

# CITIES IN THE AGE OF TRUMP: THE BEST & WORST OF TIMES

PRESENTATION TO AALS SLG SECTION  
JANUARY 6, 2018  
SAN DIEGO

Paul A. Diller

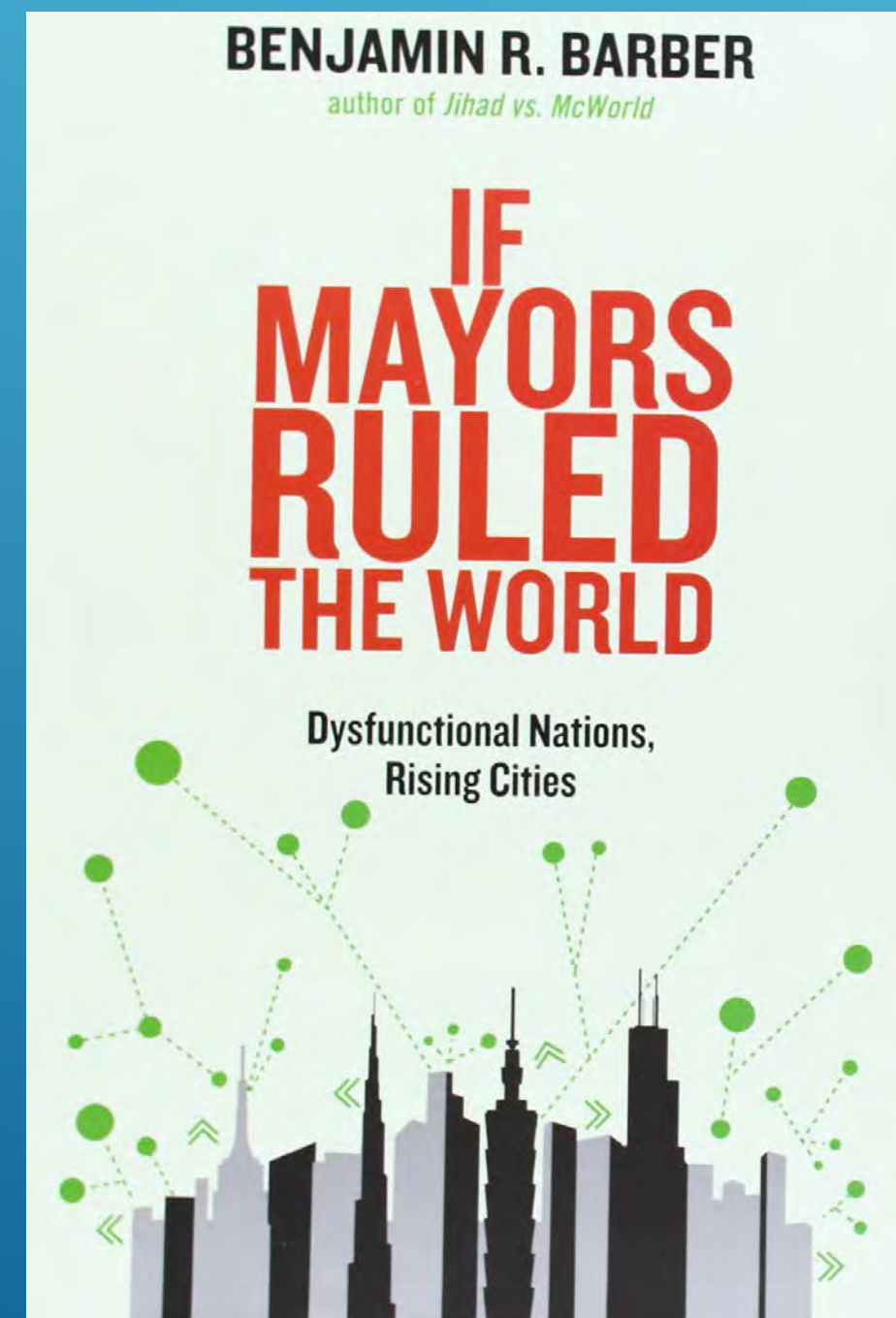
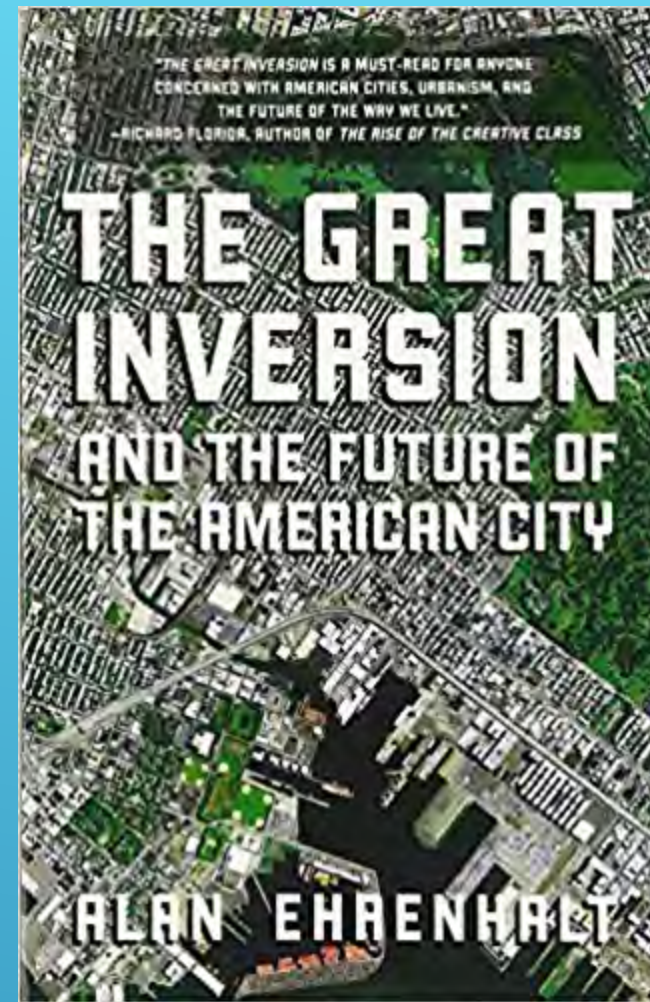
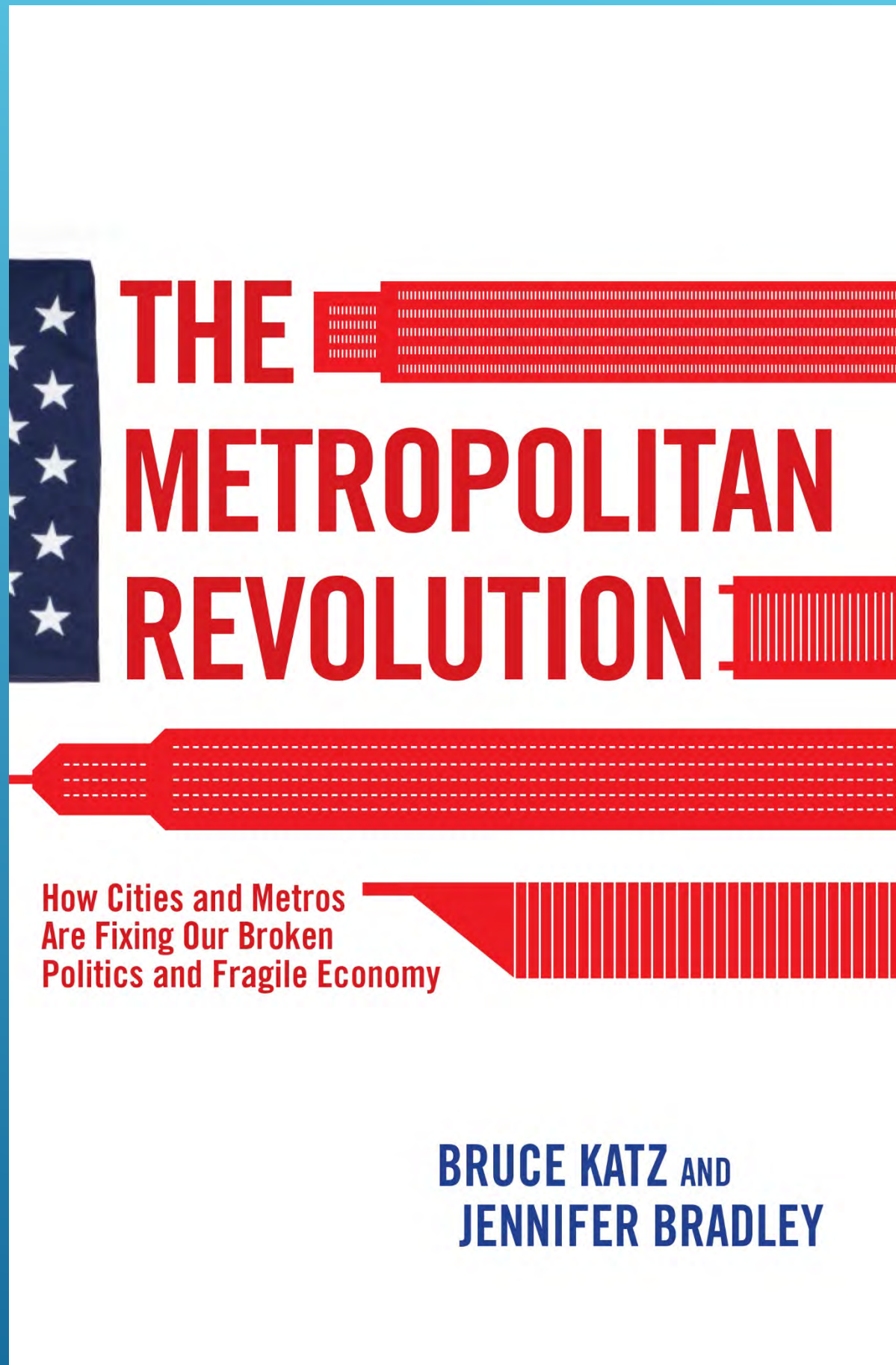
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## Selected City Populations

	San Fran	Boston	New York	Atlanta	Portland, Ore.	Seattle	Wash., DC
1900	342782	560892	3437202	89872	90426	80671	278718
1950	775357	801444	7891957	331314	373628	467591	802178
1960	740316	697197	7781984	487455	372676	557087	763956
1970	715674	641071	7894862	495039	382619	530831	756510
1980	678974	562994	7071639	425022	366383	493846	638333
1990	723959	574283	7322564	394017	427319	516259	606900
2000	776733	589141	8008278	416474	529121	563374	572059
2010	805235	617594	8175133	420003	583776	608660	601723
2016	870887	673184	8537673	472522	639863	704352	681170

	Jackson, MS	Pittsburgh	Detroit	Buffalo	Cleveland
1900	7816	321616	285704	352387	381768
1950	98271	676808	1849568	580132	914808
1960	144422	604332	1670144	532759	876050
1970	153968	520117	1514063	462768	750903
1980	202895	423938	1203368	357870	573822
1990	196637	369879	1027974	328123	505616
2000	184286	334563	951270	292648	478403
2010	173514	305704	713777	261310	396815
2016	169148	303625	681090	256902	385809



**Key states with urban-rural political tensions:**

Arizona

Florida

Indiana

Michigan

North Carolina

Ohio

Pennsylvania

Texas

Virginia

Wisconsin

## **State-local preemption**

### **Substantive Areas:**

Wage and hour  
Including paid sick & family  
Civilrights/bathroom bills  
LGBTQ antidiscrimination protection  
Plastic bags  
Environmental regulation  
Campaign Finance  
Gun Control  
Immigration (sanctuary cities)  
Affordable Housing  
Public health

### **Methods of Preemption:**

“Old-fashioned”  
Punitive  
Denying Funds  
Threatened removal of local officials  
Proposed allowing other cities to sue

## **Not just “red” or “purple” states:**

New York

State leg. preempts plastic bag ban &  
has not authorized congestion pricing

Rhode Island

State leg. preempts local min wage ordinances

For more, check out ACS issue brief: “The Troubling Turn in State Preemption” (Briffault, Davidson, Diller, Johnson, Schragger)

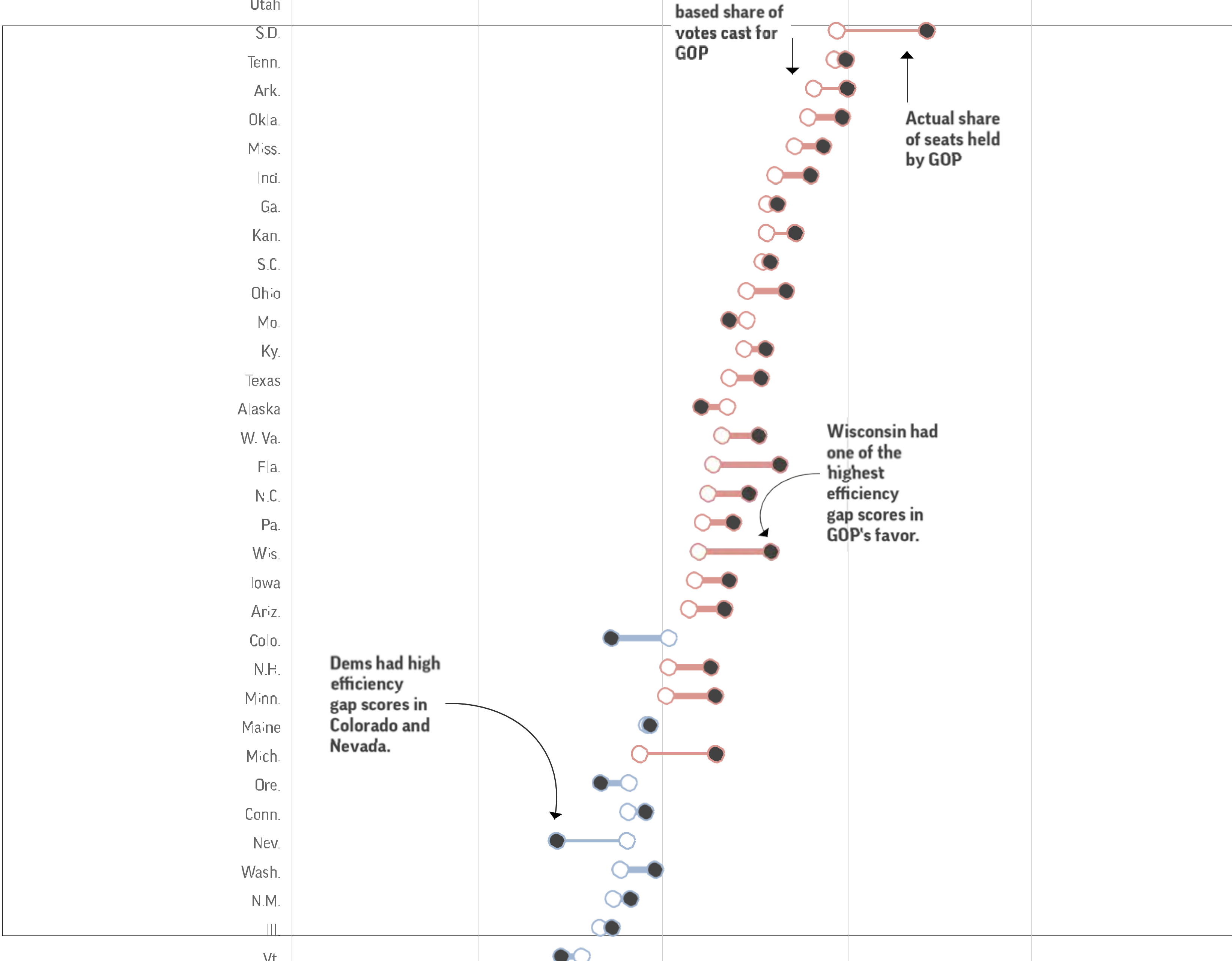
**<https://www.acslaw.org/preemption>**

**Not just attacks on cities' power;  
also the denial of urban policy preferences in state leg.:**

Gun control

Wage & hour

Medicaid expansion (VA, FL)





***Gill v. Whitford* (SCOTUS argued fall 2017)**

Plaintiffs' expert cites the following state houses (assemblies)  
as among most gerrymandered in 2012, 2014:

Pro-Republican:

**WI**

**VA**

**NY**

**OH**

**PA**

**MO**

**NC**

**IN**

**KS**

**MI**

**FL**

Pro-Democrat:

**VT**

**RI**

## **Equal Protection Effects of State Preemption**

Birmingham, Ala.: State Preemption of City's Min Wage Law

Lewis v. Bently (N.D. Ala. 2017) (pending 11<sup>th</sup> Cir.)

Austin & Dallas, Tex.: State Preemption of Local Authority to Protect  
"Source of Income" Discrimination

ICP v. Abbott (N.D. Tex. Filed 2017)

## **Federal:**

President -- electoral college

Senate – equal state apportionment regardless of population

U.S. House – gerrymandering

Senate & U.S. House – no representation for D.C. despite more people than either Wyoming or Vermont

## U.S. House

Final vote on tax bill: 224 to 201 (12 Rep's voting no)

Republicans hold 239-193 advantage

Won total popular vote in 2016 49.1 to 48.0%

AP estimates that gerrymandering in key states (OH, PA, MI, VA, FL, NC) provided up to **22** additional Republican house seats in 2016

Buffer to let a few more urban R's in high-tax states peel away

"Gerrymandering buffer"

Margin of support in 2016 presidential election

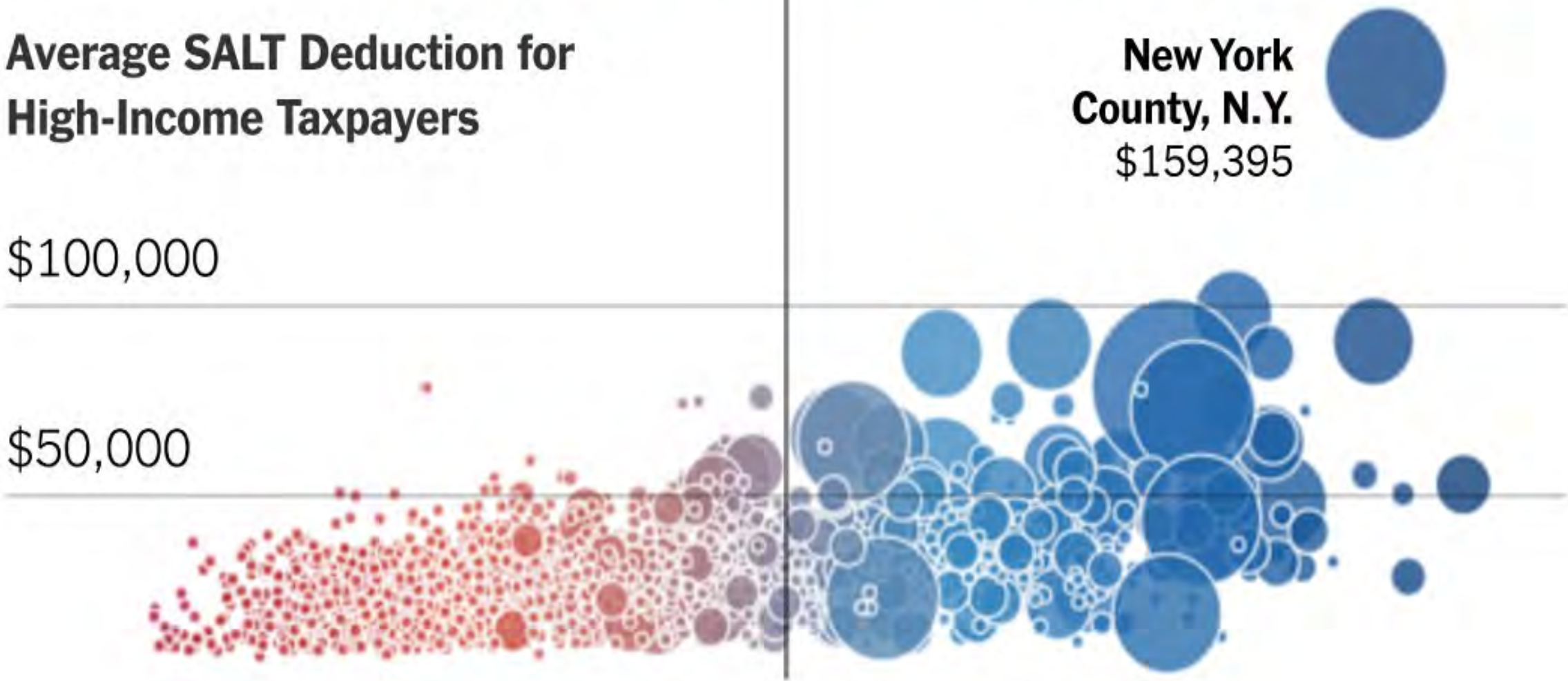
◀ MORE REPUBLICAN | MORE DEMOCRATIC ▶

**Average SALT Deduction for High-Income Taxpayers**

**New York County, N.Y.**  
\$159,395

\$100,000

\$50,000



Courtesy of N.Y. Times

## U.S. Senate

2009 health care vote: 60-39

Senators in favor represented 64% of 50-state population

2017 tax vote: 52-48

Senators in favor represented 44% of 50-state population

## **What to do? (assuming urban-rural divisions remain)**

Reinvigorate discussion of constitutional *reform*

Start small(ish):

Districting reform for state leg's/House

Representation for Wash., DC (more people than either Vt. or Wyo.)

Electoral College reform

Cloture rule in Senate that depends on state population?

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