Summary Findings of Research with State Legislators

Preemption

Interviews conducted between November 2 – December 10, 2018
Methodology

17 In-depth (live telephone) interviews conducted in total.

➢ 16 with Republican members of State Legislatures
➢ 1 with Republican member staffer
➢ We do not provide the full list of interviews due to promises of confidentiality to participants and to ensure a vibrant, candid discussion of the topics.

Sample/Audience

➢ Respondents represent critical states in terms of current or impending preemptive legislative activity.

➢ Florida  ➢ Michigan  ➢ Oregon
➢ Georgia  ➢ Nevada  ➢ Pennsylvania
➢ Iowa  ➢ Oklahoma  ➢ Texas

➢ All interviews were conducted by Erik Iverson, President, Moore Information, Inc. between November 2-December 10, 2018.
Key Takeaways

Hypocrisy? Bad policy will always trump philosophical support for local control.

Partisan? Preemption itself is not partisan – the issues it attaches itself to are.

Preventing a patchwork of local laws that impedes commerce/the free market is a near universal priority.

Environmental and land use laws are the issues most likely to lead to finding common ground.
### “Hypocrisy” in Supporting Preemption Proposals

Bad policy trumps philosophical/ideological opposition to preemption proposals and government closest to the people.

| “Yeah, there’s a certain level of hypocrisy but the big picture is that bad policy is bad policy and fixing that trumps any larger philosophical belief in local government.” (NV) | “States created both the federal government and localities. It then becomes a matter of state’s rights.” (TX) |
| “The goal is good government first and foremost not blindly supporting local control.” (MI) | “Adherence to my other philosophies supersedes my philosophical support of local control.” (NV) |

“Local government is actually the scariest form of government because there are no checks and balances like at the state legislature. It’s easy for five city council members to pass controversial legislation because there’s very little public scrutiny or public participation. At the legislature you have to deal with 150 different lawmakers so there are some checks and balances.” (IA)
Preemption Isn’t Partisan, Issues Are

Both Democrats and Republicans will support preemption at times; it depends on the issue.

“Preemption itself isn’t partisan but the issues local governments are choosing to wade into are highly partisan.” (IA)

“It can be bipartisan when the policy is good for the community.” (OR)

“It ends up being more urban vs. rural than Republican vs. Democrat.” (TX)

“When Democrats were in charge, they used preemption. Whoever is in charge of the State Legislature will preempt local laws they don’t like. It’s just the way it is.” (IA)
“Patchwork” Concerns Trigger Preemptive Action

Legislators will use preemption in order to mitigate “patchwork” system of laws and create uniformity.

• Particularly when the variation in ordinances discourages or hampers commerce and economic development.

“A statewide company has to follow so many different ordinances that they end up choosing to leave those communities due to lack of uniformity.” (GA)

“If the local law carries criminal penalties like some of the local gun control laws. The patchwork isn’t fair to citizens.” (PA)
Rules of Thumb – When to Preempt Local Policy

- “When local government does something that makes that community an oddity.” (GA)
- “When doing so means fixing a patchwork of local laws. On my way to work I drive through seven different municipalities. There needs to be some uniformity.” (PA)
- “Local laws can’t be stricter or more restrictive than state law.” (PA)
- “Anything having to do with labor laws, contracts, or commerce need to be handled by state only and should be preempted if done locally.” (IA)
- “If the local law carries criminal penalties like some of the local gun control laws. The patchwork isn’t fair to citizens.” (PA)
- “Does it rise to the level of impacting all counties or just one county?” (PA)
- “Case by case basis.” (FL, GA, PA)
- “Local government can’t regulate guns or taxes.” (NV)
When Does Local Law Prevail?

- “Housing laws are best handled locally, so long as they comply with federal law.” (PA)

- “If the state law is silent on an issue then I’d be more likely to oppose preempting local laws.” (IA)

- “Laws dealing with gambling, alcohol, drugs and the environment should be dealt with locally.” (FL)

- “Environmental and land use laws are best handled locally but when it comes to guns and the free market that needs to be handled at the state level.” (PA)
Common ground “should” be attainable, but partisan factors and ideology will ultimately win out.

“Do you think preemption could be an area of common ground for Republicans and Democrats, or not?”

- “Maybe – it’s a swinging pendulum.” (PA)
- “Let local government try to make the policy first – if it’s not good policy, the state steps in. State government has purview over all counties.” (IA)
- “Yes – as long as local entities don’t overstep.” (FL, NV)
- “No – the state just becomes a patchwork of difference ordinances – no consistency. State has to keep track.” (PA, GA)
- “Cities and states should be partners, but typically find themselves at odds.” (FL)
Where is the Common Ground?
Environment, Gaming, Alcohol/Drugs

States should make widespread laws on commerce, free market, guns - in order to keep a level playing field." (PA)

“Local government should make laws that impact every-day life – local leaders live in the community they serve.” (PA)
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