

December 9, 2015

To: Interested Parties

Fr: Molly Murphy and Pia Nargundkar

Re: State Intervention Research Findings and Recommendations

Our robust research – a three-pronged plan consisting of focus groups, a national survey, and in-depth interviews – delved into the perceptions of and attitudes towards preemption among both voters and opinion elites. The findings yielded critical insight into developing an effective communication strategy for combating the rise of preemption motivated by corporate special interests.

Our imperative emerging from the research is to reframe the conversation. This issue, and our fight, is not about waging a battle against state intervention (preemption). Instead, we need to reframe the conversation about the rising power of corporate special interests, and their use of state intervention to leverage their power. Not only does this connect with what voters already believe about the political process and the role corporate special interests play in their states, but it also allows us to bypass the conversation about whether preemption in-and-of itself is bad or good.

For voters, the term “preemption” is neither recognizable nor descriptive. However, they are also aware of the power of corporate special interests at the state level, and find it easy to believe many instances of state intervention occur at the behest of special interests, rather than to protect the state.

The research finds that when left to decipher the motives behind preemption (whether it’s for the net benefit of the state and its people OR motivated by special interests), voters hesitate to take a firm stand against it. They create mental loopholes and justifications which are not helpful for communicating the adverse consequences.

Instead, focusing the conversation around ONLY the instances of preemption that are motivated by special interests helps connect the dots clarifying why it is a problem, who is at fault, and who suffers the consequences. Beyond this, it allows for our side to acknowledge that the intervention itself is not the problem – special interests corrupting the democratic process are the problem.

The research also included twenty interviews with opinion elites – state legislators, local elected officials, and policy advocates who work at the state and national level. These interviews reveal that while they are much more engaged and familiar with instances of state intrusion, lawmakers share the same conflict over whether it is a bad thing. Legislators in particular believe it is an

important safeguard for preventing rogue communities from acting against the best interest of the state. Additionally, several point out that some issues are too large or too important to be handled exclusively by local communities, and believe state policy should override.

As we saw with voters, the power and leverage that special interests have at the state level is troubling for lawmakers, and several believe their influence creates serious obstacles to moving bills forward. These lawmakers lack confidence in an individual municipality's ability to respond to the kind of financial pressure special interests can have over lawmakers. [Several lawmakers express a desire for greater public engagement that would place additional pressure on lawmakers, but do not believe this can be relied upon consistently.]

The research has provided us with a path to help the public better understand why state intervention is happening and why it is harmful. Examples that demonstrate some level of harm to a community (environmental, civil rights, public health) provoke the greatest outrage from voters who believe it is inexcusable that special interests get to profit at the expense of communities.

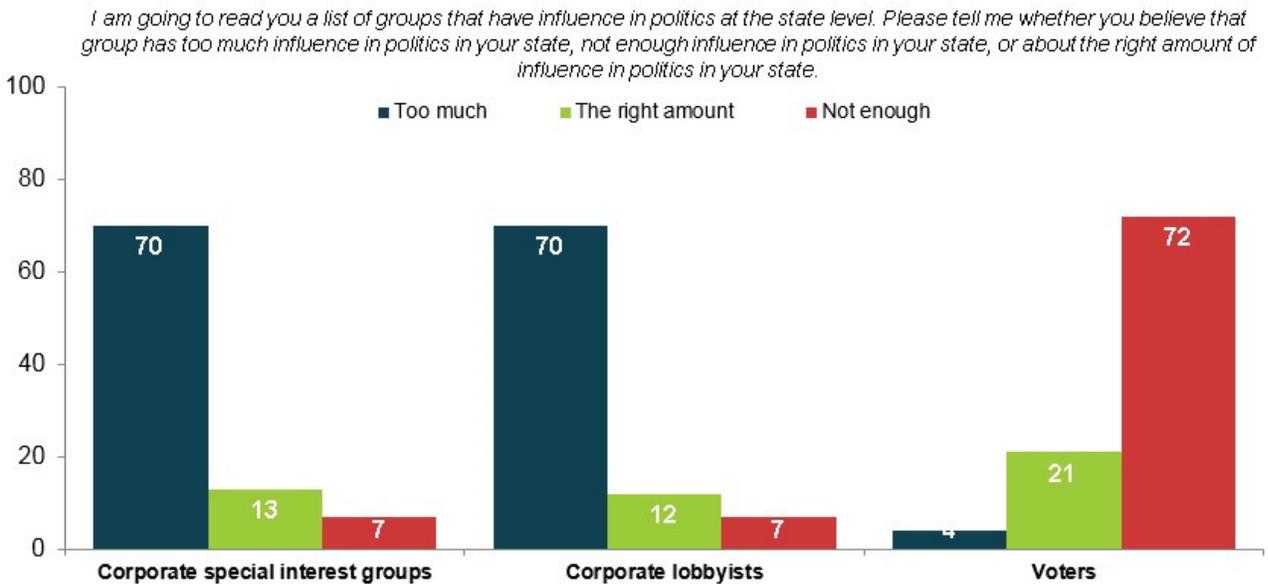
The following are key findings that emerged from the three-pronged research project. For a full breakdown of the methodology, refer to Appendix A.

VOTER FINDINGS: Focus Group and Polling Results

As we saw last year, local governments are viewed as doing a better job than the U.S. Congress or state legislatures. Voters are most positive about the job their local government is doing on the issues that matter to them. Two-thirds of voters give their local government a positive rating (65% positive / 28% negative), compared to just 46% who rate their state legislature positively, and 20% who rate the U.S. Congress positively.

Corporate special interests have too much influence at the state level, and voters do not have the influence they should. As we heard in the focus groups, voters across party and demographic lines uniformly agree that “corporate special interests” and “corporate lobbyists” have too much influence within their state. A split-test exercise in the poll found that 70% of voters believe that these institutions have “too much” influence, while 13% and 12% (respectively) believe they have the “right amount” of influence in their state, and only 7% believe they do not have enough influence. Specifically, the pharmaceutical industry (59% too much) and the oil and gas industry (57% too much) are viewed as having the greatest level of influence – a theme echoed in the focus groups as well.

This is a stark contrast to voters' perceptions of their own influence – just 4% of voters believe that voters have “too much influence” and 1 in 5 believe they have “the right amount.” Instead, 72% believe that voters do not have enough influence in politics in their state. This is true across party lines – 73% of Democrats do not believe voters have enough influence, 77% of Independents, and 69% of Republicans.



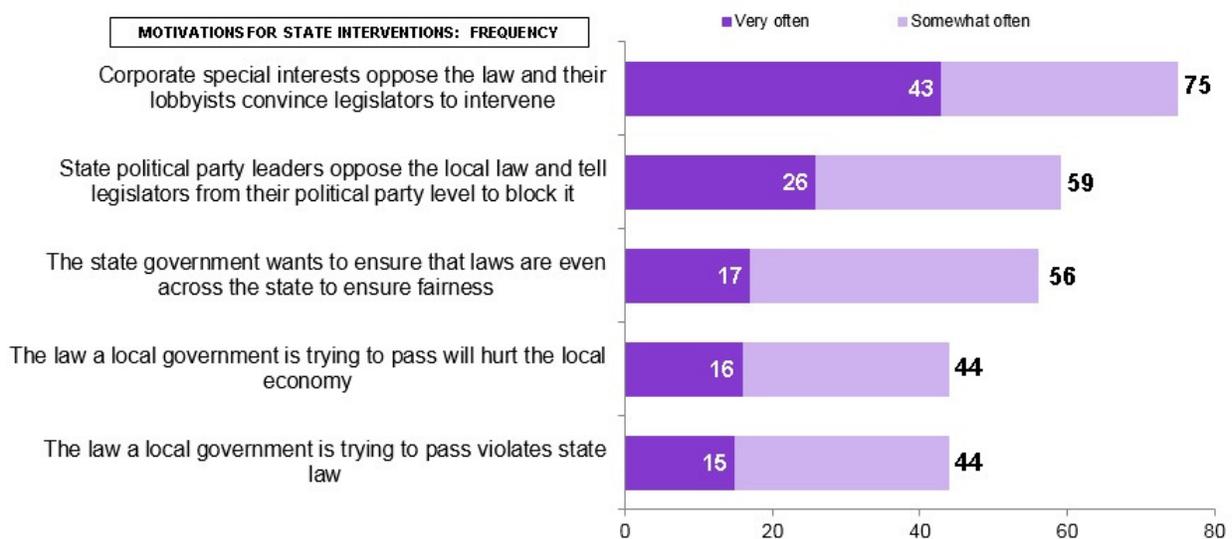
Voters continue to support local communities improving upon state law. Improved since last year, 69% of voters support the idea that *state legislators should establish laws for the people of the state, but local communities should be allowed to build and improve upon these laws as long as they do not contradict state law*. Only 22% side against local communities changing state law, agreeing with the statement *the laws state legislators pass should apply to all people living in the state, and local communities should not be able to change or build upon existing state laws*. This is consistent across party lines – 72% of Democrats, 66% of Independents, and 68% of Republicans all agree with localities improving upon state law.

Public awareness of preemption has not increased noticeably since the research last year, though voters are very familiar with the role special interests play in government. In the focus groups, participants knew very little about preemption, and often fell back on what they remember of federalism from civics class when prompted on the issue. Even the participants who are able to recall examples of preemption (fracking mainly) do not see this as a rampant occurrence, or know it by any name or branding. This is a stark contrast to their familiarity with the role special interests play in government – they do not know the connection between special interests and state intervention, but are inclined to believe it.

Without additional information voters oppose state intervention. Voters oppose state intervention (50% oppose / 34% support) when introduced as “state legislators intervening in the types of laws local elected officials can pass.” But there is a lot of softness here – only 21% strongly oppose this, and 9% strongly favor it, while a remaining 16% of voters are completely unsure. Hispanic voters are divided on the issue, with a huge portion completely undecided (39% favor / 36% oppose / 25% undecided). Older white voters are among the biggest opponents of state intervention (29% favor / 55% oppose), along with college-educated white

men (31% favor / 54% oppose) and voters in the Eastern United States (33% favor / 54% oppose).

When provided with several motives for intervention, special interest influence tops the list as the most common reason it happens. Although voters are initially cautious to state the main reason behind preemption, when prompted with a list of different motives, they overwhelmingly believe state intervention happens most often because *corporate special interests oppose the law and their lobbyists convince legislators to intervene*. Nearly half (43%) believe this happens very often in their state. This is followed by state intervention happening at the behest of party bosses (26% very often). Purer motives, like protecting the local economy or preventing a law from violating state law are not perceived to happen as often.



Participants are only bothered by the instances when their communities are harmed and they are personally affected. From a philosophical standpoint, most participants are angered by the idea that their local government – which knows their wants and needs most directly – can be told what to do by the state even when it harms the community. However, voters are busy people with a lot of competing priorities in their lives.

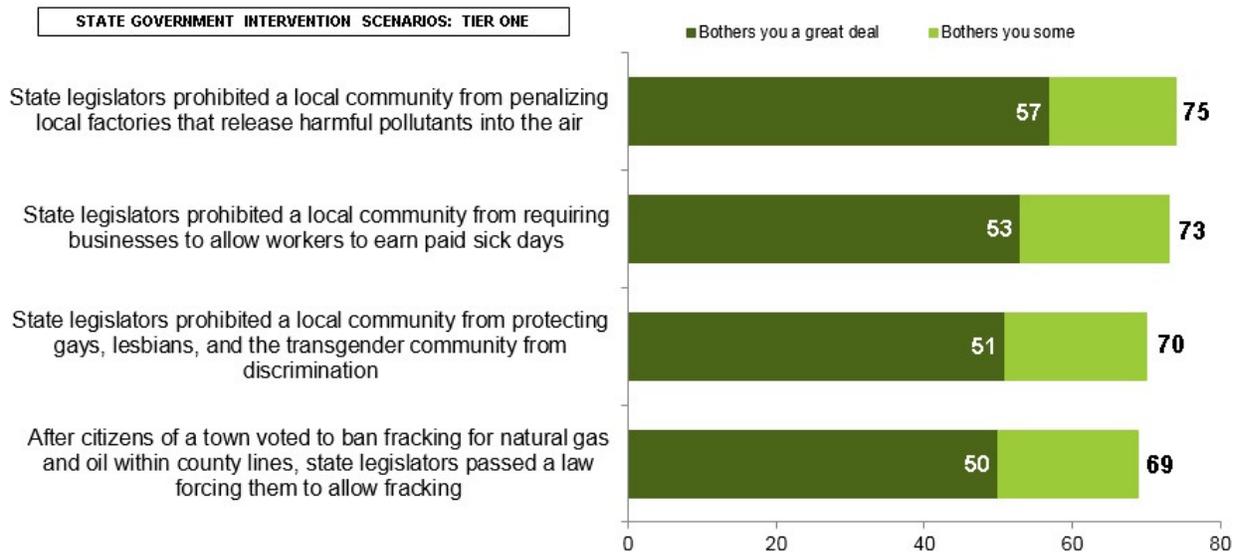
The most effective examples of state intervention connect actions that protect special interest profits to damage done to a community / constituency. With so many possible instances of preemption, participants insisted it had to be judged on a case-by-case basis. And while they admit that most instances are probably sparked by special interest influence rather than a concern for the welfare of the state, they also felt it was used to affect minor issues that don't get them fired up at the end of the day.

- *"I think a lot of these things are very, very minor and don't affect me."* (White MI Man)
- *"It's needed to be fixed for years, but it is what it is."* (White PA Woman)
- *"It's concerning, but what can you do if they pass the law?"* (Hispanic TX Woman)

Participants did draw a line when the community stood to get hurt (especially when they themselves are impacted), and when the intervention was blatantly motivated by the influence of money. The polling confirms this trend, and examples that directly impact public health (through fracking, pollution, or sick days) or allows discrimination to a particular group (LGBT) were most troubling for voters.

"I don't see how you could stop a city from raising their standards. You are going to make us drink substandard water and breathe substandard air?" – White woman in Michigan

"I think fracking is most bothersome to me, dictating what towns can do with their ecology." – White man in Texas



Messages that detail the harm that state intervention causes, and the importance of allowing local communities to decide what is best for itself is the best way to combat preemption. The top testing messages are consistent with last year’s research and establish two things. First, it asserts that there IS a downside to state intervention, and that special interest greed is dangerous for communities. Second, it reinforces the value of local control and that one-size-fits all policies do not work for all places.

STATE GOV'T INTERVENTION NEGATIVES: TOP TIER		Overall
<i>% Very Convincing</i>		
It is wrong for the state government to take a one-size-fits-all approach to governing. What works for a big city is not always the same as what works for people in a small town, which is why local governments exist - to pass laws that work for the people who live there. As long as these laws do not promote discrimination or violate national law, the state government should stay out of it.		55
It is dangerous to let special interests dictate to state governments that they must pass policies that protect corporate profits while putting local communities at risk. Natural gas drilling called fracking causes environmental and often health risks for the people who live near there which is why many communities have decided to ban it. It is wrong for outside groups to have the final say when it is local communities that take all the risk.		53

FINDINGS FROM THE OPINION ELITES

Preemption does not invoke a consistent response from lawmakers. For some legislators and local officials, state intervention is a reality of their profession; they detailed several instances where their municipality was preempted, or they were urged to vote for preemption. These lawmakers generally viewed the issue through a negative lens and had concerns about its impact on local control and innovation. Several other interviewees were unfamiliar with the term “preemption.” Once explained, all had some awareness of it and had some degree of personal experience dealing with it. For these officials (both at the state and local levels) state intervention was not a new phenomenon and did not immediately strike them as a threat to democracy.

Ideologically, nearly all lawmakers and issue advocates prefer local control above state intervention. With only one exception, all of the interviewees spoke of their belief in giving local communities agency over their own policies. Even state legislators articulate the view that local communities know best. In fact, many simply seemed disinterested in meddling in local concerns when they have broader issues they work on, unless the local law caused harm to its people (discrimination laws were a common hypothetical).

State legislators, while ideologically supportive of local control believe that there are instances where intervention is necessary. The state legislators we spoke with were more cautious about condemning the practice of intervention in all cases. They disapprove of instances where states (including their own) overreach or are motivated by special interests. But they do not believe intervention is the problem, and are quick to point out instances where it can benefit the state. The most oft-cited examples are if a locality wants to pass a law legalizing discrimination, if a locality wants to pass a policy that is not as strong or effective as other parts of the state’s policy, or if a locality wants to pass a law that would hurt the state’s economic interest.

Special interests / lobbyists play a huge role in prompting intervention, as do partisan ideologues and power-hungry politicians. For lawmakers, there was limited consensus on who is to blame for recent examples of state intervention. While all generally agreed that special interest groups and lobbyists play a role in pushing to preempt local control, the intensity of this conviction varied. Some had strong views and described specific examples of industry involvement. In three different states, legislators described the Grocers Association as working to preempt communities from banning plastic bags. Other examples include fracking bans motivated by the oil and gas industry and background check laws motivated by the gun lobby.

State Intervention leaves local elected officials unable to be accountable to their constituents. Several local elected officials spoke with dismay about feeling powerless to respond to the needs (or complaints) of their own constituents. They feel limited in their ability to even explain to constituents why they are unable to act on issues that matter to the community because intervention is a process that the public does not understand. They feel powerless to respond to the community's needs, yet they are answerable to their constituents. Some remarked sarcastically that it allows them to shift blame when change does not happen, but were careful to note that this is a massive problem in the democratic process.

Local communities can be incubators of innovation and positive change, and intervention stops that from happening. Elected officials at the state and local level, along with policy advocates all extolled the opportunity that local communities have to be “incubators” of innovation. Several noted that state government moves more slowly, and there are more hurdles to passing policies. Therefore, at the local level, communities have the potential to innovate and bring important change. When legislatures intervene at the local level, they do not only prevent a single local policy from taking effect, but they prevent the potential for the entire state to benefit from new policies or ideas.

Few believe the general public is aware of preemption. The people we interviewed view intervention as a highly technical, insider issue – and some of them were not incredibly in-tune as to how frequently it happens. In their collective experiences, they did not believe this is an issue that garners public attention. Those who are highly informed and involved in fighting intervention believe that the low level of public involvement allows special interests and lawmakers to pass these laws with impunity.

Lawmakers have little expectation of public engagement on this issue in the future. With few exceptions, lawmakers at the state and local levels are dubious that state intervention can garner public outcry. Some believe it is too dry or technical, others believe that unless the issue being blocked is one that garners attention, it is unlikely to be noted by the press. Therefore, most are skeptical that grassroots engagement can be part of a strategy to defeat these efforts.

Rather than look to the public to mount a campaign against intervention, local officials use their own lobbyists and legislators to strike deals. While there is a desire to have the public rally against efforts to intrude on local control, currently local officials rely on insider strategies like

lobbyists from the League of Cities to make the case against certain preemptive laws. Additionally, some local officials rely on legislators who represent their community in the legislature to be their advocates in beating back intervention. For policy advocates, they too rely on issue lobbyists to work with legislators to attempt to beat these efforts.

Policy advocates are beginning to come together against intervention, but more organization and foresight is needed. Policy advocates from the LGBT, anti-tobacco, conservation, and public health communities each discussed instances of taking on intervention efforts that would impact their own issue. Over time, they recognized that intervention did not solely effect their issue set, but had a broader impact. Once they were aware of ALEC's and trade organizations' efforts to pass sweeping preemption laws, they began to coordinate their efforts to fight it.

All reported having a positive experience working across issue worlds and have had several successes. However, all said that more needs to be done to bring the communities together to out-organize the opposition, and increase their ability to anticipate bad bills.

Lawmakers and policy advocates are flying blind when it comes to messaging to combat state intervention. Consistently in our interviews, legislators and local elected officials report having to come up with their own arguments against state intervention. They rely on emphasizing the importance of local control, that local communities can be incubators of innovation, and that the state is attempting to overreach their authority by intervening.

Lawmakers generally do not organize or network with other states or communities to understand best practices for defeating state intervention. This leaves individuals to self-determine messaging against preemption, with varying degrees of success.

Appendix A: Research Schedule and Methodology**Focus Groups**

Date	Location	Demographics
10/27/15	Pittsburgh, PA	White seniors
10/27/15	Pittsburgh, PA	White college-educated women, age 35-55
10/28/15	Grand Rapids, MI	White unmarried non-college women, age 25-45 (Dems)
10/28/15	Grand Rapids, MI	White non-college men, age 25-50 (Reps)
10/29/15	San Antonio, TX	Hispanic non-college women, age 25-45 (Dems)
10/29/15	San Antonio, TX	White college-educated men, age 35-50

All participants were registered voters. Where not specified, each group had a mix of educational attainment, marital status, and partisanship.

National Survey

A survey of 800 likely 2016 voters was conducted by telephone using professional interviewers, including 35% of all interviews conducted via cell phone. Interviews were conducted November 6-12, 2015. The margin of error for the sample as a whole is plus or minus 3.46 percentage points at the 95% level of confidence. The margin of error for subgroups varies and is higher.

In-depth Interviews

State Legislators:

Anzalone Liszt Grove Research conducted interviews with five (5) state legislators from the following states: Colorado, Georgia, Massachusetts, North Carolina, and Washington.

All legislators are members of the Democratic Party.

Local Elected Officials:

Anzalone Liszt Grove Research conducted interviews with nine (9) local elected officials from the following states: Alabama, Iowa, Oregon (2, from different cities), Pennsylvania (3, from two different cities), and Arizona (2, from different cities).

Three interviewees self-identify as Republican (though one holds a non-partisan office). Six self-identify as Democrats (though one switched parties and holds a non-partisan office).

Policy Advocates:

Anzalone Liszt Grove Research conducted interviews with six (6) public policy advocates. The interviewees work on the following issues: conservation, public health (2, one covering food policy and the other anti-tobacco), human rights (2, both covering LGBT issues), and voting rights / progressive policies.