a harmful good.

Part I of this paper examines why meat should be targeted, looking at the environmental and health impacts, as well as justice issues and animal welfare. Part II focuses on why and how a local tax could work by examining how SSB taxes have been implemented in American cities. Part III analyzes the major obstacle advocates are likely to face, preemption, and how advocates can fight against it. The paper then concludes.

I. WHY TARGET REDUCING MEAT CONSUMPTION?

Meat consumption should be targeted because of its harmful effects on the environment, human health, justice and equity, and animal welfare.

1. WORKING GROUP III, CLIMATE CHANGE 2022 MITIGATION OF CLIMATE CHANGE SUMMARY FOR POLICYMAKERS 38 (2022).

2. ANTHONY LEISEROWITZ, MATTHEW BALLEW, SETH ROSENTHAL & JILLIAN SEMAAN, CLIMATE CHANGE AND THE AMERICAN DIET 3 (2020).

3. *Id.*

4. Vox (@voxdotcom), TWITTER (Apr. 22, 2022, 5:45 PM), <https://perma.cc/F9GM-E3R7>.

A. THE ENVIRONMENT

Food systems, or the activities that encompass the process of producing, transporting and consuming food, play a significant role in the emissions that make the planet increasingly unlivable.⁵ Moreover, these same systems will be impacted by the changing planet and struggle to provide as much food as environmental conditions of the planet change, making it imperative to minimize GHG emissions.⁶ Livestock supply chains produce an estimated 14.5 percent of GHG emissions from humans according to a 2013 UN report.⁷ By comparison, the entire transportation sector emits 14 percent of GHG emissions.⁸ Much of livestock's emissions is from beef production, as cows alone emit approximately 9 percent of global GHG emission.⁹ The lowest-emitting forms of beef produce 34 kilograms of carbon dioxide equivalent (kg CO₂e), over eight times as much as the highest-emitting tofu, which produces 4 kg CO₂e.¹⁰ The lowest-emitting chickens produce 3.2 kg CO₂e and lowest-emitting pork produce 6 kg CO₂e, still multitudes lower than beef.¹¹

Beyond producing extreme levels of GHGs, the livestock industry has many other negative effects on the environment. Among these are extremely high water usage and water pollution.¹² Specifically, “the water footprint of any animal product is larger than the water footprint of crop products with equivalent nutritional value.”¹³ This is an important difference, as food production uses 70 percent of the world's fresh water.¹⁴ Raising livestock uses significantly more fresh water than plants use, draining this vital resource.¹⁵

In addition to depleting fresh water, beef production also contributes to the rapid destruction of the global forest system.¹⁶ The world's largest meat-

5. See Bruce Campbell et al., *Agriculture Production as a Major Driver of the Earth System Exceeding Planetary Boundaries*, 22 *ECOLOGY & SOC'Y*, 1, 5 (2017).

6. *Id.* at 7.

7. P.J. GERBER ET AL., *TACKLING CLIMATE CHANGE THROUGH LIVESTOCK – A GLOBAL ASSESSMENT OF EMISSIONS AND MITIGATION OPPORTUNITIES* 14 (2013).

8. WORKING GROUP III, *SUMMARY FOR POLICYMAKERS: MITIGATION OF CLIMATE CHANGE SUMMARY FOR POLICYMAKERS* 9 (2014).

9. Matthew Hayek & Jan Dutkiewicz, *Yes, Plant-Based Meat is Better for the Planet*, *VOX* (Nov. 18, 2021, 9:55 AM), <https://perma.cc/59GF-GUZ6>.

10. *Id.*

11. *Id.*

12. See Neus González et al., *Meat Consumption: Which Are the Current Global Risks? A Review of Recent (2010–2020) Evidences*, 137 *FOOD RSCH. INT'L* 1, 1–2 (2020).

13. Mesfin Mekonnen & Arjen Hoekstra, *A Global Assessment of the Water Footprint of Farm Animal Products*, 15 *ECOSYSTEMS* 401, 401 (2012).

14. Walter Willett et al., *Food in the Anthropocene: The EAT–Lancet Commission on Healthy Diets from Sustainable Food Systems* 393 *THE LANCET* 447, 449 (2019).

15. *Id.*

16. Richard Schiffman, *Demand for Meat is Destroying the Amazon. Smarter Choices at the Dinner Table Can Go a Long Way to Help*, *WASH. POST* (March 9, 2022, 9:15 AM), <https://perma.cc/GQM8-R2ZR>.

processing company has been linked to significant deforestation of the Brazilian Amazon, which causes “less predictable rainfall pattern, more droughts and higher temperatures in which livestock and crops die.”¹⁷ Cattle pastures are the leading cause of deforestation, responsible for “36 percent of all tree cover loss associated with agriculture,”¹⁸ nearly twice as much as all other commodities combined.¹⁹

Meat production is also a substantial driver of biodiversity loss. The World Wildlife Foundation attributes 60% of biodiversity loss to meat-based diets.²⁰ Meat production, simply, results in the severe decrease of land and water available for species. In addition to its intrinsic value, biodiversity is important practically.²¹ It provides economic benefits to professions like farmers, fishers, and timber workers.²² Biodiversity also is critical for the functioning of many ecosystem services and wildlife in the ecosystem.²³ Biodiversity offers tremendous scientific benefits, as it helps scientists discover new medicines and understand the planet.²⁴ Finally, many people rely on biodiversity for their recreation, like bird-watchers and fishers, and many cultures value biodiversity and have rituals associated with nature.²⁵

B. HUMAN HEALTH

In addition to these environmental impacts, there are many health problems associated with meat consumption.²⁶ Chief amongst the many health concerns are those detailed in recent findings by the International Agency for Research on Cancer: eating red meat is likely carcinogenic to humans and processed meat is carcinogenic to humans based on evidence that it causes colorectal cancer.²⁷ There are many other studies continuing to better understand the potential links between meat consumption and other cancers, including bladder cancer, liver cancer, and breast cancer.²⁸ Other diseases, like Type 2 diabetes, chronic kidney disease, and metabolic syndrome have all also been connected to red and

17. *Id.*

18. *Deforestation Linked to Agriculture*, WORLD RES. INST. GLOB. FOREST REV. (April 25, 2022), <https://perma.cc/HA8L-NT6Y>.

19. *Id.*

20. Rebecca Smithers, *Vast Animal-Fed Crops to Satisfy our Meat Needs are Destroying Planet*, GUARDIAN (October 5, 2017, 5:02 AM), <https://perma.cc/3GA2-HBWT>.

21. Ian Cresswell & Dr Helen Murphy, *Biodiversity*, 2016 AUSTL. STATUS ENVIRONMENT, 1, 3 (2016).

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. See González, *supra* note 13.

27. *New UN Report Links Processed Meats to Cancer in Humans; Red Meat also Likely to Cause the Disease*, UN NEWS (Oct. 26, 2015), <https://perma.cc/UB6E-WXNE>.

28. See González, *supra* note 13 at 3.

processed meat consumption.²⁹ A recent study linked red meat consumption to a negative impact on life expectancy in high-and middle-income countries.³⁰ Meta-analyses of epidemiological studies have demonstrated a connection between increased consumption of red and processed meat and increased risk of total mortality and cardiovascular disease, in addition to the relationship between colorectal cancer and Type 2 diabetes.³¹

Another danger to human health from meat is the spread of antimicrobial resistance (AMR). Most antibiotics in the U.S. are used for livestock to quicken the growth of the animals in cramped conditions, which increases the spread of AMR.³² Globally, 700,000 people die from drug-resistant diseases because of the rapid spread of AMR viruses and diseases.³³ This has led the World Health Organization (WHO) to declare AMR amongst the top 10 global public health threats.³⁴

C. JUSTICE AND EQUITY

The continued mass production and consumption of red and processed meat has serious consequences for justice and equity. Increased GHG emissions worsen the effects of climate change, which has a disproportionate impact on socially vulnerable populations.³⁵ Particularly, the impact will be felt the most by low income and racial and ethnic minority communities.³⁶

It is not just GHG emissions that are disproportionately harmful to vulnerable communities, but the environmental and health effects of proximity to livestock operations. Concentrated animal feeding operations (CAFOs) used for livestock production are disproportionately sited in low-income and minority communities.³⁷ The widely examined case of hog CAFOs in North Carolina offers insight into how harmful living near these operations can be, as people have reported inescapable foul odors and a fine mist of manure sprinkled everywhere outside.³⁸ Close proximity to these CAFOs in particular caused low-income and minority

29. *Id* at 3

30. *Id*.

31. Evelyne Battaglia Richi et al., *Health Risks Associated with Meat Consumption: A Review of Epidemiological Studies*, 85 INT'L. J. VITAMIN NUTRITIONAL RSCH. 70, 70 (2015).

32. Christine Parker, Fiona Haines & Laura Boehm, *The Promise of Ecological Regulation: The Case Of Intensive Meat*, 59 JURIMETRICS J. L., SCI., & TECH. 15, 20–21 (2018).

33. *Id*.

34. *Antimicrobial resistance*, WORLD HEALTH ORGANIZATION (November 17, 2021), <https://perma.cc/YAS5-JL8P>.

35. *EPA Report Shows Disproportionate Impacts of Climate Change on Socially Vulnerable Populations in the United States*, EPA (Sept. 2, 2021), <https://perma.cc/46XT-82TP>.

36. *Id*.

37. Ji-Young Son, Marie Lynn Miranda, & Michelle L. Bell, *Exposure to Concentrated Animal Feeding Operations (CAFOs) and Risk of Mortality in North Carolina, USA*, 799 SCI. TOTAL ENV'T. 1, 6 (2021).

38. Wendee Nicole, *CAFOs and Environmental Justice: The Case of North Carolina*, 121 ENV'T. HEALTH PERSPS. 182, 183 (2013).

communities in North Carolina to suffer from respiratory ailments, mental stress, and elevated blood pressure.³⁹ People living near CAFOs also have “significantly higher risk of cardiovascular mortality,” with those with high CAFO exposure also having significantly higher risk of anemia and kidney disease mortality.⁴⁰ This is in addition to hazardous pollutants in surface water, well water, and soil.⁴¹ These issues disproportionately affect the communities where these facilities are sited: low-income communities, often of color, and usually in rural areas where they often have little political power.⁴²

There is also a racial health gap in this country that is exacerbated by issues of food justice—access to affordable, healthy foods.⁴³ This racial health gap means that Black and Hispanic people suffer from considerably higher rates of diet-related diseases, like diabetes, obesity, and hypertension.⁴⁴ These groups also suffer from higher rates of severe high blood pressure, cancer, and mortality rates, as well as an epidemic of Type 2 diabetes among Native Americans.⁴⁵ These disparities can partially be attributed to the fact that people of color are more likely to live in “food swamps,” or areas with a high density of fast food and convenience stores that sell highly-processed foods.⁴⁶ Additional factors, such as higher environmental exposure amongst people of color to endocrine-disrupting chemicals, often called “obesogens,” which can cause adipogenesis and weight gain, may also play a role in this disparity.⁴⁷ These diet-related disparities may also reflect the role of socioeconomic status rather than ethnicity or race.⁴⁸ As one of the most harmful foods to health, limiting consumption of red and processed meat while increasing access to high nutritional value food could help reduce existing inequalities.

Harmful labor practices are abundant in the livestock industry and are an injustice to workers. This inherent injustice is compounded by the fact that over 50 percent of the animal slaughtering and processing workforce are from minority

39. *Id.*

40. *Son supra* note 38, at 4.

41. *Id.* at 6.

42. *Id.*

43. Richard V. Reeves, *Promote Health Equity by Taxing Sugary Drinks and Doubling Support for Community Health Centers*, BROOKINGS (Dec. 9, 2022), <https://perma.cc/ZW2B-V9KS>.

44. *Id.*

45. Jessie A. Satia, *Diet-Related Disparities: Understanding the Problem And Accelerating Solutions*, 109 J. AM. DIET ASS'N. 610, 612–13 (2009).

46. *See* *Reeve supra* note 44.

47. *See* Philippa D. Darbre, *Endocrine Disruptors and Obesity*, 6 CURRENT OBESITY REPS. 18, 18–20 (2017).; *see also* Tamarra M. James-Todd, Yu-Han Chiu, & Ami R. Zota, *Racial/ethnic Disparities in Environmental Endocrine Disrupting Chemicals and Women's Reproductive Health Outcomes: Epidemiological Examples Across the Life Course*, 3 CURRENT EPIDEMIOLOGY REP. 161, 171–73 (2017).

48. Satia, *supra* n. 46

communities.⁴⁹ A Human Rights Watch report found that the industry routinely puts workers at risk of serious injury and stymies attempts by workers to gain compensation for workplace injuries.⁵⁰ These workers also face significant health hazards due to their proximity to so many animals, including exposure to AMR bacteria.⁵¹ Livestock workers have a significantly higher injury-rate than other workers, and are exposed to harmful air pollutants that cause long-term health effects and chronic respiratory diseases.⁵² When COVID-19 hit, it exposed the devastating working conditions that allowed the virus to sweep through facilities.⁵³ A Congressional investigation revealed that the five largest meat processing companies should have acted quicker to protect workers instead of fighting public health guidance.⁵⁴ These same companies block workers' attempts to organize and exploit the vulnerability of the majority immigrant labor force.⁵⁵ There is also wage gap between nonsupervisory farm work and non-farm work, as laborers only earn 59 percent compared to their non-farm working peers.⁵⁶ Moreover, even while many farmers want to leave the industrial livestock business, they struggle to do so because integrators (large industrial agricultural corporations) have structured their deals to trap farmers into cycles of debt.⁵⁷ The industry is dominated by only four producers controlling 80 percent of the beef market, leading to anticompetitive behavior and costing consumers.⁵⁸ Recently one of the main producers, JBS, settled with the Justice Department in a lawsuit about price-fixing their beef—shortchanging workers and consumers.⁵⁹

D. ANIMAL WELFARE

The meat industry is deeply harmful to animal welfare. According to the USDA, over 33 million cattle were slaughtered in 2020.⁶⁰ For those who believe

49. DEPT. OF LABOR, U.S. BUREAU LAB. STAT., LABOR FORCE STATISTICS FROM THE CURRENT POPULATION SURVEY: EMPLOYED PERSONS BY DETAILED INDUSTRY, SEX, RACE, AND HISPANIC OR LATINO ETHNICITY (2022).

50. HUMAN RIGHTS WATCH, BLOOD, SWEAT, AND FEAR: WORKERS' RIGHTS IN U.S. MEAT AND POULTRY PLANTS I (2005).

51. Caitlin A. Ceryes & Christopher D. Heaney, "Ag-Gag" Laws: Evolution, Resurgence, and Public Health Implications, 28 NEW SOLS: J. ENV'T & OCCUPATIONAL HEALTH & POL'Y 664, 669 (2019).

52. *Id.*

53. Natalie Krebs, *COVID Cases in Meatpacking Plants Impacted Workers and Their Rural Communities*, NPR (Dec. 24, 2021, 5:08 AM), <https://perma.cc/VD85-49YB>.

54. *Id.*

55. HUMAN RIGHTS WATCH, *supra* note 51.

56. *Farm Labor*, U.S. DEP'T. AGRIC. ECON. RSCH. SERV. (Mar. 15, 2022), <https://perma.cc/3PCE-DXN7>.

57. Ezra Klein, *Farmers and Animal Rights Activists are Coming Together to Fight Big Factory Farms*, (July 8, 2022, 8:10 AM), <https://perma.cc/59H2-VMFD>.

58. *Beef giant JBS to Pay \$52.5 Million to Settle Price-Fixing Lawsuit*, DES MOINES REGISTER (Feb. 4, 2022), <https://perma.cc/GEU3-EPDD>.

59. *Id.*

60. *Annual U.S. Animal Death Stats*, ANIMAL CLOCK (last visited April 17, 2022), <https://perma.cc/CAF6-YRXC>.

that the principle of equality requires equal consideration and therefore extends to non-human animals, as Peter Singer famously argued in *Animal Liberation*, this is an enormous amount of suffering.⁶¹ Non-human animals feel pain, pleasure, fear, frustration, loneliness, motherly love, and suffer when mistreated.⁶² Many people believe this capacity for feeling gives them worth and entitles them to live without pain and suffering.⁶³ Almost all of the animals Americans eat are raised on CAFOs, which subject animals to dirty, confined spaces—creating stress, injuries, and allowing disease to rapidly spread among animals.⁶⁴

Reducing the consumption of meat would save millions of animal lives—with fewer animals spending their entire existence in cramped confined spaces, unable to turn around, given drugs to maximize their production, and developing both physical and psychological problems.⁶⁵ These practices are so horrifying to witness that suicide and abuse are common worker hazards.⁶⁶ Reducing meat consumption has the power to prevent irreparable harm to millions of animals.

II. WHY AND HOW A LOCAL TAX WOULD WORK: COMPARING A MEAT TAX TO SSB TAXES

While some have compared regulating meat to the movement to regulate tobacco, a more apt comparison is the movement to regulate sugar-sweetened beverages (SSBs).^{67,68} The recent nature of the movement to tax SSBs is particularly helpful, as the first tax was only passed within the last decade.⁶⁹ While the movement is still working to accomplish its goals, it has implemented policies, and achieved successes, that serve as useful case studies.⁷⁰ Both SSBs and meat are food, so the strategies industry used against the SSB tax movement will likely be similar to ones a meat tax would face, such as campaigns to call it a “grocery tax.”⁷¹ Additionally, the era of intense political gridlock and extreme partisanship provides a unique political environment that meat tax advocates will have to deal

61. *Why Animal Rights*, PETA (last visited April 17, 2022), <https://perma.cc/U8UN-NPPB>.

62. *Id.*

63. *Id.*

64. Elizabeth A Overcash, *Overview of CAFOs and Animal Welfare Measures*, ANIMAL LEGAL & HIST. CTR. (April 17, 2022), <https://perma.cc/X5QN-334A>.

65. *Inhumane Practices on Factor Farms*, ANIMAL WELFARE INST. (April 17, 2022), <https://perma.cc/BMT5-753Y>.

66. Klein, *supra* at note 58.

67. Lingxi Chenyang, *Is Meat The New Tobacco? Regulating Food Demand in The Age of Climate Change*, 49 ENV'T. L. REP. NEWS & ANALYSIS 10344, 10344–45 (2019).

68. It should be noted that while SSB taxes are often called soda taxes, they are generally broader, taxing not just soda, but other beverages that are sweetened with sugar.

69. Margot Sanger-Katz, *The Decline of Big Soda*, N.Y. TIMES (Oct. 2, 2015), <https://perma.cc/G752-ULUT>.

70. Eric Crosbie et al., *State Preemption: An Emerging Threat to Local Sugar-Sweetened Beverage Taxation*, 111 AM. J. PUB. HEALTH 677, 677 (2021).

71. *See id.* at 679.

with that SSB tax advocates experienced.⁷² Together, this makes the movement to tax SSBs a great comparison for advocates who want to tax meat. Based on the case studies of cities that have implemented SSB taxes, and on what we know about the harmful effects of meat, we can look at potential options for how to structure a meat tax that not only effectively assuages negative environmental and health impacts, but is also considered politically possible.

A. THE MOVEMENT AGAINST SSBS HAS BEEN EFFECTIVE IN CHANGING HOW SODA IS VIEWED AND CONSUMED

The movement to reduce SSB consumption because of sugar's detrimental health effects has been successful.⁷³ Even before many cities succeeded in passing a tax on SSBs, attitudes among American consumers had already changed due to the relentless activism of public health advocates.⁷⁴ Sales of sodas (the beverage most commonly targeted) are stagnating as consumers say they are trying to avoid these drinks; soda consumption dropped by 24 percent between 2007 and 2013 amongst teenagers (and 20 percent for adults), "representing the largest single change in the American diet in the last decade."⁷⁵ Beverage producers have sought to minimize the decline by investing in items like flavored waters and bottled water, which has experienced a rapid increase in consumption over the last 20 years that mirrors soda's decline.⁷⁶ Experts credit this change to public health activism, as even when proposed taxes did not pass, the discussion about the harmfulness of sugary beverages, along with other policies, pushed people to change their attitude about soda and consumption in ways that even industry believes could be permanent.⁷⁷

New York, for example, has seen declines in sugary drink consumption even without a lasting tax.⁷⁸ The city tried many policies to reduce SSB consumption between 2006 and 2013, with many of them—including a tax—failing to stick.⁷⁹ These efforts ultimately still increased public awareness of the harmful effects of SSBs, as even when policy proposals failed, these efforts appear to have led to a reduction in consumption.⁸⁰

72. Lee Drutman, *How Much Longer Can This Era Of Political Gridlock Last?*, FIFTYTHREE (April 17, 2022), <https://perma.cc/NP3E-QEQC> (last visited Mar. 5, 2023).

73. Sanger-Katz, *supra* note 69.

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.*

78. Susan M. Kansagra et al., *Reducing Sugary Drink Consumption: New York City's Approach*, 105 no. 4 AM. J. PUB. HEALTH 61, 63–4 (2015).

79. *Id.* at 61-4.

80. *See id.*

The SSB industry is still battling the perception of their drinks as unhealthy, as these trends first seen in the mid-2010s appear to have stuck.⁸¹ The biggest trend in the beverage industry is now consumers' unhealthy perception of sodas; consumers either switch to water to avoid sugar or to other caffeinated beverages like coffee or energy drinks.⁸² This change is reflected in consumption statistics, as the prevalence of SSB consumption declined from 79.7 percent to 60.7 percent in children, and from 61.5 percent to 50 percent in adults from 2003 to 2014.⁸³ These figures demonstrate how the movement to reduce consumption of SSBs has succeeded in changing consumption, even if the policy proposals haven't always been implemented.

B. EXAMINING HOW SSB TAXES HAVE WORKED

To understand how and why a meat tax might work at the local level, it is useful to look at U.S. cities that have implemented SSB taxes. While different cities have structured their SSB taxes in slightly different ways, there are some takeaways that advocates can learn from to understand how and why a tax can be effective.⁸⁴

First, almost all of these taxes have been excising taxes rather than sales taxes.⁸⁵ This is because sales taxes are not as effective to reduce consumption.⁸⁶ Sales taxes usually only suggest to consumers to buy-off brand products rather than reducing the type of product.⁸⁷ Sales taxes also do not apply to SNAP, so they would have less of an effect on lower-income consumers' shopping habits. They are calculated only when checking out, so they are less noticeable when shopping.⁸⁸ With excise taxes, however, costs are usually passed to consumers directly in the price, as the taxes are directly on the distributors.⁸⁹ Generally, these types of "sin taxes" (taxes on products that are harmful to consumers) have been effective at decreasing consumption.⁹⁰ These taxes are also significant revenue raisers, as estimated revenues gained from SSB taxes range from \$1.3 million to \$65 million annually (depending on the size of the tax and city population), and generally account for one percent of a city's general fund revenue in cities that

81. *2020 State of the Beverage Industry: Carbonated Soft Drinks Sees Value Sales Up*, BEVERAGE INDUSTRY (April 17, 2022), <https://perma.cc/H72Y-2EED> (last visited Mar. 5, 2023).

82. *See id.*

83. Sara N. Bleich et al., *Trends in Beverage Consumption Among Children and Adults, 2003-2014*, 26 *OBESITY* 432, 434 (2018).

84. *See Soda Taxes* URBAN INST. (Apr. 17, 2022), <https://perma.cc/Q2TP-5XEC> (last visited Mar. 5, 2023)

85. *Id.*

86. David A. Dana & Janice Nadler, *Soda Taxes as a Legal and Social Movement*, 13 *NW J. L. & SOC. POL'Y* 83, 89–90 (2018).

87. *Id.*

88. *Id.*

89. *Id.*

90. Brian Kateman, *Is A Meat Tax A Good Idea?*, *FORBES* (April 17, 2022), <https://perma.cc/A9HF-JBNC>.

have enacted a tax.⁹¹ This section will examine three of the most notable cities to put in place an excise tax on SSBs: Philadelphia, Berkeley, and Seattle.

Philadelphia was one of the earliest enactors of a SSB tax, becoming the first major city⁹² to pass a SSB tax in 2016 as one of new mayor Jim Kenney's first initiatives after the city had twice previously failed to enact a tax.⁹³ What separated his approach was that he framed the tax as primarily a revenue raiser, rather than an attempt to dictate to consumers what to drink.⁹⁴ This revenue would fully fund a new universal preschool program and other popular programs like community centers, school improvements, parks, libraries, and municipal pensions.⁹⁵ Eventually, the tax passed the city council as a 1.5 cents per ounce excise tax, half the amount originally proposed, but enough to fund the universal preschool program.⁹⁶

Since becoming the most populous city to pass such a tax, Philadelphia—and its tax's effects—have been thoroughly studied.⁹⁷ One of the most comprehensive studies to examine the effects of the Philadelphia tax compared said effects to Baltimore, a control of a city that did not implement a tax, looking at the year before and after the tax went into effect.⁹⁸ The study also looked at sales data from adjacent zip codes to understand how cross-border shopping affected consumption.⁹⁹ Findings indicated that the tax did increase the price for consumers with pass through percentages depending on the setting ranging from 43 percent to 104 percent.¹⁰⁰ Ultimately, the tax resulted in a reduction of ounces sold by 38 percent, accounting for volume of sales increased in adjacent zip codes, compared to a reduction of only 2.3 percent of the same metric in Baltimore.¹⁰¹ The study concluded that an SSB excise tax “in a large urban setting was associated with significant increase in beverage prices and a significant reduction in volume sales of taxed beverages,” even accounting for purchases in neighboring zip codes.¹⁰² And while store prices increased, nothing suggested that this had any negative effect on employment.¹⁰³ Overall, this study demonstrated that the tax

91. URBAN INST., *supra* note 85.

92. Population greater than 250,000 people.

93. Dana & Nadler, *supra* note 87, at 92–93.

94. *Id.*

95. *Id.*

96. *Id.*

97. *See id.*

98. Christina A. Roberto et al., *Association of a Beverage Tax on Sugar-Sweetened and Artificially Sweetened Beverages with Changes in Beverage Prices and Sales at Chain Retailers in a Large Urban Setting*, 321 J. AM. MED. ASS'N. 1799, 1799 (2019).

99. *Id.* at 1800.

100. *Id.* at 1802.

101. *Id.* at 1805–6.

102. *See id.* at 1800.

103. *Id.* at 1809.

was successful—it raised significant revenue to fund community needs while reducing consumption of a harmful product.¹⁰⁴

Berkeley, California became the first city of any kind in the U.S. to institute a SSB tax in 2015 when it implemented a one cent per ounce excise tax.¹⁰⁵ Researchers have examined the tax's effect on consumption in low-income neighborhoods in the city by comparing changes pre- and post-tax to neighboring cities Oakland and San Francisco.¹⁰⁶ This was done via a beverage frequency questionnaire before and after the tax (four months after implementation).¹⁰⁷ The results showed that consumption of SSBs decreased 21 percent in Berkeley while only increasing four percent in the other cities.¹⁰⁸ Moreover, water consumption increased by 63 percent compared to only 19 percent in the comparison cities.¹⁰⁹ This led the authors to conclude that the SSB tax reduced SSB consumption in low-income neighborhoods.¹¹⁰ Three years later, another study examined the effects to see if the changes in consumption lasted.¹¹¹ It found that residents in the same neighborhoods reported consuming 52 percent fewer servings as compared to before the tax, more than double the previously reported 21 percent decline.¹¹² It also found that neighboring Oakland and San Francisco consumed approximately the same number of SSBs as 2014, signaling the changes were due to Berkeley's implementation of the tax.¹¹³

Other scholars have looked at the reasons behind the success of Berkeley's tax.¹¹⁴ First, the tax was seen as legitimate because it passed by an overwhelming majority (76%) in a city-wide referendum.¹¹⁵ Its supporters included a diversity of interest groups, including public health advocates, parents, the NAACP, and Latinos Unidos.¹¹⁶ The tax was much simpler than tobacco taxes, as it was one cent per ounce, making it easy to understand and implement.¹¹⁷ The tax was communicated with the explicit purpose of raising revenue to fund new public health programs through an expert advisory commission's recommendation (this

104. *See id.* at 1799.

105. Jennifer Falbe et al., *Impact of the Berkeley Excise Tax on Sugar-Sweetened Beverage Consumption*, 106 no. 10 AM. J. PUB. HEALTH 1865, 1865 (2016).

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. Kara Manke, *Three years into Soda Tax, Sugary Drink Consumption Down More than 50 Percent in Berkeley*, BERKELEY NEWS (April 17, 2022), <https://perma.cc/DV6J-ELU5>.

112. *Id.*

113. *Id.*

114. Jennifer Falbe, et. al., *Lessons Learned from Implementing a Sugar-Sweetened Beverage Tax in Berkeley, California*, 9 no. 3 CTR. FOR POVERTY AND INEQ. RSCH. 1, 1 (2020).

115. *Id.* at 1–2.

116. *Id.* at 2.

117. *Id.*

structure was because California laws regulating earmarking taxes).¹¹⁸ Money was spent on new community projects quickly, with the city council advancing funds before revenues had come in and promoting the tax with a media campaign to help the community understand the tax better.¹¹⁹ The tax ended up bringing in over \$9 million in funding for public health and equity projects between 2015 and 2021.¹²⁰ Other lessons learned from Berkeley's success include the importance of clear communications with both constituents and businesses, leaving time for implementation, and funding new staff, outreach, and evaluation.¹²¹

Seattle passed a 1.75 cent per ounce excise tax on SSBs starting in 2018 to fund programs to “increase access to healthy food and support child health, development and readiness for school” (with some money also funding an evaluation of the tax).¹²² When the tax passed city council in 2017, the council specifically directed the money be used for these programs that serve low-income communities of color because they are both the target of soda marketing and also would be significantly impacted by the tax.¹²³ In 2019 alone, the tax was able to raise over \$18 million for these programs.¹²⁴ One of the most comprehensive studies of the tax was another difference-in-differences study comparing the Seattle to Portland one year before the tax and two years after implementation.¹²⁵ The results showed that two years after the tax, the volume sold of SSBs dropped 22 percent compared to Portland, with no change in volume sold of the same beverages in the two-mile bordering area.¹²⁶ This demonstrated the long-term effectiveness, as the first year after the tax resulted a 23 percent decline, indicating the durability of the decline.¹²⁷ The authors also looked at sales of other sugary products to see if consumers were substituting their sugar intake through other foods.¹²⁸ Importantly, they found that even accounting for potential substitutions, grams of sugar sold declined by 19 percent; meaning very little substitution was happening.¹²⁹ The authors suggest the tax had a sustained impact and could create permanent decrease in demand for SSBs.¹³⁰ Another study found similar effects,

118. *Id.* at 1, 3.

119. *Id.* at 3.

120. *Id.*

121. *Id.*

122. *Sweetened Beverage Tax*, CITY OF SEATTLE (April 17, 2022), <https://perma.cc/6U2V-TE8P>.

123. Daniel Beekman, *Seattle City Council Locks in Fund for Soda Tax Revenue, Overriding Mayor Durkan's Veto*, SEATTLE TIMES (Aug. 12, 2019), <https://perma.cc/B8BV-WRP2>.

124. CITY OF SEATTLE, *supra* note 124.

125. See Lisa M. Powell & Julien Leider, *Impact of a Sugar-Sweetened Beverage Tax Two-Year Post-Tax Implementation in Seattle, Washington, United States*, 42 4 J. PUB. HEALTH POL'Y. 574, 574 (2021).

126. *See Id.*

127. *See Id.* at 575.

128. Jessica Fu, *After Years of Inconclusive Data, New Evidence Suggests that Seattle's Soda Tax is Working – and It's Working Really Well*, GOVERNING (Apr. 17, 2022), <https://perma.cc/2G5X-DRTU>.

129. *See Id.*

130. *See Id.*

and that there was a particularly noticeable decline in soda consumption for low-income families.¹³¹

Advocates of a comprehensive meat-tax should examine what made each of these cities' SSB-tax efforts successful. No approach was the same, and each was tailored to the city's own unique political environment and community needs. There are, however, a few themes that stand out across the board. First, all three cities passed excise taxes on a per ounce basis.¹³² Second, how the revenue was directed was extremely important, particularly as it relates to building and maintaining political coalitions to support the tax.¹³³ Each city had a plan to spend the revenue, and each of these plans disproportionately benefited low income groups and communities of color who otherwise would face a disproportionate burden from the tax.¹³⁴ In Seattle and Berkeley, funding specifically went to public health and food programs to address some of the same issues the tax was addressing.¹³⁵ Berkeley was able to organize a diversity of community groups to support the tax because advocates explained how the funding could help the community groups directly, in addition to the health benefits.¹³⁶ Third, communication was vital, as it is important to explain the reasoning behind the tax and articulate how it will improve the city.¹³⁷ This includes having a plan for studying the effectiveness of the tax to help prove why the tax should stay, and support advocates in other cities push for a tax.¹³⁸ Finally, persistence is key. In Philadelphia the proposal did not pass the first two times, and when it eventually passed, the tax was half the amount proposed.¹³⁹ Advocates who push for these types of taxes should be prepared for political battles that may take significant time and effort.

C. OPTIONS FOR MEAT TAX STRUCTURE

Based on how meat harms the environment, health, and justice, as well as how successful SSB taxes have been structured, there are many different configurations advocates can base proposals on. Potential ideas include taxing meat based on its carbon impact,¹⁴⁰ setting a tax on red and processed meat based on health impacts,¹⁴¹ or setting a tax based on what is likely to gain enough political support. The other important decision that advocates must make is how the revenue

131. *See Id.*

132. Dana & Nadler, *supra* note 87, at 92–93.

133. *See id.*; *see* CITY OF SEATTLE, *supra* note 124.

134. *See id.*; Beekman, *supra* note 125.

135. *See* Falbe et al., *supra* note 116, at 2.; *see* Beekman, *supra* note 125.

136. Falbe et al., *supra* note 116, at 2.

137. *See id.*; Dana & Nadler, *supra* note 88, at 92–93.

138. Falbe et al., *supra* note 116, at 3; *see* CITY OF SEATTLE, *supra* note 124.

139. Dana & Nadler, *supra* note 88, at 92.

140. William Cline, *Carbon-Equivalent Taxes on US Meat*, 1 (Econ. Int'l. Inc., Working Paper No. 20-03 2020).

141. Marco Springmann et al., *Health-Motivated Taxes on Red and Processed Meat: A Modelling Study on Optimal Tax Levels and Associated Health Impacts*, 13 no. 11 PLOS ONE 1, 1 (2018).

from the tax should be allocated: universal programs, programs designed to particularly benefit low-income communities and communities of color, and whether to focus on health and/or environmental programs.

A recent study found that a carbon tax (using a social cost of carbon of \$75/ton) would result in a 20 percent ad-valorem for beef, or approximately \$1.20 per pound, and three percent for pork, or 11 cents per pound (this is because processed meat is either beef or pork¹⁴²).¹⁴³ These numbers are based on 2014 and 2016 USDA estimates of emissions per kilogram of meat applying a cost of carbon as calculated using the lowest discount rate the EPA suggested in 2016, 2.5 percent, and adjusting for inflation to 2020.¹⁴⁴ Unfortunately, any sort of tax on meat would be regressive, as lower-income families spend a significantly higher percent of their budgets on food than higher income families.¹⁴⁵ Beef has the highest income elasticity of demand out of major meat categories, which might serve to temper some of the regressive nature of such a tax—as prices go up, people will switch to other proteins.¹⁴⁶

Another way to account for the impacts of meat would be to internalize the negative health externalities caused by red and processed meat. One study estimated an optimal Pigouvian tax by calculating direct health costs such as medical treatment and indirect costs such as economic productivity lost due to premature death.¹⁴⁷ For the U.S., a high-income country that consumes large amounts of these meats, an optimal tax would be \$1.45 per pound on red meat, resulting in a 33.81 percent increase in price, and \$5.93 per pound on processed meat, a 163.26 percent increase in price.¹⁴⁸ These would be significant price increases and have similar distributional issues.

While neither the cost of carbon nor health impact fully capture the costs that red and processed meat have on society, it is useful to have a sense of those numbers. As each of those taxes alone would increase the price significantly on consumers, it seems unlikely that consumers would be willing to put up with any tax that combines those or attempts to reflect the actual costs red and processed meat have on society. To get a sense of how these numbers compare to SSB taxes, at the current price of \$1.99 for 20 ounces of Coke products, a one cent per ounce tax (like Berkeley) would be equivalent to approximately a 10 percent tax, while a 1.75 per ounce tax (like Seattle) would be approximately a 17.5 percent tax.¹⁴⁹ Having these high estimates for a meat tax is useful for advocates to demonstrate

142. *What is Processed Meat, Why is it Bad for You, and What are the Alternatives?*, THE HUMANE LEAGUE (Apr. 17, 2022), <https://perma.cc/S6RH-47NM>.

143. Cline, *supra* note 142, at 14.

144. *Id.* at 2.

145. *Id.* at 10–11.

146. *Id.* at 11.

147. Springmann, *supra* note 143, at 1.

148. *Id.* at 26.

149. *Coca-Cola Prices, HANGOVER PRICES* (Aug. 9, 2017), <https://perma.cc/W7ZA-27PV>.

that when they are asking for an amount, they are being reasonable by not pushing for a tax that would accurately account for the *true* cost of these products.

Looking back to the SSB context we can see consumers first approved a 10 percent increase in price with a one cent per ounce tax in Berkeley,¹⁵⁰ all the way up to a nearly 18 percent increase with a 1.75 cent per ounce tax in Seattle a few years later.¹⁵¹ Moreover, the tax in Philadelphia was originally proposed at three cents per ounce, which would be just over a 30 percent increase, but was negotiated down to 1.5 cents per ounce, or a 15 percent increase.¹⁵² From these examples a couple of lessons can be learned about setting the tax: the first city to pass a tax has to start somewhere, even if it is lower than they would want, and advocates will have to work with their community to understand what is politically feasible.

The other major issue regarding the structure of a tax that advocates will have to face is what to do with the revenue—something advocates should determine early on, if they want to maximize the effectiveness of their advocacy. As the SSB context demonstrated, there are a range of different options to structure the funding.¹⁵³ Because any tax would be regressive, it is important to make sure some of the revenue goes to programs and projects that specifically benefit lower income communities and communities of color. Revenue allocation is an important means to attract and keep allies.¹⁵⁴ Philadelphia's tax is a prime example of this: the mayor's campaign for the tax focused on how the revenue would fund a popular universal program (PreK) that benefited almost everyone in the community, while also disproportionately benefiting lower income families and communities of color.¹⁵⁵ In that regard, the Philadelphia tax is the gold standard—a popular program that benefits everyone, but especially those facing a somewhat higher tax burden.¹⁵⁶ Another option advocates should consider is funding programs that specifically fight the harmful effects of meat, such as health and environmental issues. This has been effective in the SSB context, as funding in Berkeley and Seattle went to health programs as well as increasing access to healthy foods.¹⁵⁷ Equity should also be considered when deciding where to allocate revenues because of the disproportionate burden lower income groups will face from the tax and from the harms of meat.¹⁵⁸ Finally, as Berkeley's tax

150. Falbe et al., *supra* note 116, at 1.

151. CITY OF SEATTLE, *supra* note 124.

152. Dana & Nadler, *supra* note 87, at 92–93

153. *See id.*; CITY OF SEATTLE, *supra* note 124; *see* Falbe et al., *supra* note 116, at 3.

154. *See* Dana & Nadler, *supra* note 88, at 92–93 ; Falbe et al., *supra* note 116, at 3.

155. *See* Dana & Nadler, *supra* note 88, 92–93.

156. *See id.*

157. Falbe et al., *supra* note 116, at 2; CITY OF SEATTLE, *supra* note 124.

158. Cline, *supra* note 142, at 14; *see EPA Report Shows Disproportionate Impacts of Climate Change on Socially Vulnerable Populations in the United States*, EPA (Sep. 2, 2021), <https://perma.cc/RC7V-FHLE>.

showed, communication is key, and communicating how the tax will fund important programs and benefit the community is essential to success.¹⁵⁹

III. OBSTACLES ADVOCATES ARE LIKELY TO ENCOUNTER AND HOW TO DEFEAT THEM

Many of the same communications and public relations challenges that SSB tax advocates faced will likely be faced by meat tax advocates. There is much to be learned from where SSB tax advocates succeeded and failed. The most challenging legal obstacle that advocates are likely to face is state preemption. This Part will address why that is likely to happen, what tactics were used in SSB tax preemption battles, and political strategies localities can use to beat preemption.

A. MEAT COMPANIES WILL TRY TO USE PREEMPTION

Any murmurs of a meat tax are likely to be met with an extremely aggressive response from the meat industry. That aggressive response is most likely to come in the form of preemption, or statewide legislation enacted with the primary purpose of preventing localities from passing a meat tax. Though preemption will likely be the meat industry's primary anti-tax cudgel, the meat industry uses other aggressive tactics to protect its interests. Meat-tax advocates should analyze, anticipate, and learn how to combat the industry's various defense tactics. An analysis of the recent rise in "ag-gag" laws, for example, will help advocates understand just how aggressive and quick the meat industry can be to respond to perceived threats. The ultimate policy push by the livestock industry is likely to be preemption, as evidenced by its use in the SSB context and because there is a general trend of states passing preemption laws to prevent municipalities from implementing progressive policies.

Recent "ag-gag" laws best demonstrate how livestock producers aggressively quash threats to their business model. These so-called "ag-gag" laws, which have risen sharply in recent years, are "state laws that intentionally limit public access to information about agricultural production practices, particularly livestock production."¹⁶⁰ Ag-gag laws either criminalize or create civil penalties for taking videos or photos of agricultural facilities without permission from the owners or by disguising oneself as a job applicant to obtain data or pictures from an agricultural facility.¹⁶¹ These laws experienced a resurgence in the 2010s after videos captured by animal rights activists and journalists were released showing the horrific conditions of livestock facilities.¹⁶² These videos led to ag-gag bills in more than sixteen states, with at least seven passing (many have attracted

159. See Falbe et al., *supra* note 116, at 3.

160. Caitlin A. Ceryes & Christopher D. Heaney, "Ag-Gag" Laws: Evolution, Resurgence, and Public Health Implications, 28 NEW SOLUTIONS 664, 664 (2019).

161. *Id.* at 665.

162. *Id.* at 666.

1st Amendment challenges, a number of which have already succeeded).¹⁶³ Many of the top livestock slaughtering states passed their own variations of ag-gag laws.¹⁶⁴ These more recent laws tend to include harsher penalties for violators, and attempt to intimidate those who would challenge the law.¹⁶⁵ The rise of ag-gag laws in response to videos depicting the poor conditions of livestock facilities shows both the political power the livestock industry has, and how far they are willing to go to push back against any perceived challenge to their power.¹⁶⁶ This should inform advocates of a meat tax to be prepared for a vicious fight from the livestock industry, even though they have facts and data on their side. Preemption seems like a likely weapon because it rests on the same principle as ag-gag laws, it is an extremely aggressive approach meant to totally stymie and intimidate its opponents.

Moreover, preemption has been one of the favored methods by SSB producers to stop the movement to tax their products.¹⁶⁷ Between 2017 and 2018, when SSB taxes began to gain traction there were at least eight attempts to pass state preemption of local SSB taxes.¹⁶⁸ This included attempts in all three states where major SSB taxes had been passed: California, Washington, and Pennsylvania, with the California and Washington attempts being successful (though allowing cities that had already passed taxes to be grandfathered in).¹⁶⁹ Other states where preemption laws were brought up included states where SSB taxes were being considered in localities, which had the effect of quelling these localities in passing a SSB tax.¹⁷⁰ This demonstrates that preemption is a strong tool that industry is willing to use to fight local taxes.¹⁷¹ It is powerful because it not only can prevent future taxes, but even discussing it as an option can stop current attempts by localities to pass taxes.¹⁷²

Finally, state preemption of localities in general is increasing.¹⁷³ According to recent political science, there are two characteristics about this trend that stand out from other eras of preemption: they prevent an action without having any

163. *Id.*

164. Chenyang, *supra* note 68, at 10357–58.

165. *See* Ceryes & Heaney, *supra* note 163, at 665.

166. It is also worth noting that the Supreme Court has recently granted cert in a case brought by a pork trade group challenging a California law, Proposition 12, that prohibited the sale of pork produced in cruel conditions (required a minimum amount of space) in the state. *Nat'l Pork Producers Council v. Ross*, 6 F.4th 1021 (9th Cir. 2021), *cert. granted*, 142 S. Ct. 1413 (2022). This may signal both that meat producers will be more aggressive with the legal challenges as they sense a Supreme Court more willing to side with them, and the Court's ruling has the potential to limit state abilities to regulate food.

167. *See* Crosbie et al., *supra* note 72, at 677.

168. *Id.*

169. *Id.* at 678–79.

170. *Id.* at 681.

171. *See* 677.

172. *See id.* at 681.

173. Christopher B. Goodman, et. al., *State Preemption of Local Laws: Origins and Modern Trends*, 4 PERSP. ON PUB. MGMT. AND GOVERNANCE 146, 148 (2021).

concurrent state action on the subject (“vacuum preemption”) and they use increasingly punitive measures to ensure compliance.¹⁷⁴ This includes preemption laws targeting other public health and environmental laws.¹⁷⁵ One of the factors that may have sparked this is the dynamic between Republican-controlled state government and Democratic-controlled cities, a dynamic that likely benefits industry—this scenario, as mentioned, allows Republican state governments to kneecap Democratic municipalities before they even have a chance to act.¹⁷⁶ Moreover, issues that spark preemption tend to be ones that are nationally salient and polarizing, something a meat tax would be.¹⁷⁷

B. LESSONS LEARNED FROM SSB PREEMPTION

Looking at how SSB tax preemption battles played out, there are four important tactics that were used to push for preemption laws (scholars identified these using the Crosbie and Schmidt tobacco preemption framework).¹⁷⁸ These tactics are: using front groups to promote preemption, lobbying policy makers, inserting preemption through varied avenues, and issuing legal threats and challenges.¹⁷⁹ The use of front group includes creating neutral sounding associations like the American Beverage Association to make alliances with grocery, restaurant, and labor groups to reframe the issue as a tax on groceries.¹⁸⁰ This helps increase the coalition of support for preemption and also creates coalitions to oppose the original tax proposal.¹⁸¹ Unsurprisingly, another important tactic used is lobbying, which includes donating to state-level politicians through front groups, industry associations, and directly from companies.¹⁸² Industry has also attempted to push preemption through a variety of methods.¹⁸³ This includes state bills, riders, and cleverly worded ballot initiatives.¹⁸⁴ This includes last-minute additions to larger bills and gaining support for ballot initiatives to threaten legislators to instead pass preemption.¹⁸⁵ The final strategy includes legal threats and challenges—by making threats industry has attempted to bully localities and states.¹⁸⁶

174. *Id.* at 152.

175. *See id.* at 149.

176. *See id.* at 153.

177. *See id.* at 154.

178. Crosbie et al., *supra* note 72, at 679–81.

179. *Id.*

180. *Id.* at 679.

181. *See* Dana & Nadler, *supra* note 88, at 88.

182. Crosbie et al., *supra* note 72, at 679–80.

183. *Id.* at 680–81.

184. *Id.*

185. *Id.* at 681.

186. *See id.*

C. POLITICAL STRATEGIES TO FIGHT BACK AGAINST PREEMPTION

Through these preemption battles advocates have learned several successful strategies to combat pushes for preemption laws.¹⁸⁷ These strategies can be placed into four buckets: lobbying, media advocacy, and education; connecting advocates and allies; legal advocacy; and speed.¹⁸⁸ An important strategy for advocates is mounting a successful lobbying campaign aiming to educate both politicians and voters.¹⁸⁹ This includes reframing preemption battles away from the underlying issue and instead about taking away local control.¹⁹⁰ Advocates should also seek to educate decision-makers on the benefits of the tax, like revenue generated, and push back against any framing as a “grocery tax.”¹⁹¹ Even if preemption passes, advocates can use this public relations campaign to push for a referendum to repeal the preemption law.¹⁹² Another strategy for advocates is connecting with each other across the country in order to share strategy and best practices, provide resources and training, and showing unity.¹⁹³ This includes the creation of legal networks of city attorneys and pro bono advocates in addition to a larger centralized organization to get expert advice and understand what strategies are successful.¹⁹⁴ This relates to the next strategy, legal advocacy. This would go beyond the legal networks, and look to use lawyers to find ways to potential defy and challenge preemption laws, circumvent preemption, and look at strengthening existing laws that support local authority.¹⁹⁵ Legal advocates can use existing home rule provisions to defend against preemption and identify how to strengthen those before preemption comes into effect.¹⁹⁶ Finally, perhaps the best weapon advocates have is speed.¹⁹⁷ Once taxes are passed that generate revenue to fund programs—particularly popular universal programs—it is harder for those pushing preemption, as these programs create clear constituencies who benefit from the tax.¹⁹⁸ It is even better if multiple municipalities are able to pass taxes before preemption is introduced, as there are more constituents who benefit from the tax.¹⁹⁹ Additionally, preemption becomes

187. *Id.* at 683–85.

188. *Id.*

189. *See id.* at 683–84.

190. *Id.* at 681; Dana & Nadler, *supra* note 87, at 105.

191. *See* Crosbie et al., *supra* note 72, at 679–81; *see Legal Strategies to Counter State Preemption and Protect Progressive Localism*, LEGAL EFFORT TO ADDRESS PREEMPTION (Apr. 17, 2022), <https://perma.cc/9QB4-UE92>; Dana & Nadler, *supra* note 88, at 105.

192. *See* LEGAL EFFORT TO ADDRESS PREEMPTION, *supra* note 194; Goodman et al., *supra* note 176 at 153-55.

193. Crosbie et al., *supra* note 72, at 683.

194. Crosbie et al., *supra* note 72, at 684; *see* LEGAL EFFORT TO ADDRESS PREEMPTION, *supra* note 193.

195. Goodman et al., *supra* note 176 at 153-55.; LEGAL EFFORT TO ADDRESS PREEMPTION, *supra* note 194.

196. LEGAL EFFORT TO ADDRESS PREEMPTION, *supra* note 194.

197. *See* Dana & Nadler, *supra* note 88, at 103-0.

198. *Id.*

199. *Id.*

likelier the longer municipalities take to pass any such tax, and cities can beat preemption by passing taxes before preemption goes into effect (so they are grandfathered in).²⁰⁰

CONCLUSION

The movement to tax meat *can* be effective even if no city passes a tax soon, as demonstrated by how the SSB-tax movement was effective even when cities did not adopt its preferred policies. Just as the SSB movement's message of alerting buyers of SSBs to the harmful impact those drinks have on health resonated with consumers, consumers still care about the relationship between food and health, and also care about food and the environment.²⁰¹ The majority of Americans say that "they would be willing to eat more plant-based foods if they had more information about the environmental impact of different products and/or foods."²⁰² However, 43 percent of Americans either don't think beef contributes to global warming at all or do not know, and only 27 percent think beef contributes "a lot" to warming.²⁰³ Additionally, over 90 percent of Americans say "health is at least a 'moderately' important reason to purchase or eat plant-based foods," with 77% saying it is very or extremely important.²⁰⁴ An advocacy effort around a meat tax that includes media advocacy and education can help alert consumers to the true impact meat has on the environment and their health and lead them to change their diets.

Due to meat's harmful effects on the environment, human health, justice and equity, and animal welfare, we should try to reduce its consumption. A good comparison for advocates to use is the movement to tax SSBs, looking at why that movement has been successful, and what meat tax advocates can learn from its success, as well as how to structure a meat tax. A key obstacle that the SSB movement faced, that is increasingly common, is preemption, which meat tax advocates can look at to develop strategies to counter any push for preemption. Finally, a local tax is the likeliest way to reduce meat consumption, as federal-level efforts are unlikely to succeed, as are any mandate style efforts. As governments start to take tackling the challenges of the climate change more seriously, local governments that value being on the forefront of change should consider taxing red and processed meat—not only because of the environmental harms, but because of the health harms, injustice to non-human animals, and effects red and processed meat have on justice and equity. The problems of meat production are complex and multifaceted, but the solution is not: tax it to decrease consumption and production.

200. *Id.*; Goodman et al., *supra* note 176 at 155.

201. See, Sanger-Katz, *supra* note 70.; ANTHONY LEISEROWITZ, ET. AL., CLIMATE CHANGE AND THE AMERICAN DIET 1–8 (2020).

202. *Id.* at 3.

203. *Id.* at 4.

204. *Id.* at 8.