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## Policy Brief September 2017

By Paul Gessing

On October 3, 2017, voters in the City of Albuquerque will be asked to vote on an initiative that mandates and proscribes a detailed sick leave policy for ALL employers doing business in the City. While providing sick leave may seem like a great idea on its face and something that all right-thinking citizens should support, the reality is not so simple.

Because the ballot measure is seven pages long and will not likely be read in detail by voters, the Rio Grande Foundation has put together a “fact of the day” so as to [explain the initiative](#) and its impacts in detail but in a clear, easily-digestible format. This document contains the emails that will be sent out every week day until Election Day.

Early voting begins on September 13 and runs until the 29<sup>th</sup>. [More information about how and where to vote can be found here.](#) Please forward this information along to friends and neighbors who live in our City and encourage them to vote. These elections tend to have low voter turnout so every vote counts!

- 1) It is increasingly common for employers to offer blanket “paid time off” policies that encompass vacation, personal days, and sick leave.<sup>1</sup> **This law will require all businesses to alter their paid leave policies.**<sup>2</sup>

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<sup>1</sup> Nikelle Murphy, “Why so many employers are getting rid of sick days,” *Money & Career Cheat Sheet*, September 4, 2016, <http://www.cheatsheet.com/money-career/why-employers-getting-rid-sick-days.html/?ref=YF&ypr=yahoo>.

<sup>2</sup> Jason Espinoza and Lynne Anderson, “Paid Sick Leave Proposal Can Only Hurt Albuquerque,” *Albuquerque Journal*, July 10, 2016, <https://www.abqjournal.com/805366/paid-sick-leave-proposal-can-only-hurt-albuquerque.html>.

## Why So Many Employers Are Getting Rid of Sick Days

Nikelle Murphy | MORE ARTICLES

July 31, 2017



- 2) Anytime an employer disciplines a worker within 90 days of that employee having taken sick-leave the law presumes the employer is retaliating against the employee for taking sick leave.<sup>3</sup> This law means full employment for lawyers and disaster for any business in the City.

under this Ordinance or has in good faith alleged violations of this Ordinance, whether mistakenly or not. There shall be a rebuttable presumption of a violation of this section whenever an employer takes any adverse action against a person who, within 90 days, exercised rights protected under this Ordinance or has in good faith alleged violations of this Ordinance, whether mistakenly or not. An employer shall not require an employee to find a

- 3) The proposed sick leave mandate would impact all workers and all employers in Albuquerque. **There is no exemption** for small businesses, not-for-profits, or organizations like Goodwill that hire disabled workers.
- 4) Connecticut has a paid sick leave mandate, but the law exempts employers with 49 or fewer employees.<sup>4</sup> Albuquerque’s law applies to all businesses no matter how small, and all employees including temporary and part-time employees.

<sup>3</sup> Screen shot of page 5 of proposed ordinance.

<sup>4</sup> “Guidance from the Connecticut Department of Labor Regarding Paid Sick Leave,” <https://www.ctdol.state.ct.us/wgwkstnd/SickLeaveGuidance.pdf>.

## LAW – COVERED EMPLOYERS

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- **Sec. 1(4) "Employer" - means any person, firm, business, educational institution, nonprofit agency, corporation, limited liability company or other entity**
  - **that employs 50 or more individuals in the state in any one quarter in the previous year, which shall be determined on January first, annually**



- 5) Workers will be negatively impacted. A study of Connecticut's sick leave law found that younger employees can expect to have a 24-hour reduction in annual hours worked. That's the equivalent of roughly one lost week of work per year with \$850 per year in annual income lost.<sup>5</sup>



- 6) The ballot measure specifically exempts labor unions from the law.<sup>6</sup>

- 1 this Ordinance shall not apply to employees covered by that collective
- 2 bargaining agreement.

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<sup>5</sup> Dr. Thomas Ahn, "The Labor Market Impacts of Paid Sick Leave," Employment Policies Institute, August 2016, [https://www.epionline.org/wp-content/uploads/2016/08/160706\\_EPI\\_LaborMarketImpactPaidSickLeave\\_August-1.pdf](https://www.epionline.org/wp-content/uploads/2016/08/160706_EPI_LaborMarketImpactPaidSickLeave_August-1.pdf).

<sup>6</sup> Page 6 of proposed Albuquerque Sick Leave measure, <https://healthyworkforceabqdotorg.files.wordpress.com/2016/04/albuquerque-healthy-workforce-initiative-2016-5-09-final-without-resolution.pdf>.

- 7) In 2011 Denver voters rejected mandatory sick leave by a resounding 64 to 36 percent.<sup>7</sup>

#### DP Denver voters reject Initiative 300 mandatory...

Denver voters strongly rejected the idea of mandatory paid sick-leave for all employees tonight.

The issue was failing 64.5 percent to 35.5 percent with majority of ballots counted.

- 8) The Mayor of Denver and Governor of Colorado, Michael Hancock and John Hickenlooper, (both Democrats) actively and publicly opposed the paid sick leave mandate on the grounds that it would make Denver “less competitive.” A majority of the Democrat-controlled City Council was also opposed.<sup>8</sup>

#### Denver Mayor Against Paid Sick Days Ballot Initiative

August 18, 2011 2:47 PM



Denver Mayor Michael Hancock gives his State of the City address (credit: CBS)

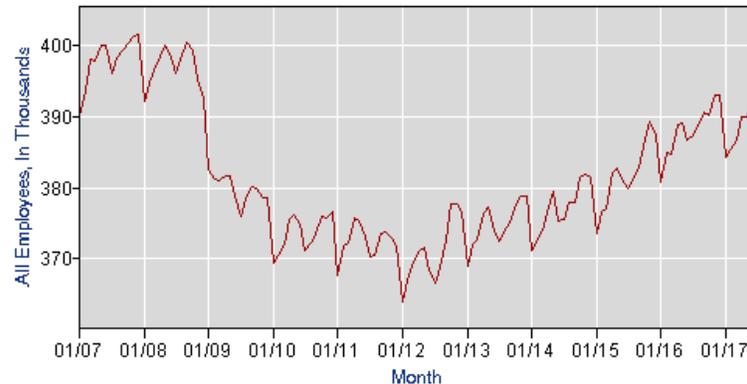
**f** DENVER (CBS4)- Denver Mayor Michael Hancock is against a ballot initiative that would require all [businesses](#) to provide paid sick leave for employees.



<sup>7</sup> Ballotpedia, “Denver City Paid Sick Leave Measure, (November 2011)” [https://ballotpedia.org/Denver\\_City\\_Paid\\_Sick\\_Leave\\_Measure\\_\(November\\_2011\)](https://ballotpedia.org/Denver_City_Paid_Sick_Leave_Measure_(November_2011)).

<sup>8</sup> CBS 4 Denver, “Denver Mayor Against Paid Sick Days Ballot Measure,” <http://denver.cbslocal.com/2011/08/18/denver-mayor-against-paid-sick-days-ballot-initiative/>.

- 9) Mandatory paid sick leave costs taxpayers money. Analysts said that it would cost the City and County governments of Denver about \$700,000 just to comply with the ordinance.<sup>9</sup>
- 10) The City of Albuquerque today has *thousands fewer jobs* than it did 10 years ago in September of 2007.<sup>10</sup> How is adding another job-killing mandate going to help get people back to work?



- 11) As written, Albuquerque’s paid sick leave mandate illegally attempts to tie the hands of future policymakers by prohibiting them from changing the law even if it doesn’t work. This is an illegal provision that will also generate legal costs for the City of Albuquerque.

**§ 13-16-11 AMENDMENT BY CITY COUNCIL.** This Chapter may be amended by the City Council without a vote of the people as regards the implementation or enforcement thereof, in order to achieve the purposes of this Chapter, but not in a manner that alters the effective date or lessens the substantive requirements of this Chapter or its scope of coverage.

- 12) Denver where 64 percent of voters rejected paid sick leave in 2011 is ranked by the Census Bureau as America’s fastest-growing large city.<sup>11</sup> Shouldn’t Albuquerque learn from more successful cities like Denver?

<sup>9</sup> Jeremy Meyer, *Denver Post*, <http://blogs.denverpost.com/thespot/2011/09/26/six-denver-councilmembers-sign-letter-opposing-the-paid-sick-leave-initiative/40717/>

<sup>10</sup> Bureau of Labor Statistics, “Albuquerque Employment,” [https://data.bls.gov/timeseries/SMU35107400000000001?amp%253bdata\\_tool=XGtable&output\\_view=dat a&include\\_graphs=true](https://data.bls.gov/timeseries/SMU35107400000000001?amp%253bdata_tool=XGtable&output_view=dat a&include_graphs=true).

<sup>11</sup> Allison Sylte, *KUSA*, <http://www.9news.com/news/local/census-denver-fastest-growing-city-in-the-us/205616555>



- 13) Denver has a much lower unemployment rate than Albuquerque. Albuquerque, on the other hand, is losing population. Placing more mandates on local businesses won't help create jobs.

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## Why Denver over ABQ?

By Ellen Marks / Assistant Business Editor  
Monday, July 24th, 2017 at 12:05am

- 14) Ole' is the same group that promised to make Albuquerque's economy better by increasing the minimum wage, thereby putting more money in the economy back in 2012. We can all agree this didn't happen.<sup>12</sup>

<sup>12</sup> Adriana Sanchez, *El Grito*, <http://www.elgritonm.org/2012/11/07/voters-increase-albuquerque-minimum-wage/>



Albuquerque voters overwhelmingly agreed yesterday with the idea that minimum wage workers deserve a raise, with 66 percent voting for an initiative on the ballot that increases the wage in the city by a dollar to \$8.50, beginning in January. The wage would then be automatically adjusted in the future for inflation. The measure also gradually raises the wage for tipped employees from \$ 2.13 to 60 percent of the new minimum wage in 2014.

New Mexico Voices for Children published a report recently that says raising the minimum wage from \$7.50 to \$8.50 an hour would generate \$29 million in additional wages, put \$18 million into the economy and create 160 jobs in the city. Their study states that low-wage workers tend to spend all of their earnings on day to day necessities, most of which is spent in the local economy, leading to new jobs. The study also states that the "vast majority" of workers

who would benefit from the raise are adults (92%) who work more than part-time.

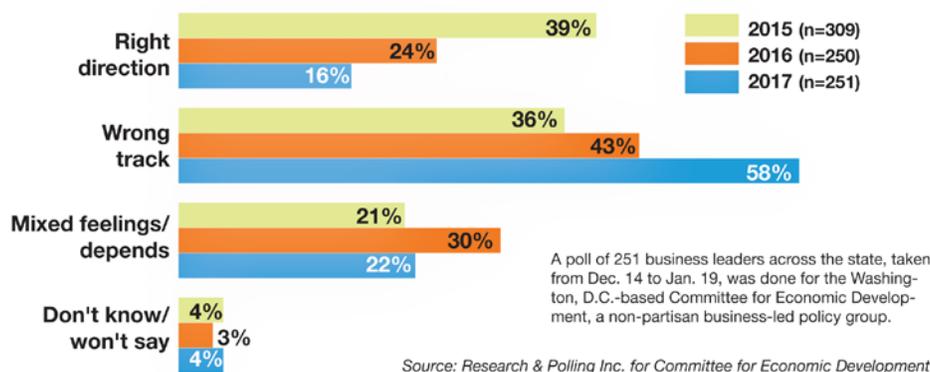
Other groups in the city opposed the measure, saying it would put people out of work. Because of a typo in the wording of the ballot initiative, there has been some speculation that the measure will be challenged in court. But last night, supporters of the measure-self-proclaimed "wage warriors"-were jubilant at a Hotel Andaluz victory party.

"It's not every day that you do something that gives 40,000 people a raise," said Matthew Henderson, Executive Director of Organizers in the Land of Enchantment (Ole), one of the lead campaigners on the measure. "That is the kind of city we live in where one in seven people earn less than \$ 8.50. So it is a huge deal to impact so many families. It's very exciting."

15) There is little evidence to support the claim that workplace illness is reduced following the introduction of sick leave mandates. For instance, a study of San Francisco's paid sick leave law finds that just 3.3 percent of employers reported that the mandate reduced workplace illness. Similar results were reported in Seattle.<sup>13</sup>

16) Sick leave is a benefit offered by businesses in order to attract and retain quality workers in a competitive jobs market. Policymakers need to enact policies that make our State and the City of Albuquerque more attractive for businesses.

Until businesses expand their operations and are in turn forced to compete for workers, pay and compensation will remain lower than it is for workers in other states.



<sup>13</sup> Michael Saltsman, "Sick leave mandate could force employees to work fewer hours," *Albuquerque Journal*, August 4, 2016, <https://www.epionline.org/oped/sick-leave-mandate-could-force-employees-to-work-fewer-hours/>.



ABF Recovery Index

84.6%

as of July 2017

The ABF Recovery Index estimates how close Albuquerque's economy is to full recovery from the recession. The index is the average of seven indicators, including employment, home prices and commercial real estate measures. The index will reach 100 percent when all seven indicators reach their pre-recession peaks for the same month.

17) A City-administered mandatory paid sick leave regime will require costly

enforcement and educational measures. Recently, the City of Seattle's Office of Labor Standards gave 1 million taxpayer dollars to subsidize organizations' efforts "to provide outreach, education and technical assistance to Seattle's workers about their rights" under the city's laws (Seattle has a mandatory paid sick leave law).<sup>14</sup> This doesn't even begin to consider enforcement (read hiring government bureaucrats) and business' compliance costs (lost productivity and added HR staff).

18) According to the *Albuquerque Business First* "Recovery Index" the local economy is "84.6 percent recovered" from the 2008 economic downturn.<sup>15</sup> In other words, the local economy remains far worse off now than it was *nearly a decade ago*. Adding more costs onto the backs of local businesses is NOT going to help the situation.

19) Albuquerque's unemployment rate is 6.2 percent. That ranks us 356 out of 388 metropolitan areas ranked by the Bureau of Labor Statistics. It is time to stop chasing businesses out of our City!<sup>16</sup>

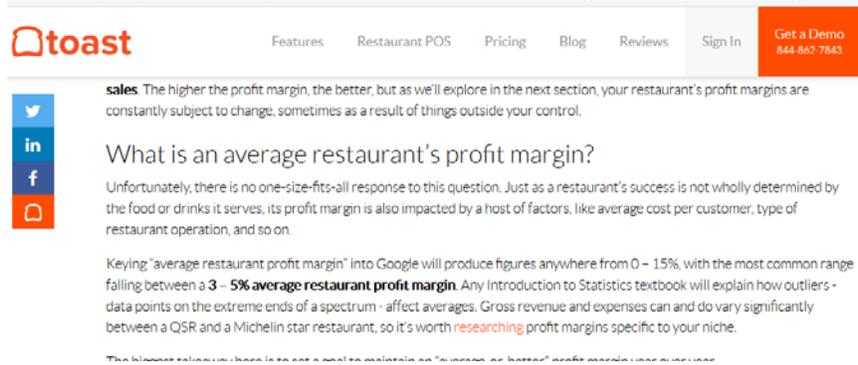
20) Due to the nature of the business, restaurants operate on extremely thin profit margins. Typically those margins range from 3 to 5 percent with chain restaurants

<sup>14</sup> Wading through the changing tide of paid sick leave laws in Washington State, February 29, 2016, <https://www.littler.com/publication-press/publication/wading-through-changing-tide-paid-sick-leave-laws-washington-state>.

<sup>15</sup> See What's Helping and Hurting Albuquerque's Recovery from Recession, July 31, 2017, <https://www.bizjournals.com/albuquerque/news/2017/07/31/see-whats-helping-and-hurting-abqs-recovery-from.html>

<sup>16</sup> Bureau of Labor Statistics, "Local Area Unemployment Rates," <https://www.bls.gov/web/metro/laummtrk.htm>

tending toward the higher end and “mom and pop” restaurants at the lower end. Do we really want to make doing business even harder for small businesses in Albuquerque?



The screenshot shows the top navigation bar of the Toast website with links for Features, Restaurant POS, Pricing, Blog, Reviews, Sign In, and a Get a Demo button with the phone number 844 862 7843. On the left side, there are social media icons for Twitter, LinkedIn, Facebook, and a Toast icon. The main content area begins with a paragraph starting with "sales. The higher the profit margin, the better, but as we'll explore in the next section, your restaurant's profit margins are constantly subject to change, sometimes as a result of things outside your control." This is followed by the article title "What is an average restaurant's profit margin?" and a paragraph explaining that there is no one-size-fits-all response and that profit margin is impacted by factors like average cost per customer and restaurant operation. A third paragraph discusses how keying "average restaurant profit margin" into Google produces figures from 0-15%, with a common range of 3-5%, and mentions that an Introduction to Statistics textbook explains outliers. The final paragraph is partially cut off.

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sales. The higher the profit margin, the better, but as we'll explore in the next section, your restaurant's profit margins are constantly subject to change, sometimes as a result of things outside your control.

### What is an average restaurant's profit margin?

Unfortunately, there is no one-size-fits-all response to this question. Just as a restaurant's success is not wholly determined by the food or drinks it serves, its profit margin is also impacted by a host of factors, like average cost per customer, type of restaurant operation, and so on.

Keying "average restaurant profit margin" into Google will produce figures anywhere from 0 – 15%, with the most common range falling between a 3 – 5% average restaurant profit margin. Any Introduction to Statistics textbook will explain how outliers - data points on the extreme ends of a spectrum - affect averages. Gross revenue and expenses can and do vary significantly between a QSR and a Michelin star restaurant, so it's worth researching profit margins specific to your niche.

The highest revenue base is to see a restaurant maintain an "average" or "better" profit margin. Your business