Minneapolis
City of Lakes

FINDINGS & RECOMMENDATIONS

WORKPLACE REGULATIONS PARTNERSHIP GROUP

Presented to the Committee of the Whole

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EXHIBIT B – High-level summary of listening sessions & comments received

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EXHIBIT D – Summary of key research questions

EXHIBIT E – Roster of additional materials shared with the Workplace Partnership Group

Additional information, including all meeting materials, minutes, and research findings can be found at: www.minneapolismn.gov/workplacepartnership

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This document is a draft that has not been reviewed or acted on yet by members of the Workplace Partnership Group.

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I. BACKGROUND, PROCESS OUTLINE, AND FINDINGS

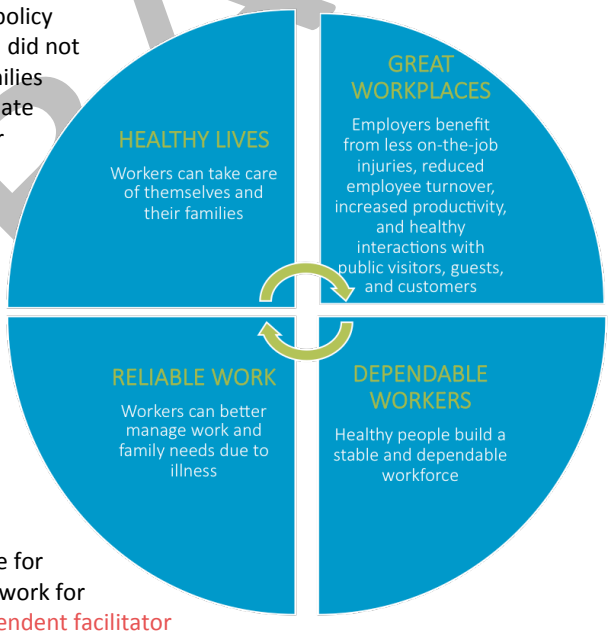
The Minneapolis City Council established the Workplace Regulations Partnership Group [referred to going forward as the Workplace Partnership Group (WPG)] on October 28, 2015. Their charge was to:

> "study the impact of policy proposals related to workplace regulations on earned sick time and paid time off, including regional and cross-jurisdictional implications of such policy proposals. The Partnership Group is to engage the community in the development of its recommended policy proposals through focus groups, listening sessions, and similar practices and may consult subject-matter experts in the course of its study. The Partnership Group is to report its final policy proposals on earned sick time and paid time off to the Committee of the Whole by no later than February 24, 2016."

At the request of the WPG, Council leaders agreed to extend the group's deadline to March 16, 2016.

A. Background

The WPG grew out of a prior effort by the Minneapolis City Council in 2015 to consider a "Working Families Agenda" that included the provision of paid sick time, among other policy considerations. The City Council did not take action on the Working Families Agenda, but rather opted to create the WPG to specifically consider earned sick time and paid time off as a single policy proposal.



Following establishment of the WPG, Mayor Betsy Hodges, City Council President Barbara Johnson, and members of the City Council, made appointments to the group that were approved on November 20, 2015. The City Council also directed City staff to provide support and technical assistance for the WPG, and establish a framework for the group's meetings. An independent facilitator was retained to support City staff in this role. The WPG held an orientation session on December 3, 2015, and its first of eleven business meetings was held December 11, 2015.

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B. Process

At the orientation session and subsequent business meeting, the group organized itself procedurally, established an expected timeline, and began outlining expectations for engaging community members and stakeholders as vigorously as possible during the timeframe that had been provided.

1. Leadership

At its first business meeting, the group elected Liz Doyle & Jim Rowader as Chair and Vice-Chair of the group. Sarah Webster Norton was later tasked with leading a subgroup to organize listening sessions across multiple constituencies and interest groups.

2. Decisionmaking

WPG members agreed at the outset to pursue a consensus-based model of deliberation, reserving majority voting for decision-making on the actual policy recommendations. A scale of consensus decision-making, operating principles, and rules were adopted at the first business meeting. Members began their work with a shared understanding that delivering recommendations to the City Council having reached broad agreement on key elements was preferred to delivering a report with recommendations on which there was significant disagreement.

3. Workplan & Timeline

WPG members affirmed early on that they needed to reach several constituent groups for perspectives on policy options, and that the intention was to create listening sessions in which perspectives from employers and workers were offered jointly, in dialogue with each other. With that in mind, a subgroup was established to identify the employee, employer, and industry groups who might likely be most affected by such a policy change, and to reach individual racial/ethnic communities for their perspectives to ensure that the racial equity elements of this policy were carefully considered. WPG members agreed to work diligently through December and January to ensure that these perspectives were heard, with the expectation that the group would conclude its listening by the end of January and focus the remainder of its time crafting policy recommendations for City Council. A standardized list of questions was developed for each of the listening sessions and a "Frequently Asked Questions" handout was drafted (and translated) to address common questions already being asked of WPG members and addressed in comments to the group.

WPG members asked staff early on to answer basic questions that had been asked at the orientation session regarding the Minneapolis and regional workplace landscape. Staff was also asked to research further the results and implementation issues identifiable from peer jurisdictions around the country who had already adopted similar policies.

4. Community Engagement

From the start, the WPG and staff focused on creating a robust community engagement plan to ensure the group heard a varied and representative cross-section of our community. Primarily focused on listening sessions, the WPG also solicited input from comment cards

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received both at the listening sessions and electronically through a link provided on the WPG website.

In all, the WPG hosted fourteen (14) listening sessions over about a month's time, heard from approximately 550 individuals and received written comments from twenty-seven (27) individuals. The sessions reached a broad range of employment sectors, community groups, and other constituencies including representatives from: construction, manufacturing, retail, franchise restaurants, independent & small employers, health care organizations, downtown employers across multiple sectors, professional services firms, service workers, union employees, nonprofit & social sector organizations; and, individuals from the Latino, Hmong, African-American, Native American & East-African/Somali Communities. Additionally, two "general" public listening sessions were held in North and South Minneapolis locations. A high-level summary of those sessions, including detail on the focus of each session and comments received, is provided in the Appendix.

C. Findings

WPG members were provided some basic information about the Minneapolis and regional workplace landscape at their orientation meeting. This generated additional questions, and answers to those questions were shared at later business meetings in January and February 2016. A summary of research questions can be found in the Appendix and all information provided to the WPG from staff can also be found on the WPG website.

1. Research Points

Key research points that informed the group's work included these findings:

- There are just over 300,000 individuals working in the City of Minneapolis of whom about 25% are residents of the City of Minneapolis. The remaining 75% come to work in the City from other jurisdictions.[i]
- Among all employees in Minneapolis, just over 52,000 (about 17%) are working in "healthcare & social assistance" fields, with the next largest group, 32,911 (about 11%), working in "professional/technical services" fields.[ii]
- Employment in positions with larger public health exposure and greater risk of spreading infection, covers about 35% of the Minneapolis employment landscape in three fields: healthcare (17%); education (11%); and food service & accommodation (6%)[iii].
- Estimates suggest that between one-third and one-half of Minneapolis residents do not have access to paid sick time, with those residents more likely to be women, of color, and concentrated among lower-wage earners, working less than full-time.[iv]
- Labor market data helps us identify the racial/ethnic impacts. Within Minneapolis:
    - Black residents are employed at much higher rates in the healthcare industry.
    - Latino residents have proportionately high employment in the accommodation & food services as well as administrative & waste management industries.

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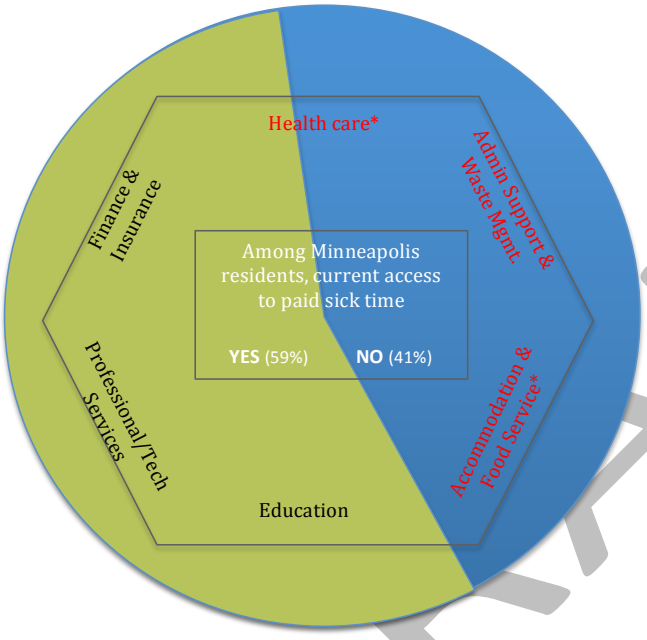

Among the six largest sectors of employment in Minneapolis, three also have the largest segments of employees earning less than $1249 per month, with high concentrations of employees of color, many working less than full-time, and with no access to paid sick time. Two of those three (marked with an *) are also at higher risk for adverse public health impact. *Detail in bullets above.*

- The same industry groups noted above have significant numbers of low-wage earners. Among Minneapolis employees working in each of these fields, following are the percentages earning less than $1250/month:
  - Healthcare (19% of employees)
  - Accommodation & food services (42% of employees)
  - Administrative & waste management industries (35% of employees).
  - Retail makes up the next largest segment of low-wage earners. (XX% of employees)[v]
- Anecdotal information from listening sessions, comments received, and identified in other jurisdictions' research suggests that smaller employers are less likely to offer paid sick time to their employees.[vi] Within Minneapolis, construction (37%), retail (25%), and service industries (37%) employ the most number of people in firms of less than 20 employees.[vii]
- Minneapolis has a relatively smaller share of jobs within the metro region (less than 12%) than compared to other regions that have passed similar policies (e.g., NYC with

more than 40% of regional jobs within New York City and Seattle with more than 20% of metro employment within the City of Seattle).[viii]

- At this time, research on cities with comparable ordinances suggest modest public health improvement and a reduction in 'presenteeism' (coming to work sick). This lack of research is due, in part, to the fact that many jurisdictions adopting sick time policies have done so relatively recently and there have only been a few post-implementations studies performed.
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2. Listening Session Themes

The following key themes were repeated during WPG members' deliberations (additional detail is in the Appendices):

- ***Lack of coverage or inconsistent/insufficient coverage***: WPG members heard from many employees who simply have no access to paid sick time. As one commenter said "[t]*he provision of a policy like this is essential for low-wage employees now lacking paid sick time off, for whom the question often comes down to: do I work, or do I eat?"* For many Minneapolis employees, this is an all-too-frequent choice. WPG members also learned that among many (particularly smaller) employers, paid sick time may not be provided formally, although many employers encourage employees to take time off if they are sick, with the possibility that such time may be fully or partially paid.

  Employees noted that informal allowances for their own illness typically do not extend to caring for children and other family members. In such cases, the time available (formal or informal) is often insufficient. The sentiment often expressed was that employees *may* have access to such time and it *may* be paid; however, there is wide discretion exercised by business owners, managers, and supervisors (based on the employer model) that results in unpredictable, unreliable, and uneven treatment of employees.

- ***Fear of retaliation***: Many employees of color (particularly in lower-wage, part-time positions) articulated their hesitation to take time off if sick (even unpaid) for fear that an absence would risk loss of job or other retaliatory responses (lowered hours, less desirable shifts, and other forms of intimidation).

- ***Ensuring the ordinance considers existing arrangements***: While the City Council has identified the lack of paid sick time as a problem to be solved, WPG members did hear from many employers and employees who have access to paid sick time. Several (larger) employers with established and generous paid time off policies, some of which are provided through a collective bargaining agreement, asked that a City policy not upset existing arrangements in which the benefit being considered by this policy appears to be substantially provided already.

  Desire for broader geographic approach: while there was strong appreciation among listening session attendees for the public health risks and economic difficulties faced by employees with no access to paid sick time, there was strong sentiment among many employers that the City of Minneapolis was 'overreaching' by pursuing this policy path

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at the municipal level. Minneapolis is at the center of an inter-connected regional economy where there is a highly mobile workforce (again, 75% of employees in Minneapolis come from neighboring cities and counties). This raises concerns about the possible negative economic impact of Minneapolis having a different (and presumably higher) cost of doing business. Many expressed an interest in seeing such a policy implemented regionally or statewide solution, to minimize the 'island effect' of the City of Minneapolis pursuing this in isolation of its neighboring jurisdictions.

- ***Administratively burdensome***: Employers articulated significant concern about the administrative burdens of having to track time differently from what they were currently doing. Examples included:
  - Tracking time where it is not currently tracked;
  - Separately tracking 'sick' time where paid time off policies currently bundled benefits; and,
  - The particular burden of tracking time for employers with employees in multiple locations, and figuring out when and for how long an employee is working within the City of Minneapolis.

- ***Private payment for public good***: Employers expressed concern that while they acknowledge the legitimate public health and racial equity issues raised, they question why the financial burden for addressing those public problems should be covered by their private employers.

- ***Adverse economic impacts***: Employers and employees noted that the implementation of a policy has potential for significant adverse impacts. For employers, the direct additional payroll cost, administrative expense, and potential longer-term payroll liabilities represent real expenses that diminish the net profit of an enterprise. For employees, the cost and privacy considerations related to providing any required documentation of illness – as well as the potential for retaliation in the usage of paid time – could undermine the value of the benefit itself.

II. POLICY RECOMMENDATIONS

After carefully considering the findings heard, the research received from staff, and the discussion points that arose in the business meetings amongst the group, WPG members put forward the following recommendations to be considered in the City of Minneapolis' policy for sick time.

A. Scope

The WPG recommends that the sick time policy cover the following employers and employees as defined below:

1. Employers: all employers with employees (as defined below) working in the City of Minneapolis regardless of employer location.
2. Employees: individuals including exempt and non-exempt employees, working on a full-time or part-time basis in the City of Minneapolis for at least 80 hours in a year for a given

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employer (as defined above), other than those with a controlling ownership stake in the applicable employer ("owner")

3. Accommodations should be made for small employers defined as follows:
   a. *Micro-employers:* employees of "micro-employers" (one to three covered employees) should have access to protections against retaliation for taking sick time when needed, but the mandated provision of paid sick time should be at the employer's discretion.
   b. *Small employers:* small employers (defined as 24 or fewer employees) should have an additional 6 months to implement the policy, after the overall effective date of implementation for all other employers.

"These [small] businesses need time to shift their business practices, pricing structures, sales levels and expenses to absorb these costs and remain viable." – public comment received

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Deleted: *New/startup" small employers:* employers that are within the first 12 months of operation should not be subject to economic penalties. New/startup small employers (defined using the small employer standard above) would thus be covered under an ordinance during this time, and compliance-focused remedies should be available to employees, but fines and other economic penalties should not be asses

4. Exempt employees: exempt (salaried) employees are considered to work 40 hours a week for purposes of accrual, unless there is evidence that they work less than said hours.

Rationale: One of the first challenges the WPG faced was thinking about the scope of the policy. Recognizing that residents, employees, visitors, and others all share the public health risks in the City, the WPG affirmed that their intention was to address health concerns for all those in Minneapolis. This tradeoff allows the policy to *include* the 75,000 Minneapolis residents who work within the City of Minneapolis, as well as the 225,000 employees in the City who are *not* City residents, and will not directly impact the 297,000 working age Minneapolis residents who currently work outside the City of Minneapolis. While the WPG acknowledges the implementation challenge of identifying employees working *within* the City of Minneapolis for at least 80 hours annually, that approach was deemed preferable to creating a disincentive by focusing on employers *located* in Minneapolis. The WPG heard extensively from employees working in hospitality, food service, housekeeping, security, and other positions with low rates of access to paid sick time that while their employers may be physically located elsewhere, their work is (and will likely remain within) the City of Minneapolis.

With regard to smaller employers, WPG members have been keenly aware of the twofold burden faced by micro and smaller employers to simply replace workers with other people who are absent, and to bear the additional costs of doing so. Additionally, the WPG wants to ensure that the City of Minneapolis continue to foster economic growth and innovation. Recognizing the particular burden on smaller employers, agreement was reached to give added flexibility to micro-employers and give smaller employers additional time to comply. There was discussion about potential incentives for startups/new employers; however, the WPG is not recommending a specific accommodation for this.

WPG members generally preferred broad coverage with some accommodations versus more narrow coverage and outright "exclusions." To that end, the choice to draw the threshold at employees working 80 hours in a year for a single employer was a balance between other jurisdictions that aim to cover *all* workers with some outright exclusions and other jurisdictions with a much higher threshold, but fewer exclusions or accommodations. Some members also noted that particular industries (e.g., healthcare & hospitality) make greater use of casual work arrangements where some employees only work when they say that they are available and are not obligated to work if they are

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not available. Some consideration may need to be given during the implementation that accommodates these casual arrangements beyond what has been recommended here.

B. Usage

The WPG recommends that the sick time policy include the following recommendations relating to how sick time may be used:

1. Employees may use paid sick time for themselves or for members of their extended families and household. The WPG was in favor of using the City of Minneapolis' definition for "family member" as defined in its Civil Service Rules (Rule 18).
2. Employees may use paid sick time for mental and physical illness or incident, injuries, health conditions, diagnostic and preventive care, The WPG was in favor of also including the use of sick time for safety leave as defined in Minnesota Statute 181.9413[ix]
3. Employers may request documentation of illness/absence from an employee if there is a clear pattern of abuse, with consideration given to employee privacy and disclosure protections.
4. Employees may use paid sick time in increments consistent with current business/payroll practices, as defined by industry standards or existing employer policy.
5. Employees begin to earn paid sick time at commencement of employment. Employees are able to access earned hours after a provisional period, consistent with employer practice, and no longer than 90 days.
6. Existing time-off policies (such as paid time-off (PTO) plans) should be considered in compliance with a City policy if they meet minimum standards established by the City. Minimum standards should be deemed as met if the policy allows an employee to a) access and utilize compensated leave at the same rate and amounts, or greater, than the hours of leave provided in the City's policy and b) allow the employee to use the compensated leave for the same purposes as the usage requirements set forth in the City's policy. Employers may voluntarily present existing policies for review or they may be compelled to produce the same for review as part of a City action.

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Rationale: The WPG's overarching intention here is to balance a desire to affirm & support employers who already offer paid sick leave sufficient to meet or exceed the emerging standard, and to guard against abuses by employers and employees at the extremes. As one listening session attendee noted, "[y]ou can't always legislate good management or good worker behavior." To that end, the WPG sees value in placing some safeguards against misuse of this policy through the language recommended above.

The WPG heard specifically from the Hmong, Somali, and Native American communities that broad definition of extended family/household would be very helpful to them in meeting expectations for tending to family and others within their communities during times of illness. The WPG also heard compelling stories of workers suffering from domestic violence situations and being unable to seek medical or other supportive/legal assistance for lack of available time off from work. For this reason, the WPG supports adopting the current City of Minneapolis standards outlined in the Civil Service Rules, which expressly adopt the Minnesota statute relating to safety leave.

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C. Accrual Mechanism

With regard to the accrual mechanism, the WPG recommends the following:

1. Employees should accrue sick time at the rate of 1 hour earned for every 30 hours worked.
2. Exempt (salaried) employees are considered to work 40 hours per week for purposes of accrual, unless there is evidence that they regularly work less than 40 hours per week.
3. Employees should begin earning accrued sick time at the start of employment.
4. Employers should be allowed to place an annual cap on accrual at 48 hours of accrued time.
5. Employees shall be allowed to carryover accrued, unused time up to a total of 80 hours of accrued time (i.e., the employee can "bank" up to 80 hours). Employers are not required to pay out unused time upon termination of employment.

Rationale: The WPG affirmed early on that, indeed, sick time should be *earned* through an accrual mechanism, and there was general agreement that the benefit should accrue at the start of employment with actual usage delayed by a typical 'provisional period.' This delay also addressed concerns about usage for short-duration employment (e.g., seasonal work).

The accrual rate recommended here is an emerging standard based on other jurisdictions around the country. The annual accrual cap and the total accrual cap represent a compromise position reached by the WPG to allow employees access to roughly 6 days of sick time annually and the ability to carry up to 10 days over time. The challenge here is to craft a policy that allows enough sick time to be meaningful for employees, appropriately responsive to public health guidance and not overly burdensome to employers with a longer-term liability for sick time earned, but not yet used.

Another consideration is the effect on accrual of employees who transfer within a given employer or are rehired by the same employer after a leave of absence, as well as employer succession in cases where the employer changes but the employees do not.

D. Monitoring, Enforcement, & Implementation

The WPG recommends the City of Minneapolis' sick time consider the following recommendations:

1. The City should plan for a broad education effort, with resources dedicated appropriately, for community-based organizations and employer associations to help deliver accurate and easy-to-understand information about rights and responsibilities related to this policy change. Efforts should be community and language-specific, ensuring particular outreach to smaller employers and affected employees, where impact is expected to be most significant.
2. The City should establish a point of contact for which employers and employees can ask for review of policies/actions, including the voluntary review by City staff of existing paid time off policies.
3. The City's policy should explicitly state that employees are protected from retaliation in any form when exercising rights provided under this policy. The WPG also recommends that employers maintain the ability to take disciplinary action if there is a clear pattern of abuse.
4. The City's policy should require employers to display a poster (to be prepared by the City of Minneapolis) in a spot conspicuous and accessible to all employees in English and any other language spoken by at 10 percent of the employer's workforce.

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5. The City's policy should require that employers provide written notice at time of hire, or if already employed, as soon as possible, in English and primary language of the employee provided the department has made available the notice in that language.
6. Employers must maintain relevant records consistent with current practice for two (2) years beyond the current year, unless otherwise required by required by law or regulation.
7. The WPG also recommends that the City of Minneapolis commit resources to ensure an annual outcome evaluation and report to the community on implementation of this policy for at least the first three years of implementation.
8. "To support compliance with the ordinance, the City should prohibit City licensees from contracting for services where the licensee has actual knowledge that the contractor has failed to comply with this earned sick time ordinance. For purposes of this section, "actual knowledge" means information obtained by the licensee's management that the contractor has been cited by the City within the past 12 months for noncompliance with this earned sick time ordinance and has failed to present the licensee's management with credible evidence that such noncompliance has been cured going forward. "
9. The City should pursue and support a partnership approach with employer and employee representation to assist in shaping the goals for sick time coverage and encouragement for adoption of established policies. The City's own compliance effort will complement this partnership by establishing a range of compliance-focused remedies, including the imposition of economic penalties/sanctions consistent with City practice for those who fail to comply with the policy after a period of time to be determined by Council.
   NOTE: this provision could be a non-ordinance mandated alternative to points 1-7 above or could be advocated for initially with some additional elements of above – a hybrid approach.
   This item needs discussion and vote on for inclusion, modification or removal

Rationale: A major point of deliberation among WPG members was the enforcement approach to this policy. Some WPG members advanced an alternative proposal that this policy be entirely voluntary, with incentives to employers for meeting the minimum (or exceeding) standard set by this policy. Examples of such incentives included recognition among business peers. While there was strong appreciation for this approach, WPG members heard from many perspectives that with no mandate or enforcement, it would be difficult to improve upon current practice and actively address the public health and access concerns expressed by so many employees and employers alike.

> *"[Minneapolis] is a great, progressive city and ensuring that people can take time off of work when they are ill is essential to the city's well being"* – public comment received

The WPG had extensive discussion about the "tone" of implementation after a policy is established. In its deliberation and communication about a paid sick time policy, the City should take care to provide assurance to employers large and small that are already offering sufficient paid sick leave that the City's implementation and enforcement approach will respect existing good practice. How this is conveyed in subsequent communication is a nuance that is best left to City leaders to shape in the implementation phase.

E. Supplemental Recommendations

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During the WPG's deliberations, members identified several additional recommendations that we ask the City of Minneapolis consider:

1. The WPG heard a good deal from smaller employers about the difficulties of operating a small business or firm in Minneapolis. Members recommend the City of Minneapolis explore and pursue the creation of a staffed Office for Small Business in Minneapolis that would foster the growth of small employers in Minneapolis by providing support in the navigation of City processes.
2. The WPG also heard the broad sentiment that this policy is also addressing a larger set of issues related to poverty, racial equity, and business competitiveness. There was interest in a broader approach in which the City of Minneapolis would explore over the longer-term a payroll tax fund that would pay (in full or in part) sick time for all workers in Minneapolis. The WPG recognizes that this is a longer-term exploration that would ultimately require state legislative approval.
3. While beyond the scope of this group's initial charge, the WPG also heard from community a need to explore and encourage bereavement policies that include culturally appropriate practices and recognition of extended family and community relationships.
4. The WPG heard significant concern from some nonprofit employers that rely on government reimbursement for services. Particularly in areas such as long-term care, care for people with disabilities, and child care, services that are directly reimbursed by government are often done so at rates which do not increase when the cost of service increases, as would occur with providing increased sick time. The City of Minneapolis should advocate for increased state reimbursement rates for such services in order to offset the expected cost increase as a result of sick time.

III. CONCLUSION

The WPG quickly grew to appreciate the complexity of this issue, and has done its best to provide sound recommendations to the City Council for this process to move forward. There is wide agreement that employees with no access to paid sick time would likely benefit from such access and general, though unproven, consensus, that workplaces generally would likely benefit broadly by way of less turnover, improved morale, increased ability to recruit and retain talent, and increased health and safety within the jobsite. The WPG has sought in these recommendations to put forward a balanced approach that both provides access to paid sick time and minimizes the administrative burden of doing so.

We appreciate the City Council engaging the WPG to provide its recommendations, and strongly encourage the passage of a policy that reflects the deliberate and careful consideration of the WPG's recommendations.

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This report was approved by unanimous vote and is presented to:
Minneapolis City Council
Committee of the Whole — The Hon. Elizabeth Glidden, Chair
Wednesday, March 16, 2016

The report is prepared by the Workplace Regulations Partnership Group:

Liz Doyle, Chair

Jim Rowader, Vice-Chair

Members

Susie Brown
Steve Cramer
Faisal A. Mohamud Deri
Brian K. Elliott
Dayna Frank
Chelsie Glaubitz Gabiou
Stephanie Gasca
Molly Glasgow
Ron Harris
Abdirahman Kahin
Tony Lacroix-Dalluhn
Guillermo Alexander Lindsay
Wade Luneburg
Sarah Webster Norton
Bruce Nustad
Christopher Carl Pennock
Danny Schwartzman

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Specific staff who contributed to listening sessions, business meetings, research, and other support include: Abdirashid Ahmed, Sasha Bergman, Devin Bruce, Mageen Caines, Andrew Dahl, Peter Ebnet, Mariano Espinoza, David Frank, Peter Ginder, Jackie Hanson, Anissa Hollingshead, Grant Johnson, Tina Kendrick, Ayianna Kennerly, Haila Maze, Peggy Menshek, Nick Ngo, Linda Roberts, Christian Rummelhoff, Josh Schaffer, Susan Trammell, Brian Walsh, Grant Wilson, and Michael Yang. Special thanks to the following folks for leading the efforts and providing the WPG with the support and assistance they needed to perform their work:

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- Casey Carl, City Clerk
- Gretchen Musicant, Commissioner, Minneapolis Department of Health
- David Rubedor, Director, Minneapolis Neighborhood & Community Relations
- Luke Weisberg & Robbie Seltzer, LukeWorks, LLC

[i] US Census, LEHD data, 2013
[ii] US Census, LEHD data, 2013
[iii] US Census, LEHD data, 2013
[iv] Minneapolis Department of Health briefing paper, August 2015
[v] Analysis by WPG staff team, drawn from US Census, LEHD data, 2013
[vi] Citation pending.
[vii] US Census data, analyzed by CPED staff, available at: http://www.ci.minneapolis.mn.us/cped/data
[viii] US Department of Commerce data, analyzed by CPED staff, available at: http://www.ci.minneapolis.mn.us/cped/data

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[ix] This is also consistent with existing City of Minneapolis civil service rules

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