

2009 SENATE HUMAN SERVICES

SB 2344

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2344

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-11-09

Recorder Job Number: 9195, 9258

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee opened the hearing on SB 2344 relating to discriminatory practices and exempting the act of breastfeeding from certain offenses.

Senator Richard Marcellais (District 9) introduced SB 2344 as the prime sponsor.

Attachment #1

Senator Tim Mathern (District 11) testified in support of SB 2344 by sharing a personal situation. He said we probably shouldn't need this because its common sense but the law gives some sort of direction. This bill clarifies the public policy that breastfeeding is proper and acceptable.

Joan Connell (Pediatrician, Medical Student Educator, and a Breastfeeding Mother) testified in support of SB 2344. Attachment #2

Senator Dever stated that it seems to him it is common sense as long as it's done discreetly.

Dr. Connell agreed and said it is a societal flaw that people perceive it as having a sexual connotation. She didn't have any concerns with nudity resulting from this bill but did have hopes of a healthier generation.

Dr. Todd Twogood (American Academy of Pediatrics) testified in support of SB 2344.

An important element of this bill is advocating for breastfeeding women in the workplace.

82% of moms initiated breastfeeding leaving a newborn nursery. Within a two month visit, that was reduced by 27%. The number one common cited problem for that was that they couldn't do it at work. They said it wasn't allowed or they had to do it on their break in the bathroom.

Senator J. Lee thought the objection in the past was the mandates placed on employers. She didn't see anything in this bill that would require the businesses to do that. It just says that in order to get the designation as a mom friendly place they could go the extra mile and provide these accommodations.

Jessica Gilbertson (a Mother) testified in support of SB 2344. Attachment #3

Kim Hinnenkamp (Breastfeeding Coordinator, ND Department of Health's Special Nutrition Program for WIC) testified in support of SB 2344. Attachment #4

Senator J. Lee asked how other states with the infant friendly designation fund and implement it.

Ms. Hinnenkamp replied that most states have statewide breastfeeding coalitions. Some are run through those, some through the Department of Health.

Senator Erbele asked if there are any penalties for discriminating.

Ms. Hinnenkamp wasn't sure.

Senator Dever suggested that if they delete subsection 2 and section 6 their concerns would be addressed.

Ms. Hinnenkamp said yes.

Senator J. Lee offered that it seemed this would be a voluntary designation.

Karen Ehrens (Licensed Registered Dietitian) spoke in support of SB 2344. Attachment #5

There was no opposing testimony.

Lisa Fair McEvers (Commissioner of Labor) provided neutral testimony. Attachment #6

Senator J. Lee asked if she had any recommendations for language to clarify some of her concerns.

Ms. McEvers said if something was added to the first sentence on page 3 indicating when it should be allowed. Currently ND law employers are not required to give breaks in all instances. As it is written now it is confusing to what is intended. She also pointed out that there are some workplaces that are dangerous or dirty or otherwise inappropriate for a child to be breastfed or for expressing milk.

The hearing on SB 2344 was closed.

Job #9258

Committee discussion took place on discrimination and trying to find a way to accommodate nursing moms.

Senator J. Lee stated that she had the feeling the committee was heading in the same direction – they would like to make sure they can do whatever they can to make it easier for mothers to be able to feed their babies in appropriate places in discreet ways.

She offered to go to legislative council to get something drafted to address some of their concerns as a place to start.

Senator Erbele said there was an area that was of concern to him. There is an element that it is their right and some will flaunt it as their right. He felt they should still be as discreet as possible. It can be a distraction to those people around them.

Discussion continued on wording and other changes that could be made.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2344

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-16-09

Recorder Job Number: 9521, 9563

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee reported that she had talked to legislative council about how this could be made more appropriate. She provided an amendment for the committee to consider as a place to start. Attachment #7 She explained the amendment and the committee discussed it.

There was indication that the amendments were an improvement but maybe not necessary.

Senator J. Lee said she wasn't sure all of this was legislatable.

The idea for the bill came about from some legal action.

Senator J. Lee asked Senator Marcellais, as the sponsor of the bill, if he felt these amendments might still do what he was looking to do without being in the discrimination section.

Senator Marcellais answered yes. They just don't want it to be against the law to breastfeed in public is all it is.

Senator Heckaman said those sections were workable for employers and weren't bad.

Senator Dever agreed but asked why it is necessary to put it in the century code. The health department could say they are going to create an infant friendly designation in order to promote it.

There was detailed discussion on what should be included and what could be deleted.

The intern will work with legislative council to come up with the correct wording for establishing guidelines for an infant friendly workplace.

The nuisance section was discussed as well as specifying "discreetly" in sections 1, 2, and 3.

The committee was recessed to wait for a draft of the amendment.

Job #9563

The committee reconvened to address the amendment drafted by the intern.

The intern explained why discreetly was not put in section 1.

After detailed discussion on comparing the newly drafted amendment with the bill the committee came to agreement to eliminate sections 1, 3, 4, and 7, to add discreet and modest manner in the appropriate places, to eliminate discriminatory practices, and to address infant friendly designations in the workplace.

Senator Heckaman move to **adopt the amendments as discussed.**

Seconded by **Senator Erbele.**

Roll call vote 6-0-0. **Amendment adopted.**

Senator Heckaman moved a **Do Pass as Amended.**

Seconded by **Senator Erbele.**

Roll call vote 6-0-0. **Motion carried.**

Carrier is **Senator J. Lee.**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 1, line 1, replace "a new section to chapter 14-02.4 and a" with "two" and replace "section" with "sections"

Page 1, line 3, remove "14-02.4-02(18),"

Page 1, line 4, replace "discriminatory practices" with "the right to breastfeed"

Page 2, remove lines 18 through 20

Page 2, line 21, replace "A new section to chapter 14-02.4 is created" with "Two new sections to chapter 23-12 of the North Dakota Century Code are created and enacted as follows"

Page 2, line 22, remove "Discriminatory practices"

Page 2, line 23, remove "1." and after the underscored comma insert "if the woman acts in a discreet and modest manner"

Page 2, remove lines 27 through 30

Page 3, remove lines 1 through 6

Page 3, line 8, remove "1."

Page 3, line 9, replace "has an approved" with "adopts a" and replace "addresses at" with "includes"

Page 3, line 10, remove "least"

Page 3, line 11, replace "a." with "1."

Page 3, line 13, replace "b." with "2."

Page 3, line 15, replace "c." with "3."

Page 3, line 18, replace "d." with "4."

Page 3, remove lines 20 through 24

Renumber accordingly

PROPOSED AMENDMENTS FOR SB 2344

Page 1, line 1, replace "a new section to chapter 14-02.4 and a" with "two" and replace "section" with "sections"

Page 1, line 3, after the second comma insert "and" and remove "14-02.4-02(18), and 42-01-01"

Page 1, line 4, replace "discriminatory practices" with "the right to breastfeed"

Page 2, line 6, after "Woman" insert "discreetly"

Page 2, line 17, after "Woman" insert "discreetly"

Page 2, remove lines 18 through 20

Page 2, line 21, replace "A new section to chapter 14-02.4 is created" with "Two new sections to chapter 23-12 of the North Dakota Century Code are created and enacted as follows"

Page 2, line 22, remove "-Discriminatory practices"

Page 2, line 23, remove "1." And after the underscored comma insert "if the woman acts in a discreet and modest manner"

Page 2, remove lines 27 through 30

Page 3, remove lines 1 through 6

Page 3, line 9, replace "has an approved" with "adopts a" and replace "addresses at" with "includes"

Page 3, line 10, remove "least"

Page 3, replace lines 20 through 30 with:

"2. The health department shall establish guidelines for employers concerning workplace breastfeeding and infant friendly designations."

Page 4, remove lines 1 through 5

Re-number accordingly

February 16, 2009

JB
2-17-09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 1, line 1, replace "a new section to chapter 14-02.4 and a" with "two" and replace the second "section" with "sections"

Page 1, line 3, replace "sections 12.1-20-02(4)," with "section" and remove ", 12.1-27.1-11, 14-02.4-02(18), and 42-01-01"

Page 1, line 4, remove "discriminatory practices and"

Page 1, line 5, replace "certain offenses" with "the offense of indecent exposure"

Page 1, remove lines 7 through 12

Page 2, line 6, after "woman" insert "discreetly"

Page 2, remove lines 7 through 20

Page 2, line 21, replace "A new section to chapter 14-02.4 is created" with "Two new sections to chapter 23-12 of the North Dakota Century Code are created and enacted as follows"

Page 2, line 22, remove "- Discriminatory practices"

Page 2, line 23, replace "1. Except for the private home or residence of another" with "If the woman acts in a discreet and modest manner"

Page 2, line 25, replace ", irrespective of whether the nipple of the woman's breast is" with an underscored period

Page 2, remove lines 26 through 30

Page 3, remove lines 1 through 6

Page 3, line 9, replace "has an approved" with "adopts a" and replace "addresses at" with "includes"

Page 3, line 10, remove "least"

Page 3, replace lines 20 through 30 with:

"2. The state department of health shall establish guidelines for employers concerning workplace breastfeeding and infant friendly designations."

Page 4, remove lines 1 through 5

Renumber accordingly

Date: 2-16-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2344

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number Amendment as discussed

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Heckaman Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-16-09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2344

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Heckaman Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator J. Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2344: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2344 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "a new section to chapter 14-02.4 and a" with "two" and replace the second "section" with "sections"

Page 1, line 3, replace "sections 12.1-20-02(4)," with "section" and remove ", 12.1-27.1-11, 14-02.4-02(18), and 42-01-01"

Page 1, line 4, remove "discriminatory practices and"

Page 1, line 5, replace "certain offenses" with "the offense of indecent exposure"

Page 1, remove lines 7 through 12

Page 2, line 6, after "woman" insert "discreetly"

Page 2, remove lines 7 through 20

Page 2, line 21, replace "A new section to chapter 14-02.4 is created" with "Two new sections to chapter 23-12 of the North Dakota Century Code are created and enacted as follows"

Page 2, line 22, remove "- Discriminatory practices"

Page 2, line 23, replace "1. Except for the private home or residence of another" with "If the woman acts in a discreet and modest manner"

Page 2, line 25, replace ", irrespective of whether the nipple of the woman's breast is" with an underscored period

Page 2, remove lines 26 through 30

Page 3, remove lines 1 through 6

Page 3, line 9, replace "has an approved" with "adopts a" and replace "addresses at" with "includes"

Page 3, line 10, remove "least"

Page 3, replace lines 20 through 30 with:

"2. The state department of health shall establish guidelines for employers concerning workplace breastfeeding and infant friendly designations."

Page 4, remove lines 1 through 5

Renumber accordingly

2009 HOUSE HUMAN SERVICES

SB 2344

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2344

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 17, 2009

Recorder Job Number: #2344

Committee Clerk Signature

Marlyp Kienzler

Minutes:

Vice Chairman Pietch: Opened the hearing for SB 2344.

Sen. Marcellais: I am the Senator from District # 9. I am sponsoring this bill.

Testimony attachment #1

Rep Porter: I was wondering in section 2, if the Turtle Mountain Band of Chippewa has adopted this same law?

Sen. Marcellais: Not yet but they will.

Rep Porter: Has it been presented?

Sen. Marcellais: It hasn't been presented before the council.

Terri Poitra: A single mother of three children and a member of the Turtle Mountain Band of Chippewa.

Testimony attachment #2

I also would like to answer a question asked of Sen. Marcellais. I spoke with the previous chairman and I offered to present that they could adopt. However they were for breastfeeding he was not for progress. Richard Marcellais is for progress. I do know that they will get this adopted on the reservation. Not only will they be protecting everyone in the state but we need to protect our own people.

Rep Conrad: How long does it take to express the milk on the job?

Terri Poitra: It actually took me 15 minutes with a double breast pump and 5 minutes to clean the equipment.

Joan Connell: I am a native North Dakotan, a pediatrician and medical student educator.

Testimony attachment #3

Kim Hinnenkamp: I am the breastfeeding coordinator for the North Dakota Department of Health's Special Nutrition Program for Women Infants and Children.

Testimony attachment #4

Karen Ehrens: I am a Licensed Registered Dietitian.

Testimony attachment #5

Rep Conrad: Have you talked to any employers about this? Have you found any resistance among employers?

Karen Ehrens: There are certain employers who may not have all the information that it does take a very short amount of time. So there may be concerns about the amount of time it may take and until they become aware of the little time it does take they will be more in tuned with it. I do realize that it may not work in every work place but in the majority of work place.

Connie Hildebrand: I am the State and the Nation Public Quality Chair for the Association of the University of Women. It is very important for all women to achieve self sufficiency. To achieve these goal women need to a wellness friendly workplace and aid in creating work environments that help balance responsibilities of working families as well as Public Policy. It is good for the employers and the families. We want great work place, we want healthy North Dakota babies so please support this bill.

Pat Sauer: A Bismarck native.

Testimony attachment #6

Alyse Eerbele: I am a breastfeeding mother.

Testimony attachment #7

Rep Conrad: You referred to the Missouri language with as much discretion as possible. Is that acceptable to you?

Alyse Eerbele: Yes. It sometimes is impossible but kids are wiggly.

Rep Holman: What if we pulled those words out off the engrossed bill?

Alyse Eerbele: That is a good question. That is not the only change, is the protection of breast pumping mothers was drastically changed. She did discuss some other drastic changes that was concerning it as indecent exposure and related to sex but was not totally audible.

Ken Yantis: (the spelling may be incorrect as unable to see correct spelling on the registration sheet). I have 2 daughters and nine grandchildren and 2 great grandchildren that I care very deeply about. I feel this bill will help what my daughter needs and am in support of the bill.

Terri Poitra: I was not here for the first presenting of the bill. I was actually the person who looked at the other states and copied down the bills to support breastfeeding. I covered every area that if the nipple showed or if the breast showed it would protect the mother and help the baby. To hear that they changed it upset me because that is not what we wanted. I wanted to protect people in the state from other people who would think it is wrong when it is not. The original bill was a protection bill and should not have changed. There should be the enforcement. What good is a law if there is no enforcement.

I support the original bill.

Vice Chairman Pietch: No opposition so the hearing is closed.

2009 HOUSE STANDING COMMITTEE MINUTES

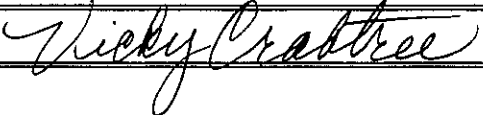
Bill/Resolution No. 2344

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 23, 2009

Recorder Job Number: 11386

Committee Clerk Signature	
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Minutes:

Chairman Weisz: Let's take up 2344, the breastfeeding bill.

Rep. Pietsch: What I got out of the testimony was, they were very supportive of it, but they didn't like the way the bill was written. They preferred the original wording. Most of the ladies that testified didn't support the current bill. Did I get it right? It's a matter whether we want to leave it as is or return to original wording.

Rep. Potter: Of we went with the engrossed version that they would be comfortable with that if we took out on the second page, section 2, "discrete and modest", but they really still preferred the first version is what I kind of got.

Rep. Porter: The first version without the discrete and modest portion of it could really be viewed as a mandate back into the small business across the state and it wouldn't allow for someone even if it wasn't meant to be a side show inside of a business, it certainly could cause quite a disturbance inside of areas like shopping malls and other larger areas. I think the reason why the Senate did that was so there still was a level of discreteness that upon the woman who was doing the breastfeeding or pumping or both. That language on the first version of the bill on page 2 section 5 really lays out the ground work for what the original intent of the bill. I couldn't support the original intent of the bill. One of my other concerns of

the bill itself is that where the actual incident happened based on high levels of security inside of a casino owned by and Indian Tribe on this bill means absolutely nothing. The Tribal Chairman is the sponsor of the bill and says they are working on something too, but where the bill really came in and where the person talking about the bill in front of the committee talked about the cameras and security systems and couldn't go any place because of the cameras in the casino that this doesn't change anything.

Rep. Holman: As a business owner, lines 11 through 14 or 15 on page 2. Unless I'm reading it wrong, there are no restrictions on the size of the business.

Chairman Weisz: They don't have to do it. It is not a mandate.

Rep. Conrad: I was one of the sponsors of this bill and I didn't initiate it (Inaudible) very pleased to sign on because over the years I've had a number of women comment (inaudible)

and then in the conversation they say I was discrete and modest, I just want to be able to do it. And so I have no problem with this bill as a sponsor the way the Senate passed it out. That was my intent as a sponsor.

Rep. Conrad: Motion for a Do Pass.

Rep. Holman: Second.

Roll Call Vote: 12 yes, 1 no, 0 nay.

BILL CARRIER: Rep. Conrad

Date: 3-23-09

Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2344

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Rep. Conrad Seconded By Rep. Holman

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH		✓	REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 12 No 1

Absent 0

Bill Carrier Rep. Conrad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 23, 2009 12:40 p.m.

Module No: HR-52-5545
Carrier: Conrad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2344, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).
Engrossed SB 2344 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2344

Testimony
Senate Bill No. 2344 – relating to breastfeeding
Human Services Committee
Senator Lee, Chairman
February 11, 2009 @ 10:30 AM

#1
*Same given
to House.*

Madam Chair, members of the Human Services Committee, for the record is my name is Richard Marcellais, Senator from District 9, Rolette County and Turtle Mountain Band of Chippewa Tribal Chairman

Want to thank Senator Bakke for introducing Senate Bill 2344 on my behalf.

Why is it important to support breast-feeding women? Not only does breast-feeding develop a strong bond between mother and child. But it is good for the baby – really good.

Human milk is the best food for infants. It contains live cells, like those in blood. Some components of human milk also enhance the affects of others ingredients of the milk, and they all work well together. Human milk, experts say, is species-specific. It contains levels of vitamins and minerals good for a human baby.

Many pediatricians will tell you, breast-fed babies are sick less often. They get protection from diseases as they feed. Human milk is, they say, a source of not only iron but also appears to have antibacterial and antiviral properties.

Thank you very much for the opportunity to appear in support of Senate Bill # 2344. I will try an answer any questions the committee may have.

Testimony in Support of SB 2344
Senate Human Services Committee
February 11, 2009

Good Morning Madam Chair Lee and Committee Members. My name is Joan Connell. I am a native North Dakotan, a pediatrician, and a medical student educator. Most pertinent to today's discussion, I am also a breastfeeding mother.

Senate Bill 2344 creates new laws and modifies existing laws to ultimately promote breastfeeding by allowing breastfeeding in a public place, as well as creating an "Infant Friendly" designation that workplaces may find advantageous to attain, and in so doing, would create workplaces where breastfeeding mothers could express milk during break times over the course of the workday.

The American Academy of Pediatrics states that human milk is uniquely superior for infant feeding. The AAP further recommends that infants receive breastmilk exclusively for the first 4-6 months of life, and then should continue to receive breastmilk through the first year of life, and thereafter as long as is mutually desired by both mother and child. The American Academy of Family Physicians has also published a strong position statement that supports breastfeeding and includes guidelines for the workplace. North Dakota's Healthy People 2010 initiative has established a goal to "Increase the proportion of mothers who breastfeed their babies." The targets include 75% of moms to be breastfeeding in the early post-partum period, 50% at 6 months, and 25% at one year.

As a pediatrician, I encounter many North Dakota working mothers who stop breastfeeding before the end of their brief maternity leaves or decide not to initiate breastfeeding due to a perceived inability to pump in the workplace. The inability to pump during prolonged periods of separation from baby reduces available breastmilk for the next feeding. It also decreases overall milk production which will prematurely decrease the duration of breastfeeding. In response to the suggested legislation which makes it possible for mothers to breastfeed in public places, it is obvious that mothers need to feed their babies on demand, wherever they may be, for the well being of the baby.

Again, as a pediatrician, educator, and breastfeeding mother, I urge you to pass SB 2344.

Madame Chair and members of the Senate Human Services Committee, my name is Jessica Gilbertson and I am here to offer testimony in support of Senate Bill 2344. I believe this bill would help to support women who breastfeed. As the mother of a one year old, I only recently stopped breastfeeding my son. I went back to work when my baby was 8 weeks old and I am extremely grateful that I had an employer who was supportive of my choice to breastfeed. Aside from the decision to become a parent, the decision to commit to an entire year of breastfeeding, which is the American Academy of Pediatrics recommended guideline, nursing my son was one of the biggest commitments I have ever made. Until you have been in the shoes of a nursing mom, you truly can't appreciate the level of commitment and dedication that is involved. I know that I could not have successfully honored the commitment that I made to my child, without the supportive policies that I had at my workplace. I believe that as a society we should do anything we can to support women in this decision. With just a few minor accommodations made at my workplace, I was able to pump breast milk for my son twice a day in about 15 minutes. I was provided with a screen for privacy and the understanding and support from my co-workers. While I pumped, I was able to read and respond to e-mail, answer phone calls and take care of other tasks at my desk. After a few days, it just became part of my routine and I was easily able to fit it into my work schedule.

In other public environments, I didn't feel the same support for nursing, so I remember spending quite a bit of time sitting in restaurant bathrooms feeding my son while everyone else enjoyed their meals in the comfort of the restaurant dining room. Perhaps in a more supportive environment, I would have felt it okay to nurse my son discreetly at

our table while still enjoying the company of my family. One Sunday morning, I was at brunch with my family and my son woke up from a nap hungry. I took him into the bathroom lounge area to nurse. About five minutes later a lady walked by me and then turned around and approached us. I wondered what sort of comments she had in store for me and she looked at me and said "You're doing a beautiful thing. I wish people were more accepting so you didn't feel like you have to sit in here and do it." In my mind, she hit the nail on the head, the perception is that breastfeeding is fine, you just don't do it in public. I also had an experience on an airplane where I nursed my son on the back of the airplane, under a blanket with the nearest passenger five rows in front of me, and the flight attendant still asked me if I might be more comfortable in the rest room. I told her no and continued feeding my child. I believe that it would be great if women in North Dakota were more supported in their decision to breastfeed, both by knowing that they can't be punished for breastfeeding in public and also being able to search for employment knowing what their employer's stance is on breastfeeding through a potential "infant friendly" status.

I thank you for your time and this opportunity to testify and I would ask for a do pass recommendation on Senate Bill 2344. I will stand for any questions.

**Testimony
Senate Bill 2344
Senate Human Services Committee
Wednesday, February 11, 2009; 10:30 a.m.
North Dakota Department of Health**

Good morning, Chairman Lee and members of the Human Services Committee. My name is Kim Hinnenkamp, and I am the breastfeeding coordinator for the North Dakota Department of Health's Special Nutrition Program for Women Infants and Children. I am here to testify in support of Senate Bill 2344.

The North Dakota Department of Health supports mothers in their efforts to breastfeed their babies. Research shows that breast milk is best for babies and that breastfeeding is necessary for healthy infants, children and mothers. In fact, breastfeeding is recognized as the optimal method for feeding a baby by many of the nation's health and scientific organizations, including the American Academy of Pediatrics, the Centers for Disease Control and Prevention, the American Dietetic Association, and the American Public Health Association.

Numerous studies show that breast milk protects a baby against diabetes, infectious diseases, and childhood obesity and that mothers who breastfeed reduce their risk of breast and ovarian cancers.

Supporting a mother's choice to breastfeed her baby is essential to her success. This positive support must come from her family, her friends, her physician – and her community. Mothers who breastfeed their babies in public places generally do so discreetly by using blankets and other means to ensure their privacy.

One of the Healthy People 2010 goals is to achieve a breastfeeding rate of 75 percent across the nation. In 2008, 68.2 percent of North Dakota women initiated breastfeeding. However, mothers who begin breastfeeding their babies often do not continue. In 2008, only 36.8 percent of North Dakota women were still breastfeeding their babies at 6 months of age. Returning to work or school is often the reason that many mothers stop breastfeeding.

If passed, this law would not be unique to North Dakota. According to the U.S. Centers for Disease Control and Prevention, 46 other states – including South Dakota, Iowa, Montana and Minnesota – have laws about breastfeeding in public places.

The North Dakota Department of Health has concerns about the fiscal impact of Section 6 of the bill, which allows employers to use an “infant-friendly” designation provided they have an approved workplace breastfeeding policy. The Department of Health is required to develop and implement the criteria for “infant-friendly” employers and to review and approve those policies. The bill is silent with regard to monitoring or oversight. With 28,000 businesses in North Dakota, even at 10 percent participation, this could be a significant amount of work requiring additional FTE and funding.

Instead, the Department of Health suggests alternative language encouraging employers to adopt model policies that support breastfeeding women in their employment. Department of Health staff and Healthy North Dakota Breastfeeding Committee members are already in the process of identifying baby-friendly workplace policies. Once they have been identified, the department and the committee will make these model policies available to employers through the local community breastfeeding coalitions and through the Healthy North Dakota Breastfeeding Committee website. Those employers adopting a model policy would be allowed to be designated as “infant friendly.”

This concludes my testimony. I am happy to answer any questions you may have.



February 11, 2009

Testimony
SB 2344

Chair Lee and Members of the Human Services Committee:

Good morning. I am Karen Ehrens, a Licensed Registered Dietitian, and I am here today on behalf of the over 300 members of the North Dakota Dietetic Association (NDDA) in support of SB 2231, which would help support women who breastfeed.

The North Dakota Dietetic Association, with a mission to support the public through the promotion of optimal nutrition, health and well-being, believes that exclusive breastfeeding provides optimal nutrition and health protection for the first 6 months of life, and that breastfeeding with complementary foods for at least 12 months is the ideal feeding pattern for infants.

Breastfeeding benefits infants in numerous ways. In addition to providing optimal nutrition, breastfeeding decreases the risk of childhood obesity, guarantees safe, fresh milk, enhances the immune system, protects against infectious and non-infectious diseases, protects against allergies and intolerances, decreases risk of diarrhea and respiratory infections, increases cognitive function, reduces risk for heart disease, and increases bonding with mother.¹

Breastfeeding benefits mothers' health by decreasing the risk of breast and ovarian cancer, decreasing the risk of developing Type 2 diabetes, improving blood sugar level in women who develop gestational diabetes, improving bone density and decreasing risk for hip fracture and strengthening the bond with the baby. Breastfeeding eliminates the need for preparing and mixing formula and saves money by not spending it on formula¹

And breastfeeding benefits employers, too. Women who breastfeed their children miss less work due to less infant illness, are more productive and feel loyalty to their employer. Employers who support breastfeeding also have an enhanced public image.¹ Providing recognition to employers who support breastfeeding would be an additional incentive for businesses to support

North Dakota is **one** of only **four** states that does not have state legislation addressing breastfeeding in public places. And North Dakota is lagging behind the rest of the nation in breastfeeding rates as shown by several measures. North Dakota's rate of breastfed infants is lower than the national average (ND – 68% of infants have ever been breastfed vs. 74% nationally), the percentage of mothers still breastfeeding at six months is lower here than the national average (ND – 37% vs. 43% nationally), and fewer North Dakota mothers breastfeed their infants at one year (ND 18% vs. 21% nationally).²

Some of the reasons that mothers stop breastfeeding include the need to work or go to school, embarrassment and societal disapproval, discomfort about breastfeeding in public, short or unpaid maternity leave, unsupportive work environment, and lack of public and workplace facilities to breastfeed comfortably.¹

Enacting this legislation can clarify the rights of women who breastfeed by specifically noting that the natural act of breastfeeding is not indecent or criminal or a nuisance. It will help North Dakota catch up with the rest of the nation by clarifying that mothers may breastfeed wherever they have a right to be with their children. This legislation will not only encourage employers to support their employees, but also support mothers to continue to breastfeed after they return to work.

We ask that you support this legislation to send a message to the young families we are trying to keep in the state and the young professionals we are trying to attract to the state. Thank you for the opportunity to speak.

References:

1. Position of the American Dietetic Association: *Promoting and Supporting Breastfeeding*, Journal of the American Dietetic Association, May 2005 (Vol. 105, Issue 5, Pages 810-818).
2. Breastfeeding Report Card – United States, 2008. Centers for Disease Control and Prevention, Division of Nutrition, Physical Activity and Obesity. Accessed at http://www.cdc.gov/BREASTFEEDING/DATA/report_card.htm

John Hoeven
Governor

Lisa K. Fair McEvers
Commissioner



#16
State Capitol - 13th Floor
600 E Boulevard Ave Dept 406
Bismarck, ND 58505-0340

nd.gov/labor
nd.gov/humanrights

Testimony on SB 2344
Prepared for the
Senate Human Services Committee
February 11, 2009

Chairman Lee and members of the Senate Human Services Committee, I am Lisa Fair McEvers, Commissioner of Labor. My position on SB 2344 is neutral. I am here to provide information on how this bill may affect the Department of Labor.

The department has two primary areas of responsibility: establishing and enforcing rules relating to the wages and working conditions of employees and administering and enforcing human rights under the North Dakota Human Rights Act and the North Dakota Housing Discrimination Act.

In addition to receiving and investigating complaints from individuals who believe they have been victims of unlawful discrimination under state anti-discrimination laws, the department's Human Rights Division also investigates fair housing cases for the United States Department of Housing and Urban Development (HUD) and employment discrimination cases for the Equal Employment Opportunity Commission (EEOC).

The number of cases in both the Wage and Hour Division and the Human Rights Division are projected to increase significantly this biennium. In the Human Rights Division, discrimination claims are on the rise with the total number of cases projected to increase by 12% during the current biennium. Most of the increase is attributed to a 30% increase in housing discrimination claims, but the number of employment and public service/public accommodations cases have also increased. During the first 18 months of the current biennium, the department resolved 213 employment discrimination complaints, 87 housing discrimination complaints, and 52 complaints alleging discrimination in public accommodations and public services.

The Human Rights Act provides protection from discrimination in employment, public services, public accommodations and credit transactions in the following protected categories: race, color, national origin, religion, sex, age, mental or physical disability, marital status, and receipt of public assistance. Employment discrimination cases include an additional protection for lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential business-related interests of the employer.

SB 2344 broadens the protections provided under the Human Right Act in two ways: first it expands the definition of the protected category of sex to include breastfeeding and

makes it a discriminatory practice for an employer to treat a woman differently because she breastfeeds for expresses milk at the work place; secondly, the bill prohibits all places of public accommodation from denying a woman the full and equal enjoyment of the public accommodation because she is breastfeeding.

With an already increasing caseload, my primary concern with SB 2344 is whether the department has adequate resources to handle additional complaints based on an expanded definition of the term "sex" as a protected category in the areas of employment and public accommodations. It is difficult to estimate how expanding this protected category may affect the number of complaints filed. I have been unable to locate statistical information from other states indicating what effect protecting a woman's right to breastfeed has on the workload in these jurisdictions.

Looking at the department's internal statistics, allegations of discrimination in employment on the basis of sex (including pregnancy) is the most frequently filed type of complaint. I would expect at least a small increase of claims to arise from this new protection.

During the current biennium, my staff has worked a significant amount of overtime each month. I have requested an additional compliance investigator in the department's budget, HB 1007. If that FTE is granted, I believe that the new duties added by this expanded protected category could be handled by the department's staff without another additional FTE. If the department is not granted the FTE, any additional amount of work could have a negative impact on the timeliness of the workload already existing.

There would also be some one time costs associated with expanding the protected category of sex to include breastfeeding, such as updating brochures, forms, posters, and other educational materials.

In addition to the statistical information provided on the current biennium, attached you will find information from the 2005-07 biennial report.

I would be pleased to answer any question you may have.

Summary of EEO Charges, 2005-07 Biennium

Charges Pending 6/30/2005	44
New Charges Filed 7/1/2005 – 6/30/2007	227
Charges Closed 7/1/2005 – 6/30/2007	230
Charges Pending 6/30/2007	41

**EEO Charges Closed, 2005-07 Biennium
by Statutory Jurisdiction**

Title VII of the Civil Rights Act of 1964	104
Americans with Disabilities Act of 1990	90
Age Discrimination in Employment Act of 1967	51
North Dakota Human Rights Act Only ¹	17

**EEO Charges Closed, 2005-07 Biennium
by Basis of Charge²**

Age	59
Color	27
Disability	100
Marital Status	5
National Origin	9
Pregnancy	9
Receipt of Public Assistance	4
Race	38
Religion	3
Retaliation	61
Sex	93

¹All charges meeting federal jurisdiction also meet North Dakota jurisdiction.

²Charges may have more than one basis.

#2

HUMAN SERVICES COMMITTEE REPRESENTATIVE WEISZ, CHAIRMAN

Testimony

Breastfeeding in Public & the Workplace

Terri Poitra

3/17/2009

@ 3:30 PM

This document will contain my experiences I had breastfeeding in public and obstacles of nursing while returning to the workforce. Furthermore, it contains photos and documentations to amplify why it is important to pass this particular bill.

Testimony

Senate Bill No. 2344 – Relating to Breastfeeding

Human Services Committee

Representative Weisz, Chairman

March 16, 2009 @ 3:30 PM

Chairman Weisz, and members of the Human Services Committee, my name is Terri Poitra, a single working mother of three children. I am also a member of the Turtle Mountain Band of Chippewa.

I have a son named Grey Storm; he was born December 19th 2007. I took a leave of absence from my work to recover and nurse my son at home. March 3, 2008 I decided to go back to work at the Skydancer Hotel & Casino. I called my manager and set everything up to make the transition smooth as possible for him.

I met with my manager and discussed my nursing with him. He was all for nursing. He would help in any way possible. I also met with the Chief of Security to find a place to express my milk, however there was no such place. I only had a manual breast pump at the time, so I used the restrooms by the casino side. Later on I was able to get an electric breast pump from the WIC office located at Quentin Burdick Hospital in Belcourt.

I went to speak with the Chief of Security asking if it was all possible to find a place for me to use the electrical breast pump. We discussed certain places in the hotel side but couldn't find any. There are cameras everywhere. I asked about the sauna room by the pool area, because it was usually quiet and no cameras in there. Permission was granted. I thought it had a lock on the door, but it didn't. I had to make a sign that said, "Nursing in progress do not disturb."

My breaks were implemented to go with my nursing schedule. That worked out fine, until a co-worker walked in on me while I was expressing my milk. It was embarrassing for both of us. She apologized profusely and I knew that having no lock on the door was a big problem. It wasn't only the lock. I had to sit on the floor to have access to the only plug there and now prop my feet up against the door.

Pictures that you see attached to this written statement shows where I was allowed to express milk. When the sauna room was occupied I had to use the conference room A, down the hall. There are pictures of that room, however; it has been remodeled. There is a wall erected where only a curtain once divided the room. The lock on the curtain was broke, a fact that wasn't told to me until later on from other employees.

I had to put up with jokes about my breast milk being in the company fridge. I didn't mind it, but a co-worker complained about seeing it in the fridge. I informed that co-worker that our manager said it was okay. I also said that if I had a secure place just for that, they wouldn't have to see it. I have dealt with a lot of issues from other employees about expressing my milk at work. I explained that it was the best and cheapest way to feed my child. Eventually, most of the workers understood and commended me for doing it.

On March 24, 2008, I clocked out from work and met a relative and my son for dinner inside the restaurant by the casino area. I was famished and so was Grey Storm. I ate half of my meal and he decided he wanted to eat too. It was winter out so all I had to cover us was a thick receiving blanket. I took him out of his car seat and started nursing him.

Two ladies saw what I was doing and smiled. I smiled back. It was about 10 minutes later; I noticed my child was sweating abundantly. I moved the blanket from his head, so he could get some air and be comfortable. Minutes after I uncovered him a female security officer approached our table. I recovered his head and spoke with her.

She informed me that they were receiving complaints from other customers and was asking if I would stop nursing my son. I replied that I had a right to nurse him. Knowing that I was an employee she offered the break room, I declined, not wanting to expose my child to second-hand smoke. In the mean time Grey Storm fell asleep, so I put him down in his car seat. Security left after making small talk.

I sat there thinking of the incident wondering who really complained and I decided to write a voluntary statement against them. My relative watched my baby while I went to security and asked for the paperwork. The officer that spoke with me knew I was going to be there. She was on the net getting paperwork on breastfeeding in public.

I found out the night that it was surveillance and that there was a bill passed for nursing in public. It only covered government buildings and grounds. I did my statement and asked for copies which are part of the attached papers. I left upset and with a hungry baby who only received half a meal.

The next day I decided to look on the internet for bills that were passed in other states. I found quite a few but none for the state of North Dakota. There are also discriminatory laws protecting working mothers, but I didn't qualify. I was not on the clock when the incident happened. When I read this bill it covers everything, nursing in public, discriminatory acts and protocol for employers to follow. It makes it easier for the employers and employees to come to a better understanding.

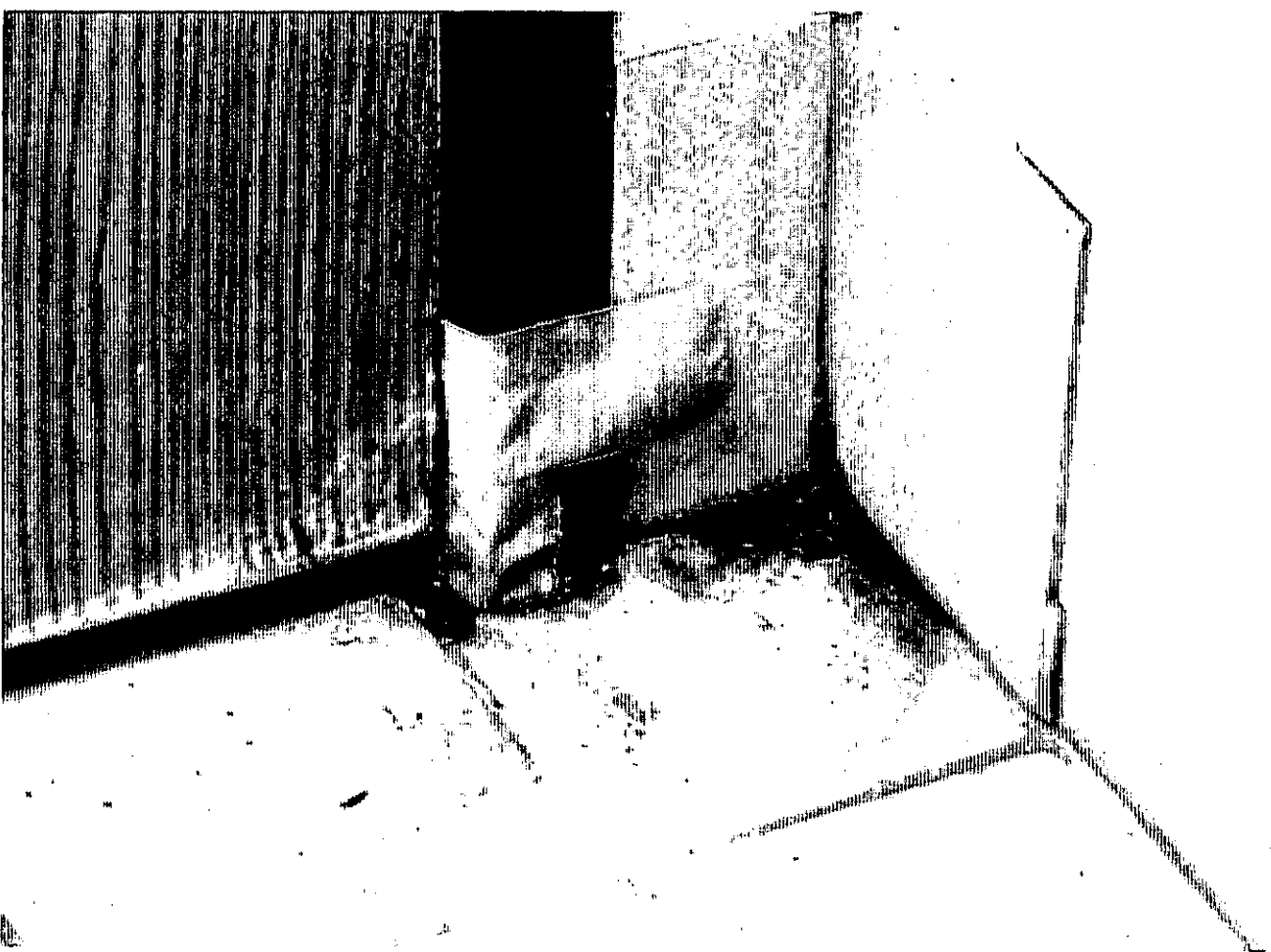
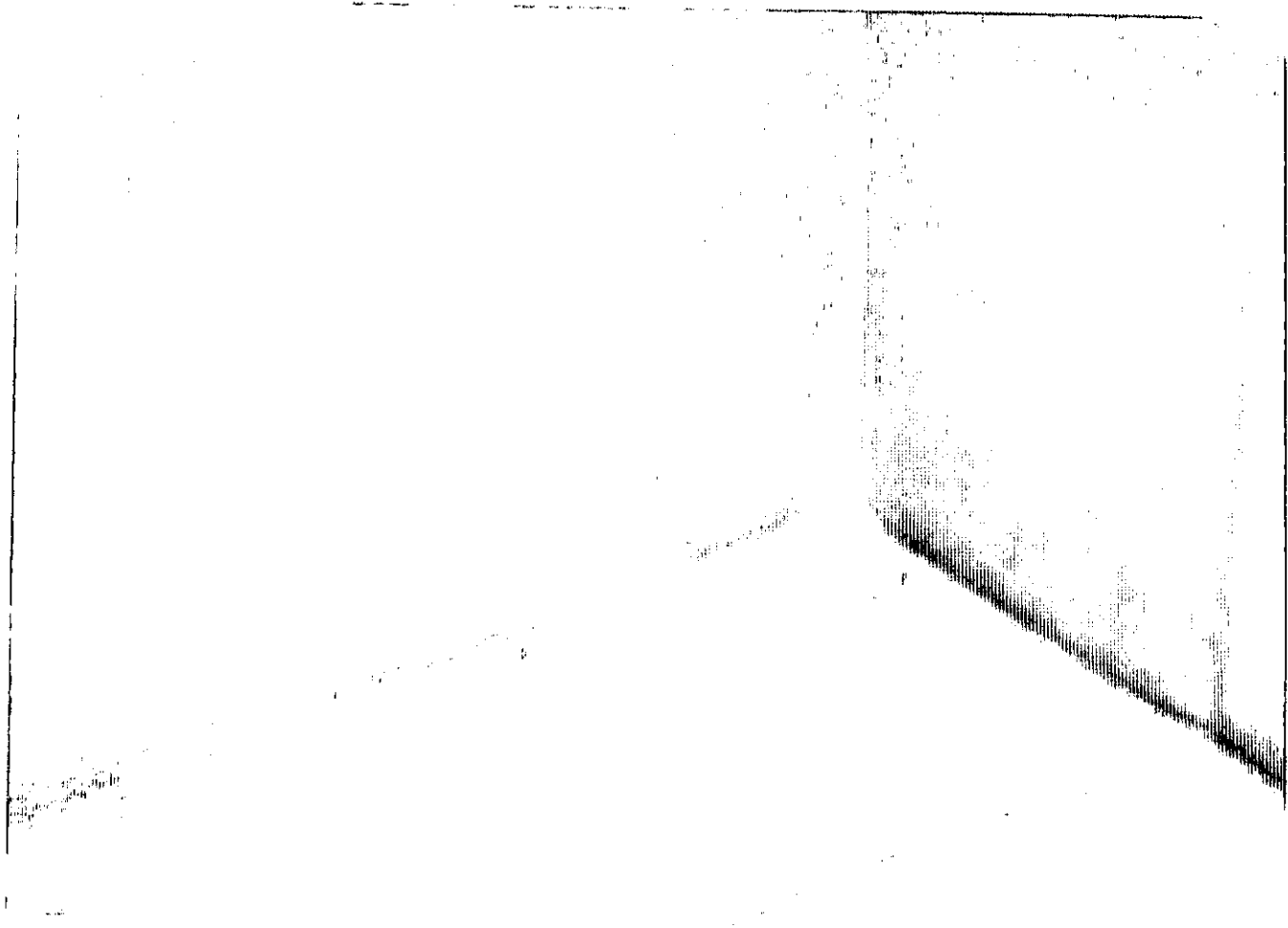
I researched the benefits of breastfeeding your child and there are numerous health benefits for the child and mother. The baby grows strong and healthy. I have read that there are fewer SIDS deaths when babies are nursed. Breast milk protects the baby from illnesses, infections, middle ear infections, diarrhea and certain lung infections. I have read that not only does breast milk help with health issues, it also helps with brain develop. Children who are breastfed have higher IQs and catch on quicker.

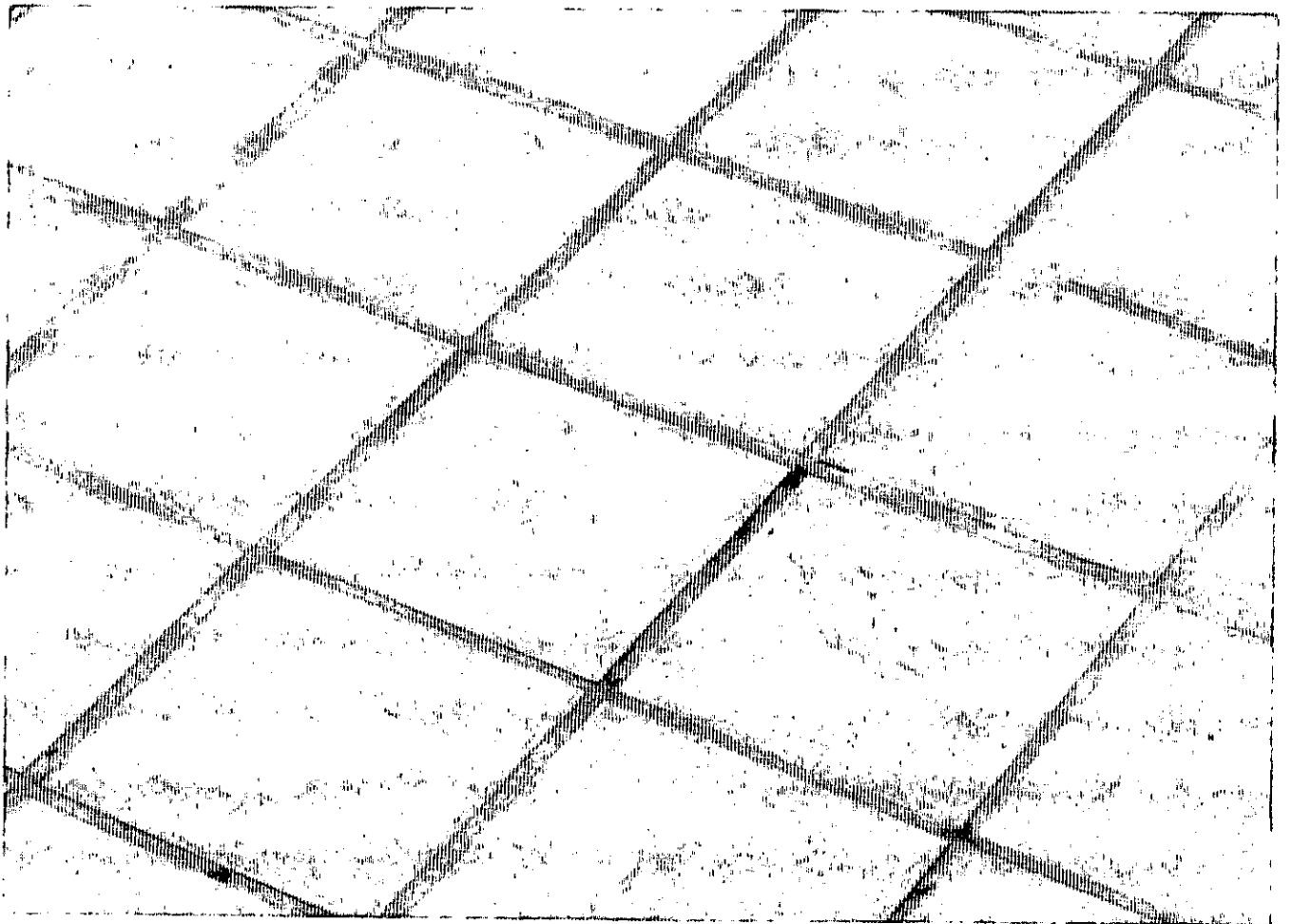
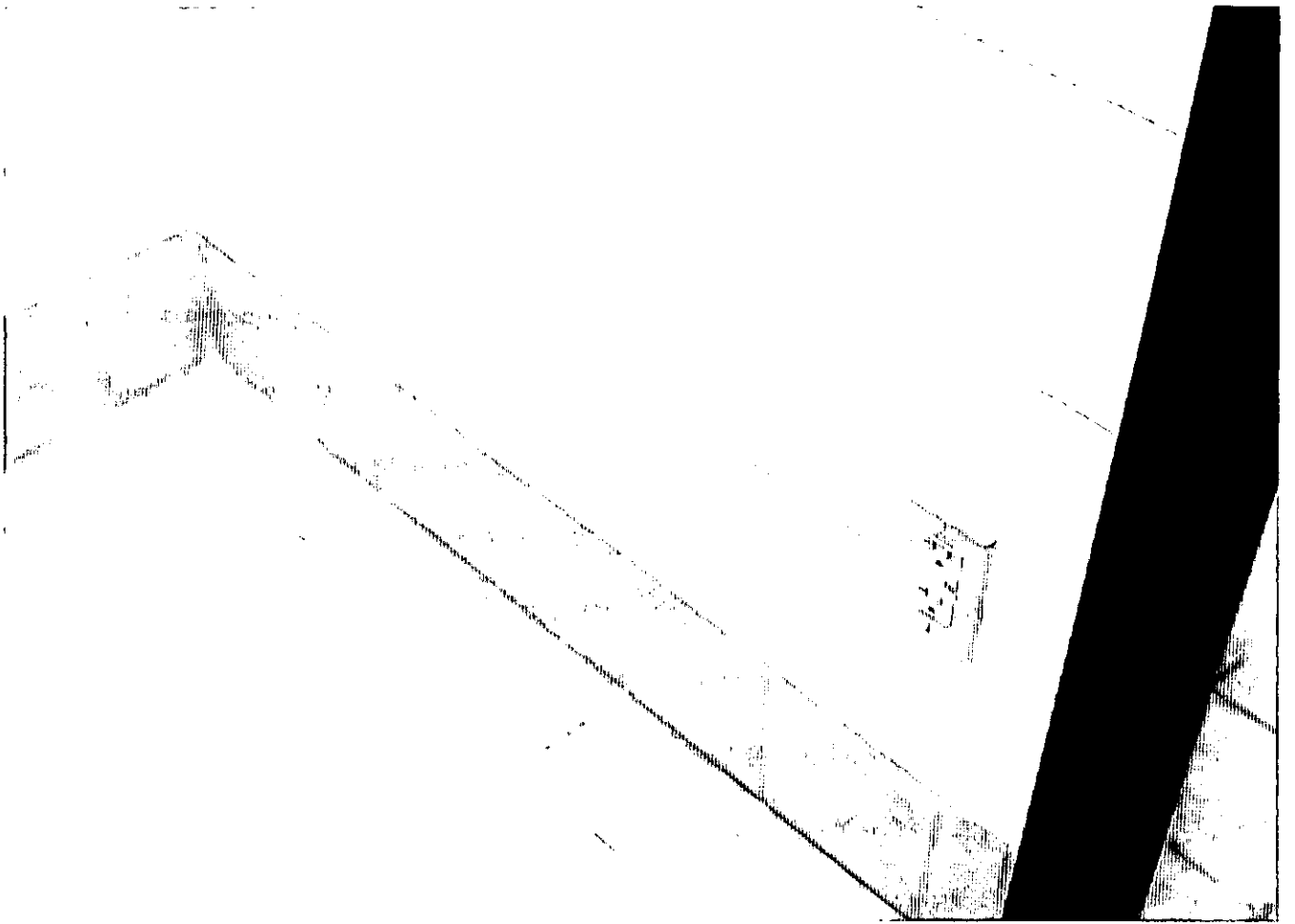
Mothers who decide to nurse also have benefits. Breastfeeding help release hormones that makes the uterus shrink back to normal size faster. It helps to develop a bond between mother and child. It helps the mother have fewer episodes of the baby blues. Some studies also show that women who breastfeed have a lower percentage of getting breast, uterus and ovarian cancer. Finding all this encouraging information helped me make my decision easy, plus I figured with the economy I would save money.

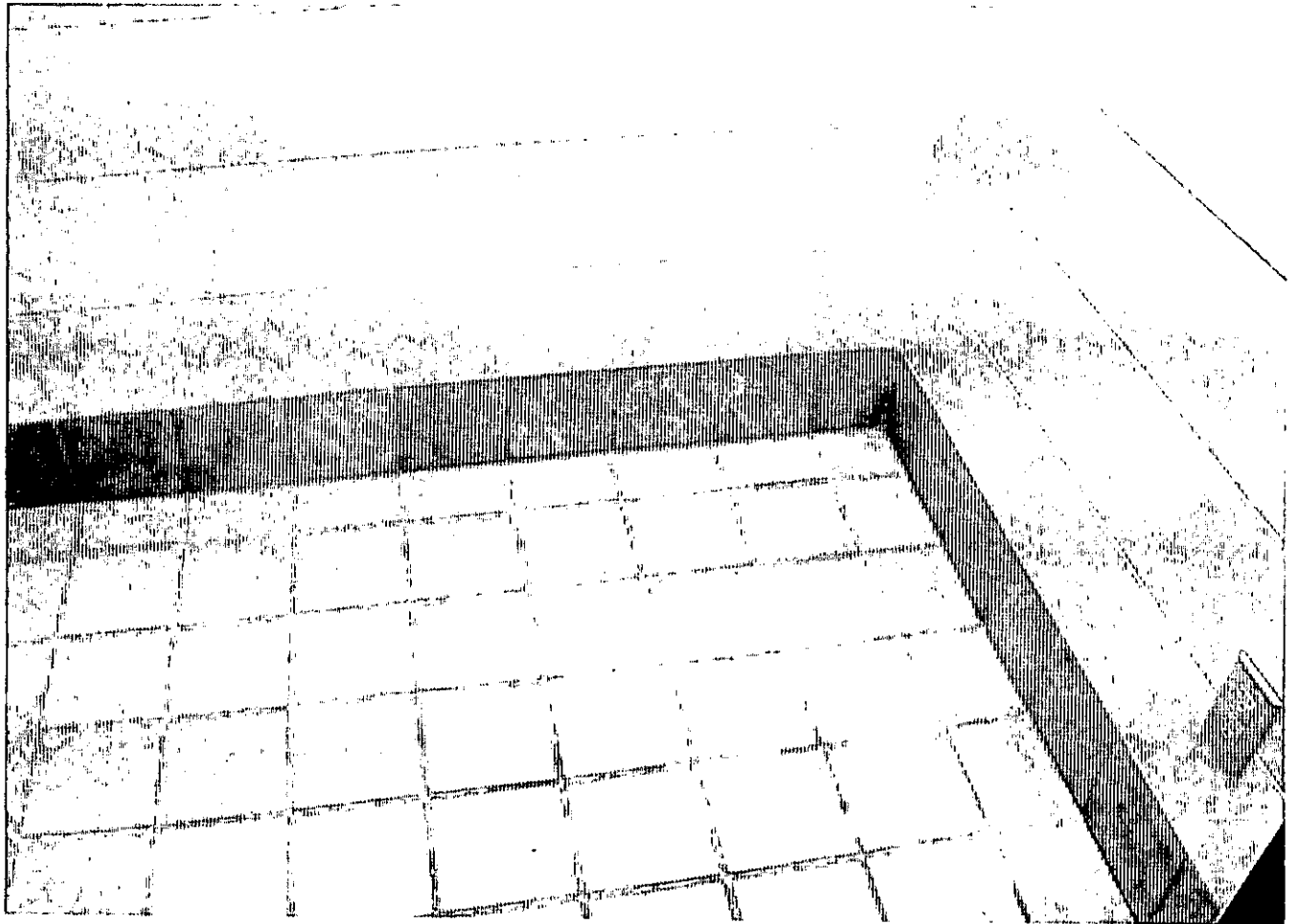
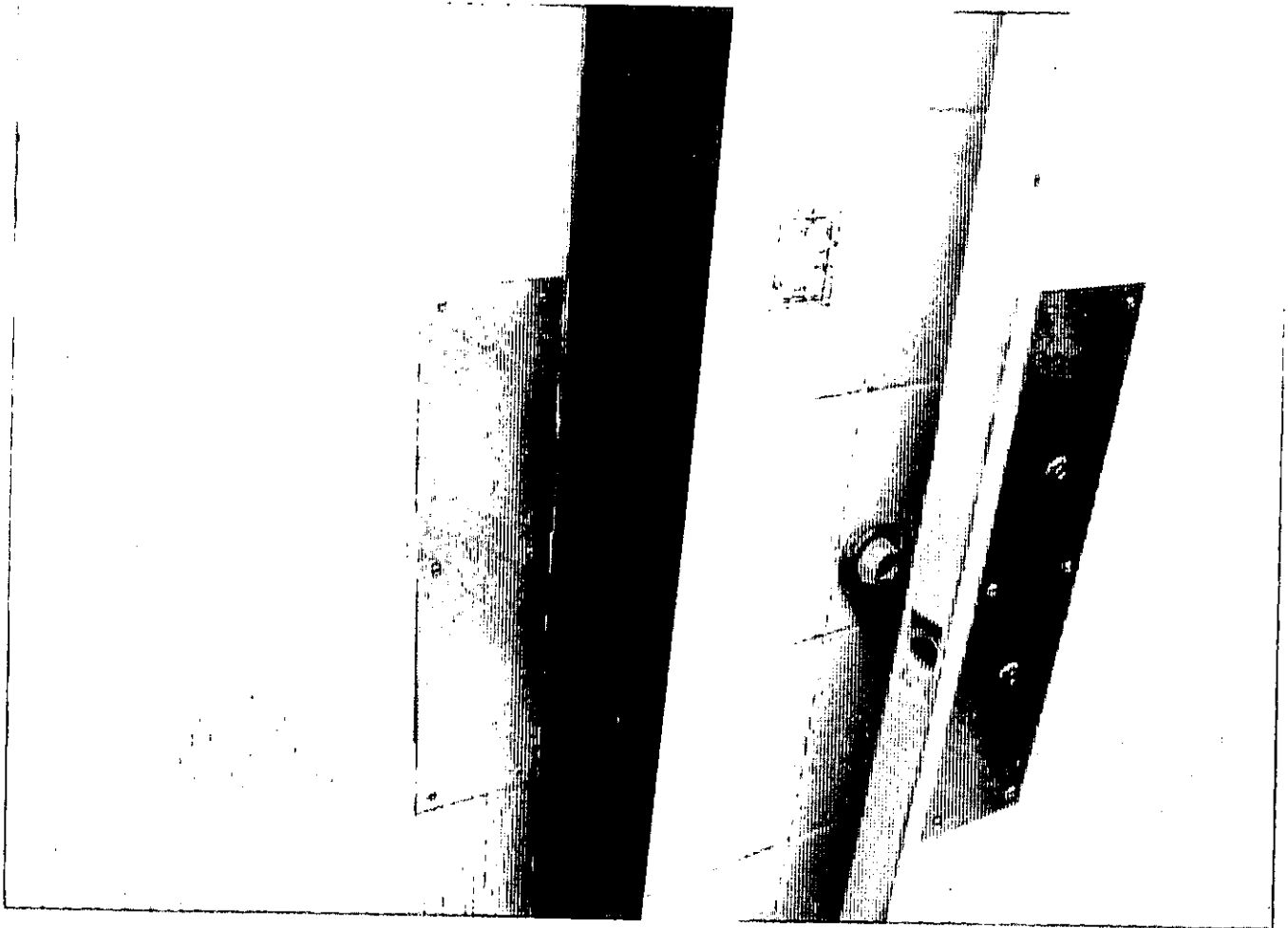
Expressing my milk at work is time consuming but worth the effort considering the motivation. Nursing your child either from a bottle full of breast milk or the breast, in public or at home is important to the child's development and health. I wouldn't change any decisions I have made concerning my child. It brought us closer and helped him stay healthy.

Thank you very much for the opportunity to appear in support of Senate Bill #2344. I will try my best to answer any questions the committee may have.









SAUNA RULES

1. No alcohol or drugs are allowed in the sauna.

2. No running shoes or flip-flops are allowed in the sauna.

3. No towels or clothing are allowed in the sauna.

4. No food or drinks are allowed in the sauna.

5. No smoking is allowed in the sauna.

6. No talking or shouting is allowed in the sauna.

7. No touching or sexual activity is allowed in the sauna.

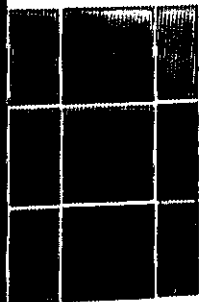
8. No use of mobile phones is allowed in the sauna.

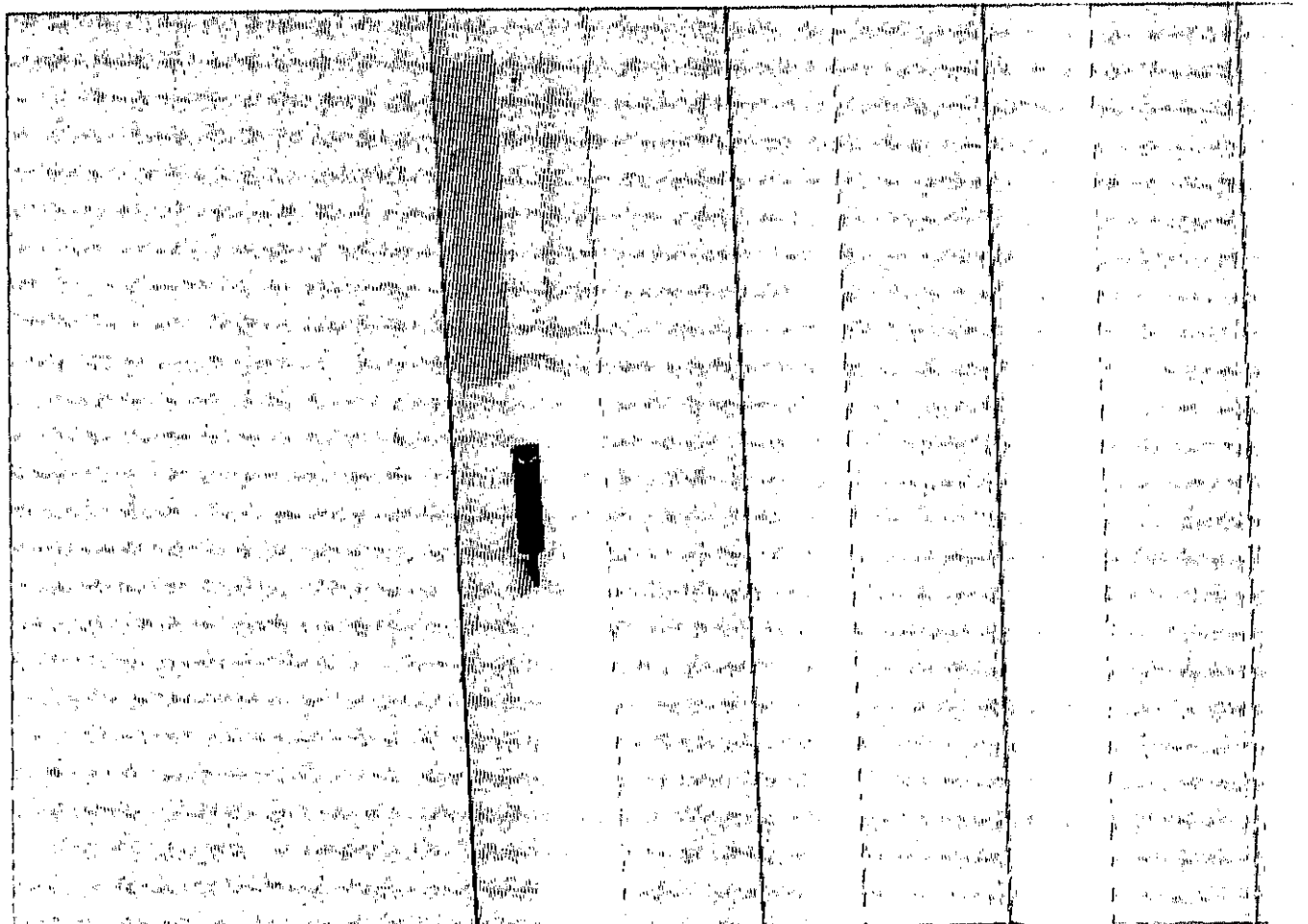
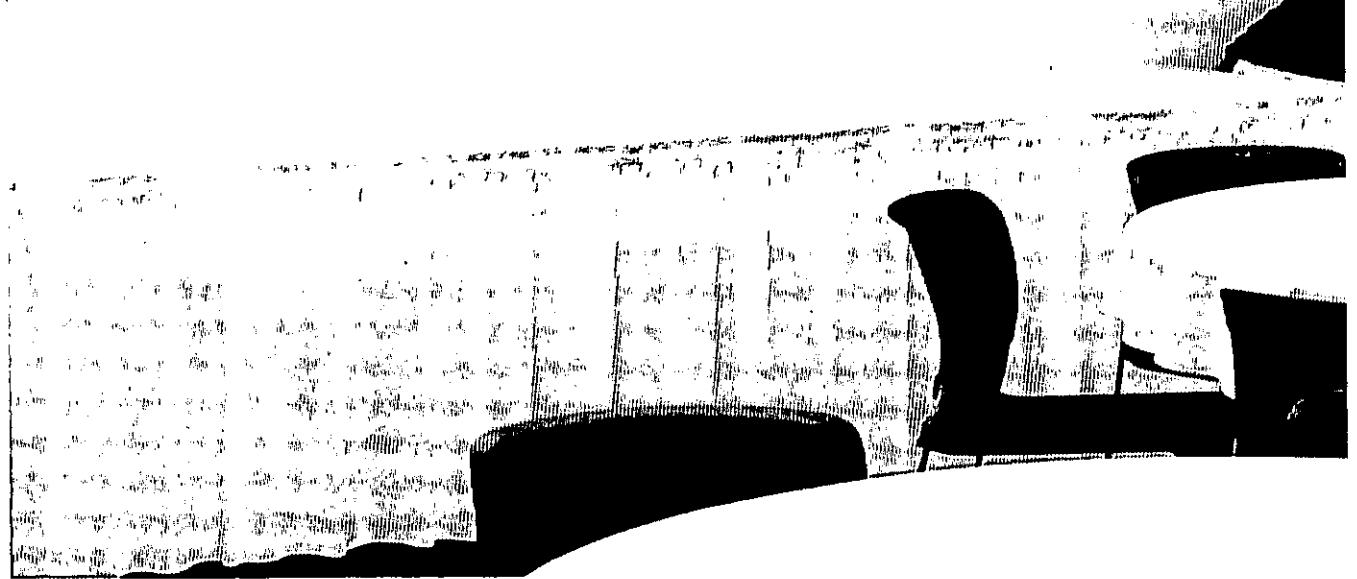
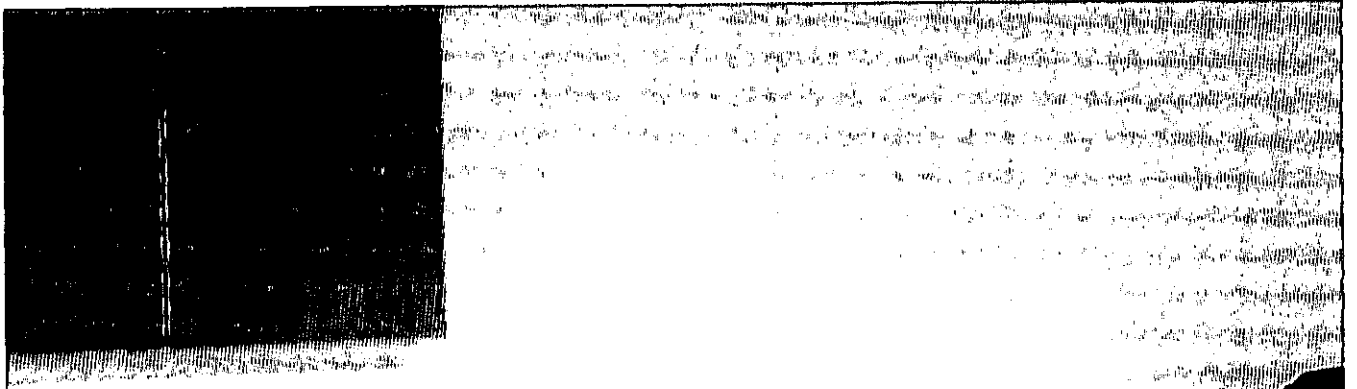
9. No use of cameras or video equipment is allowed in the sauna.

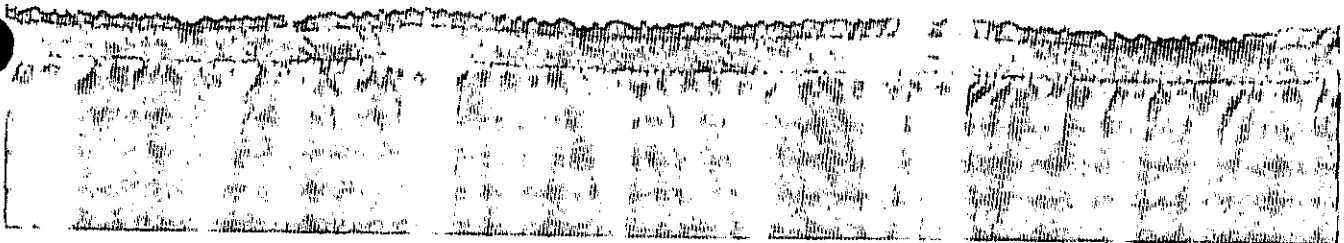
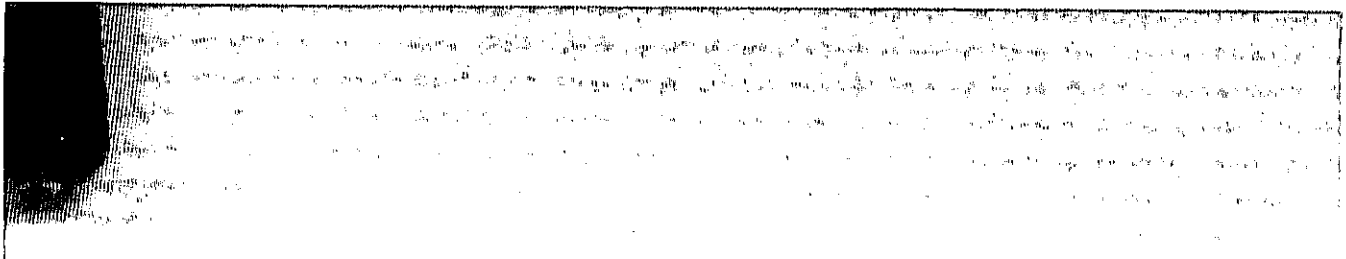
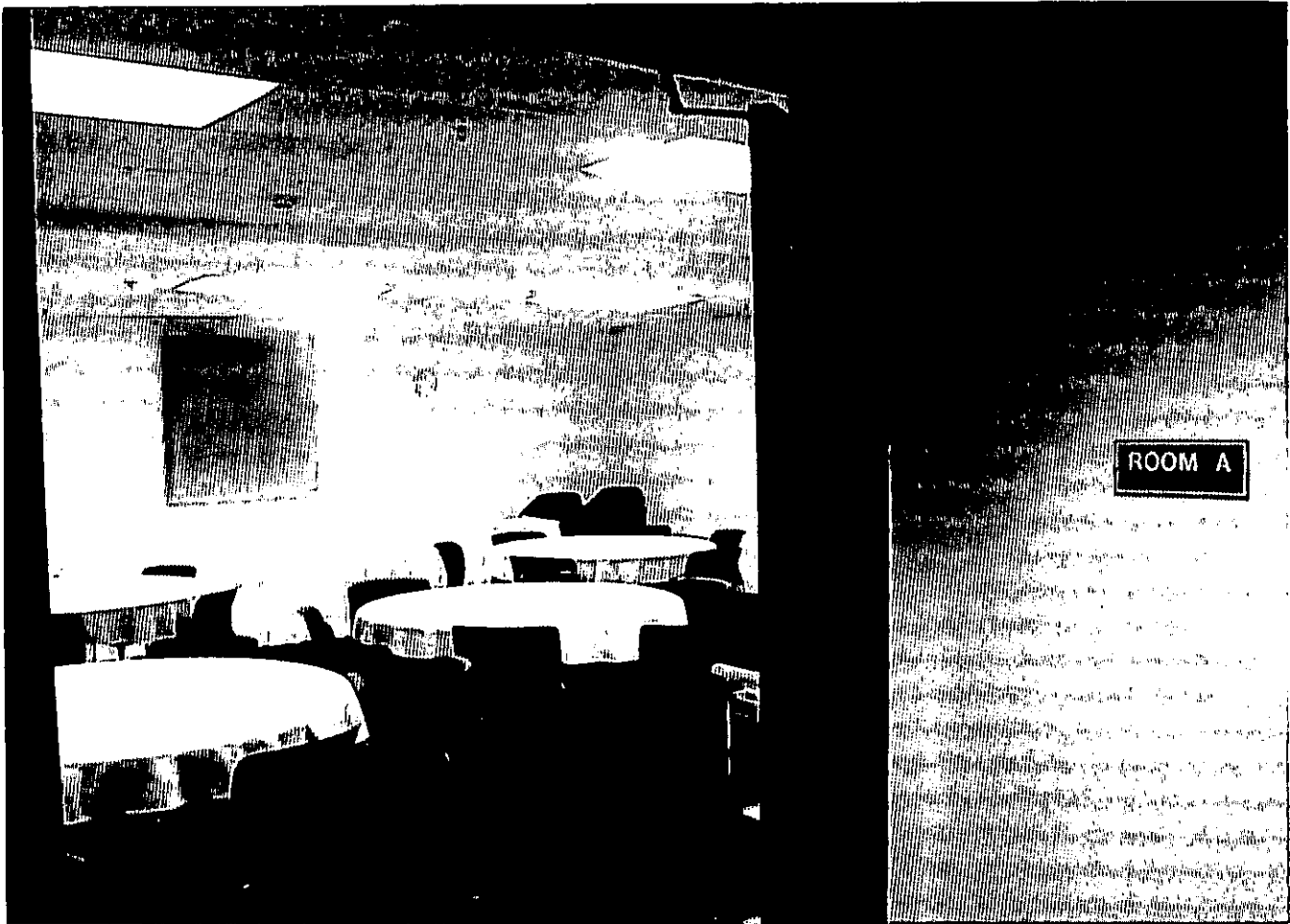
10. No use of flash photography is allowed in the sauna.



WOMEN'S SAUNA







SKY DANCER CASINO

PO BOX 1449 BELCOURT, NORTH DAKOTA 58316
 Phone #: (701)244-2400 Fax #: (701)244-0027
DINING

Case #: **FIR2008-00076**

Incident Type(s) ALL OTHER OFFENSES		Disposition INFORMATION ONLY FIELD INCIDENT REPORT	
Reporting Person E-4 P LONGIE PAMELA LONGIE	Incident Date & Time 3/24/2008 7:15 PM	Called In/Discovered 3/24/2008 7:15 PM	
Physical Location DINING		Patrol Area/Beat/Sector BIG CASINO	
Building BIG CASINO		Specific Location DINING ROOM	
Manager/Supervisor on Duty TRAVIS LADUCER (1-5)	Manager/Sup. Notified YES	Use of Force	

CONTACT # 1 (GAMING KEY HOLDER)		Employee: YES	
Name POITRA/TERRI	Name Type GAMING KEY HOLDER	Phone # (701)244-2400	Work #
Address	Birthdate	Age	Sex
		F	I
City, State, Zip/Postal Code DUNSEITH, ND 58329	EMAIL	Trespasser	Use Caution
		NO	NO

Incident Narrative

Report Type.....ALL OTHER OFFENSES
 Case Number.....FIR2008-00076
 Report Date.....03/24/2008
 Date of Incident.....03/24/2008
 Reporting Officer.....E-4 P LONGIE

****REPORT NARRATIVE****

AT APPROXIMATELY 7:10pm, SAM II DAVID GLADUE CALLED THE SECURITY OFFICE FOR TRAVIS LADUCER. TRAVIS GOT OFF THE PHONE AND STATED THAT TERRI POITRA WAS IN THE DINING ROOM BREASTFEEDING HER CHILD. I DO KNOW THERE IS A LAW ON BREASTFEEDING YOUR CHILD IN PUBLIC. ADVISED TRAVIS ON THE LAW. TRAVIS CALLS BACK UP TO SAM II AND ADVISED THEM AS LONG AS IT IS NOT VISIBLE IT SHOULD BE OK. APPROXIMATELY 7:20pm, SAM II CALLS BACK AND ASKS IF TRAVIS IS STILL IN THE SECURITY OFFICE. I TRANSFERRED CALL OVER TO HIM. TRAVIS GETS OFF THE PHONE AND STATES THAT SAM II SAID THE CHILD IS NOT COVERED UP WITH ANYTHING. I WENT INTO THE DINING ROOM AND LOOKED FOR TERRI. SHE IS IN THE NORTH CORNER BOOTH. TO ME IT DIDNT LOOK LIKE SHE WAS BREASTFEEDING IT LOOKS AS THOUGH SHE WAS CARRYING HER CHILD. I ADVISED TERRI THAT THERE WAS A COMPLAINT ON HER BREASTFEEDING HER CHILD. SHE GOT A LITTLE UPSET WHICH I DO NOT BLAME HER FOR. I EXPLAINED THAT I WAS TOLD BY TRAVIS TO COME IN AND TALK TO HER ABOUT IT. I TOLD HER I WOULD ESCORT HER TO THE CASINO BREAKROOM IF SHE WANTED SO SHE CAN FINISH BREASTFEEDING. SHE STATED IT WAS OK SHE WOULDNT GO IN THERE BECAUSE OF THE SMOKE IN THERE, AND THE BABY WAS SLEEPING ANYWAY. I MADE SMALL TALK WITH HER. THE BABY WAS COVERED UP WITH A BLANKET. SAM II NEEDS TO BE MADE AWARE OF THE LAWS ON THIS SITUATION,

Prepared By PAMELA LONGIE	Date and Time 3/24/2008 at 19:48:53	Signature 	Reviewed By/Date CHIEF OF SECURITY RHONDA COU 3/25/2008
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SINCE THEY DON'T SEEM TO WANT TO LISTEN TO SECURITY. I AM SURE THIS IS GOING TO BE AN ISSUE. TERRI DID WRITE A VOLUNTARY STATEMENT ON THIS ISSUE. ATTACHED IS SOME LAWS ON BREASTFEEDING.

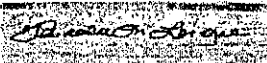
Prepared By:

PAMELA LONGIE

Date and Time:

3/24/2008 at 19:48:53

Signature:



Reviewed By / Date:

CHIEF OF SECURITY RHONDA COU
3/25/2008

Voluntary Statement

Name: Terri Putra Dob: 10/02/80 Today's Date: 3/24/08

Address: P.O. Box 293 Town: Rollette Zip: 58346

Home Phone # 246-3383 Work Phone # 244-3400 Ext # 314

I understand that the statement I am about to make is (Voluntary) and that I have not been promised anything for the statement I am about to make known to Skydancer

I volunteer the following information, of my own free will, for whatever purpose it may serve. I am 27 years of age and my statement goes as follows.

I, Terri Putra, was sitting in the restaurant, by the corner table, I had my children and my cousin with me. We were having lunch - my son Grey Storm is a 3 mo. old baby - he is breast fed - I pump my breast at work ~~and~~ but mostly I nurse him. At that time while in the kids to settle down and eat - when they finally finished Grey Storm was hungry - so I pulled a blanket out to shield him from public and the angle I was sitting at, none of the customer could see him.

I have read each page of this statement consisting of 7 pages. Each page bears my signature and corrections if any bear my initials.

Signed at: 9:55 p.m. this 24 Day of March 20 08

Signature of person making statement: Terri Putra

Witness: Terri Salcedo Witness: Terri Lopez Witness: _____

The Natural Child Project™

Children reflect the treatment they receive.

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Shop: Books Parenting Cards Dolls Clothing Art Gift Sets More...

New Mothers' Breastfeeding Promotion and Protection Act of 1998

105th CONGRESS House of Representatives 2d Session H. R. 3531

To support breastfeeding by new mothers and encourage employers to support workplace lactation programs, and for other purposes.

A BILL:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1: SHORT TITLE

This Act may be cited as the 'New Mothers' Breastfeeding Promotion and Protection Act of 1998'.

SECTION 2: FINDINGS

The Congress finds the following:

- (1) Women with infants and toddlers are the fastest growing segment of today's labor force.
- (2) At least 50 percent of women who are employed when they become pregnant return to the labor force by the time their children are 3 months old.
- (3) The American Academy of Pediatrics recommends breastfeeding for at least the first 12 months of a child's life. The Academy also recommends that arrangements be made to provide expressed breastmilk if mother and child must separate.
- (4) Breastmilk contains all the nutrients a child needs for ideal growth and development (including helpful antibodies, proteins, immune cells, and growth factors that can only be found in breastmilk), promotes closeness between mother and child, and is easy to digest.
- (5) Breastmilk is the first line of immunization defense and enhances the effectiveness of vaccines given to infants.
- (6) Research studies show that children who are not breastfed have higher rates of mortality, meningitis, some types of cancers, asthma and other respiratory illnesses, bacterial and viral infections, diarrhoeal diseases, ear infections, allergies, and obesity.
- (7) Research studies have also shown that breastmilk and breastfeeding have protective effects against the development of a number of chronic diseases, including juvenile diabetes, lymphomas, Crohn's disease, celiac disease, some chronic liver diseases, and ulcerative colitis.
- (8) A number of recent studies have shown that breastfed children have higher IQs at all ages.
- (9) Breastfeeding promotion and support are an integral part of nutrition services provided by the Women, Infants, and Children (WIC) program, and has been shown to reduce costs. For example, in a recent cost-benefit study in the State of Colorado, it was found that exclusively breastfeeding a WIC infant saved \$161 in the first 6 months of life when compared to formula-fed infants. A Medicaid savings of \$112 per infant was realized by this group while pharmacy costs were approximately 50 percent lower.
- (10) In 1997 the United States had one of the lowest breastfeeding rates of all industrialized nations and one of the highest rates of infant mortality.
- (11) Breastfeeding has been shown to reduce the mother's risk of breast and ovarian cancer, hip fractures, and osteoporosis.
- (12) Breastfeeding releases a hormone in a woman's body that causes her uterus to return to its normal size and shape

more quickly, and reduces blood loss after delivery.

(13) Although title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) was amended by the Pregnancy Discrimination Act in 1978 to prohibit discrimination on the basis of pregnancy, childbirth, or related medical condition, courts have not interpreted this amendment to include breastfeeding despite the intent of the Congress to include it.

(14) Women who wish to continue breastfeeding after returning to work have relatively few needs: availability of suitable, dependable, efficient breast pumps; a clean, convenient, safe, private, and comfortable location to express milk at the worksite; the opportunity to pump their breasts frequently enough to maintain their milk supply; and an adequate place to temporarily store expressed milk.

(15) Many employers have seen positive results from facilitating lactation programs in the workplace, including low absenteeism, high productivity,

high company loyalty, high employee morale, and lower health care costs.

(16) Parental absenteeism due to infant illness is 3 times less among the parents of breastfed children than those that are formula fed.

(17) Worksite programs that aim to improve infant health may also bring about a reduction in parental absenteeism and health insurance costs.

(18) Many women do not have available to them adequate facilities for expressing milk at their workplace, and are forced to pump in restrooms lacking privacy, comfort, and cleanliness. Many employees do not have access to refrigeration or other adequate storage facilities for expressed milk.

(19) Many employers deny women the opportunity to breastfeed or express milk. Some women have been discharged for requesting to breastfeed or express milk during lunch and other regular breaks. Some women have been harassed or discriminated against. Some women have had their pay withheld or been taken off of shift work for indicating their intention to express milk during the workday.

(20) There are numerous products on the market to assist a woman in expressing milk, but not all such products are effective or efficient. There have been many reports from physicians and lactation consultants about breastfeeding failure due to the use of ineffective breast pumps.

SECTION 3: AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Section 701(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(k)) is amended--

(1) by inserting 'breastfeeding,' after 'childbirth', and

(2) by adding at the end the following: 'For purposes of this subsection, the term 'breastfeeding' means the feeding of a child directly from the breast or the expression of milk from the breast by a lactating woman.'

SECTION 4: ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR PROVIDING APPROPRIATE ENVIRONMENT ON BUSINESS PREMISES FOR EMPLOYED MOTHERS TO BREASTFEED OR EXPRESS MILK FOR THEIR CHILDREN.

(a) IN GENERAL- Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

'SEC. 45D. CREDIT FOR EMPLOYER EXPENSES INCURRED TO FACILITATE EMPLOYED MOTHERS WHO BREASTFEED OR EXPRESS MILK FOR THEIR CHILDREN.

(a) IN GENERAL- For purposes of section 38, the breastfeeding promotion and support credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified breastfeeding promotion and support expenditures of the taxpayer for such taxable year.

(b) DOLLAR LIMITATION- The credit allowable under subsection (a) for any taxable year shall not exceed the product of--

(1) \$10,000, and

(2) the number determined by dividing the average number of full-time employees of the taxpayer during the preceding taxable year by 8,000.

(c) QUALIFIED BREASTFEEDING PROMOTION AND SUPPORT EXPENDITURE- For purposes of this section--

(1) IN GENERAL- The term 'qualified breastfeeding promotion and support expenditure' means any amount paid or incurred in connection with a trade or business of the taxpayer--

(A) for breast pumps and other equipment specially designed to assist mothers who are employees of the taxpayer to breastfeed or express milk for their children but only if such pumps and equipment meet such standards (if any) prescribed by the Secretary of Health and Human Services under section 5 of the New Mothers' Breastfeeding Promotion and Protection Act of 1998, and

(B) for consultation services to the taxpayer or employees of the taxpayer relating to breastfeeding.

(2) COSTS OF OTHER EXCLUSIVE USE PROPERTY INCLUDED- Such term includes any amount paid or incurred for the acquisition or lease of tangible personal property (not described in paragraph (1)(A)) which is exclusively used by mothers who are employees of the taxpayer to breastfeed or express milk for their children unless such property is located in any residence of the taxpayer or any employee of the taxpayer.

(d) RECAPTURE OF CREDIT-

(1) IN GENERAL- If, during any taxable year, any property for which a credit was allowed under this section is disposed of or otherwise ceases to be used by the taxpayer as required by this section, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount

equal to the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this section with respect to such property. The preceding sentence shall not apply to property leased to the taxpayer.

(2) RECAPTURE PERCENTAGE- For purposes of this subsection, the recapture percentage shall be determined in accordance with the following table:

The recapture	
If the recapture event occurs in:	percentage is:
Year 1	100
Year 2	60
Year 3	30
Year 4 or thereafter	0

The references to years in the preceding table are references to the consecutive taxable years beginning with the taxable year in which the property is placed in service by the taxpayer as year 1.

(3) CERTAIN RULES TO APPLY- Rules similar to the rules of paragraphs (3) and (4), and subparagraphs (B) and (C) of paragraph (5), of section 50(a) shall apply for purposes of this subsection.

(e) SPECIAL RULES- For purposes of this section--

(1) AGGREGATION RULES- For purposes of subsection (b), all persons which are treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single taxpayer, and the dollar amount contained in such subsection shall be allocated among such persons under regulations prescribed by the Secretary.

(2) REDUCTION IN BASIS- Rules similar to the rules of paragraphs (1) and (2) of section 50(c), and section 1016(a) (19), shall apply with respect to property for which a credit is determined under this section.

(3) OTHER DEDUCTIONS AND CREDITS- No deduction or credit shall be allowed under any other provision of this chapter with respect to any expenditure for which a credit is determined under this section.'

(b) Conforming Amendments-

(1) Section 38(b) of such Code is amended--

(A) by striking 'plus' at the end of paragraph (11),

(B) by striking the period at the end of paragraph (12) and inserting ', plus', and

(C) by adding at the end the following new paragraph:

(13) the breastfeeding promotion and support credit determined under section 45D(a).'

(2) Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

(9) NO CARRYBACK OF SECTION 45D CREDIT BEFORE JANUARY 1, 1999- No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45D may be carried back to a taxable year beginning before January 1, 1999.'

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

'Sec. 45D. Credit for employer expenses incurred to facilitate employed mothers who breastfeed or express milk for their children.'

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SECTION 5: BREAST PUMPS

(a) PERFORMANCE STANDARDS- The Secretary of Health and Human Services shall take such action as may be appropriate to put into effect a performance standard for breast pumps irrespective of the class to which the device has been classified under section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c). In establishing such standard, the Secretary shall identify those pumps appropriate for use on a regular basis in a place of employment based on the efficiency and effectiveness of the pump and on sanitation factors related to communal use. Action for a performance standard shall be taken within one year of the date of the enactment of this Act.

(b) COMPLIANCE POLICY GUIDE- The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall issue a compliance policy guide which will assure that women who want to breastfeed a child are given full and complete information respecting breast pumps.

SECTION 6: FAMILY AND MEDICAL LEAVE FOR NURSING MOTHERS' BREAKS.

(a) PRIVATE AND PUBLIC SECTOR EMPLOYEES-

(1) AMENDMENT- Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

'(3) NURSING MOTHERS' BREAKS- A lactating mother who is entitled to leave under paragraph (1)(A) or (1)(B) shall, during the first 12-month period for which the employee is entitled to such leave under paragraph (2), be given up to one hour in each 8 hour work day in such period to express milk for a child. The time may be taken in 2 one-half hour periods or in 3 20 minute periods. For work shifts longer or shorter than 8 hours proportional adjustments shall be made in the time given an employee to express milk for a child. The time taken will not be charged against the employee's entitlement to leave under paragraph (1). Unless otherwise deemed to be compensable hours of work under applicable Federal, State, or local law, employers are not required to compensate employees for time under this paragraph. Such an employee shall give the employee's employer notice, in accordance with subsection (e)(1), that the employee will want the time provided by this paragraph.'

(2) INTERMITTENT LEAVE- The first sentence of section 102(b) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(b)) is amended by adding before the period the following: 'or unless the leave is taken under subsection (a)(3).'

(3) REGULATIONS- Within 180 days of the date of the enactment of this Act, the Secretary of Labor shall promulgate regulations for the implementation of the amendment made by paragraph (1).

(b) FEDERAL EMPLOYEES-

(1) GENERAL RULE- Section 6382(a) of title 5, United States Code is amended by adding at the end the following:

'(3) An employee who is a lactating mother who is entitled to leave under paragraph (1)(A) or (1)(B) shall, during the first 12-month period for which the employee is entitled to such leave under paragraph (2), be given up to one hour in each 8 hour work day in such period to express milk for the child. The time may be taken in 2 one-half hour periods or in 3 20 minute periods. For work shifts longer or shorter than 8 hours proportional adjustments shall be made in the time given an employee to express milk for a child. The time taken will not be charged against the employee's entitlement to leave under paragraph (1). Unless otherwise deemed to be compensable hours of work under applicable Federal law, employees are not required to be compensated for time under this paragraph. Such an employee shall give the employee's employer notice, in accordance with subsection (e)(1), that the employee will want the time provided by this paragraph.'

(2) INTERMITTENT LEAVE- The first sentence of section 6382(b)(1) of title 5, United States Code, is amended by adding before the period the following: 'or unless the leave is taken under subsection (a)(3).'

(c) PURPOSE OF AMENDMENTS- The purpose of the amendments made by this section is to establish a legal minimum for the amount of time that a woman is entitled to express milk at the workplace. The amendments are not intended to preclude an employer from voluntarily providing more time for the employee to express milk or to diminish any rights the woman would otherwise have pursuant to the employer's sick leave or vacation policy or under the Family

and Medical Leave Act of 1993.

SECTION 7: CAMPAIGN REGARDING BREASTFEEDING AND HEALTH OF INFANTS.

The Secretary of Health and Human Services, acting through the Maternal and Child Health Bureau of the Health Resources and Services Administration and in cooperation with the Secretary of Agriculture and the heads of such other Federal agencies as the Secretary of Health and Human Services determines to be appropriate, shall undertake a campaign aimed at health professionals and the general public to promote the benefits of breastfeeding for infants, mothers, and families. Activities under the program shall include providing such education to public and private health professionals who provide health services under Federal programs (including health programs for Federal employees).

SECTION 8: INCREASED SUPPORT FOR BREASTFEEDING PROMOTION AND SUPPORT ACTIVITIES UNDER THE WIC PROGRAM.

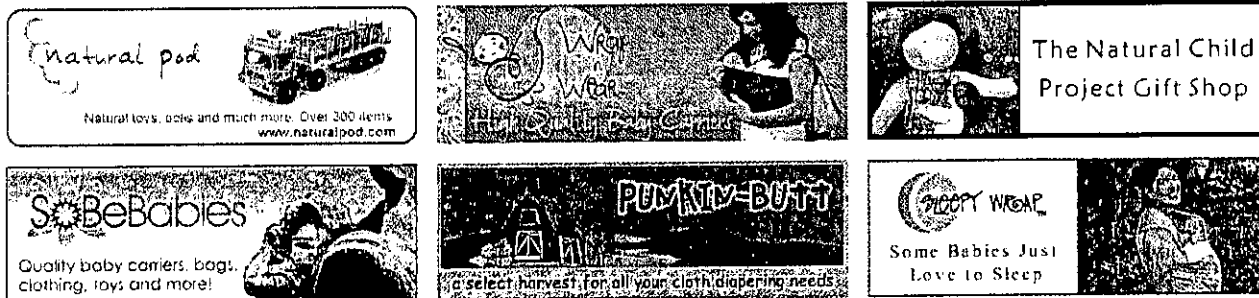
Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended by adding at the end the following:

“(H) Notwithstanding any provision in this subsection that requires a State agency to fund breastfeeding promotion and support activities from amounts made available for nutrition services and administration, a State agency may use funds made available for food benefits under this section (including savings from infant formula cost containment) for such breastfeeding promotion and support activities.”

Note: March 24, 1998

Mrs. MALONEY of New York (for herself, Mr. MCDERMOTT, Ms. CHRISTIAN-GREEN, Mr. GEJDENSON, Mr. HILLIARD, Ms. KAPTUR, Mr. LANTOS, Ms. LOFGREN, Mr. NADLER, Ms. NORTON, Mr. RUSH, Mrs. THURMAN, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, House Oversight, Government Reform and Oversight, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

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National Institutes of Health
 Eunice Kennedy Shriver
 National Institute of Child Health and Human Development

Breastfeeding

What is breastfeeding?

Breastfeeding, also called **nursing**, can be an easy and inexpensive way for a mother to feed her child.

According to the [American Academy of Pediatrics \(AAP\) Policy Statement on Breastfeeding](#), women who don't have health problems should exclusively breastfeed their infants for at least the first six months of life. The AAP suggests that women try to breastfeed for the first 12 months of life because of the benefits to both the mother and baby.

What are the benefits of breastfeeding?

Breastfeeding offers many benefits to the baby:

- Breast milk provides the right balance of nutrients to help an infant grow into a strong and healthy toddler.
- Breastfed infants, and those who are fed expressed breast milk, have fewer deaths during the first year and experience fewer illnesses than babies fed formula.
- Some of the nutrients in breast milk also help protect an infant against some common childhood illnesses and infections, such as diarrhea, middle ear infections, and certain lung infections.
- Some recent NICHD-supported research also suggests that breast milk contains important fatty acids (building blocks) that help an infant's brain develop. Two specific fatty acids, known as DHA and AA, may help increase infants' cognitive skills. Many types of infant formulas available in the United States are fortified with DHA and AA, and all formula available for preterm infants is fortified with these fatty acids.

Breastfeeding also benefits the mother:

- In response to the baby's sucking, the mother's body releases a hormone that makes her uterus contract and get smaller.
- Many mothers also get emotional benefits from breastfeeding because of the closeness of this interaction with the baby and from the satisfaction of helping to nourish their babies.
- Some research suggest that mothers who breastfeed their babies have fewer episodes of post-delivery depression.
- There is evolving evidence to indicate that certain types of cancer (such as breast, uterus, and ovarian cancer) occur less often in mothers who have breastfed their babies.
- Many societies and cultures also encourage mothers to breastfeed, which can offer support to a new mother.

What if I have trouble breastfeeding?

Even though breastfeeding is a natural process, it's not always easy. Many health care providers suggest that women get lactation support to learn how to breastfeed and what is involved with breastfeeding. Many health centers, clinics, and hospitals have lactation support specialists, such as an Internationally Board Certified Lactation Consultant (IBCLC) or a Certified Lactation Counselor (CLC), on staff. Ask your health care provider for more information about getting help with breastfeeding. Even with help, though, some women still have trouble breastfeeding or cannot breastfeed.

Are there cases in which it is better not to breastfeed?

In certain situations, health care providers may advise a woman not to breastfeed:

- A woman with certain health conditions, such as HIV or active tuberculosis, should not breastfeed because she risks giving the infection to her infant through her breast milk.
- Women who actively use drugs or do not control their alcohol intake, or who have a history of these situations, may also be advised not to breastfeed.
- Certain medicines, including some mood stabilizers and migraine medicines, can also pass through the breast milk and cause harm to the infant.
- Women with certain chronic illnesses may be advised not to breastfeed, or to take special steps to ensure their own health while breastfeeding. For example, women who have diabetes may need to eat slightly more food while they breastfeed, to prevent their blood sugar levels from dropping.
- Women who have had breast surgery in the past may face some difficulties in breastfeeding.

Please note: engorgement, hardening of the breast, "breast abscess," fever, and use of pain medications or antibiotics are NOT reasons to stop breastfeeding. In fact, in some cases—such as breast abscess or breast hardening—emptying of the breast helps to relieve the problem.

For More Information:

Clinical Trials

- [NICHD Related Clinical Trials](#)
- [All Related Clinical Trials](#)

News Releases

- [Low Levels of Vitamin B12 May Increase Risk for Neural Tube Defects](#)

[All Related News](#)

Publications/Materials

- [Ponga a su nieto o nieta a dormir sin peligro: Reduzca el riesgo del síndrome de muerte súbita del bebé](#)
- [Back to Sleep Campaign Materials Order Form 2006](#)

[All Related Publications](#)

Web Sites

- [AAP Policy Statement on Breastfeeding](#)
- [Medline Plus - Breastfeeding](#)
- [NICHD Women's Health Research: Breastfeeding](#)

Contact Information:

NICHD Information Resource Center
 Address:
 P.O. Box 3006
 Rockville, MD 20847
 Phone: 1-800-370-2943
 Fax: 301-984-1473
 E-mail:
NICHDIRC@mail.nih.gov

[All Contacts](#)

Testimony in Support of Engrossed SB 2344
House of Representatives Human Services Committee
March 18, 2009

Good afternoon Committee Members. My name is Joan Connell. I am a native North Dakotan, a pediatrician, and a medical student educator. Most pertinent to today's discussion, I am also a breastfeeding mother.

Senate Bill 2344 creates new laws and modifies existing laws to ultimately promote breastfeeding by allowing breastfeeding in a public place, as well as creating an "Infant Friendly" designation that workplaces may find advantageous to attain, and in so doing, would create workplaces where breastfeeding mothers could express milk during break times over the course of the workday.

The American Academy of Pediatrics states that human milk is uniquely superior for infant feeding. The AAP further recommends that infants receive breastmilk exclusively for the first 4-6 months of life, and then should continue to receive breastmilk through the first year of life, and thereafter as long as is mutually desired by both mother and child. The American Academy of Family Physicians has also published a strong position statement that supports breastfeeding and includes guidelines for the workplace. North Dakota's Healthy People 2010 initiative has established a goal to "Increase the proportion of mothers who breastfeed their babies." The targets include 75% of moms to be breastfeeding in the early post-partum period, 50% at 6 months, and 25% at one year.

As a pediatrician, I encounter many North Dakota working mothers who stop breastfeeding before the end of their brief maternity leaves or decide not to initiate breastfeeding due to a perceived inability to pump in the workplace. The inability to pump during prolonged periods of separation from baby reduces available breastmilk for the next feeding. It also decreases overall milk production which will prematurely decrease the duration of breastfeeding. In response to the suggested legislation which makes it possible for mothers to breastfeed in public places, it is obvious that mothers need to feed their babies on demand, wherever they may be, for the well being of the baby.

Again, as a pediatrician, educator, and breastfeeding mother, I urge you to pass Engrossed SB 2344.

#4

**Testimony
Senate Bill 2344
House Human Services Committee
Tuesday, March 17, 2009; 3:30 p.m.
North Dakota Department of Health**

Good afternoon, Chairman Weisz and members of the Human Services Committee. My name is Kim Hinnenkamp, and I am the breastfeeding coordinator for the North Dakota Department of Health's Special Nutrition Program for Women Infants and Children. I am here to testify in support of Senate Bill 2344.

The North Dakota Department of Health supports mothers in their efforts to breastfeed their babies. Research shows that breast milk is best for babies and that breastfeeding is necessary for healthy infants, children and mothers. In fact, breastfeeding is recognized as the optimal method for feeding a baby by many of the nation's health and scientific organizations, including the American Academy of Pediatrics, the Centers for Disease Control and Prevention, the American Dietetic Association, and the American Public Health Association.

Numerous studies show that breast milk protects a baby against diabetes, infectious diseases, and childhood obesity and that mothers who breastfeed reduce their risk of breast and ovarian cancers.

Supporting a mother's choice to breastfeed her baby is essential to her success. This positive support must come from her family, her friends, her physician – and her community. Mothers who breastfeed their babies in public places generally do so discreetly by using blankets and other means to ensure their privacy.

One of the Healthy People 2010 goals is to achieve a breastfeeding rate of 75 percent across the nation. In 2008, 68.2 percent of North Dakota women initiated breastfeeding. However, mothers who begin breastfeeding their babies often do not continue. In 2008, only 36.8 percent of North Dakota women were still breastfeeding their babies at 6 months of age. Returning to work or school is often the reason that many mothers stop breastfeeding.

If passed, this law would not be unique to North Dakota. According to the U.S. Centers for Disease Control and Prevention, 46 other states – including South Dakota, Iowa, Montana and Minnesota – have laws about breastfeeding in public places.

Department of Health staff and Healthy North Dakota Breastfeeding Committee members are already in the process of identifying baby-friendly workplace policies that support breastfeeding women in their employment. Once these model policies have been identified, the department and the committee will make them available to employers through the local community breastfeeding coalitions and through the Healthy North Dakota Breastfeeding Committee website. Those employers adopting a model policy would be allowed to be designated as “infant friendly.”

This concludes my testimony. I am happy to answer any questions you may have.



March 17, 2009

Testimony
SB 2344

Chairman Weisz and Members of the Human Services Committee:

Good day. I am Karen Ehrens, a Licensed Registered Dietitian, and I am here today on behalf of the over 300 members of the North Dakota Dietetic Association (NDDA) in support of SB 2344, which would help support women who breastfeed.

The North Dakota Dietetic Association, with a mission to support the public through the promotion of optimal nutrition, health and well-being, believes that exclusive breastfeeding provides optimal nutrition and health protection for the first 6 months of life, and that breastfeeding with complementary foods for at least 12 months is the ideal feeding pattern for infants.

Breastfeeding benefits infants in numerous ways. In addition to providing optimal nutrition, breastfeeding decreases the risk of childhood obesity, guarantees safe, fresh milk, enhances the immune system, protects against infectious and non-infectious diseases, protects against allergies and intolerances, decreases risk of diarrhea and respiratory infections, increases cognitive function, reduces risk for heart disease, and increases bonding with mother.¹

Breastfeeding benefits mothers' health by decreasing the risk of breast and ovarian cancer, decreasing the risk of developing Type 2 diabetes, improving blood sugar level in women who develop gestational diabetes, improving bone density and decreasing risk for hip fracture and strengthening the bond with the baby. Breastfeeding eliminates the need for preparing and mixing formula and saves money by not spending it on formula.¹

North Dakota is **one** of only **four** states that does not have state legislation addressing breastfeeding in public places. And North Dakota is lagging behind the rest of the nation in breastfeeding rates as illustrated by several measures. The percentage of babies who are ever breastfed here is lower than the national average (ND – 68% of infants have ever been breastfed vs. 74% nationally), the percentage of mothers still breastfeeding at six months is lower here than the national average (ND – 37% vs. 43% nationally), and a lower percentage of North Dakota mothers are breastfeeding their infants at one year of age (ND – 18% vs. 21% nationally).²

Some of the reasons that mothers stop breastfeeding include the need to work or go to school, embarrassment and societal disapproval, discomfort about breastfeeding in public, short or unpaid maternity leave, unsupportive work environment, and lack of public and workplace facilities to breastfeed comfortably.¹

Seventy-six percent of North Dakota's mothers with young children are in the workforce³, the highest percentage in the nation. And over eight percent of North Dakota residents hold more than one job⁴. Breastfeeding can benefit not only infants and mothers, but employers, too. Women who breastfeed their children miss less work due to less infant illness, are more productive, and feel loyalty to their employer. Employers who support breastfeeding also have an enhanced public image.¹ This legislation can help employers by providing them with information about how to set up a breastfeeding friendly worksite and providing recognition to those employers who take the important step of supporting women who breastfeed when they return to work after the birth of their children.

We ask that you support this legislation to send a message to the young families we are trying to keep in the state and the young professionals we are trying to attract to the state. Thank you for your consideration of these comments.

References:

1. Position of the American Dietetic Association: *Promoting and Supporting Breastfeeding*, Journal of the American Dietetic Association, May 2005 (Vol. 105, Issue 5, Pages 810-818).

2. Breastfeeding Report Card – United States, 2008. Centers for Disease Control and Prevention, Division of Nutrition, Physical Activity and Obesity. Accessed at http://www.cdc.gov/BREASTFEEDING/DATA/report_card.htm

3. North Dakota Association for the Education of Young Children Policy Brief, 2007. Accessed at <http://www.ndaeyc.org/docs/GrowingFuturesPolicyBrief.pdf>

4. North Dakota State Data Center *Economic Brief*, January 2008. Accessed at http://www.ndsu.edu/sdc/publications/ebriefs/EB17_1Press.pdf

#6

Testimony on SB2344
House Human Services Committee
March 17, 2009
Submitted by Pat Sauer
1802 N. Bell St.
Bismarck, ND 58501
701.222.8891

Good Afternoon Mr. Chairman, Committee Members, and all present. My name is Pat Sauer, and our family has gratefully lived and raised our family in this caring community, Bismarck, and this family oriented state of North Dakota for over 30 yrs.

Today, I very conflictedly and hesitantly, because of the unclear effect and outcome on breastfeeding regarding the phrase "IF discreet and modest", yet with hope for the future, ask you to vote yes on SB2344. Yes, conflictedly & hesitantly, but also with hope--in your possibly and diligently finding a way of omitting /bettering that phrase (with input from many closest to the experiences of successful breastfeeding), if that would be realistically workable before the end of this legislative session-- or at least, by having the passage of even the amended version hopefully being a move (very flawed and worrisome as many of us feel and know it can be) toward greater legislative and public awareness of the value and merit, and often continually challenging plight, of self-giving breastfeeding moms, little ones, and their families—and so spotlighting the necessity and merit, to "all", of better supporting and protecting those families. Importantly, my hope is that it would be legislatively necessary for any onlooker, NOT the breastfeeding mom, to prove that she indeed was meaning to be, and was in behavior, not being "discreet and modest" as the amended phrasing states.

Although my reasoning is stated on the following page, I thank you in advance for your patience and hard work in trying to understand and better serve all of us and because of that, as later repeated, especially those most vulnerable and voiceless.

My reasoning is this: *(next page please)*

I believe we need to send a clear message of appreciation, valuing, support and protection to mothers and little ones involved in breastfeeding. We have read and heard of the many benefits for both them and the society at large—including even reducing health care costs in the present and future, something on everyone's mind these days.

I realize that many dedicated people have put forth heroic efforts to address this situation legislatively, and that most things need continuing refinement to "stay current, and address different situations". I am so thankful to all those who have been involved. With the current amendment phrasing in this bill, however, a clear positive message is inadvertently sabotaged I believe. Through it, it seems, breastfeeding moms are cautioned to be aware of and meet the expectations of an "unknown someone's" view of discretion and modesty or lose legislative protection.

What a different message than that is generally (yet I believe, sadly) given about viewing women's bodies when they are engaged in solely self-oriented, and maybe business or other group's, promotional ways. Fashion and other sales businesses as well as restaurant and other employers and groups often encourage or even require strategic disclosure and accentuation of parts of women's bodies, especially breasts. There is no direct self-giving nourishment of little ones involved—simply adult self-interest in most cases. (And much research has pointed to the increase in family hardship that this second message actually brings) Yet this second message is not associated with these phrases of the same cautions legislatively given to breastfeeding moms and little ones, in order to secure protection anyway.

What do these two messages, then, more bluntly, tend to say to our young mothers (and fathers, girls, boys, women, men, sons, daughters, etc.?)

1) It's (mostly) nice to be Self-Giving and breastfeed, but be cautious in public because someone could think that the mom is being indiscreet and immodest and you all could lose your public legislative protection.

2) When done in solely or mostly Self-Serving and/or financially or other socially rewarded ways, already common types of exposures and strategic accentuation of breasts not only are legislatively acceptable, but there are no worries for you of losing your legislative protection if someone thinks you are "indiscreet or Immodest"—that doesn't legislatively apply to you—only those breastfeeding moms.

I realize that no one meant for any phrasing to have had this outcome—and so I believe that there must be a way to harmonize intent with method. Whole disciplines of communication have been developed to help just these types of situations—especially in situations involving "power differences" and also the vulnerabilities of new and/or otherwise sensitive mothers (milk production is affected by stress, etc.). I again sincerely, thankfully and fervently support the desire and search for ways to protect and nurture our precious families and the values that sustain us all, including modesty and discretion. I also see a need to look for ways of asking Everyone to be more considerate and thoughtful regarding their dress and others' possibly unseen vulnerabilities. I believe, however, that we are working against those hopes in this phrasing in the bill. "Singling out" self-giving breastfeeding moms and little ones is not helpful—and really harmful, to the family values goals we desire (and during my 16 yrs. employment experience in

a local family- friendly fast food/play area restaurant I have seen no --conservatively speaking-- "indiscreet or immodest" nursing, but have seen countless others dressed and seated in manners that many, I believe including many of you, would consider so. Yet neither I nor anyone I've heard of has ever been asked to approach these last individuals and ask them to change their behavior/dress. I realize also there will eventually be some unwise incidents with mommas—yet why make everyone afraid when "message 2)" is so much more prevalent yet Less directly helpful to the community's "health and human well being"?)

Again,I believe we need to send a clear message of appreciation, valuing, support and protection to mothers and little ones involved in breastfeeding. I believe the words "if discreet and modest" —or something--needs to be changed in order for the passage of this bill to do what is really intended, and do so without actually creating more fear and less breastfeeding. Dialoguing (or continuing)with those whose gifts are expertise with new breastfeeding mothers and interpersonal communication would be a wise way, I believe. This ultimately affects those most vulnerable and voiceless among us, and so also ultimately, someday and somehow, us all.

17

Testimony for SB#2344
Prepared for House Human Services Committee

Given by Alyse Erbele

Who I am and why this matters to me:

I am a breastfeeding mother. I have breastfed my daughter many places around Bismarck since she was born—restaurants, the library, the mall, store—everywhere I've been. I wondered what would happen if I were confronted by someone who noticed I was breastfeeding. I knew that North Dakota law provided no protection for my child and me. I was very excited to hear about this law and pleased when I read the first draft.

I am in favor of the bill as it was originally drafted, but I do not support the bill as it has been amended. I would support this bill if it provided **protection** for breastfeeding mothers.

The words, "discreet and modest" are unnecessary. How many women have you seen breastfeeding at all, much less immodestly? In the last two years, I have rarely seen other nursing mothers. I regularly go to the play area at Gateway Mall and rarely see mothers breastfeeding, but I see mothers with bottles all the time. I know at least four women who are breastfeeding, but use formula when out in public. They are afraid to nurse in public, and that's *without* a law that will make mothers worry more about someone saying something to them. It is ironic that women regularly wear clothes that are more revealing expressly *for* the purpose of sexual titillation, and that is acceptable. I see far more skin on billboards *in Bismarck* than I've ever seen on any breastfeeding mother.

Discreet and modest language is unnecessary, and no other state of the 47-48 other states who have laws protecting mothers contain that language. Missouri does qualify their law with the phrase "with as much discretion as possible". I have not heard of a single incident where a mother was asked to quit because she was being immodest.

The bill as it reads currently attempts to regulate breastfeeding mothers, not protect them. This is anti-family and anti-child. As a fairly conservative state, we value family highly.

Also, currently in the law regarding **12.1-20-12.1. Indecent exposure**, exposure of the breasts is not included, so it could happen anyway. Adding a modesty clause to the SB #2344 won't increase public nudity, it will only decrease public breastfeeding. I would like to know if anyone has hard statistics on increase in breast exposure in states with protective laws. I wonder why do you think ND women (your constituents) would expose more flesh than necessary and more than women in other states?

The current wording demands that a mother must breastfeed in a modest and discreet manner. If you've ever nursed or seen a baby nurse, it's not all the rosy picture portrayed in most pictures. Babies wiggle and squirm. They are curious, growing human beings. If you are staring at a nursing mother, you are likely to see some skin! It happens. Breastfeeding is not a sexual activity, and breasts are not sexual organs any more than mouths are. They are mammary glands, created for the purpose of providing nourishment for our children.

The current wording provides **no protection** for breastfeeding mothers, for their babies or for mothers who work and pump. I cannot personally speak to pumping at work, but I have a friend whose boss made her pump in her car. She quit that job, but that is not possible for many people in our current economy.

The bill changes the focus entirely from protecting breastfeeding mothers to the issue of modesty, *which is not the main issue*. The main issue is the child's right to eat. Babies do not understand wait. They have needs which must be addressed immediately. Focusing on modesty avoids the real issue—the needs of babies. Talking about modesty actually interferes with mothers successfully nursing—that there is a law that requires women to nurse modestly will make it harder for women—even those who would have nursed discreetly to begin with—to feel confident and protected about nursing in public, and

that this in turn will result in fewer babies being breastfed exclusively for the AAP's recommended minimum of 6 months exclusive breastfeeding and to reach the recommended minimum of a year.

Why We Need this Law:

Some people wonder why a law protecting breastfeeding mothers and babies is even necessary. In the last 3-4 years, there have been at least six incidents that were publicized where mothers were harassed for feeding their babies in public.

How will the law help mothers breastfeed more and longer?

Mothers who are not intimidated will feel more confident to breastfeed in public. If you are afraid of being kicked out of your favourite restaurant, how would you feel?

1. Benefits to the state
 - a. Many families who are on WIC use formula, another expense the state covers. The more WIC moms who breastfeed, the more the state saves, both immediately and in the long run because of the health benefits.
 - b. It is ridiculous to compromise these important public health and cost savings over squeamishness about glimpsing a breast now and then. Ask yourself, what's more important? Protecting the tender eyes of a few easily-offended citizens, or improving our children's health and controlling our state's healthcare costs?
2. Benefits to mothers' health—reduces multiple cancers in women the longer women breastfeed.
3. Benefits to Babies
 - a. Human milk is made for humans.
 - b. Are sick less often, get less dehydrated while they are sick and recover more quickly.
 - c. Have less asthma, childhood and adult cancers, obesity and diabetes.

In the US, 720 babies a year die because they are on formula

(<http://www.ncbi.nlm.nih.gov/pubmed/15121986?dopt=Abstract>). This is from the Epidemiology Branch, National Institute of Environmental Health Sciences.

Stories of mothers who suffered discrimination:

Texas has a law with no enforcement provision, but Jessica Swimeley had to rally public support to influence those trying to stop her from nursing her child in the Ronald McDonald House where they were staying while the baby had brain surgery. And her child desperately needed to nurse. After his surgery nursing was one of the few things that comforted him, but someone felt their right to be offended by something natural and necessary took precedence over a poor suffering child's needs. (See attached Lactation and the Law article for more details).

My personal experience:

I have been asked to nurse in a bathroom *when I was using a blanket*. That person was uncomfortable with the fact I was nursing. People who are uncomfortable with the fact of breastfeeding will use the modesty clause as an excuse to harass mothers and babies. 'Harass' may sound harsh to some of you, but to a new mom, to any mom, being confronted about feeding your baby is humiliating. I worried that some person would say something and force me to leave. This experience I did have was at a time when my daughter was two months old. I left my house for church, and this other weekly meeting; this was the only time I had to be around adults, and some overly sensitive person wanted me to spend most of that time in a bathroom essentially by myself? It was an extremely isolating and embarrassing experience.

Conclusion:

If the government wants to help mothers provide what is best for their children, then they must make a difference and *protect* breastfeeding mothers. **The SB 2344 should be passed with its original wording.**