

# RAISING WAGE & BENEFIT STANDARDS

July 2021

## THE CASE FOR LOCAL PAID LEAVE

Paid leave policies ensure that workers can take care of their own or a family member's illness or the arrival of a child without negative financial and workplace impacts. All too often, working people are faced with terrible choices when they or a family member get sick, or when they are trying to bond as a new family: stay home and suffer income loss and negative fallout at work, or go to work and send the kids to school sick. Caregiving responsibilities of all kinds disproportionately fall to women, and the U.S. does not have the infrastructure in place to support hard-working caregivers; the most vulnerable workers often do not have access to any forms of paid leave.<sup>1</sup>

This is an unsustainable public-health situation that has only been exacerbated by a global pandemic. A recent survey conducted by American Enterprise Institute found that one in five working-age adults report needing time away from work since the pandemic but did not take leave, citing an inability to afford loss of income, workload, and fear of job loss or negative action by an employer.<sup>2</sup> The United States is one of only three high-income nations that does not guarantee paid sick leave for workers and the only industrialized country not to have some form of national paid parental leave.<sup>3</sup> As of March 2020, 25 percent of private sector workers in the U.S. had no access to paid sick leave; this was higher for part-time and low-income workers, who may not have access to even unpaid or **job secure leave**.<sup>4</sup>



States that did not provide COVID-19-related sick leave before the Families First Coronavirus Response Act (FFCRA) saw 400 fewer confirmed cases per day after the paid sick leave provision went into place.<sup>5</sup>



Paid leave offers a variety of benefits across the board, including net benefits to private companies in increased productivity and decreased presenteeism, positive effects on child and adult health, employment, and lifetime income.<sup>6</sup>



Studies have proven the positive health and economic effects of local paid leave; Three years after passing the first local paid sick leave ordinance in the United States, San Francisco experienced job growth at a rate five times higher than its neighboring counties, none of which had paid sick leave.<sup>7</sup>

**Across the board, paid leave policies have found positive benefits; however, without a federal framework supported by significant investments, it falls to local governments to advance and to fund the solutions.**



# THE BASICS

It is important to note the different types of leave available to workers. Paid leave includes a variety of different lengths, purposes and funding and can be broken into four different categories: sick, medical, family and parental leave.

The primary differences are length and purpose: sick leave is leave that typically lasts days. It is usually accrued or gained by the hour, based on the number of hours an employee has worked.<sup>8</sup> Notably, paid sick leave needs to be tied into paid sick and **safe** leave, where sick leave can be used for victims of sexual assault, domestic violence, or stalking.

Medical leave can last weeks or months for more serious illnesses, such as cancer. Family and medical leave are similar in length but differ in purpose: medical leave provides workers time off to care for their own disability or serious illness, while family leave enables workers to take time off for caregiving needs. In this situation, broadly defining caregiving and family definitions is important, especially for LGBTQ workers and workers with a disability; in 2019, New Jersey expanded its paid leave program definition of family to include chosen family.<sup>9</sup>

Finally, parental leave includes the ability to take a leave of absence to care for and bond with a new child (including biological, adopted, or foster children).<sup>10</sup> Gender-neutral parental leave has larger positive implications, including reducing the gender wage gap.<sup>11</sup> In fact, men must be actively encouraged to take parental leave;<sup>12</sup> when they do use parental leave, there are downstream benefits in the health and education of their children.<sup>13</sup>

The Family and Medical Leave Act (FMLA) of 1993 is the first federal law on leave-taking; however, it only provides **unpaid**, job-protected family, medical, and parental leave for up to 12 weeks for workers employed in firms with 50 or more employees. Due to strict eligibility requirements, **less than 60%** of private sector workers are eligible for FMLA,<sup>14</sup> and only 14% of civilian workers have access to paid family leave.<sup>15</sup> Federally provided and funded forms of paid leave are not without precedence: the FFCRA contained the first federal- paid sick leave policy in the United States, but the benefits of this act have since expired.

## ✓ SICK LEAVE

Length: Days or weeks. Based on accrual.

Purpose: Short-term illnesses, preventive and routine medical care, safe leave

## ✓ MEDICAL LEAVE

Length: Weeks or months

Purpose: Worker's own serious health condition

## ✓ FAMILY LEAVE

Length: Weeks or months

Purpose: To care for a family member's serious health condition

## ✓ PARENTAL LEAVE

Length: Weeks or months

Purpose: To care for and bond with a new child



# WHY NOW

Enacting paid leave ordinances is a critical issue for city officials today, both during a public health crisis and afterwards.

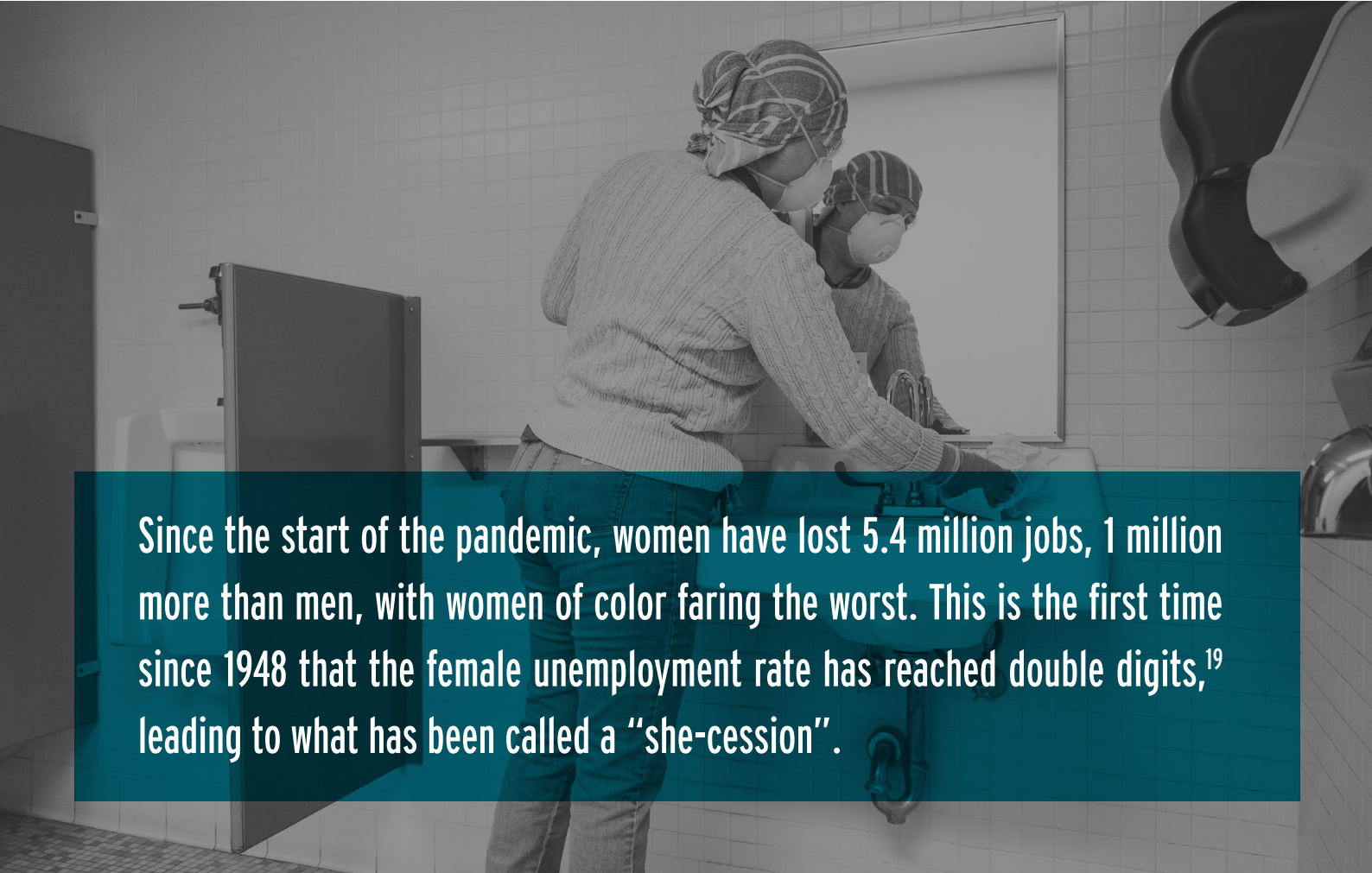


**One in three families** report having no savings at all, and approximately 41% of families did not have enough emergency funding to cover an unexpected \$2,000 expense.<sup>16</sup>

For the average U.S. two-earner family without paid sick leave, taking 3.5 unpaid sick days means **losing a month's worth of groceries**.<sup>17</sup> If workers contract COVID-19 or another communicable disease, this puts them and their families in a precarious situation.



Paid leave has larger connections than just health, economy and budget to the community. Paid sick and safe leave can be used for reasons relating to domestic violence, sexual assault and stalking, and research has shown that those with paid sick time are less likely to be moderate and repeated emergency department users, **an especially relevant issue in overwhelmed ICU hospitals around the United States**.<sup>18</sup>



Since the start of the pandemic, women have lost 5.4 million jobs, 1 million more than men, with women of color faring the worst. This is the first time since 1948 that the female unemployment rate has reached double digits,<sup>19</sup> leading to what has been called a “she-cession”.

The reduction in mothers' work hours will result in an estimated \$64.5 billion economic loss;<sup>20</sup> not only has there been a drop in labor force participation, but there have been increasing mental health impacts.<sup>21</sup> Many policymakers and experts have called on increasing the social safety nets at all scales and implementing policies that support working mothers, so they are not forced to choose between childcare and work.<sup>22</sup> This has implications for the health and well-being of the children of working families. Many families with young children face childcare challenges, reporting a lack of confidence that their childcare needs would be met within a MONTH. Families will likely feel the implications of these disruptions for years, as children face instability in their caretakers, and previously employed mothers and caretakers leave the labor market for the short and potentially long term.<sup>23</sup>

**This issue resonates strongly with voters.** Recent polling conducted on a bipartisan basis shows that there is widespread support for a permanent federal policy of paid sick, parental, family, and medical leave.<sup>24</sup> Voter support for paid sick days pushed undecided and independent voters towards candidates who backed such policies and found widespread support for earned, paid sick leave.<sup>25</sup> A 2017 study conducted by the Pew Research Center found that workers in the United States largely support paid leave of all kinds.<sup>26</sup> Indeed, public support is high, and workers have seen the positive impacts of paid leave; COVID-19 has created a window of opportunity for advancing this issue.

Enacting local paid sick leave ordinances where none have existed before can be a first step in providing equitable paid leave policies. Cities can take the lead in expanding access to or creating different paid leave programs.

# SHORT TERM OPTIONS & IMPACT



## Understand existing state and local laws and costs of inaction

The first step to enacting local paid leave legislation is to understand the existing state and city laws concerning paid leave. In states that already have paid leave policies, some city officials have taken measures to expand existing laws to cover those who are not covered under the FMLA, such as independent contractors, part-time and on-call employees, and telecommuters. While the FFRCA was in place, Philadelphia signed a supplemental emergency regulation that would apply the federal benefits to gig workers and the language provided allows the law to be invoked anytime there is a public health emergency.<sup>27</sup>

## Enact ordinances that expand coverage and purpose

Additionally, 2 years after Washington State passed paid sick leave in 2016, Tacoma officials approved a change to their existing laws to include salaried workers and public officials; bereavement became an acceptable purpose of leave.<sup>28</sup> Many cities and states have been implementing legislation that allows for sick leave to be used specifically for reasons related to COVID-19. In 2003 the Supreme Court ruled that the FMLA covers all state and public employees; however, if your municipality only provides leave through FMLA, medical and parental leave is therefore unpaid.<sup>29</sup> City leaders should confirm they are, in fact, offering paid family and parental leave to their employees.





## Develop and disseminate clarifying guidance

There are other options city officials have undertaken in states and localities that did not have paid leave policies in place before COVID-19. Some short-term responses have included developing and disseminating clarifying guidance on relevant paid leave laws, such as Duluth and the Twin Cities releasing a frequently-asked-questions document in light of COVID-19 related absences<sup>30</sup>. Many workers are unaware of their paid leave rights in states and localities with paid leave laws in place; San Francisco, Tacoma, and Pittsburgh all require workplace notices to be posted in different local languages<sup>31</sup>. Additionally, A Better Balance, a national non-profit, has released Know Your Rights fliers for most localities with paid leave time<sup>32</sup>.

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## In preemption states, take advantage of emergency powers, change the narrative and support laws to repeal paid leave preemption

In some states that preempt local paid leave laws, local governments can take advantage of emergency powers that provide authority to pass sick leave ordinances. In March of 2020, City Council members of Goshen, Indiana amended the city's salary ordinance to include a new emergency paid leave policy that would go into effect any time there was a federal, state, or local declared state of emergency<sup>33</sup>.

Some state legislatures have passed laws that preempt local officials from enacting legislation that would benefit workers, including paid leave. Proponents of preemption argue that it equalizes laws across the state, preventing individuals and firms from navigating a patchwork of regulation. Preemption creates a problem, as it means a loss of local control for cities. Driven by the recommendations of several state leagues, the National League of Cities advises addressing this preemption narrative by avoiding politics in favor of an economic argument. Preemption obstructs cities from being the best drivers of development that they can be<sup>34</sup>. Additionally, Local Solutions Support Center has released a one-pager of steps local governments can take to find out if they have legal authority<sup>35</sup>, as well as a model language bill that can be provided to state legislators to repeal paid leave preemption<sup>36</sup>.

There are many costs of inaction surrounding this topic. Women's labor force participation rates would be higher if the US had the same family-friendly policies as other advanced economies. Researchers estimate as much as \$500 billion in greater economic activity across the nation with that policy change<sup>37</sup>. Additionally, paid leave decreases the probability of job separation and is associated with a significantly lower risk of mortality across a wide range of conditions – during the 2009 H1N1 outbreak, researchers estimated that a lack of workplace policies, most notably paid sick leave, was associated with 5 million additional cases of flu-like illness in the U.S.<sup>38</sup>.



# LONG TERM OPTIONS & IMPACT



## Implement a local paid sick leave ordinance

Implementing a local paid sick leave ordinance can be a first step in providing paid leave to employees in private firms. San Francisco was the first city in the United States to pass a paid sick leave ordinance in 2006, and most paid sick leave laws are based on this model. Most ordinances of this nature need to contend with the following: rate of accrual, when accrual begins and can be used, restrictions (both related to business size and employee type) and legitimate reasons for use.

As a baseline model, San Francisco's ordinance allows for 1 hour of paid sick leave accrual for every 30 hours worked. Accrual of sick leave starts from the first day of employment and can be used starting on the 90<sup>th</sup> day. The bill is tiered for businesses with either more than or less than 10 employees. Businesses with less than 10 employees must allow up to 48 hours of accrual per year; businesses with more than 10 employees must allow for at least up to 72 hours of accrual per year. Employees can use accrual for existing health conditions, preventive care, to take care of a 'designated person' or family member, and for 'safe leave,' which is for an employee who is a victim of domestic violence, sexual assault, or stalking. When the ordinance was passed, if an employer already had a paid sick leave policy in place that provided at least the same accrual rate as city law, the employer did not have to change their policy. Additionally, a survey of San Francisco employers conducted more than three years after the law went into effect found **more than two-thirds of employers supported the law**, and **more than half of covered employees reported some benefit due to the law**.<sup>39</sup>

Smaller sized cities in the Midwest have also had success in passing paid sick leave laws. In 2016, Duluth, Minnesota's City Council established an earned sick and safe time task force that culminated in a paid sick time ordinance 2 years later.<sup>40</sup>

## Expand access to other forms of paid leave

Expanding access to other forms of paid leave, such as paid family, medical or parental leave, is also a policy initiative where cities can take the lead. Due to strict eligibility requirements, the Department of Labor estimates that only 59% of all United States employees were eligible for the unpaid leave that the FMLA provides.<sup>41</sup> Even fewer have access to paid time off for family, medical, or parental leave. While nine states have passed family, medical and parental leave legislation, only one city has passed a version of both family and medical leave, Washington D.C. In 2016 the D.C. City Council passed the Universal Paid Leave Amendment Act (UPLA), which provides up to 16 weeks of partial wage replacement (funded by the D.C. government) split into different ‘qualifying events’: up to 8 weeks to bond with a new child, 6 weeks to care for a family member with a serious health condition, and 2 weeks to care for your own serious health condition.<sup>42</sup> However, the benefits of this act were only available starting July 2020 and are funded through a 0.62% payroll tax imposed on covered employers.<sup>43</sup> The UPLA was passed 8 years after D.C.’s City Council passed the Accrued Sick and Safe Leave Act of 2008, implemented in 2014.

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## Provide FMLA-eligible employees with PAID leave

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While implementing a payroll tax option for paid family leave may be difficult in smaller cities, other options are available. Cities can expand upon the framework given by the FMLA to provide paid family and medical leave to employees currently covered under the FMLA. In 2019, Connecticut passed legislation to provide paid leave in this way.<sup>44</sup> While incomplete, cities can also provide a general business tax credit for employers that provide paid leave, as outlined in the 2017 Tax Cuts and Jobs Act.<sup>45</sup>

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## Raise Local Labor Standards

Another long-term option for local governments to raise local labor standards is through their contracting authorities. Cities can implement executive orders requiring all contractors or subcontractors who work with their city to provide paid leave and fair wage benefits. In 2014, Chicago Mayor Rahm Emanuel required all contractors who worked with the city to pay their workers a fair minimum wage.<sup>46</sup>

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# TALKING POINTS



## Suppression of Workers' Rights

While paid leave is a growing concern in voters' minds, there have been setbacks and challenges to passing legislation. In Denver, a paid sick leave referendum was defeated in 2011 in the wake of strong opposition from the restaurant lobby.<sup>47</sup> In Milwaukee, voters overwhelmingly passed a referendum providing paid sick and safe leave in 2008, but it was later nullified by a state law prohibiting local municipalities from enacting such mandates.<sup>48</sup>

Suppression of worker's rights through preemption has increased dramatically through state enacted legislation since 2013. Currently, 23 states have banned localities from passing paid leave ordinances. This push for preemption laws is backed by the Koch brothers and the American Legislative Exchange Council, a membership organization of state legislators who favor limited government.<sup>49</sup> Some of these states require state-wide paid leave but prohibit cities and counties from establishing requirements that differ or exceed state standards. Opponents of these policies argue that compensatory time, or the practice of allowing an employee to take extra time off from work after working overtime, is a valid alternative. They argue that paid sick leave is a 'job killer' that onerously burdens administrations and employers and provides a competitive advantage to those businesses located outside municipal boundaries.



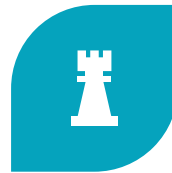
## Paid Leave is Good for Employees

Studies have shown these claims to be untrue - a study about paid sick day laws in Connecticut found that employment levels in key sectors covered by the law rose after three years, while employment levels fell in manufacturing, which is exempt from the law.<sup>50</sup> Additionally, a study of six different locations and their surrounding peer locations found that paid-sick-day laws did not hurt business profitability and did not provide businesses in jurisdictions with paid sick time ordinances a competitive disadvantage relative to peers in surrounding areas.<sup>51</sup>



## Paid Leave is Good for Business

Paid parental leave has been found to be good for business as it is directly tied to employee retention and increased productivity.<sup>52</sup> Paid family and medical leave are associated with a host of benefits, including healthier children and families, increased labor force participation, and economic gains.<sup>53</sup>



## Preemption is Not the End

City leaders should be aware that simply because they may be preempted from requiring one form of paid leave, such as sick leave, they may not be preempted from requiring other forms of paid leave and should seek legal advice from their city attorney to confirm the specifics of their situation.



## Workers are Unaware of their Rights

Another issue concerning the implementation of paid leave policies concerns enforcement and education. Even with the infrastructure in place, many workers, especially those hit hardest by the pandemic, are unaware of their rights. In a 2011 study on California's paid family leave, it was found that low-wage, immigrant, and minority workers were all less likely to be aware of California's paid leave options.<sup>54</sup> This trend has continued under the FFRCA, where the Department of Labor has predominantly relied on employers to notify employees of new benefits and has provided limited oversight and enforcement provisions.<sup>55</sup>

# CONCLUSION

Indeed, COVID-19 has created a window of opportunity for advancing various kinds of paid leave. Local officials can start by understanding the local and state legislative frameworks that surround paid leave benefits and expanding access to those laws. Cities are able to enact a variety of different policies, including:



Expand coverage and purpose of existing paid leave laws, such as expanding paid leave coverage to gig economy workers and including bereavement as an acceptable purpose of paid leave.

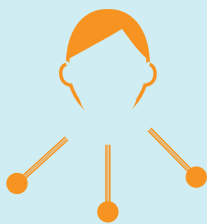


Develop and disseminate clarifying guidance, such as an FAQ document and required workplace notices in different languages on worker's paid leave rights in the city.



Take advantage of emergency powers that provide authority to pass sick leave ordinance, as seen in Goshen, Indiana.

Passing a paid sick leave ordinance where none existed before is a beneficial initial step in the path toward health equity, although a step that may require years to develop, pass, and implement. Cities have long-term options to advance paid leave:



Expanding access to forms of paid leave outside of paid sick leave, including family and medical leave, such as seen in Washington D.C.'s Universal Paid Leave Amendment Act.



Provide individuals eligible for FMLA leave with paid family and medical leave, as seen in Connecticut in 2019.



Raise local labor standards through executive orders requiring all contractors and subcontractors who work with the city to provide paid leave and fair wage benefits.

With benefits to both businesses and families, it is clear that in the ongoing economic recovery and global health situation, providing paid leave is a way forward.

# RESOURCES

1. Tools and resources for paid sick time campaigns (includes model laws, fact sheets): <https://www.abetterbalance.org/resources/tools-and-resources-for-paid-sick-time-campaigns/>
2. Preemption maps by state: <https://www.epi.org/preemption-map/>
3. List of paid sick day statutes by city and state: <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-sick-days/paid-sick-days-statutes.pdf>
4. National Paid Sick Day Coalitions: <http://www.paidicksdays.org/about-us/about-coalition.html#.YA7UIeh-Kg2w>
5. Non-exhaustive list of paid family and parental leave policies for municipal employees: <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-sick-days/paid-family-leave-policies-for-municipal-employees.pdf>
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7. Paid family and sick leave in the U.S.: <https://www.kff.org/womens-health-policy/fact-sheet/paid-family-leave-and-sick-days-in-the-u-s/>
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# ABOUT US

The Mayors Innovation Project is a national learning network for mayors committed to shared prosperity, environmental sustainability, and efficient democratic government.

Around the country, mayors are taking the lead on pressing issues—climate change, racial equity, economic revitalization, housing, and more. The Mayors Innovation Project supports mayors by providing cutting-edge thinking and concrete examples that mayors can implement.

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