

City-State Ideological Incongruence and Municipal Preemption

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Abstract

A growing concern among municipal officials across the US is that their policymaking capacity is under attack by state legislatures who are increasingly likely to preempt those municipalities. However, determining the extent to which which types of municipalities are preempted is challenging, as current evidence is largely anecdotal and creating a systematic database of preemptive state laws is nearly impossible. We overcome these shortcomings by surveying a the largest sample of municipal officials from across the United States to date. In the survey, we ask respondents to indicate if their municipality has been preempted across a variety of policy areas. We link these survey responses with two different datasets measuring the ideological distance between municipalities and states overall. We find that officials from municipalities that are more ideologically conservative (liberal) or that are more Republican (Democratic) than their state overall are more likely to report being preempted by their state government. These findings have important implications for the quality of representation in our federalist system and indicate that preemption is not just an issue between Republican states and liberal urban cities.

1 Introduction

A key argument for federalism and decentralization is that they foster substantive representation by allowing subnational governments to experiment with policies and adopt those that reflect the needs and preferences of their constituents (e.g., Tiebout, 1956; Oates et al., 1972; Hankla, 2009). The congruence between policy outcomes and constituents' preferences at the state (e.g., Caughey and Warshaw, 2018; Tausanovitch, 2019) and municipal levels (Palus, 2010; Tausanovitch and Warshaw, 2014a; Einstein and Kogan, 2016; Warshaw, 2019) suggests that this beneficial aspect of decentralization occurs to a large degree in the United States. At the same time, policy congruence at lower levels of government can lead to policy *incongruence* with higher levels. For example, a liberal city in a conservative state (or a conservative city in a liberal state) may pursue policies out of line with their state's governing majority. When this occurs, do higher levels of government respect the policy preferences of their local governments, or do they override these differing preferences, and if so, under what conditions?

These questions are central to our understanding of a dominant feature of contemporary federalism in the US—political conflict between states and the municipalities operating under their jurisdiction. While preemption has long been a feature of municipal politics (Allard, Burns and Gamm, 1998; Gamm and Kousser, 2013), this conflict has gained significant attention in recent years (Riverstone-Newell, 2017) and become a major concern to local officials (Hicks et al., 2018; of Cities, 2018). Indeed, ideological conflict between levels of government helps explain why cities lobby higher levels of government (Goldstein and You, 2017; Payson, 2020, forthcoming).

Understanding the dynamics of preemption is increasingly vital since political conflict between states and cities will likely increase due to the following developments in US politics. First, partisan politics is proliferating across all levels of government (Hopkins, 2018) as state legislatures become more polarized within and across states (Shor and McCarty, 2011). In other words, partisan issues that were once the purview of the national government are being addressed more and more by state and even local governments while disagreements about policymaking across parties is growing substantially. On top of this, the policy space in which states are acting is expanding given gridlock at the national level (Barber and McCarty, 2015) and states' increasing legislative capacity (Squire, 2012). Meanwhile, the preferences of voters at the local levels are becoming more ideologically homogeneous and sorted

(Nall, 2015; Lang and Pearson-Merkowitz, 2015; Gimpel and Hui, 2015). This further exacerbates the potential for tension between local and state policies. In short, the seeds for conflict are plentiful and demand ongoing attention.

In this paper, we use the most extensive systematic data to date to examine both the extent to which preemption occurs and the political factors that lead to it. Based on known cases of preemption and recent scholarly work (Einstein and Glick, 2017; Riverstone-Newell, 2017; Hicks et al., 2018; Fowler and Witt, 2019; Flavin and Shufeldt, 2020), preemptive laws appear to be directed at liberal, urban cities by Republican state governments. On the other hand, preemption may be a game played by state legislators of both parties¹ to thwart the policy efforts of municipal officials that are ideologically out of step with the state government in either direction. If preemption is motivated by preventing any policies that are out of line with the preferences of state officials, then cities with any policy plans that are more liberal or conservative than the preferences of their state government may be impacted.

To address the question of which types of cities are more likely to be preempted, we use a large survey of thousands of municipal officials from across the US in 2016. In the survey, we ask respondents to indicate if their municipality has been preempted by the state government across a variety of policy areas. This approach avoids the problem of relying on only the most well-known cases of preemption, which may be systematically biased toward large, liberal cities.² We then link these survey responses to two separate datasets that measure the ideological and partisan leanings of all fifty states and thousands of municipalities across the country (Tausanovitch and Warshaw, 2014b).

We find that municipal officials are more likely to report preemption by the state government when their city is ideologically incongruent with their state legislature (either in terms of residents' partisanship or ideology). Though some of the most well known cases of preemption involve liberal cities and conservative state governments, we find that *both* Democratic and Republican state legislatures preempt incongruent cities; however, this effect is primarily driven by state legislatures of both parties preempting cities that are more liberal. These results are robust to a variety of statistical modeling approaches and control variables describing the type of municipality, composition of the state government, and charac-

¹This is in line with arguments that both parties engage in federal preemption of state laws (SoRelle and Walker, 2016)

²Though we acknowledge that our survey-based approach still has downsides, we explain later how it is a vast improvement over previous attempts to measure the extent of preemption and the factors influencing it.

teristics of the survey respondents.

In addition to finding that officials from ideologically incongruent cities are more likely to report preemption, we also find that larger cities are more likely to be preempted as are cities in states with unified partisan government. Both of these findings are in line with our theoretical expectations since large cities tend to deal with more policy issues (and thus have a greater opportunity to be preempted) and the policies of these large cities are more likely to garner state officials' attention. Given the relationship between divided government and legislative productivity (Binder, 1999; Barber, Bolton and Thrower, 2019), we anticipate that unified government would also provide more opportunity for state governments to enact preemptive laws. Finally, in line with popular concerns and recent academic work (Einstein and Glick, 2017; Riverstone-Newell, 2017; Hicks et al., 2018; Fowler and Witt, 2019; Flavin and Shufeldt, 2020), we also find that municipalities in states with unified Republican control are more likely to report preemption. Thus, though we find evidence that both Republican and Democratic state governments preempt cities that are more liberal than the state, Republican state legislatures appear to do it more.

Overall, our paper contributes to our understanding of state and local politics and political representation more broadly. Our results present the most comprehensive analysis of preemption between state and local government to date. The data we use are far superior to prior work in both their coverage of different types of municipalities and the variety of issues considered. And while groups such as the National League of Cities have expressed concerns regarding preemption, this paper systematically verifies and quantifies those concerns. The results show that preemption is not just an issue for blue cities in red states. Rather, many cities—and especially those that are more liberal than their state—report being preempted by both Democratic and Republican-controlled state legislatures. Our findings also have important normative implications for the extent to which states should intervene in local policymaking. Theories of representation suggest that policy congruence is an important and welfare-improving component of political representation (Miller and Stokes, 1963; Broockman, 2016; Bafumi and Herron, 2010) and that local decisions are best made at the local level absent other countervailing concerns (Hooghe and Marks, 2009).³ Moreover, residents' policy preferences can vary significantly across cities even within

³The countervailing concerns include specific cases, such as cities that struggle with corruption or administrative competence. Absent that, Hooghe and Marks (2009) find in their analysis and review of the literature that “local decision making is at least as informationally efficient as central decision making for local public goods, and more efficient when decision making involves soft knowledge” (232), and thus, they conclude that “Local decisions are best made by locals” (232).

the same state (Tausanovitch and Warshaw, 2014*b*). Thus, our empirical finding that state governments regularly preempt municipalities with distinct ideological preferences is a cause for concern since these interventions diminish the ability of municipalities to implement policies that align with their citizens' preferences.

2 Background

We use the term preemption to broadly describe situations where a higher level of government passes a law either overriding a policy enacted by a subordinate government or preventing them from enacting policies that were previously within their purview. While we focus here on state governments passing laws that override municipal policymaking, it is also the case that state governments are often similarly preempted by federal law. In the case of federal preemption, this often involves the invocation of the Supremacy Clause of the US Constitution. Many state constitutions include similar clauses declaring state law supreme to local statutes. However, many municipalities are also granted "home rule" to govern and legislate on issues without the expressed permission of the state government so long as the municipalities laws are not in conflict with the state's statutes or constitution. Other states provide less leeway to municipalities and follow what is known as "Dillon's Rule", which permits municipalities to legislate only on those issues explicitly allowed by the state government.⁴ However, Home Rule is the most common grant of authority and 40 of the 50 states use this method for allocating power to municipal governments (Hicks et al., 2018).

Despite the wide grant of authority to municipalities by state governments, states frequently intervene in municipal policymaking. This can be done by passing laws that impose or prohibit certain regulations and requirements or even punish municipalities and their officials for enforcing local laws opposed by the state. In popular media, preemption is often identified as a means by which state governments, and Republican ones in particular, block liberal cities from establishing progressive policies. In 2017, *The New York Times* published the article *Blue Cities Want to Make Their Own Rules. Red States Won't Let Them*, which described several instances in which Republican state governments have pre-

⁴See Hicks et al. (2018) for a summary of Home Rule, Dillon's Rule, and their use throughout the country.

empted local laws regarding the minimum wage, paid leave, LGBTQ rights, among other policies.⁵ As mentioned above, the National League of Cities recently produced a report of preemption laws enacted that shows Republican state legislatures enacting preemption laws at a much higher rate than Democratic state government.⁶ Despite these highly publicized reports, Democratic state legislatures also engage in preemption. For example, in early 2020, newly seated Democratic majorities in the Virginia legislature passed sweeping gun control measures that preempted local ordinances that were much less strict.⁷

Most academic research on local preemption explores the different methods used to preempt local authority and the partisanship of those doing so. Many scholars agree is that the use of preemption is expanding and has become more salient over the past decade (Einstein and Glick, 2017; Riverstone-Newell, 2017; Briffault, 2018; Hicks et al., 2018). Previously, preemption was mainly a function of the judicial system as it determined whether or not a local law was contrary to preexisting state law (Briffault, 2018), or a state passing laws setting minimum requirements for particular local responsibilities (Riverstone-Newell, 2017). Recently, however, preemption laws have evolved into state laws that “intentionally bar local efforts to address problems,” a term Briffault (2018) calls “new preemption.” These new preemption laws can take many different forms, but all result in the stripping of local authority. One type of new preemption law, which Briffault calls a “punitive preemption law,” establishes a penalty such as a fine or even removal from office for enforcing measures that violate state laws. For example, a state law in Florida stipulates that local officials who pass laws in violation of the state’s firearms statutes will be removed from office and fined up to \$5,000.⁸ Another type of new preemption law, according to Briffault, is a “nuclear preemption law,” which takes away a local government’s ability to regulate without state authorization. Riverstone-Newell (2017) calls these laws “blanket preemption laws.” For example, state legislators in Utah attempted in 2019 to pass a law that would prohibit municipalities from passing their own laws prohibiting the use of plastic grocery bags.⁹ Because of the wide variation in types of preemption, creating a comprehensive database of preemptive legislation is effectively im-

⁵See <https://www.nytimes.com/2017/07/06/upshot/blue-cities-want-to-make-their-own-rules-red-states-wont-let-them.html>

⁶See <https://www.nlc.org/article/state-preemption-of-local-authority-continues-to-rise-according-to-new-data-from-the>

⁷See https://www.richmond.com/news/virginia/northam-signs-five-gun-control-measures-seeks-to-amend-two-others/article_daeae239-e028-5073-9181-37438221b64b.html

⁸See <https://www.abetterbalance.org/wp-content/uploads/2018/10/Punitive-Preemption-White-Paper-FINAL-8.6.18.pdf>

⁹See <https://www.sltrib.com/news/environment/2019/02/25/paper-or-plastic-utah/>

possible, especially since the vast majority of preemptive laws are not labeled as such in the legislation itself and legislators are reluctant to acknowledge that these laws are, in fact, preemptive. We sidestep this methodological hurdle by relying on self-reports from municipal officials who are directly affected and distinctly aware of their states' attempts to constrain their legislative powers.

3 Theory

A central question surrounding preemption is when and under what circumstances state governments are more or less likely to decide to intervene and pass a law preempting a particular municipality's policy. First, we assume that state legislators and the governor have preferences over policy not only at the state level, but also within municipalities in their state. Though some work suggests that local politics operate in a different policy space than state politics, recent work finds strong evidence that measures of citizens' ideology on a general liberal-to-conservative policy dimension are quite predictive of policy outcomes at the local level (Tausanovitch and Warshaw, 2014*b*). These measures also strongly predict whether, and when, cities choose to circumvent state government by lobbying the federal government for resources (Goldstein and You, 2017). The idea that municipal and state politics often operate in the same policy space is also supported by arguments that political behavior and contestation has become increasingly nationalized in recent decades in the US (Hopkins, 2018). Moreover, there is increasing policy overlap between states and cities (Peterson, 1995; Frug and Barron, 2013). Thus, through preemption, state governments can move policies closer to their preferred positions relative to what might be the case if municipalities were left to legislate on their own. One of the most obvious reasons for this difference in policy outcomes is because the preferences of the state government are not the same as all municipal governments throughout the state. Municipalities, even those within the same state, are diverse on a number of dimensions, and as a result various cities may take different approaches to the same policy problem, or perhaps, choose not to address the policy at all.

Affecting municipal policy through state law, however, is not costless. State laws take significant time to draft, and passing laws in general is a difficult undertaking. Thus, any state legislator(s) interested in passing a preemptive law must be willing to shoulder the costs associated with shepherding a bill through the process of gathering cosponsors and supportive interest groups, taking the bill through

committee, handing it off to the other chamber, and obtaining the governor's signature. As such, legislators are likely to be reticent to move a bill through this process without the incentives and desire to absorb these significant costs.

Furthermore, preemptive laws are inherently "inefficient" in that they address issues that are isolated to particular municipalities. For example in the case cited above regarding Utah's attempt to prohibit the banning of plastic grocery bags, not every municipality in the state had enacted a plastic bag ban. In fact, only two of the states 246 cities and towns had enacted such bans. Thus, any preemptive bill takes the time of the entire state legislature to address an issue that is not necessarily occurring across the entire state. And given that many state governments face constraints on the time they have in limited and infrequent legislative sessions, legislators must convince the relevant decision-makers that their municipal preemption law is worth the scarce time and energy of the state government.

Given these costs, legislators would appear to have the greatest motivation to pass preemption laws when the particular policy is further from the preferences of the pivotal actors in state government. The further the ideological distance between the preferences of the state and the policy of the municipality, the more we would expect state lawmakers to be willing to invest the time and energy needed to create and pass such a law. Thus, on average, the ideological distance between a municipality and state government is a likely factor that influences the probability of municipal preemption. Einstein and Glick (2017) provide a first look at this question in a survey of 89 mayors from US cities. They find that mayors whose partisanship did not align with their state government were more likely to report being preempted. And while the partisanship of mayors alone is a rough measure of the ideological distance between municipalities and the state government, these results inform our first hypothesis:

Ideological Incongruence Hypothesis: Preemption by state governments is more likely when the ideological distance between a municipality and the state government is greater.

While we suggest that the ideological relationship between state and local governments is an important factor in predicting preemptive lawmaking, we also hypothesize that the ideological and partisan arrangement *within* the state government is another key factor. Under unified government, two different factors lead to greater instances of preemption by state governments. First, there is great ideological agreement among policymakers in the legislature. Given the increasing homogeneity of the preferences

of elected officials from the same party, larger majorities imply a larger group of legislators who share similar policy preferences and would thus likely share a preference for expending legislative time and energy in running a preemptive policy through the legislature. Second, unified government also reduces the probability of legislative gridlock due to the possibility of an executive veto or legislative tactic such as one chamber not considering a bill passed in the other chamber (McCarty, 1997; Cameron, 2000; Rogers, 2005; Grant and Kelly, 2008). This leads us to our second hypothesis:

Unified Government Hypothesis: Preemption by state governments is more likely when there is unified state government versus periods of divided government when both parties control at least one chamber of the legislature or the governor's office.

It is less clear whether one party is more likely than the other to use preemption when they are in control of the state government. Recent work argues that the rate at which Republican and Democratic Congresses enact preemption laws that override state laws is relatively similar, but their goals and methods of doing so differ systematically (SoRelle and Walker, 2016).¹⁰ And while much of the reporting on preemption by media outlets focuses on Republican legislatures preempting liberal municipalities, these reports only highlight the most sensational cases and are likely not representative of the broader pattern occurring in statehouses throughout the country. On the other hand, scholars of local-level preemption regularly argue that Republican state governments will be more likely to override or prevent municipal policymaking (Einstein and Glick, 2017; Kogan, 2017; Riverstone-Newell, 2017). Though most of these assessments are based on limited cases, Einstein and Glick (2017) find evidence in their survey of 89 mayors from large cities that both Democratic and Republican mayors in Republican-controlled states are more likely to report having less policy autonomy. They anticipated this partisan difference for at least two reasons. First, Republican officials at the state and national levels have pushed for less cooperative forms of federalism (Conlan, 2006) that result in more conflict between levels of government. Second, the American Legislative Exchange Council (ALEC), which is an influential organization that

¹⁰The study concluded that Democrats preempt states' rights to push for civil rights and stronger federal government protection of equal opportunity and welfare. They generally do so by enacting "floor" preemption laws, or laws that establish a minimum requirement or regulation by the states. Republicans, on the other hand, use preemption laws to push a pro-business ideology by limiting government interference in the business environment. They often do so by enacting ceiling preemption laws that establish a maximum limit of regulation. While this study provides insight into the use of partisan preemption laws at the federal level, it lacks an examination of whether or not state preemption laws follow the same patterns.

pushes and provides conservative policies to state legislatures (Hertel-Fernandez, 2019), has promoted laws to consolidate power in state legislatures and preempt municipal policymaking (Dewan, 2015).

Republican state officials may also be more sensitive and aware of policies enacted by liberal municipalities since the largest cities in most states are also the most liberal. Thus, any potentially controversial policies they pursue will more likely be reported on in local and state news, alerting Republican officials to policies that are out of sync with their preferences. Kogan (2017) takes this idea further by arguing that preempting liberal municipal policies in the state's largest cities is an excellent opportunity for Republican state officials to engage in credit-claiming and position-taking to achieve reelection or run for higher office, especially at times when states face fiscal constraints and are less able to implement tax cuts or new programs to advance their political goals (Klarner, Phillips and Muckler, 2012). At the same time, Democratic municipal officials with ambitions for higher office can also use these potential conflicts with the state government to raise their profile (Kogan, 2017). Given these considerations from past work, we propose a third hypothesis:

Republican Unified Government Hypothesis: Preemption by state governments is even more likely when there is unified Republican state government versus unified Democratic state government.

4 Data and Methods

To evaluate our hypotheses, we use an original survey of municipal officials throughout the United States. The survey took place in two waves with the first wave of respondents contacted in the spring of 2016. Email invitations to participate in an online survey were sent to 27,862 elected mayors and legislators (e.g., city councilors, aldermen, supervisors, etc.) and high ranking staff (such as city managers and clerks) from 4,187 cities in all 50 states. The sample of emails come from a for-profit organization that collects the contact information of public officials from municipalities with a population greater than 10,000. Many of the email invitations did not reach their destination, with approximately half of the invitations bouncing back as invalid or undeliverable. Of those emails that were delivered,

2,003 officials from 49 states answered the survey for a response rate of 16.4 percent.¹¹ The second wave of the survey took place in the summer of 2016 and was designed to supplement the initial wave of email invitations. These officials' contact information was gathered by a team of research assistants and resulted in an additional 29,250 email addresses. This round of the survey had fewer undeliverable addresses (26%) and 1,418 municipal officials responded to the survey for a second-round response rate of 6.6%. These response rates are somewhat lower than prior surveys of municipal officials. However, they are in line with surveys of elected officials, donors, and voters, that are conducted via an email, postcard, or physical letter inviting the respondent to complete a survey online (Butler et al., 2017; Barber, Canes-Wrone and Thrower, 2017; Broockman, Ferenstein and Malhotra, 2019; Barber et al., 2014). We combine both rounds of the survey and analyze the data together given the short amount of time between the two waves of the survey. Additional details regarding the survey instrument, response rate, and representativeness of the sample are in Section A1 of the online supplemental materials. We note here that our sample is representative of the overall distribution of municipalities on a number of different factors, including aggregate policy views and demographic features such as racial composition, median income, employment and education. And while the full population of municipal officials is unknown, respondents to our survey are similar to non-respondents on gender, the proportion of respondents who are mayors (versus city council members), and the proportion of respondents in cities with city managers.

Our key outcome variables are responses from municipal officials regarding whether or not their municipality has been preempted by the state legislature across a number of different issues. Specifically, we ask respondents the following questions:

The term “preemption” refers to situations in which a law passed by a higher authority takes precedence over a law passed by a lower one. In your time as a municipal official, has the state legislature ever tried to enact legislation that would preempt a law passed by your municipality?

- Yes. They have tried and were successful.
- Yes. They have tried but were not successful.
- No. They have not tried.

¹¹We unfortunately did not have any respondents from Hawaii

Fifty percent of respondents indicated that the state had successfully preempted their municipality, while ten percent indicated that the state had unsuccessfully attempted to preempt the municipality. The remaining thirty-eight percent indicated that the state had not attempted any preemption of their municipality during their time in office.¹² Those respondents who indicated that the state legislature had attempted to preempt their municipality were then presented with an additional question asking which policy areas the state legislature had made an attempt. Respondents were able to select from Non-discrimination/LGBTQ issues, gun rights/ownership, labor laws/employee benefits (like minimum wage or paid leave), zoning and land use, environmental issues, and taxes. Respondents could select all issues that applied and were also provided a final option that allowed them to indicate any other issue on which their municipality was preempted. Thus, our unit of analysis is at the respondent-issue level. We consider each of these individual issues separately below and also create an index that counts the number of different issues on which a respondent reports being preempted. Here our unit of analysis is the respondent.¹³ In some cases we have responses from multiple officials in the same city (median number of officials per city is 2). While municipal officials could have different preemption experiences given the different lengths of time they have served in office, there is nevertheless strong agreement among officials within cities. The Cronbach's Alpha across each of the six policy areas ranges between .74 and .88.

Our main independent variable of interest is the ideological difference between the municipality and the state. We measure this in two different ways and find similar results with each. Our main results follow Payson (forthcoming) by using the Tausanovitch and Warshaw (2014b) measures of state and municipal ideology. These measures are based on the aggregation of hundreds of thousands of policy related survey responses from adult Americans. Warshaw and Tausanovitch use these survey responses in a multiple regression post-stratification (MRP) model to estimate the conservatism/liberalism of various geographic units in the United States. For our purposes, we are interested in the ideological estimates for all 50 states and the over 1,500 cities throughout the country with populations greater than 20,000. One significant benefit to these data is that the ideology scores produced by the MRP model for states

¹²2 percent of respondents skipped this question.

¹³We conduct a separate analysis where we look only at those who indicated a "successful" versus "unsuccessful" preemption attempt. Our results are driven primarily by successful preemption attempts, which comprise the majority of cases compared to unsuccessful preemption attempts (See Table A12-A13).

and municipalities are estimated on a unified ideological scale and allow for direct comparison between the cities and states. Tausanovitch and Warshaw (2014b) validate these measures against a variety of other data and find that they are highly correlated with other measures of conservatism and liberalism at the state and local level. For municipalities with a population smaller than 20,000 (73% of responses), we use the MRP estimates for the county of the municipality provided by (Tausanovitch and Warshaw, 2014b), who also estimate the ideology of every county in the United States. We recognize that the county is a noisy proxy for a municipality's ideology. However, in the cases where we have both a municipal and county estimate (cities larger than 20,000), the correlation between the two is quite high (0.71). As a precaution, we also conduct all of our analysis again and omit these smaller cities and use only the measure of municipal ideology (Table A3).

As a further robustness check we also use an entirely different measure of state and municipal ideology that uses the aggregate party registration of voters in the municipality and compare this to the partisan composition of the state legislature. To create this measure we goecode the addresses of over 200 million voter registration records from a national database of voter registration records.¹⁴ We then voters into their respective municipalities and calculate the proportion of that municipality's registered voters who are affiliated with one of the two major political parties.¹⁵ The correlation between the MRP-based measure of ideology (Warshaw and Tausanovitch) and the voter registration-based measure of municipal ideology is quite high (0.75). We discuss the empirical results using these specific robustness checks in greater detail in Section 4.1 below.¹⁶

Figure 1 shows the average ideology score for each state (diamonds) along with the estimated

¹⁴We obtained the national voter file from *The Data Trust*, a company that gathers data from state voter databases, cleans and sorts the data, appends additional consumer-based and demographic information on voters, and then sells these "enhanced" files to political parties, candidates, and other political actors.

¹⁵Some states do not have partisan registration, meaning that voters cannot register with a political party in those states. In these cases, *The Data Trust* consider whether or not a voter has participated in a past partisan primary, attended a partisan caucus, or contributed money to candidates from one of the parties to proxy for their partisan affiliation.

¹⁶With all of our measures of ideological incongruence, we recognize that these variables are proxying for a host of different factors that when combined constitute the overall ideological difference between the state and city. This includes the ideological leanings of the city's population, its voters, its activists, the city council, the municipal bureaucracy, and the mayor which together lead to a particular municipal legislative agenda. At the state level, similar factors such as the partisan composition of each chamber of the legislature, the governor, the particular legislators that represent districts that overlap with each municipality, and the overall legislative agenda will make a difference in the state's probability of acting against a municipality. We recognize that one ideological measure (however it is measured) will necessarily miss some of these nuances. Nevertheless, the *multiple* measures of ideological incongruence we use are significantly more comprehensive and systematic than anything that has been used in the past.

ideology score for each municipality in the state (circles) using the Warshaw and Tausanovitch (2014) MRP measures of state and municipal ideology. The size of the circle corresponds to the population of the city. Across all states there are municipalities that are more conservative and liberal than the overall state ideology, and in many cases this distance is quite large. And while the largest cities in the country (New York City, Chicago, Los Angeles, Houston) tend to be to the left of their respective states, there are still a large number of medium sized cities that are more conservative than the state overall. For example, Fresno, CA, Virginia Beach, VA, and Colorado Springs, CO are all estimated to be more conservative than their overall state ideologies respectively.¹⁷

For our initial analysis we create the variable *Ideological Incongruence* to be the absolute value of the distance between a municipality's ideology score and the state's ideology score. In other words, this variable measures the distance between each circle (municipality) and square (state) in Figure 1. Larger scores indicate cities that are more ideologically distant from the overall state ideology. We merge these ideological incongruence scores with our survey respondents based on their city and state. We then consider whether ideological distance from the state is related to reporting attempts by the state government to preempt a municipality. We begin by simply plotting the relationship between these two variables. The x-axis of Figure 2 shows the measure of ideological incongruence and the y-axis of Figure 2 shows the probability of a respondent indicating that their city has been preempted by the state on this issue. As discussed above, we hypothesize that greater ideological distance will be associated with a higher probability of reported preemption, and Figure 2 shows exactly this. We see that across each of the six different policies, the combined policy index (bottom right panel), and an indicator of any preemption (top left panel) there is a positive relationship between ideological incongruence between city and state and reported preemption. In many cases, the change in probability is quite large. For example, when considering LGBT policy, cities that are closely aligned with the overall state report preemption on this issue about 5 percent of the time. However, cities at the other side of the ideological incongruence score report preemption more than 25 percent of the time. When looking at the index of preemption (bottom right panel), cities that are ideologically close to the state's overall ideology report roughly 1

¹⁷Figure A3 in the supplemental materials displays similar state and municipal ideology as Figure 1, but uses the voter registration measure of municipal ideology rather than the MRP estimates. We see a similar dispersion of municipalities that are more liberal and more conservative than the state overall.

City and State Ideology Scores

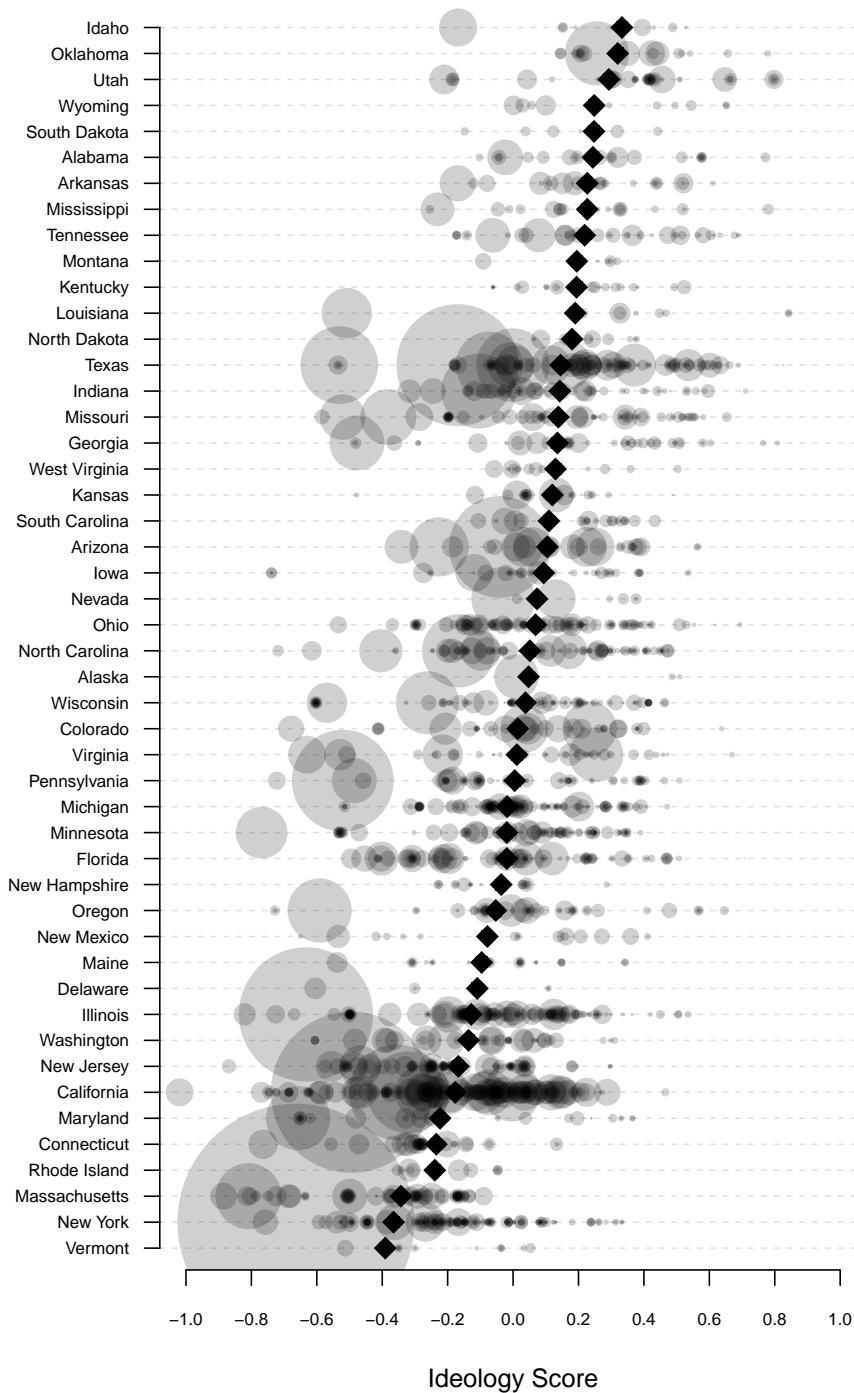


Figure 1: **Ideology of States and Municipalities within States** - The diamonds show the estimated ideology of the state while the circles show the average ideology of municipalities within those states, as measured by Tausanovitch and Warshaw MRP measures of ideology (Tausanovitch and Warshaw, 2014b). There are a number of cities in each state that are more liberal or conservative than the overall state. Circles sizes are proportional to the population of the city.

instance of preemption while those cities that are ideologically furthest from the state report twice that amount, on average.¹⁸

To account for other factors that could be related to municipal preemption and the ideological distance between the city and state, we include a number of different control variables and test our hypothesis using a suite of regression models. To account for state-level factors we include variables measuring the partisan composition of the state legislature as well as the ability of the state government to pass legislation. We include two dummy variables, one for whether the state government is controlled entirely by Republicans (*Unified GOP State Gov.*) and another for unified Democratic control (*Unified Dem State Gov.*). States operating under divided government are the omitted comparison group. Previous work suggests that divided government makes passing legislation more difficult in general, whether because of partisan disagreement or increased distance between the ideal points of pivotal members of the legislature that is likely to occur under divided government versus unified government (Binder, 1999; Barber, Bolton and Thrower, 2019; Chiou and Rothenberg, 2003). The decline in legislative productivity could lead to less preemptive action by the state legislature. Furthermore, we want to account for the possibility that one party is more comfortable with centralizing power within the state legislature rather than allowing power to be dissolved to the various municipalities throughout the state.

We also include a number of variables that account for differences across municipalities. One important factor to consider is that larger cities are systematically different from small municipalities in a number of ways. Larger cities are more likely to have a more active legislative agenda, larger budgets, and more full-time and professionalized elected officials with a larger bureaucratic staff. To account for this, we include $\ln(\text{City Population})$, which measures the 2016 logged population of the city as measured by the US Census Bureau American Community Survey. To account for the possibility that the state capital receives a larger share of the state legislature's attention, we include a dummy variable, *State Capital*, that is coded "1" for each state capital and "0" for all other municipalities. We also account for the economy and demographics of the city by including a measure of the city's median income (*City*

¹⁸Figure A4 in the supplemental materials shows similar lowess curves for each policy area but uses the voter registration measure of municipal ideology rather than the MRP measures shown in Figure 2. To calculate the ideological distance between the city and state we take the difference between the proportion of voters identifying with the Democratic party in each municipality and the proportion of seats in the state legislature in that state that are held by Democrats. We see a similar positive trend in Figure A4 as we do in Figure 1.

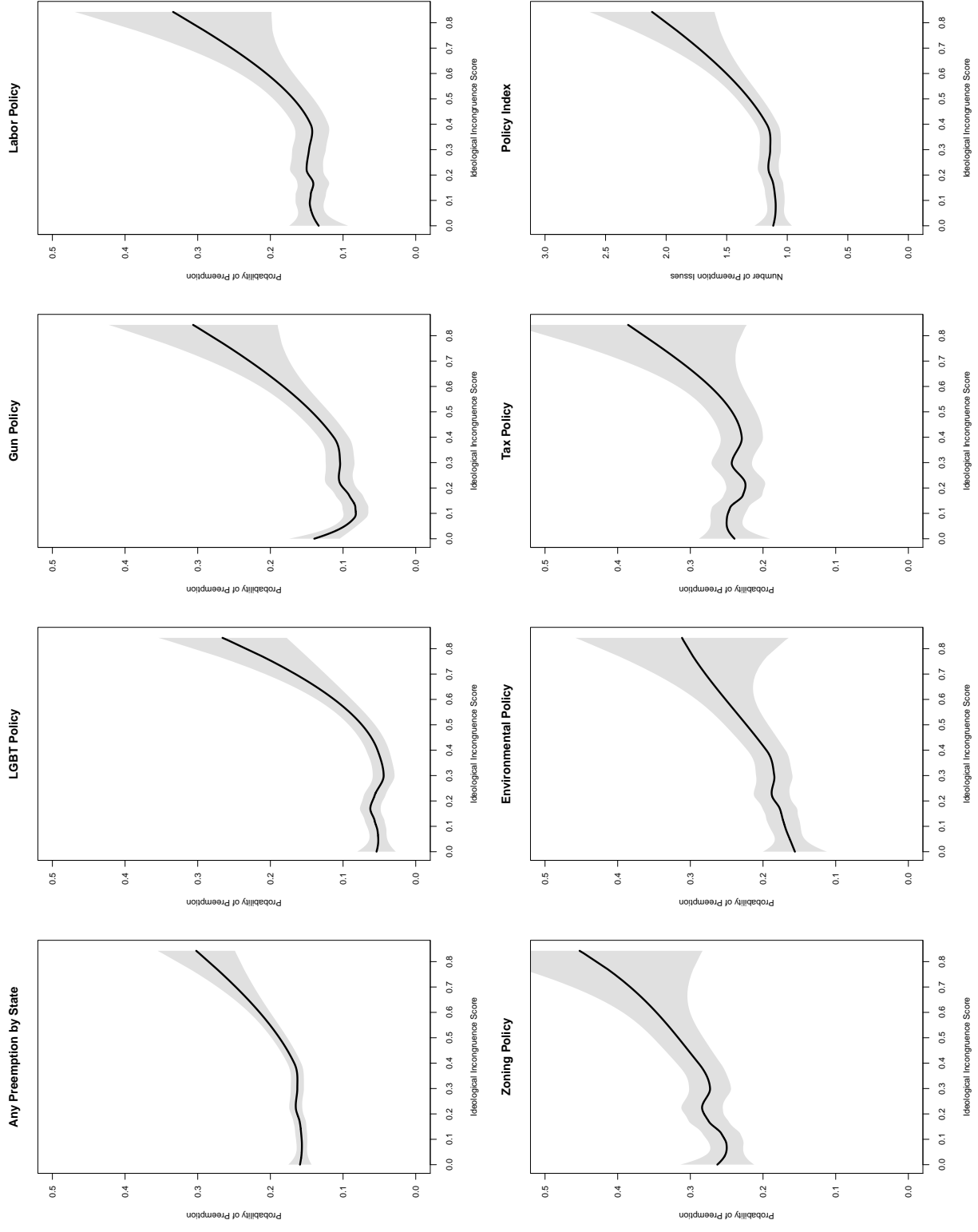


Figure 2: Ideological Incongruence between City and State and Reports of Preemption by Municipal Officials - Municipal officials are more likely to report cases of state government preemption in cities that are ideologically distant from the ideology of the state in which they reside. Each figure shows a less line and 95% confidence interval around the estimated relationship.

Median Income, in \$10k), the unemployment rate in the city (*City % Unemployment*), the median age (*City Median Age*), and the proportion of residents who are homeowners (*City % Homeowners*). We account for the racial composition of the city by including variables measuring the proportion of the city population with that are white (*City % White*), Black (*City % Black*), and Latino (*City % Latino*). We obtain these measures from the Census Bureau's 2016 American Community Survey, and summary statistics of these variables are available in Table A2 of the supplemental materials.

We also include a number of control variables that account for various demographic and professional differences in the municipal officials who responded to the survey. Because many municipal officials occupy non-partisan positions, we include a dummy variable, *Nonpartisan Elected Position* that is coded "1" if the official obtained their position via a non-partisan election. We also include a similar dummy variable, *Partisan Elected Position* that is coded "1" if the official occupies a position that is elected via partisan elections. The omitted comparison group are municipal staff, like city managers or clerks, who are in un-elected positions. We also account for whether the respondent is the city's chief executive (*Mayor*), a legislator (*City Councillor*), or staff (the omitted category). Finally, we also account for the gender of the municipal official (*Female*), their self-reported partisan affiliation (*Republican* and *Democrat*—with independents being the omitted comparison group)—and the number of years they have served in their current position (*Years in Office*). We include this variable because the probability of preemption is, by definition, weakly increasing in the time a person serves in office. In Table A8 in the supplementary appendix, we show that these results also hold when controlling for whether the respondent's partisanship aligns up with the majority party in their state legislature.

Table 1 displays the coefficients from models evaluating our ideological incongruence hypothesis. As previously discussed, we expect to find more instances of municipal preemption among cities that are ideologically distant from the overall state ideology. The first model shows the results of a logistic regression where the dependent variable is whether or not a municipal official reported preemption on any of the six issues (and a seventh open-ended question) in the survey. In this model we pool all of the issues together to find the average effect across all of the various questions. The positive coefficient on *Ideological Incongruence* shows evidence in favor of our hypothesis even after accounting for the various other factors about the city, state, and municipal official that may be related to reported preemption. Models 2

Table 1: Municipal Preemption - Ideological Incongruence between City and State

Dependent Variable:	Any Preemption	LGBT	Guns	Labor	Zoning	Environment	Taxes	Index (OLS)
Ideological Incongruence	0.63*** (0.19)	1.06* (0.62)	0.81* (0.46)	0.98*** (0.36)	0.89*** (0.29)	0.94*** (0.33)	0.31 (0.30)	0.66*** (0.21)
Unified GOP State Gov.	0.61*** (0.068)	1.25*** (0.23)	0.91*** (0.17)	0.55*** (0.14)	0.67*** (0.11)	0.48*** (0.13)	0.69*** (0.11)	0.58*** (0.068)
Unified Dem State Gov.	0.19** (0.084)	0.0093 (0.31)	-0.53** (0.25)	0.55*** (0.16)	0.29** (0.14)	0.18 (0.16)	0.28** (0.13)	0.17** (0.074)
State Capital	0.28 (0.26)	0.22 (0.57)	1.12* (0.64)	0.49 (0.38)	-0.14 (0.45)	0.45 (0.41)	-0.35 (0.42)	0.44 (0.34)
Ln(City Population)	0.17*** (0.026)	0.29*** (0.087)	0.19*** (0.067)	0.33*** (0.056)	0.14*** (0.045)	0.13*** (0.047)	0.15*** (0.044)	0.16*** (0.026)
City Median Income (in \$10k)	0.032** (0.014)	0.0080 (0.048)	0.052 (0.037)	-0.0031 (0.028)	0.096*** (0.024)	0.054** (0.025)	-0.015 (0.024)	0.030** (0.014)
City % White	-0.50 (0.38)	-2.24** (1.09)	1.10 (1.05)	-0.36 (0.74)	-0.61 (0.61)	-0.64 (0.72)	-0.99 (0.68)	-0.52 (0.40)
City % Black	-1.12** (0.45)	-2.16* (1.27)	0.75 (1.16)	-2.49*** (0.92)	-1.65** (0.73)	-1.27 (0.87)	-1.75** (0.76)	-1.11** (0.46)
City % Latino	-0.24 (0.20)	-1.40** (0.71)	0.28 (0.52)	0.0017 (0.44)	-0.17 (0.36)	0.28 (0.44)	-0.75* (0.40)	-0.23 (0.19)
City % Unemployed	0.062** (0.030)	-0.016 (0.12)	0.017 (0.082)	0.15*** (0.060)	0.11** (0.049)	0.13** (0.056)	0.012 (0.052)	0.053* (0.028)
City % Homeowners	-0.52* (0.31)	-2.14** (1.03)	-1.06 (0.85)	0.21 (0.60)	-0.78 (0.52)	-1.19** (0.56)	0.41 (0.52)	-0.48* (0.29)
City Median Age	0.00059 (0.0049)	0.0065 (0.016)	-0.0057 (0.015)	-0.012 (0.010)	-0.0033 (0.0091)	0.0088 (0.0094)	0.0059 (0.0082)	0.00079 (0.0046)
Nonpartisan Elected Position	-0.26 (0.16)	0.20 (0.46)	-0.60 (0.39)	-0.17 (0.31)	0.054 (0.27)	-0.45 (0.29)	-0.53* (0.30)	-0.27* (0.16)
Partisan Elected Position	-0.49*** (0.17)	0.37 (0.51)	-0.71* (0.40)	-0.38 (0.32)	-0.43 (0.28)	-0.62* (0.32)	-0.65** (0.31)	-0.48*** (0.16)
Mayor	0.21 (0.18)	-0.20 (0.50)	0.076 (0.43)	-0.029 (0.34)	0.050 (0.29)	0.38 (0.33)	0.84*** (0.32)	0.20 (0.17)
City Councillor	0.060 (0.15)	-0.52 (0.43)	-0.021 (0.37)	-0.40 (0.29)	-0.15 (0.25)	0.30 (0.28)	0.51* (0.28)	0.058 (0.14)
Female	-0.095 (0.062)	-0.022 (0.18)	-0.076 (0.14)	-0.41*** (0.13)	-0.055 (0.099)	-0.16 (0.12)	-0.30*** (0.11)	-0.086 (0.059)
Republican	-0.22*** (0.068)	-0.10 (0.22)	-0.099 (0.19)	-0.45*** (0.14)	-0.080 (0.12)	-0.33** (0.13)	-0.36*** (0.11)	-0.21*** (0.064)
Democrat	0.0091 (0.074)	0.089 (0.21)	0.70*** (0.16)	0.0078 (0.14)	-0.035 (0.12)	-0.061 (0.13)	-0.15 (0.12)	0.0097 (0.074)
Years in Office	0.014*** (0.0038)	-0.011 (0.012)	0.0090 (0.0084)	0.011 (0.0083)	0.029*** (0.0066)	0.024*** (0.0077)	0.015** (0.0067)	0.015*** (0.0040)
<i>N</i>	23,754	3,394	3,393	3,393	3,393	3,394	3,394	3,395

Coefficients reported from logistic regression model, with standard errors clustered by city in parentheses. (Results in model 1 are robust to clustering at respondent level.) The final model is an OLS model. Significance codes: * $p < .1$, ** $p < 0.05$, *** $p < 0.01$, two-tailed tests.

through 6 show the results when dividing the data by policy area and are overwhelmingly consistent with our hypothesis. Across all six policies, the coefficient on *Ideological Incongruence* is positive and statistically significant for five of the six policies (the exception being tax policy). Finally, Model 8 shows the results of an OLS regression in which the dependent variable is an index that counts the number of policy areas in which a municipal official indicated that the state government had attempted to preempt their municipality. Here we also see a positive and statistically significant relationship. Since the interpretation of the OLS coefficient is more straightforward than the logit coefficients in Models 1 through 7, we focus on this model for the moment. The coefficient of 0.66 indicates that a one standard deviation increase in ideological incongruence (0.16) is associated with a 0.10 average increase in the number of reports of preemption ($0.66 \times 0.16 = 0.10$). This may initially seem like a substantively small effect, but when multiplied across thousands of cities and hundreds of possible policies, this predicted change in ideological agreement between the city and state government would lead to thousands of additional instances of municipal preemption. For example, in our survey we have responses from officials in 2,408 different municipalities across 6 different issues. A one standard deviation increase in ideological disagreement among these cities on these issues would predict an additional 1,526 instances of municipal preemption.

Figure 3 translates the logit regression coefficients into predicted probabilities for each of the six issues considered in Models 2-7 of Table 1. While there is significant variation in the baseline probability of preemption across these different issues (the y-intercept), we see similar positive marginal increases across each issue (with the exception of taxes) as ideological incongruence between the municipality and state increases. On average, across all six issues, the difference between the most ideologically congruent and incongruent municipalities is roughly ten percentage points. After accounting for the various controls, zoning policies are the issues that appears to be most frequently the subject of preemptive action by state government. Moreover, zoning is also the policy area with the greatest marginal increase as well. Of those policies considered in our survey, LGBT policies are the least frequently preempted issues by state governments; however, the marginal increase in the probability of preemption on this issue is still statistically significant.

With respect to the control variables, all of the regression models in Table 1 indicate that a num-

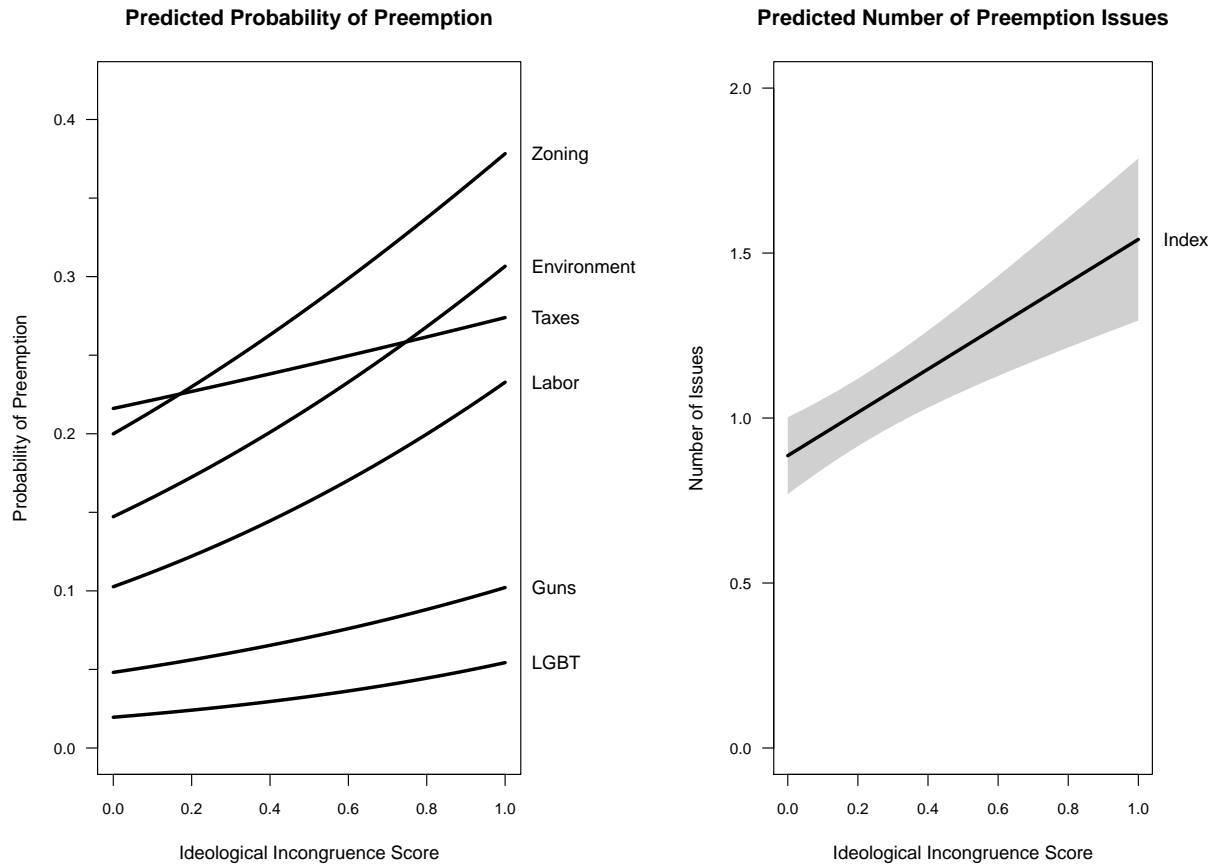


Figure 3: **Predicted Probability of Reported Preemption** - Municipal officials are more likely to report cases of state government preemption in cities that are ideologically distant from the ideology of the state in which they reside. Predicted probabilities in the left panel are derived from logistic models in Table 1. OLS predictions in the right panel are derived from Model 8 in Table 1. All models include various control variables shown in Table 1.

ber of other city- and state-level factors are associated with municipal preemption. For instance, city population is positive and significant in all eight of the models in Table 1. This suggests that even after controlling for the ideological differences between the city and state government, larger cities are more likely to experience preemption of their various policies by the state government.

Unified state government also appears to lead to more instances of preemption. In all models the coefficient on unified GOP state government is positive and significant while in five of the eight models the coefficient on unified Democratic state government is also positive and significant. This lends credence to the idea that not only are unified state governments more likely to pass legislation in general, but in the case of municipal preemption they may also be more unified in their view of whether or not a city's policies are out of line with the state government's preferences. Under divided government there is likely to be greater heterogeneity of preferences in the state government in general but also in

the location of the ideal policies of critical veto pivots such as the governor, majority party median in the legislature, and key filibuster thresholds, if such supermajoritarian institutions exist in that state.

Figure 4 presents predicted probabilities of preemption, based on the results in Model 1 in Table 1, across the population of the city (left panel) and the composition of the state government (right panel). We see that the difference in the probability of preemption between the smallest municipalities in our sample (around 500 people) and the largest cities in our sample is approximately 25 percentage points.¹⁹ The right panel of Figure 4 shows that unified governments are more likely to preempt municipalities across all levels of ideological incongruence, as predicted by the *Unified Government Hypothesis*. However, there is also a noticeable difference between unified government under Republicans versus Democratic control of the state government. On average, Republican state governments are six percentage points more likely to preempt cities versus unified Democratic state governments and ten percentage points more likely to preempt cities than states with divided government. These results are in line with the *Republican Unified Government Hypothesis*. Thus, municipal officials report more preemption under unified state government, and unified Republican state government in particular.

Other city-level variables appear to be unassociated with preemption, including the racial composition of the city, the median income and economic conditions in the city. The capital city appears to garner some additional attention from the state government, however, this result is inconsistent across the different models in Table 1. Furthermore, variables describing the demographics and other characteristics of municipal officials in the city are not strongly associated with reported preemption. Mayors, legislators, and municipal staff appear to be roughly similar in their reports of preemption as are respondents in partisan, elected, and unelected positions. Finally, elected officials who have served in office for longer periods of time are slightly more likely to report attempts at preemption, which we would expect given that their longer tenure in office provides more opportunities for preemption to occur.

4.1 Robustness

To ensure that our results are robust, we conduct a number of alternative specifications to show that our results are not sensitive to a particular specification. We display the full results of these ro-

¹⁹The largest cities in our sample are New York, Houston, Los Angeles, Philadelphia, Chicago, and Phoenix.

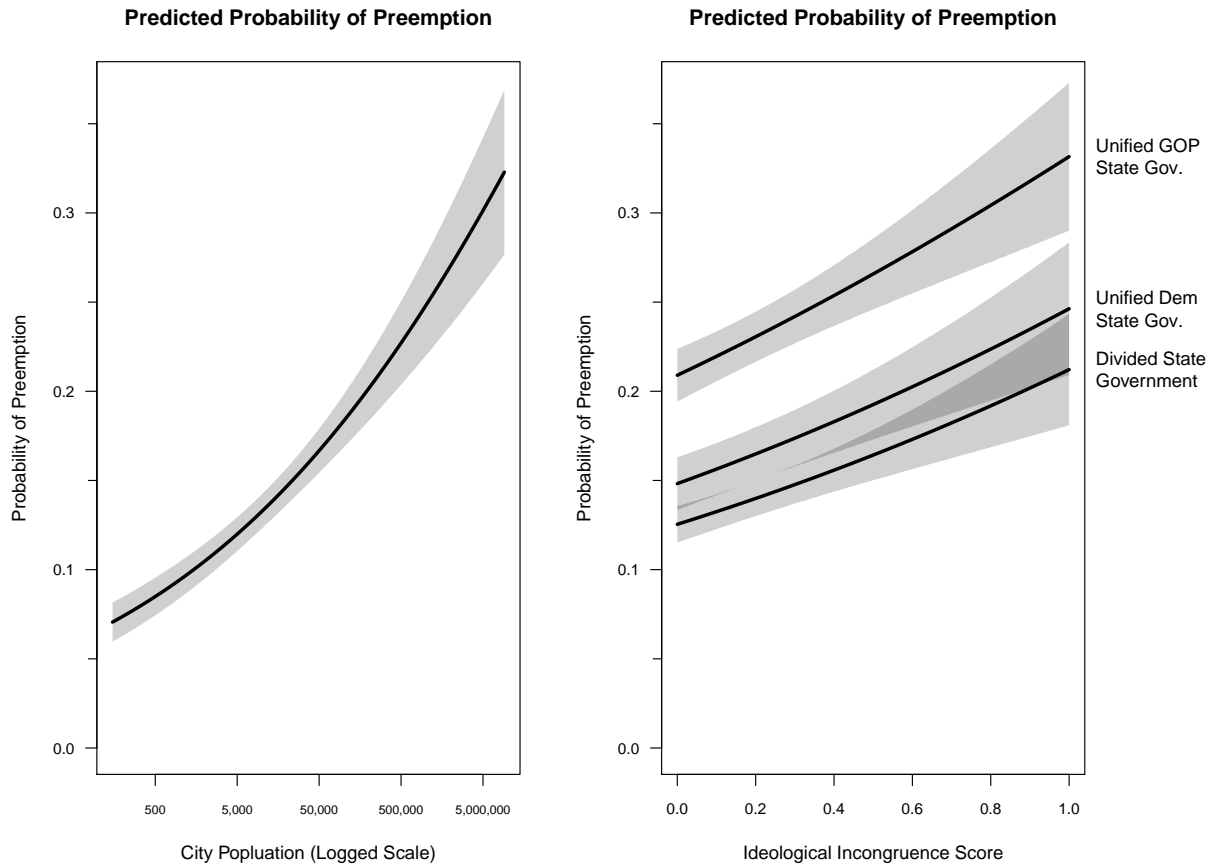


Figure 4: Predicted Probability of Reported Preemption - The left panel shows that larger municipalities, controlling for other factors, are more likely to report preemption by state governments. The right panel shows the probability of preemption across varying levels of ideological incongruence but divided by states with unified Republican state governments, Democratic unified state governments, and states with divided government. Predicted values are from Model 1 in Table 1.

business checks in the online supplemental materials, but briefly note them here. First, we account for different ways of measuring the ideological distance between the municipality and the state. Table A3 in the supplemental materials shows the results when we omit municipalities that did not have an ideology measure in the Warsaw and Tausanovitch (2014) data. As Warsaw and Tausanovitch state in their paper, these cities were too small to have reliable ideological estimates. As a proxy, our results in Table 1 impute the county ideology for these smaller cities. However, omitting these smaller municipalities altogether produces similar results. We also use an entirely different measure of city and state ideology and find similar results. Rather than the MRP estimates of ideology provided by Warsaw and Tausanovitch, we use a national voter registration file to calculate the proportion of registered voters in each municipality who are registered with either the Republican or Democratic party. This measure of

city ideology is calculated in a very different way than the Warshaw and Tausanovitch measures which rely on answers to policy questions on large surveys of the American public. Nevertheless, the two measures of city ideology are closely related ($\text{cor.} = 0.77$). Using the voter registration measure of municipal ideology we create our measure of ideological distance between city and state by taking the difference between the proportion of the city that are registered Democrats from the proportion of state legislature seats that are occupied by Democrats. Thus, a value of zero indicates that the proportion of registered Democrats in the city is the same as the proportion of state legislature seats held by Democrats.²⁰ Using this measure of ideological incongruence we find similar results to those presented in Table 1 of the main paper (See Table A4).

Additional supplemental models include those without control variables (Tables A5-A6) and models that are weighted by city population (Table A7). We also present models that include state fixed effects (Tables A10-A11).²¹ We also include an additional control that measures partisan agreement between the municipal official and the the party in control of the state government (Table A8) as well as limiting the data to officials who have been in office for less than 8 years (two four-year terms, Table A9). We also split the data by whether the respondent is a partisan or non-partisan municipal official (Tables A14-A15). Finally, we also test to make sure that any one particular state is not driving the results we observe. To do this we systematically remove one state at a time and rerun the regressions in Table 1 with all observations except for those in the omitted state. Figure A5 plots the distribution of these coefficients and shows that the main results that contain all of the data (shown as a dashed vertical line) are similar to the results with any particular state omitted from the analysis.

Additional Empirical Results

In this section we consider the possibility of differential responses to ideological incongruence between the municipality and state. Specifically we take into consideration how the partisan composition

²⁰Again, we recognize that any ideological measure (however it is created) will necessarily miss some of the nuances of municipal policymaking, state policymaking, and the interaction of these two legislative agendas. Nevertheless, the *multiple* measures of ideological incongruence we use are significantly more comprehensive and systematic than anything that has been used in the past.

²¹Because of the potential bias caused by the incidental parameters problem in binary outcome models with fixed effects (Greene, 2004), we present models in the main paper without state fixed effects. However, even with these issues, the results are consistent across all of these different specifications.

Table 2: Municipal Preemption - Unified State Government and Ideological Directionality

Unified State Government: City Ideological Direction:	Republican More Liberal	Republican More Conservative	Democratic More Liberal	Democratic More Conservative
Ideological Incongruence	1.06*** (0.38)	0.21 (0.44)	1.52*** (0.48)	0.40 (0.58)
State Capital	-0.033 (0.44)	— —	1.83*** (0.35)	— —
Ln(City Population)	0.15** (0.063)	0.25*** (0.057)	0.22*** (0.081)	0.17** (0.074)
City Median Income (in \$10k)	0.060 (0.046)	0.097** (0.045)	-0.096*** (0.027)	0.025 (0.040)
City % White	-1.90 (1.37)	0.27 (1.37)	-0.88 (0.64)	-1.06 (0.74)
City % Black	-3.32** (1.36)	-0.0086 (1.56)	-2.27** (0.89)	-3.14 (2.74)
City % Latino	-0.39 (0.48)	-0.20 (0.86)	-0.018 (0.85)	-0.16 (0.47)
City % Unemployed	0.20 (0.12)	0.11 (0.068)	-0.013 (0.10)	0.068 (0.075)
City % Homeowners	-1.97*** (0.75)	-0.60 (0.74)	2.70*** (0.87)	0.52 (0.92)
City Median Age	0.013 (0.011)	0.0032 (0.0086)	0.034* (0.017)	0.0039 (0.014)
Nonpartisan Elected Position	-0.69** (0.35)	0.35 (0.30)	0.81 (0.52)	-0.63* (0.37)
Partisan Elected Position	-0.96** (0.40)	0.026 (0.31)	0.45 (0.49)	-1.25*** (0.40)
Mayor	0.42 (0.41)	-0.039 (0.33)	-1.43*** (0.54)	0.79* (0.43)
City Councillor	0.36 (0.34)	-0.44 (0.28)	-1.07** (0.42)	0.61* (0.34)
Female	-0.011 (0.14)	-0.33** (0.15)	-0.24 (0.18)	-0.21 (0.19)
Republican	-0.32* (0.16)	-0.32** (0.13)	-0.14 (0.27)	0.0091 (0.21)
Democrat	0.41*** (0.16)	0.28* (0.16)	-0.20 (0.23)	-0.40* (0.22)
Years in Office	-0.0047 (0.0089)	0.015* (0.0075)	0.022* (0.012)	0.019* (0.011)
<i>N</i>	4,200	5,041	1,925	3,117

Coefficients reported from logistic regression model, with standard errors clustered by city in parentheses. (Results are robust to clustering at respondent level.)“State Capital” is omitted in models 2 and 4 because there are no observations in those particular subsets. Significance codes: * $p < .1$, ** $p < 0.05$, *** $p < 0.01$, two-tailed tests.

of the state government may affect its desire and ability to act to preempt a municipality. Specifically, we consider the possibility that state governments may be more likely to preempt municipalities that are only to one side of the ideological spectrum. For example, it may be the case that Republican state governments are more likely to preempt liberal cities than they are to preempt cities that are more conservative than the state government. Similarly, Democratic legislatures may be more likely to preempt cities that are more conservative than those that are more liberal than the state government. If the tendency to preempt is only focused on policy incongruence on the “wrong side”, then the story of municipal preemption may be more about partisanship, polarization, or politically damaging the “other side” than purely about policy incongruence in either direction or from either party.

To test for this, we subset the data to states with either unified Republican or Democratic government (60% of our observations). We then further consider separately municipalities that are more conservative versus more liberal than the state overall. The results, shown in Table 2, are consistent with a partisan polarization mechanism more so than with a purely ideological story. The coefficient on ideological incongruence is only significant in the cases where municipalities are more liberal in either unified Republican states (Model 1) or under unified Democratic state government (Model 3). The coefficients on ideological incongruence where the municipality is more conservative than the state under unified Republican government (Model 2) or unified Democratic government (Model 4) are substantively smaller and statistically insignificant (although in the correct direction). These results suggest that state legislatures, while more likely to preempt municipalities when ideological incongruence is higher, are particularly active in the direction of preempting more liberal cities, even after accounting for the population size, racial composition, and economic conditions in the city. And while the results under unified Republican state government (Models 1 & 2) are consistent with a story of partisan targeting/harm, the results under unified Democratic state government (Models 3 & 4) do not conform with that hypothesis. Thus, there is limited evidence to suggest that state governments are using preemption as a way to target politicians and cities governed by officials from the other party.

One possible explanation for these findings is that liberal municipalities are engaged in an altogether different type of policymaking—one that would garner greater preemptive attention from the state government—than are conservative cities. Perhaps conservative cities stick to what cities tradition-

ally do – provide basic public service like road repairs, parks, trash collection, policing, street lights, etc. while in more liberal cities there is a greater incentive to make progress on other issues that extend beyond the small-c conservative way that local governments typically operate basic services. For example, Tausanovitch and Warshaw (2014*b*) show that liberal cities differ dramatically from conservative municipalities in expenditures per capita, sources of tax revenue, and a variety of different policy areas. We recognize that fully testing this hypothesis would require additional information regarding the type of policymaking across cities, and we leave to future research a deeper investigation of whether or not municipal ideology significantly impacts the type of policymaking that occurs in addition the propensity for state-level preemption.

Discussion and Conclusion

This paper sheds light on the question of how municipalities operate under the constant shadow of preemptive action by the state legislature that grants them the ability to legislate in the first place. We find that ideological disagreement between municipalities and state governments significantly increases the probability of a state government intervening and preempting a municipality. We also find that a city's population and unified state government are also associated with a higher likelihood of preemption. This question has thus far been difficult to systematically study, and our results represent a dramatic improvement over previous research and the most systematic study of this question to date. Our survey of municipal officials provides the most comprehensive look at instances of municipal preemption, both in the geographic coverage of municipalities of different sizes and locations, but also of the types of issues on which the state government might act to preempt a city or town. Furthermore, we present the first systematic look at how these reports or preemption are connected to the ideological position of the municipality vis-a-vis the state government. Our theory and empirical results significantly push forward our understanding of this important phenomenon.

One potential concern may be the view that cities do not really differ much in how much they legislate on these various policy areas due to their limited scope (Oliver et al. 2011). At its extreme, this argument would suggest that research on this question is much ado about nothing. We obviously disagree with this critique for a number of reasons. First, a number of studies show that significant

policymaking occurs at the municipal level today, and that this is only likely to increase as polarization and partisanship increase in state legislatures and the federal government (Shor and McCarty, 2011). For example, Tausanovitch and Warshaw (2014*b*) shows large variation in tax and spending policy across municipalities while Caughey and Warshaw (2019) also shows large variation in LGBTQ policy across cities. Specifically, cities vary extensively in the rights they grant to LGBTQ public employees. And though cities may be limited in their ability to require private business to implement certain policies, it is quite common for them to differ ideologically in how those policies are implemented (e.g., HR practices, contracting requirements, environmentally friendly business practices implemented by city offices like using low-emission vehicles, etc.). Furthermore, recent discussion of minimum wage hikes in cities like Seattle and Palo Alto²² and disagreements over negotiations regarding business tax incentives like those designed to lure Amazon.com's new headquarters²³ present a number of ways in which municipalities are very much engaged in the business of significant policymaking.

These results also speak to questions of representation and accountability more broadly. Insofar as city governments are faithfully representing the preferences of their citizens as they pass and implement policy, preemption by state governments represents a break in that connection. Many scholars of democratic theory argue that successful democratic governance requires that legislative bodies represent the preferences of their constituents (Dahl, 1971; Schlozman, Verba and Brady, 2012; Gilens, 2005). Preemption may therefore present an impediment to such representation, especially given emerging research suggesting that municipal government tend to be responsive on the whole to public opinion in their cities (Tausanovitch and Warshaw, 2014*b*). This is not, however, to say that there is no role for states in protecting civil rights or overriding city policies that produce major negative externalities. For example, Hsieh and Moretti (2015) find that NIMBYism, similar no-growth policies, or other zoning restrictions in the San Francisco Bay area and other urban parts of the country can significantly inhibit economic growth.

At the broadest level these are debates that extend back to the American Founding – the extent to which government sub-units should operate freely without intervention from higher levels of govern-

²²See <https://s27147.pcdn.co/wp-content/uploads/Raises-From-Coast-to-Coast-2019.pdf> for a discussion of cities that have recently raised their minimum wage to be different from the state minimum wage.

²³See <https://www.buzzfeednews.com/article/leticiamiranda/amazon-hq2-finalist-cities-incentives-airport-lounge> for a summary of incentives offered by various cities.

ment. The focus at that time was on state's rights versus the newly formed federal government, but an important question now as cities serve larger and larger roles in the economy, in providing various services, and in the policymaking process more generally is the extent to which cities should exercise more freedom to match policies to voters' preferences.

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