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 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 large sample of municipal officials from across the United States. 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 distant from their state overall are more likely to report being preempted by their state government. Moreover, this pattern is driven by more liberal municipalities in both Republican and Democratic states reporting higher rates of preemption. We also find that municipal officials under unified state governments are more likely to report preemption than those under divided party control, with Republican state governments engaging in preemption the most. 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.

Verification Materials:
The data and materials required to verify the computational reproducibility of the results, procedures and analyses in this article are available on the American Journal of Political Science Dataverse within the Harvard Dataverse Network, at: https://doi.org/10.7910/DVN/KU4OCK

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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, 2014; Einstein and Kogan, 2016) 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 (whether intentionally or not), and under what conditions?

While preemption has long been a feature of municipal politics (e.g., Allard, Burns and Gamm, 1998), this conflict has gained significant attention in recent years (Riverstone-Newell, 2017; Hicks et al., 2018). It has become a major concern to local officials (NLC, 2018), and 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. Partisan politics is proliferating across all levels of government (Hopkins, 2018) as state legislatures become more polarized. Partisan issues that were once the purview of the national government are now being addressed more and more by state and even local governments while ideological disagreement across parties is growing (Caughey, Dunham and Warshaw, 2018). On top of this, the policy space in which states can act is expanding due to gridlock at the national level and states' increasing policy capacity. Meanwhile, the preferences of voters at the local level are becoming more ideologically homogeneous and sorted (Lang and Pearson-Merkowitz, 2015). In short, the seeds of conflict are plentiful and demand ongoing attention.

In this paper, we examine the political factors that predict which cities are impacted by state preemption using the most extensive dataset of self-reports of preemption by thousands of municipal officials from across the country. Previous work relies either on limited case studies (Riverstone-Newell, 2017; Hicks et al., 2018), small-n surveys (Einstein and Glick, 2017), or state-level data that may be incomplete. While these studies demonstrate the incidence of preemption, they do not identify which cities are impacted by preemptive laws (Fowler and Witt, 2019; Flavin and Shufeldt, 2020). By directly asking municipal officials about preemption, we are able to identify variation within states of which cities are affected. In the survey, we ask respondents to indicate if their municipality has been preempted by the state government across a variety of policy areas. 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, 2014). 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.[1]

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. 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. In almost every state, the largest cities are more liberal than the state government (see Figure 1 below), suggesting that this is a pervasive issue. This finding adds to the literature on state-municipal preemption and suggests that preemption is not just about partisans targeting cities on the "other side" of the aisle, nor is it purely an action taken by Republican state legislatures.

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 (Binder, 1999). Finally, we also find that municipalities in states with unified Republican control are

[1]Though 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.

the most likely to report preemption (Einstein and Glick, 2017; Riverstone-Newell, 2017; Hicks et al., 2018; Fowler and Witt, 2019; Flavin and Shufeldt, 2020). So while both Republican and Democratic state governments preempt more liberal cities, Republican state legislatures appear to do it more.

These results contribute to our understanding of state and local politics and political representation while also providing the best evidence to date of this important phenomenon. 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 (Broockman, 2016) and that local government can help facilitate policy congruence assuming other countervailing concerns are addressed, like protection of minority rights.[2] Moreover, residents' policy preferences can vary significantly across cities even within the same state (Tausanovitch and Warshaw, 2014). Thus, our empirical finding that state governments regularly preempt municipalities with distinct ideological preferences could be 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. Many municipalities are granted "Home Rule" to govern and legislate on issues without the expressed permission of the state government. 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.[3]

[2]Other countervailing concerns include cities that struggle with corruption or administrative competence.

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

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 this wide grant of authority to municipalities via Home Rule, states frequently intervene in municipal policymaking. This can be done by passing laws that impose or prohibit certain regulations and requirements. 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 preempted local laws regarding minimum wage, paid leave, and LGBTQ rights.[4] The National League of Cities recently produced a report of preemption laws that shows Republican state legislatures enacting preemption laws at a much higher rate than Democratic state governments.[5] 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.[6]

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 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 the form of "punitive preemption laws," that establish a penalty for municipalities enforcing measures that violate state laws or a "nuclear preemption law,"

[4]https://www.nytimes.com/2017/07/06/upshot/blue-cities-want-to-make-their-own-rules-red-states-wont-let-them.html, for example.

[5]https://www.nlc.org/wp-content/uploads/2018/04/NLC-SML20Preemption20Report202017-pages.pdf, for example.

[6]https://www.richmond.com/news/virginia/northam-signs-five-gun-control-measures-seeks-to-amend-two-others/article_daeae239-e028-5073-9181-37438221b64b.html, for example.

which takes away a local government's ability to regulate without state authorization. Riverstone-Newell (2017) calls these laws "blanket preemption laws."

Because of the wide variation in types of preemption, creating a comprehensive database of preemptive legislation is challenging if not effectively impossible, especially since the vast majority of preemptive laws are not labeled as such. Two recent articles (Fowler and Witt, 2019; Flavin and Shufeldt, 2020) take on this challenge by attempting to create comprehensive, nationwide datasets that indicate which states have statutes that preempt municipal policymaking on a range of issue areas. Despite their notable efforts, these datasets may not be comprehensive since they rely heavily on reports of preemptive laws compiled by organizations that advocate for liberal policies, such as Grassroots Change, A Better Balance, and the Economic Policy Institute. Thus, these datasets may overstate the tendency of Republican states to take preemptive actions. It is possible that the conservative bent of the datasets is because there are few preemptive laws passed by liberal state governments, but the gap in the datasets with regard to two key issues areas in local politics—zoning/land use (covered at most by two specific policies on either home-sharing websites or zoning related to farming) and taxation (not covered at all)—leave open the possibility that important preemptive policies are not on the list. This is likely the case on preemption laws on taxation policies since states regularly constrain local governments taxing authority (e.g., Wallin, 2004; Maher et al., 2016), and these policies change over time within states.

Another limitation of these datasets is that they do not necessarily identify which cities are affected by these laws *in practice* since a preemptive law may have dramatically less impact on some cities than others. For example, a state preventing municipal-level bans of plastic grocery bags does not directly affect a municipality that was never considering such a ban. We also cannot assume that a limit on liberal municipal policies, like plastic bag bans, would equally affect all liberal cities since some liberal cities may not have ever considered passing such legislation. Thus, it is important to know which cities are affected by preemptive laws in practice, something that has (until now) eluded scholarship of municipal politics.

3 Theory

A central question of preemption is when and under what circumstances state governments intervene in a municipality's policymaking. 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). 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.

However, affecting municipal policy through state law is not costless. State laws take significant time to draft, and passing laws is a difficult undertaking. Thus, any state legislators interested in passing a preemptive law must shoulder the costs associated with shepherding a bill through the legislative process.[7] Furthermore, preemptive laws are inherently "inefficient" if they address issues that are isolated to particular municipalities. For example, in 2019 Utah attempted to prohibit the banning of plastic grocery bags when only two of the states 246 cities and towns had enacted such bans.[8] Thus, a preemptive bill may use the scarce time of the entire state legislature (which may not meet regularly) to address an issue that affects only a small proportion of the state.

Given these costs, legislators would 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 state and the municipality, the more we would expect state lawmakers to invest the time and energy needed to create and pass such a law. Thus, on

[7] As we consider in a subsequent hypothesis, organizations like the American Legislative Exchange Council lower the costs of creating preemptive bills (Dewan, 2015). However, the use of model legislation from these groups does not completely erase the opportunity and transaction costs to shepherding a bill through the legislative process.

[8] https://www.sltrib.com/news/environment/2019/02/25/paper-or-plastic-utah/

average, the ideological distance between a municipality and state government is a likely factor that influences the probability of municipal preemption. A similar logic holds even if legislators pass legislation that preempts a municipality's policy incidentally—i.e., without the state legislators being aware that some municipalities had already implemented conflicting policy. This is because a Republican (Democratic) state governments are more likely to pass conservative (liberal) policies, which would be most likely to conflict with liberal (conservative) municipal policies. Einstein and Glick (2017) provide a first look at this question in a survey of 89 mayors from large and medium-sized 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.

> **H1: Ideological Incongruence Hypothesis -** Municipalities will be more likely to report being preempted by the state government as their ideological distance from the state government increases.

As an additional corollary to the Ideological Incongruence Hypothesis, we consider that reports of preemption may differ depending on the partisanship of state government and whether cities are ideologically to the left or right of their state. For example, it may be the case that Republican state governments are more likely to enact conservative policies that preempt more liberal cities while leaving conservative cities unaffected. Similarly, Democratic legislatures may be more likely to enact liberal legislation that affects policies in more conservative cities but not in more liberal ones. Moreover, if only incongruent cities that reside on the "other side" of the partisan aisle from state government report being preempted, then the story of municipal preemption may be more about partisanship, polarization, and politically damaging the opposition than purely about policy incongruence in either direction from state government.

> **H1a: Partisan Asymmetric Incongruence -** In Republican (Democratic) states, municipalities that are more liberal (conservative) than the state government will be more

likely to report being preempted as their ideological distance from the state government increases.

At the same time, it may also be the case that more liberal cities are also more likely to actively pursue a variety of policies that move beyond providing traditional basic services (such as public utilities and maintenance of roads and parks) and overlap with their state's policy agenda. For example, Warshaw (2019) shows that liberal cities differ dramatically from conservative municipalities in expenditures per capita, sources of tax revenue, environmental policies, and gay rights policies. This may lead to the following pattern:

H1b: Ideological Asymmetric Incongruence - In both Republican and Democratic states, municipalities that are more liberal than the state government will be more likely to report being preempted as their ideological distance from the state government increases.

We also hypothesize that the ideological and partisan arrangement *within* the state government is another key factor. Under unified government there is great ideological agreement among policymakers in the legislature, and 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. This leads us to our second hypothesis:

H2: Unified Government Hypothesis - Reports of preemption are 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 is relatively similar, but their goals and methods of doing so differ (SoRelle and Walker, 2016). 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, the analyses of preemptive statues by Fowler and Witt (2019) and Flavin and Shufeldt (2020) find that Republican state governments are more likely to have preemptive laws. Similarly, Einstein and Glick (2017) find 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 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:

> **H3: Republican Unified Government Hypothesis -** Reports of preemption are 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.[9] 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.[10] 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). 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. 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. Additional details regarding the survey instrument, response rate, and representativeness of the sample are in Section

[9]The survey covered a variety of topics and respondents were not told of the specific topics when they were invited to take the survey.

[10]We did not have any respondents from Hawaii since the lowest level of government in Hawaii are counties and not municipalities.

A1 of the online supplemental materials.

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 issue areas. 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.

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.[11] Those respondents who indicated that the state legislature had attempted to preempt their municipality were presented with an additional question asking which policy areas the state legislature had made an attempt. The issue areas they could select (along with the percent of all respondents choosing this issue area) were the following: non-discrimination/LGBTQ issues (6%), gun rights/ownership (11%), labor laws/employee benefits (like minimum wage or paid leave) (15%), zoning and land use (27%), environmental issues (18%), or taxes (24%). 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.[12] We consider each of these individual issues separately below and also create an index that counts the number

[11] 2 percent of respondents skipped this question.

[12] When looking at the respondent-issue dyad, 7% of respondents indicated a preemptive action on any particular issue. In the supplement appendix, we code the responses of the thirteen percent who chose the "other" category and find that the issues mentioned were quite disperse. The most popular write-in topic, public safety, was mentioned by just 2.6% of respondents.

of different issues on which a respondent reports being preempted. Thus our unit of analysis is either at the respondent level or respondent-issue level[13]

We chose these specific issue areas for a variety of reasons. First, we included some of the major policy areas where municipal governments are quite active, which would include taxation and land use. Secondly, we covered issue areas where past work finds that municipal policies correlate with constituents' ideology, which is the case for taxation, environmental issues, and LGBTQ issues (Tausanovitch and Warshaw, 2014). Finally, we also covered issue areas where preemption has previously been reported (based primarily on reporting by the National League of Cities). Our analysis in the appendix of officials' open-ended responses when selecting "other" for the issue area confirms that the policy areas we picked covered the most common preemptive issues. The most popular write-in topic (public safety at 2.6%) is half as popular as the least common issue area provided in our question. The areas we cover, except for taxation, also overlap with the specific policies identified in the state statute databases created by Fowler and Witt (2019) and Flavin and Shufeldt (2020).

Our measure of preemption relies on self-reports, which differs from some recent work (Fowler and Witt, 2019; Flavin and Shufeldt, 2020) but is similar to Einstein and Glick (2017) who ask 89 mayors to rate the level of policy autonomy they have from their state government. Our approach offers new insights relative to analyses of state-level statutes by allowing us to examine which types of cities are affected by states' preemptive actions (i.e., Hypotheses 1, 1a, and 1b). While our data cannot identify the intentions of state legislators and governors passing the preemptive legislation, it is certainly the case that municipal officials in our survey perceive the actions of state legislators who overrode policy in their municipality to be preemptive.

Any use of self-reports for measuring a variable can introduce bias due to survey error and respondents' potential misperceptions. However, we emphasize that our survey respondents are either elected municipal officials or high-ranking municipal staff who are heavily involved in their municipality's operations, including compliance with state regulations and oversight. In other words, our respondents are some of the most informed experts on whether their state has preempted a policy in

[13]We conduct a separate analysis where we look only at those who indicated a "successful" versus "unsuccessful" preemption attempt (See Table A13-A14).

their municipality. In some cases, we have responses from multiple officials in the same city (median number of officials per city is 2) and find strong agreement among officials within cities. The proportion of cities where municipal officials agreed unanimously on preemption ranges from 69% to 92% across the seven different issues (majority agreement among officials occurred in between 70% and 95% of cities). We also find similarly high agreement in cities where municipal officials are from different political parties (between 61% and 89%), and in Table A9 in the supplementary materials we show that our results hold when controlling for whether the respondent's partisanship aligns with the majority party in their state legislature. This accounts for the concern that municipal officials whose partisanship is misaligned with the majority party in the state legislature will be more sensitive to (or biased towards) any attempts by the state government to preempt their city. Together, this evidence suggests that perceptions of preemption are driven less by expressive partisanship and more by actual preemption experiences.[14]

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. Our main results follow Payson (forthcoming) by using the Tausanovitch and Warshaw (2014) measures of state, county, and municipal ideology. These measures are based on the aggregation of hundreds of thousands of policy related survey responses from American adults. 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. For municipalities with a population smaller than 20,000 (73% of responses), we use the MRP estimates for the county of the municipality. 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). We also replicate all of our analysis 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 measures the aggregate party registration of voters in the municipality and compare this

[14] A related concern may be that officials from cities that have been preempted were more likely to respond to the survey. However, the survey invitation did not mention the topics covered in the survey. There is also very little relationship between the number of officials who participated in the survey from the same municipality and reported instances of preemption. The correlation between number of responses from a city and the average number of reports of preemption by officials in that city is 0.07.

to the partisan composition of the state legislature. To create this measure we geocode the addresses of over 200 million voter registration records from a national database of voter registration records.[15] We then calculate the proportion of that municipality's registered voters who are affiliated with one of the two major political parties.[16] The correlation between the MRP-based measure of ideology (Warshaw and Tausanovitch) and the voter registration-based measure of municipal ideology is high (0.75). We discuss the empirical results using these specific robustness checks in greater detail in the supplementary appendix.[17]

Figure 1 shows the average ideology score for each state (diamonds) along with the estimated 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 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.[18]

5 Results

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. Larger scores indicate cities that are more ideologically distant from the overall state ideology. We merge

[15] We obtained the national voter file from *The Data Trust*, a company that gathers data from state voter databases.

[16] In states that do not track party registration, *The Data Trust* predicts partisanship using survey data, consumer data, and voter participation in partisan primaries, caucuses, and campaign contributions.

[17] 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, and the municipal officials. At the state level, similar factors such as the partisan composition of each chamber of the legislature, the governor, and the overall legislative agenda will make a difference in the state's probability of acting against a municipality. 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 than anything that has been used in the past.

[18] Figure A3 in the supplemental materials displays similar state and municipal ideology as Figure 1, but uses the voter registration measure of municipal ideology.

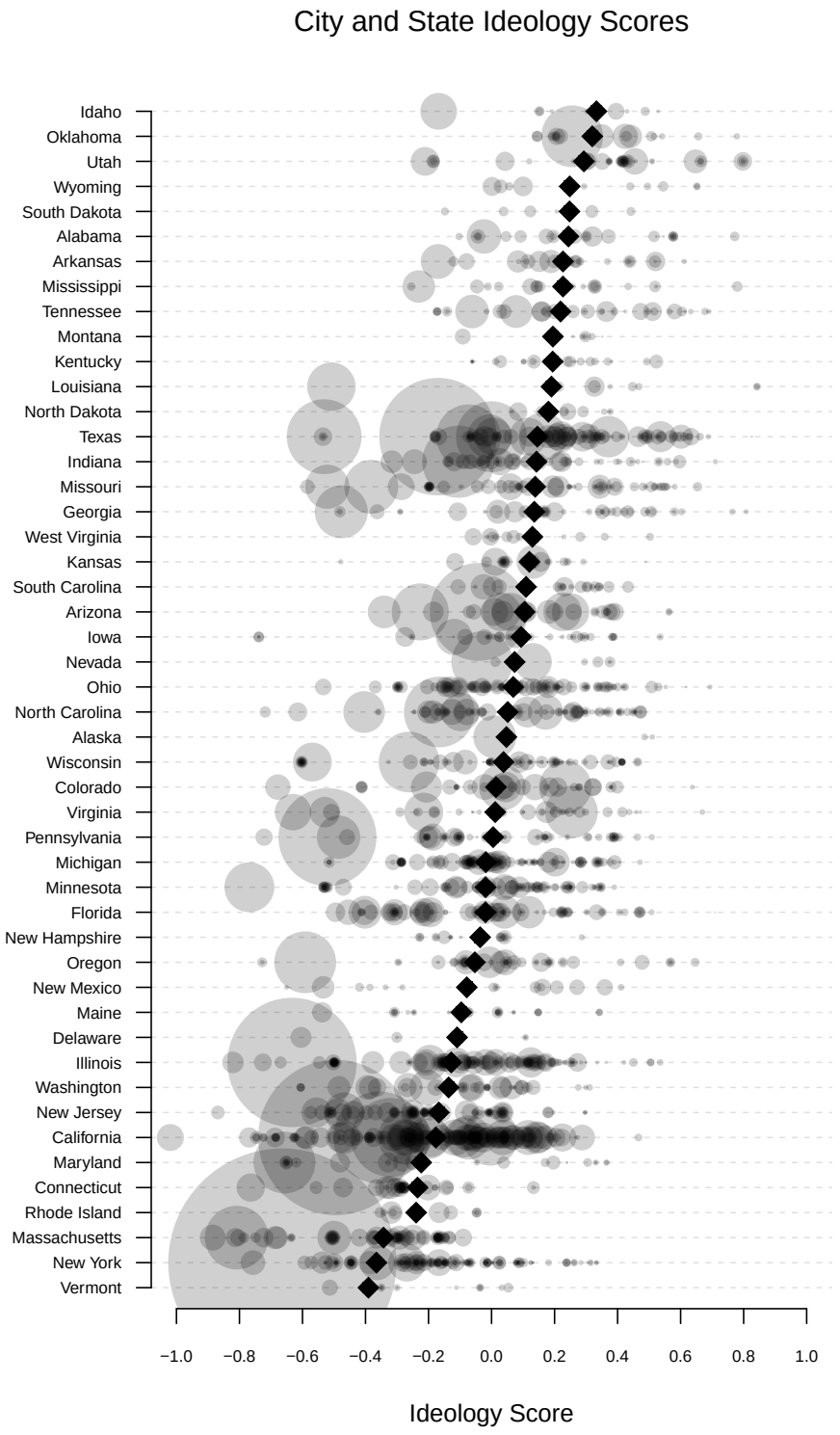

Figure 1: **Ideology of States and Municipalities within States** - The diamonds show the estimated ideology of the state while the circles show the average ideology of municipalities within those states, as measured by Tausanovitch and Warshaw (2014) MRP measures of ideology. There are a number of cities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

these 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 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. We hypothesize that greater ideological distance will be associated with a higher probability of reported preemption, and Figure 2 shows exactly this. 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. For example, when considering LGBTQ policy, cities that are closely aligned with the overall state report preemption on this issue about 5% of the time. However, highly ideological incongruent cities report preemption more than 25% 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 instance of preemption while those cities that are ideologically furthest from the state report twice that amount, on average.[19]

We also test our hypothesis using a suite of regression models. To account for state-level factors, we include control 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.*, 39% of observations, see Table A2) and another for unified Democratic control (*Unified Dem State Gov.*, 21% of observations). States operating under divided government (40% of observations) are the omitted comparison group.

We also include a number of variables that account for differences across municipalities that could also be related to the likelihood of preemption in those cities. One important factor to consider is a city's size. 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, which may lead them to pursue a broader range of policies that may conflict with their state's legislative agenda. To

[19]Figure A4 shows similar lowess curves but uses the voter registration measure of municipal ideology.

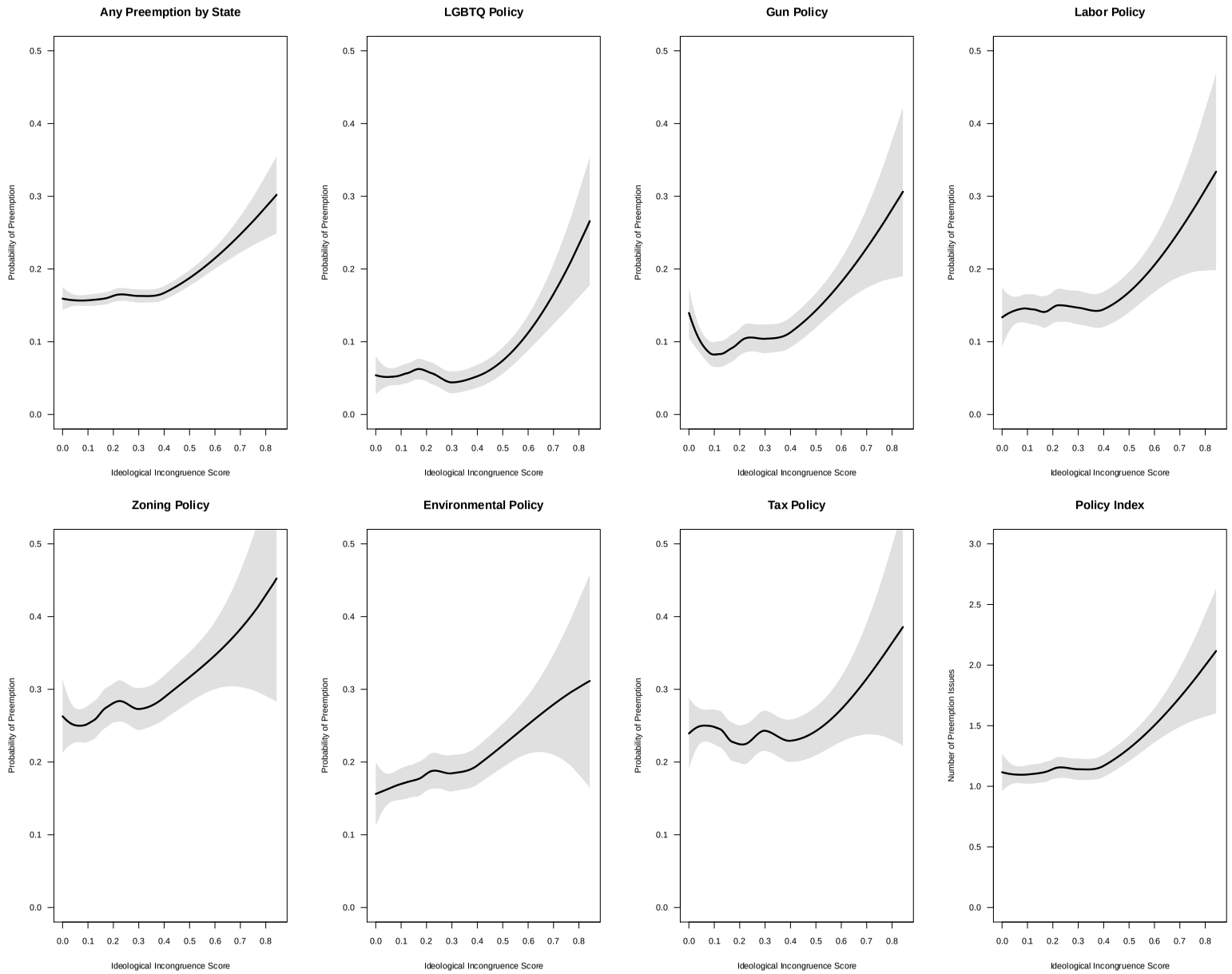

Figure 2: **Ideological Incongruence between City and State and Reports of Preemption by Municipal Officials** - Municipal officials are more likely to report cases of state government preemption in cities that are ideologically distant from the ideology of the state in which they reside. Each figure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

account for this, we include *Ln(City Population)*, which measures the 2016 logged population of the city. To account for the possibility that the state capital receives a larger share of the state legislature's attention, we include the dummy variable, *State Capital*. We also account for the economy and demographics of the city by including a measure of the city's median income *(City Median Income, in $10k)*, the unemployment rate (*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. This includes a dummy variable, *Nonpartisan Elected Position*, that is coded "1" if the official obtained their position via a non-partisan election and another, *Partisan Elected Position*, that is coded "1" if the official occupies a position that is elected via partisan elections. The omitted comparison group is unelected municipal staff, like city managers or clerks. 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*) as the probability of preemption is weakly increasing in the time a person serves in office.

Table 1 displays the coefficients from models evaluating our ideological incongruence hypothesis. The first model shows the results of a logistic regression where the dependent variable is whether or not a municipal official reported preemption across each of six issues (and a seventh open-ended question) in the survey. In this model the unit of analysis is the respondent-issue, and 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 pre-

emption. Models 2 through 7 show the results by policy area and are consistent with our hypothesis. 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.

We focus on Model 8 model for the moment. The coefficient (0.62) 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 (0.62 x 0.16 = 0.099). When multiplied across thousands of cities and hundreds of policies, this predicted change in ideological agreement 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 1,433 reports 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. We see similar positive 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 ten percentage points. Zoning policies are most frequently reported as being preempted by state government. Zoning is also the policy area with the greatest marginal increase as well. Of those policies considered in our survey, LGBTQ policies are the least frequently preempted; however, the marginal increase is still statistically significant. Taxation is the one area where we consistently fail to find statistically significant results. The lack of a result may be due to states regularly intervening in municipalities' taxation levels, authority, and approval process. Many states have had taxation limits in place for their local governments for decades and even over a century in some cases (Wallin, 2004). Thus, any changes to these tax constraints, which does occur, may impact a broad swath of cities across the ideological spectrum.

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

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

Dependent Variable:	All Issues	LGBTQ	Guns	Labor	Zoning	Environment	Taxes	Index (OLS)
Ideological Incongruence	0.62***	1.04*	0.78*	0.95***	0.87***	0.92***	0.31	0.62***
	(0.19)	(0.61)	(0.46)	(0.36)	(0.29)	(0.33)	(0.30)	(0.21)
Unified GOP State Gov.	0.61***	1.25***	0.92***	0.54***	0.66***	0.47***	0.69***	0.62***
	(0.068)	(0.23)	(0.17)	(0.14)	(0.11)	(0.13)	(0.11)	(0.073)
Unified Dem State Gov.	0.23***	0.056	-0.45*	0.63***	0.35**	0.24	0.32**	0.20***
	(0.086)	(0.31)	(0.26)	(0.17)	(0.14)	(0.16)	(0.14)	(0.078)
State Capital	0.27	0.20	1.07*	0.46	-0.16	0.42	-0.37	0.45
	(0.26)	(0.56)	(0.63)	(0.38)	(0.45)	(0.40)	(0.42)	(0.39)
Ln(City Population)	0.17***	0.29***	0.19***	0.33***	0.14***	0.13***	0.15***	0.17***
	(0.026)	(0.087)	(0.067)	(0.056)	(0.045)	(0.047)	(0.044)	(0.028)
City Median Income (in $10k)	0.028*	-0.014	0.025	-0.0069	0.091***	0.052**	-0.023	0.027*
	(0.015)	(0.053)	(0.039)	(0.029)	(0.024)	(0.026)	(0.025)	(0.015)
City % White	-0.46	-2.32**	1.01	-0.26	-0.54	-0.55	-1.02	-0.53
	(0.38)	(1.10)	(1.05)	(0.73)	(0.61)	(0.73)	(0.68)	(0.42)
City % Black	-0.95**	-1.90	1.23	-2.28**	-1.45*	-1.09	-1.59**	-0.91*
	(0.46)	(1.31)	(1.19)	(0.94)	(0.74)	(0.90)	(0.77)	(0.49)
City % Latino	-0.22	-1.31*	0.42	-0.011	-0.17	0.26	-0.71*	-0.29
	(0.21)	(0.70)	(0.52)	(0.44)	(0.37)	(0.44)	(0.41)	(0.21)
City % Unemployed	-1.35	-3.39	-5.71*	-1.41	-1.35	-0.90	-1.86	-1.32
	(1.08)	(3.47)	(2.98)	(2.36)	(1.74)	(1.87)	(1.87)	(1.03)
City % Homeowners	-0.45	-2.10**	-0.99	0.51	-0.60	-0.97*	0.44	-0.54*
	(0.30)	(1.00)	(0.87)	(0.59)	(0.51)	(0.54)	(0.52)	(0.30)
City Median Age	0.0013	0.0071	-0.0044	-0.011	-0.0024	0.0096	0.0064	0.0019
	(0.0049)	(0.016)	(0.015)	(0.010)	(0.0091)	(0.0094)	(0.0082)	(0.0049)
Nonpartisan Elected Position	-0.24	0.18	-0.60	-0.11	0.099	-0.40	-0.53*	-0.31*
	(0.16)	(0.45)	(0.39)	(0.32)	(0.27)	(0.30)	(0.30)	(0.17)
Partisan Elected Position	-0.42***	0.36	-0.68*	-0.19	-0.29	-0.48	-0.63**	-0.53***
	(0.16)	(0.47)	(0.40)	(0.32)	(0.28)	(0.32)	(0.31)	(0.17)
Mayor	0.15	-0.19	0.052	-0.19	-0.067	0.25	0.83***	0.18
	(0.18)	(0.49)	(0.44)	(0.34)	(0.28)	(0.33)	(0.31)	(0.17)
City Councillor	0.0072	-0.52	-0.052	-0.52*	-0.24	0.21	0.50*	0.071
	(0.15)	(0.41)	(0.38)	(0.29)	(0.25)	(0.28)	(0.28)	(0.15)
Female	-0.11*	-0.025	-0.082	-0.40***	-0.054	-0.16	-0.30***	-0.053
	(0.061)	(0.18)	(0.14)	(0.13)	(0.099)	(0.12)	(0.11)	(0.063)
Republican	-0.22***	-0.095	-0.093	-0.46***	-0.086	-0.34**	-0.36***	-0.21***
	(0.067)	(0.22)	(0.19)	(0.14)	(0.12)	(0.13)	(0.11)	(0.069)
Democrat	0.019	0.097	0.72***	0.012	-0.032	-0.058	-0.15	0.0034
	(0.074)	(0.21)	(0.16)	(0.14)	(0.12)	(0.13)	(0.12)	(0.080)
Years in Office	0.014***	-0.011	0.0089	0.010	0.028***	0.024***	0.015**	0.015***
	(0.0038)	(0.012)	(0.0084)	(0.0083)	(0.0066)	(0.0077)	(0.0067)	(0.0043)
N	23751	3394	3393	3393	3393	3394	3394	3395

Coefficients reported from logistic regression model, with standard errors clustered by city in parentheses. The final model is an OLS model. Significance codes: *$p < .1$, **$p < 0.05$, ***$p < 0.01$, two-tailed tests.

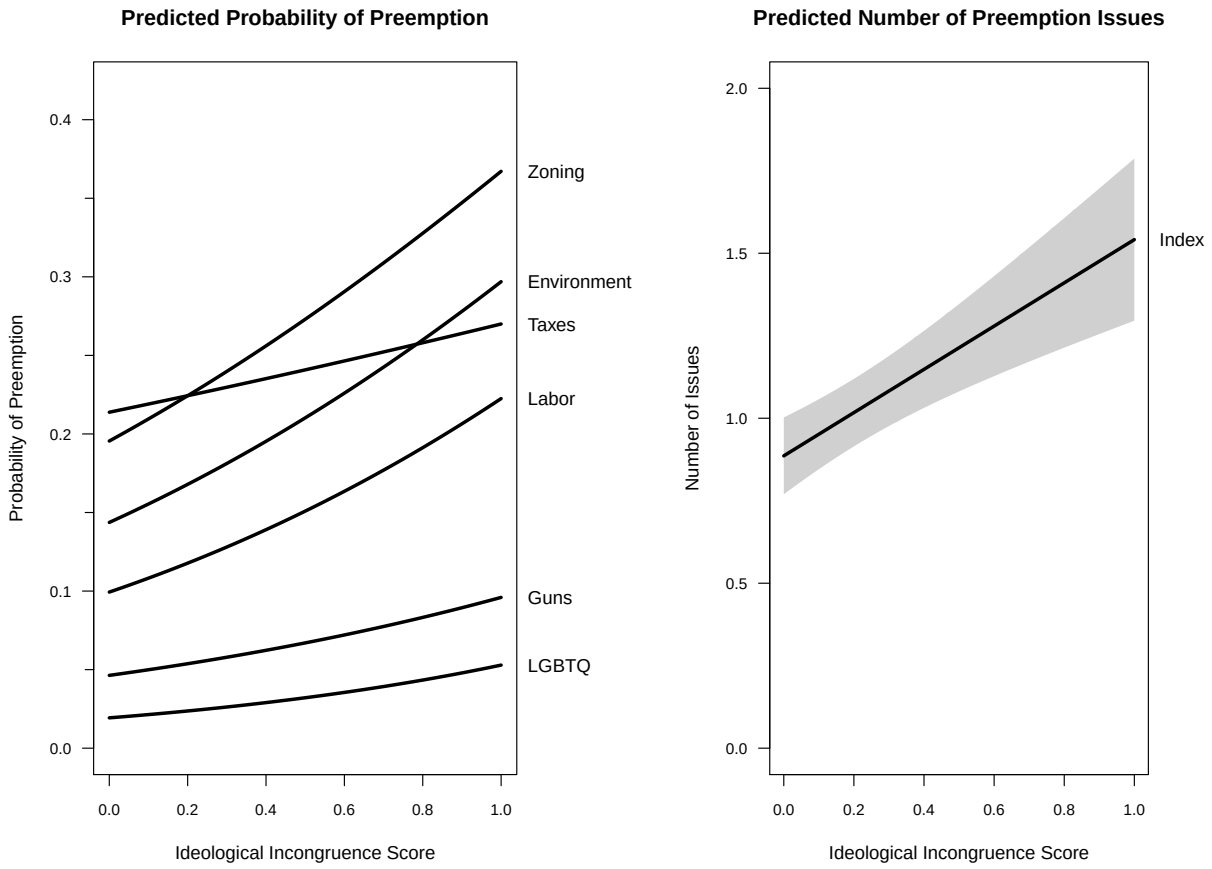

Figure 3: **Predicted Probability of Reported Preemption by Issue Area** - Municipal officials are more likely to report cases of state government preemption in cities that are ideologically distant from the ideology of the state in which they reside. Predicted probabilities in the left panel are derived 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.

number of other city- and state-level factors are associated with reports of 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.

Unified state government also appears to lead to more reports 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. Figure 4 presents predicted probabilities of reporting 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. The right panel of Figure 4 shows that municipal officials in states with unified government are more likely to report preemption 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, in line with the *Republican Unified Government Hypothesis*. On average, city officials under Republican state governments are six percentage points more likely to report preemption versus those under Democratic state governments and ten percentage points more likely to report preemption than those in states with divided government ($p < .05$).

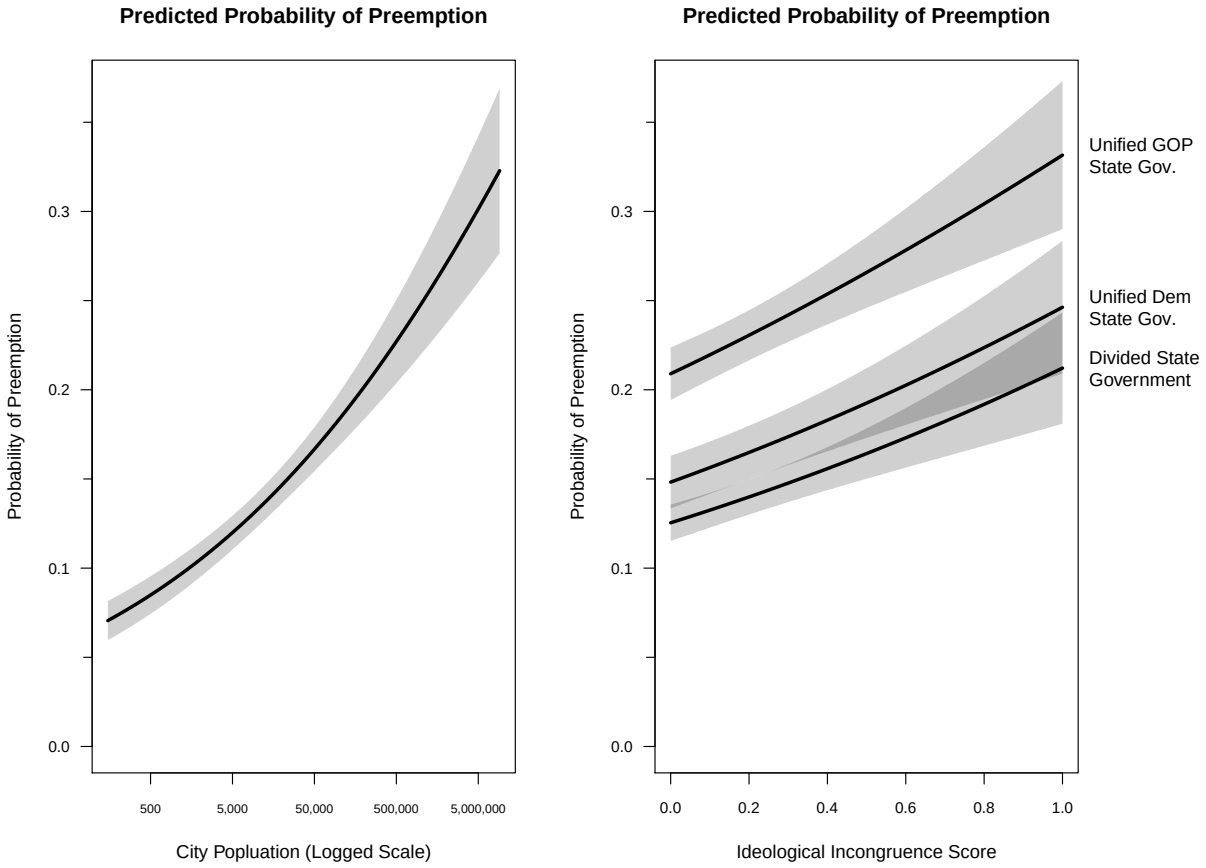

Figure 4: **Predicted Probability of Reported Preemption by Population and State Government Control** - The left panel shows that larger municipalities, controlling for other factors, are more likely to report preemption by state governments. The right panel shows the probability of reported preemption 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.

Other city-level variables appear to be unassociated with reported preemption, including the

racial composition, the median income, and economic conditions in the city. 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.

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 robustness checks in the online supplemental materials. We note here that they include alternative measures of municipal and state ideology (Tables A4-A5), the inclusion of additional control variable (Tables A6-A7), alternative weighting of municipalities (Table A8), and the inclusion of state fixed effects (Tables A11-A12). We also consider the partisanship, time in office, and different types of municipal positions held by the respondent (i.e. mayor, city councillor, city manager, staff).

5.1 Testing for Partisan Differences in Preemption

Hypotheses 1a and 1b in the theory section considered the possibility of partisan and ideological asymmetries in reporting of preemption. 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 inconsistent with a partisan polarization mechanism (H1a). 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, based on self-reporting by municipal officials, 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 (H1b). 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 states primarily use preemption as a way to target cities that are dominated by the other party.[20]

A likely explanation for these findings is that liberal municipalities (compared to their conservative counterparts) engage in broader policymaking, which leads to conflict between local laws and state laws or that garners greater preemptive attention from the state government. This suggests that conservative cities stick to what cities traditionally do—provide basic public services like road repairs, parks, trash collection, policing, etc.—while in more liberal cities, there is a greater incentive to legislate on issues beyond these basic services (Warshaw, 2019). These results provide leverage against the idea that preemption is simply a partisan power-grab, but instead has roots in a turf war in a federalist system.

6 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. Specifically, we find that ideological disagreement between municipalities and state governments significantly increases the probability that local officials report being preempted by their state government on specific policies. However, in contrast to common perceptions and (to some extent) past research, we find evidence that *both* Democratic and Republican state governments preempt incongruent cities and that this is driven primarily by state governments preempting more liberal cities, regardless of whether the state is under Democratic or Republican control. Thus, preemption is not

[20]We cannot speak to the intentions of state legislators. Even surveys of state legislators would have difficulty identifying such intentions. Nonetheless, if state legislators primarily and purposely preempted those cities on the opposite ideological side, we would expect to find that municipal officials from liberal (conservative) cities in Republican (Democratic) states report being preempted at much higher rates, but we do not.

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

Unified State Government:	Republican	Republican	Democratic	Democratic
City Ideological Direction:	More Liberal	More Conservative	More Liberal	More Conservative
Ideological Incongruence	1.04***	0.16	1.42***	0.28
	(0.38)	(0.44)	(0.49)	(0.60)
State Capital	-0.0093	—	1.73***	—
	(0.43)	—	(0.33)	—
Ln(City Population)	0.14**	0.23***	0.25***	0.18**
	(0.062)	(0.056)	(0.083)	(0.072)
City Median Income (in $10k)	0.073	0.098**	-0.10***	0.015
	(0.047)	(0.048)	(0.030)	(0.041)
City % White	-2.32*	0.45	-0.62	-1.06
	(1.31)	(1.30)	(0.66)	(0.73)
City % Black	-3.94***	0.15	-1.57	-3.67
	(1.38)	(1.52)	(0.99)	(2.74)
City % Latino	-0.59	-0.19	0.21	-0.17
	(0.48)	(0.85)	(0.84)	(0.47)
City % Unemployed	1.80	0.100	-6.21	-0.73
	(2.69)	(2.04)	(4.34)	(2.29)
City % Homeowners	-1.72**	-0.42	2.55***	0.61
	(0.73)	(0.70)	(0.86)	(0.86)
City Median Age	0.014	0.0040	0.030*	0.0053
	(0.011)	(0.0086)	(0.017)	(0.014)
Nonpartisan Elected Position	-0.61*	0.43	0.92*	-0.68*
	(0.36)	(0.30)	(0.51)	(0.37)
Partisan Elected Position	-0.78**	0.16	0.43	-1.19***
	(0.38)	(0.30)	(0.49)	(0.38)
Mayor	0.26	-0.15	-1.50***	0.75*
	(0.39)	(0.33)	(0.53)	(0.42)
City Councillor	0.20	-0.54*	-1.13***	0.59*
	(0.33)	(0.29)	(0.40)	(0.33)
Female	-0.022	-0.36**	-0.29*	-0.20
	(0.14)	(0.14)	(0.17)	(0.19)
Republican	-0.36**	-0.30**	-0.19	0.032
	(0.16)	(0.13)	(0.26)	(0.21)
Democrat	0.41***	0.32*	-0.28	-0.42*
	(0.16)	(0.16)	(0.23)	(0.22)
Years in Office	-0.0061	0.017**	0.023**	0.017*
	(0.0093)	(0.0076)	(0.012)	(0.010)
N	4200	5040	1925	3117

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.

just an issue for large, liberal cities in Republican states; nor does it seem that conservative cities in Democratic states are any more likely to be preempted than conservative cities in Republicans states. These findings stand out from popular reports on municipal-preemption and past research.

At the same time and in line with 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 having their laws preempted. 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. These important questions about preemption and, more broadly, representation in the US system of federalism have thus far been difficult to systematically study. Our survey of municipal officials provides the most comprehensive look at which types of municipalities are directly affected by their state's preemptive actions—both in terms of the geographic coverage of municipalities of varying sizes and locations as well as 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 of preemption are connected to the ideological position of the municipality vis-à-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, Ha and Callen, 2012). 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. For example, Tausanovitch and Warshaw (2014) shows large variation in taxation, expenditures, and environmental policies across municipalities. And though cities may be limited in their ability to require private business to implement certain policies, it is quite common for cities to differ ideologically in how they carry out their day-to-day operations (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 Alto[21] and disagreements over negotiations regarding business tax incentives like those designed to lure Amazon.com's new headquarters[22] present a number of ways in which municipalities engage in 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, and respecting their political rights, 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. 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. 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, NIMBYism and 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 government. 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 their constituents' preferences.

[21] See 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.

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

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