

The Business Case for Breastfeeding

Harvard Law School Mississippi Delta Project

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Table of Contents

I. Introduction	1
II. The Benefits of Breastfeeding	1
A. Benefits to Children and Mothers	2
III. Mississippi’s State will Benefit from Increasing Breastfeeding Rates	3
A. Improved Health Outcomes Will Lead to Lower Healthcare Costs	3
B. Mississippi will Benefit from Reduced WIC Expenditures	5
IV. Mississippi’s Businesses will benefit from Increased Breastfeeding	5
Reduced Absenteeism	7
Lower Health Care and Insurance Costs.....	8
Increased Retention	9
Other Benefits.....	10
V. Elements of a Successful Lactation Program	10
VI. Model Lactation Programs	11
A. Mutual of Omaha	12
B. Airbus Helicopters, Inc.	13
VII. Survey of State Breastfeeding Laws	13
A. Required Accommodations in the Workplace	14
B. Business designations	15
VIII. Conclusion	17
VIII. Appendix	18

I. Introduction¹

Breastfeeding has the potential to decrease government spending and improve business practices. A 2014 CDC survey of breastfeeding rates nationwide found that Mississippi had the fourth-lowest breastfeeding rate in the country.² Mississippi ranks lowest in the nation for six-month exclusive breastfeeding.³ The benchmark recommended by most national and international health organizations such as the World Health Organization and the American Academy of Pediatrics, is for continued breastfeeding for the first six to twelve months of an infant's life.⁴ Not only do Mississippi's citizens miss out on numerous documented health benefits by breastfeeding at such low rates, the state itself fails to take advantage of a variety of potential economic benefits that could arise from an increase in breastfeeding in the state. This report is written by the Mississippi Delta Project, a collaboration of students and staff from Harvard Law School, and is intended to provide valuable background on these benefits. The first section recognizes the economic benefits of increased levels of breastfeeding to the state of Mississippi itself such as decreased healthcare costs and decreased spending on state funded benefit programs. The second section of this report explores the economic benefits to Mississippi's businesses, including lower rates of absenteeism, increased employee retention, and improved reputation.

II. The Benefits of Breastfeeding

Breastfeeding has many economic and health benefits for families. Economically, breastfeeding saves households thousands of dollars a year.⁵ For example, the Surgeon General has reported that families spend an average of \$1,720 - \$2,150 a year on formula for newborn infants.⁶ With breastfeeding, this cost is reduced to zero. The health benefits of breastfeeding, some of which are outlined below, can be even more impactful. Both the direct benefits of reduced expenses and the indirect benefits of improved health outcomes for both infants and mothers have the potential to unlock enormous economic savings for Mississippi.

“[B]reastfeeding is the best source of infant nutrition and immunologic protection” and reduces a mother's risk of acquiring fatal and non-fatal conditions.⁷ Government regulators, state

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² BREASTFEEDING REPORT CARD, NAT'L CTR. FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION, 4 (2014), <http://www.cdc.gov/breastfeeding/pdf/2014breastfeedingreportcard.pdf> [hereinafter REPORT CARD]; THE SURGEON GENERAL'S CALL TO ACTION TO SUPPORT BREASTFEEDING, U.S. DEP'T OF HEALTH AND HUMAN SERV. at v (2011), <http://www.surgeongeneral.gov/library/calls/breastfeeding/calltoactiontosupportbreastfeeding.pdf> [hereinafter CALL TO ACTION].

³ CALL TO ACTION, *supra* note 2 at 4.

⁴ *AAP Reaffirms Breastfeeding Guidelines*, AMERICAN ACADEMY OF PEDIATRICS (Feb. 27, 2012) <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/AAP-Reaffirms-Breastfeeding-Guidelines>; *Breastfeeding*, WORLD HEALTH ORGANIZATION, <http://www.who.int/topics/breastfeeding/en/> (last visited July 18, 2016); *AAP Reaffirms Breastfeeding Guidelines*, American Academy of Pediatrics (Feb. 27, 2012) <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/AAP-Reaffirms-Breastfeeding-Guidelines>.

⁵ See CALL TO ACTION, *supra* note 2 at v.

⁶ *Id.* (This dollar amount has been adjusted for inflation.)

⁷ *Id.*

bodies, and numerous health organizations across the nation have recognized the importance of breastfeeding to maternal and infant health.⁸ Because of these unparalleled health benefits, the American Academy of Pediatrics (AAP), American Academy of Family Physicians, American College of Obstetricians and Gynecologists, American College of Nurse Midwives, American Diabetic Association, and the American Public Health Association have all recommended breastfeeding most infants for twelve months.⁹ International organizations such as the World Health Organization and UNICEF recommend breastfeeding for the first two years, with complementary feeding of age-appropriate foods beginning at six months.¹⁰ With its low breastfeeding rates, Mississippi has the potential to see rapid improvements, including immense personal savings to families within the state as well as improved health outcomes, by implementing measures to encourage breastfeeding.

A. Benefits to Children and Mothers

Breastfeeding has an unparalleled array of health benefits for both infants and breastfeeding mothers. The following table demonstrates some of the striking health improvements resulting from exclusive breastfeeding for an infant’s first six months.

Infant Health Risk Reduction Due to Breastfeeding¹¹

Health Outcome	Reduction of Risk in Full Term Infants
Asthma	27-40%
Childhood Obesity	24%
Type II Diabetes	39%
Childhood Leukemia	19%
Sudden Infant Death Syndrome	36%
Lower Respiratory Tract Illnesses	72%

The health benefits of breastfeeding expand even further. In 2011, the Surgeon General reported finding that infants who are formula fed are 250% more likely to be hospitalized for lower respiratory infection before reaching the age of one when compared with infants who are exclusively breastfed for their first four months or more.¹² The American Journal of Clinical Nutrition indicates that infant death syndrome, the spontaneous death of an otherwise healthy baby, is 56% more likely in infants who have only been formula-fed.¹³ Infants who are breastfeed are less likely to suffer from a variety of illnesses, such as diarrhea,¹⁴ ear infections,¹⁵

⁸ *Id.*

⁹ *Id.*

¹⁰ *Exclusive Breastfeeding for Six Months Best for Babies Everywhere*, WORLD HEALTH ORGANIZATION (January 15, 2011), http://www.who.int/mediacentre/news/statements/2011/breastfeeding_20110115/en; *Breastfeeding*, UNICEF, (July 29, 2015), http://www.unicef.org/nutrition/index_24824.html.

¹¹ STANLEY IP ET AL., BREASTFEEDING AND MATERNAL HEALTH OUTCOMES IN DEVELOPED COUNTRIES: EVIDENCE REPORT; U.S. DEP’T OF HEALTH AND HUMAN SERVICES, 3-5, 40-44, 60-65, 81-86, 93-96 (2007). (2007); Desta Reff, *Increasing Breastfeeding Rates in Mississippi*, HARVARD FOOD LAW AND POLICY CLINIC, 2 (2015), available at http://www.champsbreastfeed.org/uploads/3/7/9/4/37948891/policy_brief_by_destareff.pdf.

¹² CALL TO ACTION, *supra* note 2 at v.

¹³ *Id.*

¹⁴ Maria A. Quigley et. al., *Breastfeeding and Hospitalization for Diarrheal and Respiratory Infection in the United Kingdom Millennium Cohort Study*, 119 PEDIATRICS 2006, 2006–07 (2007).

lower respiratory infections,¹⁶ and leukemia.¹⁷ Most importantly for Mississippi, breastfeeding significantly reduces the risk of childhood obesity, diabetes, and infant mortality, all chronic and costly health conditions to the state.¹⁸

The impact of breastfeeding extends well beyond infancy. Breastfeeding protects against later childhood obesity.¹⁹ A 2015 study even found a positive correlation between breastfed children (of a year or more) and their adult intelligence, future earning potential and educational attainment.²⁰ Indeed, children who are breastfed will continue to reap the benefits throughout their lives.

Mothers also benefit significantly from breastfeeding. Breastfeeding significantly reduces the risk of many forms of cancer to a mother, including breast cancer (up to 28%), uterine cancer and ovarian cancer.²¹ Further, specifically with breastfeeding, the longer a mother breastfeeds, the more she can decrease her risk.²² Breastfeeding also reduces a mother's risk of postpartum hemorrhage, postpartum depression, developing osteoporosis and obesity through increased postpartum weight loss.²³

III. Mississippi's State will Benefit from Increasing Breastfeeding Rates

An increase in breastfeeding will benefit the state of Mississippi itself on many different levels. Mississippi has the potential to achieve numerous health and economic benefits from increased breastfeeding that can be achieved with very little investment and/or effort.

A. Improved Health Outcomes Will Lead to Lower Healthcare Costs

The improved health outcomes created by breastfeeding have the potential to unlock enormous savings for any health care system, public or private. One study noted that for every 1000 infants that were not breastfed, "there is an excess of 2033 office visits, [over] 200 days of

¹⁵ *Breastfeeding and Maternal and Infant Health Outcomes in Developed Countries*, TUFTS-NEW ENGLAND MEDICAL CTR. EVIDENCE-BASED PRACTICE, 32 (2007), https://www.researchgate.net/profile/Np_Magula/publication/6076615_Breastfeeding_and_Maternal_Health_and_Infant_Health_Outcomes_in_Developed_Countries/links/557651a508aeacff1ffe62c2.pdf. [hereinafter *Breastfeeding and Maternal and Infant Health Outcomes*]

¹⁶ Quigley, *supra* note 14 at 2006–07.

¹⁷ Marilyn L. Kwan, *Breastfeeding and the Risk of Childhood Leukemia: a Meta-Analysis*, 119 PUBLIC HEALTH REP. 521, 521 (2004).

¹⁸ CALL TO ACTION, *supra* note 2 at 2.

¹⁹ *Breastfeeding and Maternal and Infant Health Outcomes*, *supra* note 15 at 65.

²⁰ Cesar G. Victora et al., *Association between Breastfeeding and Intelligence, Educational Attainment, and Income at 30 years of Age: a Prospective Birth Cohort Study from Brazil*, 3 THE LANCET GLOBAL HEALTH e199, e199 (2015), [http://www.thelancet.com/journals/langlo/article/PIIS2214-109X\(15\)70002-1/fulltext](http://www.thelancet.com/journals/langlo/article/PIIS2214-109X(15)70002-1/fulltext).

²¹ BREASTFEEDING AND THE USE OF HUMAN MILK, 129 PEDIATRICS e827, e832 (2012), <http://pediatrics.aappublications.org/content/129/3/e827.full.pdf+html> (last visited June 23, 2016).

²² Y.K. Bai et al., *Psychosocial Factors Underlying the Mother's Decision to Continue Exclusive Breastfeeding for 6 Months: an Elicitation Study*, 22 J. OF HUMAN NUTRITION AND DIETETICS 134, 137 (2009).

²³ *Healthy Milk, Healthy Baby: Benefits of Breastfeeding*, NATIONAL RESOURCES DEFENSE COUNCIL, <http://www.nrdc.org/breastmilk/> (last visited January 26, 2016); Kathryn G. Dewey et al., *Maternal Weight-Loss Patterns During Prolonged Lactation*, 58 AM. J. CLINICAL NUTRITION 162, 165 (1993); STANLEY IP ET. AL., *supra* note 11 at v.

hospitalization, and [over] 600 prescriptions, compared with infants breastfed exclusively for at least 3 months.”²⁴ For the average infant, breastfeeding reduced health-related costs by between \$331 and \$475 in the first year of life compared with a never-breastfed infant (in many cases, these savings will likely be even greater in Mississippi which has significant infant health issues).²⁵ Further, a 2010 study published by the American Academy of Pediatrics analyzing the potential savings of ideal breastfeeding practices found that “[i]f 90% of US families could comply with medical recommendations of breastfeeding exclusively for 6 months, the United States could save \$13 billion per year and prevent an excess of 911 deaths annually, nearly all of which would be in infants.”²⁶ If the Healthy People objectives were met, which requires 50% of infants to be at least partially breastfed at 6 months of age, then \$3.6 billion could be saved.²⁷ Based on population numbers, Mississippi’s potential healthcare savings from increased breastfeeding have been conservatively calculated at approximately \$36-130 million per year, depending on increased adherence to recommended breastfeeding practices²⁸. This savings would likely be even higher, given the fact that Mississippians suffer disproportionately from chronic health problems that breastfeeding helps improve, such as diabetes, obesity, and cancer. Overall, Mississippi is particularly well positioned to benefit from increased rates of breastfeeding.²⁹

While Mississippi-specific data on improved health outcomes is not available, one 2012 study considered the benefits that Louisiana, a state with similar low breastfeeding rates and barriers, could achieve by increasing breastfeeding rates.³⁰ The study focused on respiratory tract infections, gastroenteritis, necrotizing enterocolitis, and Sudden Infant Death Syndrome. It found that if 90% of Louisiana newborns were exclusively breastfed for the first six months, the state could see annual savings of \$216,103,368 and the prevention of eighteen or more infant deaths per year.³¹ Even if compliance was only at 80%, the study predicted savings of \$186,371,125 and the prevention of sixteen infant deaths.³² Given its demographic similarities, Mississippi would likely see similar results if breastfeeding was increased throughout the state. Additionally, individual families could save the money they spend on formula, around \$1,720 - \$2,150 in the first year, by choosing to breastfeed instead.³³ Together, this creates the potential for hundreds

²⁴ T.M. Ball, *Health Care Costs of Formula-Feeding in the First Year of Life*, 103 PEDIATRICS 870, 874 (1999), http://pediatrics.aappublications.org/content/pediatrics/103/Supplement_1/870.full.pdf.

²⁵ *Id.* at 873.

²⁶ Melissa Bartick and Arnold Reinhold, *The Burden of Suboptimal Breastfeeding in the United States: A Pediatric Cost Analysis*, 125 PEDIATRICS e1048, e1048 (March 2010), <http://pediatrics.aappublications.org/content/early/2010/04/05/peds.2009-1616/>.

²⁷ *Id.* at 1048-9.

²⁸ Desta Reff *supra* note 10. (This is a calculation based on population.)

²⁹ *Mississippi Chronic Illness Coalition*, MISSISSIPPI STATE DEPARTMENT OF HEALTH http://msdh.ms.gov/msdhsite/_static/43,091,137.html (last visited July 18, 2016); *Healthy Milk, Healthy Baby supra* note 23.

³⁰ See Ping Ma et al., *A Case Study on the Economic Impact of Optimal Breastfeeding*, 17(1) MATERNAL AND CHILD HEALTH J. 9, 9-13 (Jan. 26, 2012), http://download.springer.com/static/pdf/958/art%253A10.1007%252Fs10995-011-0942-2.pdf?originUrl=http%3A%2F%2Flink.springer.com%2Farticle%2F10.1007%2Fs10995-011-0942-2&token2=exp=1446326993~acl=%2Fstatic%2Fpdf%2F958%2Fart%25253A10.1007%25252Fs10995-011-0942-2.pdf%3ForiginUrl%3Dhttp%253A%252F%252Flink.springer.com%252Farticle%252F10.1007%252Fs10995-011-0942-2*~hmac=77c815549f8e247f67a1e2cb9a3618b295a7b6882ced7400f228b07e61e7681b.

³¹ *Id.* at 9-10.

³² *Id.*

³³ See CALL TO ACTION, *supra* note 2 at 3.

of millions of dollars to be saved by Mississippi and its families if breastfeeding rates are increased.

B. Mississippi will Benefit from Reduced WIC Expenditures

Increased breastfeeding in Mississippi will also offer substantial cost savings to government programs providing formula. Over the past year, roughly 22,000 Mississippi infants were fully formula-fed through the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) each month.³⁴ WIC programs are intended to promote breastfeeding, but formula is also made available to WIC participants through the WIC infant formula rebate system. WIC spends a large part of its budget on formula, more than on any other food.³⁵ In Colorado, a 1997 study of WIC participants found that each breastfeeding mother and infant pair saved WIC \$9.83 per month (\$16.18 per month in 2015, adjusted for inflation) in food costs compared to formula-feeding pairs.³⁶ The Colorado WIC sought to increase the percentage of WIC infants breastfed for six months from 17.5% to 50%, a shift that would have saved the agency over \$74,000 per month (approximately \$121,800 per month in 2015, adjusted for inflation).³⁷ Given that Mississippi has significantly lower rates of breastfeeding among WIC participants to begin with (at any given time only 9.6% of infants involved in the WIC program on average were being breastfed during the 2015 fiscal year), and that the price of formula has risen steadily over time, the savings that Mississippi could achieve through increased breastfeeding rates among WIC participants are much higher than those predicted for Colorado.³⁸

This savings would open up many other beneficial avenues for WIC to service Mississippi residents. Because WIC is administered by the states, Mississippi could allocate savings in WIC formula spending to other WIC programs for Mississippi families, such as enhanced food packages for mother/infant pairs.³⁹ These funds may also be used to purchase breast pumps for breastfeeding mothers or other breastfeeding support resources.⁴⁰ Mississippi's decreased WIC spending due to increased breastfeeding could potentially benefit mothers and infants.

IV. Mississippi's Businesses will benefit from Increased Breastfeeding

³⁴ *WIC Program: FY 2015 (preliminary)*, U. S. DEP'T OF AGRIC. FOOD AND NUTRITION SERVICE, <http://www.fns.usda.gov/pd/wic-program> (last visited July 19, 2016).

³⁵ Steven Carlson, Robert Greenstein, & Zoe Neuberger, *WIC's Competitive Bidding Process for Infant Formula Is Highly Cost-Effective*, CTR. ON BUDGET AND POL'Y PRIORITIES, (Sept. 14, 2015), <http://www.cbpp.org/research/food-assistance/wics-competitive-bidding-process-for-infant-formula-is-highly-cost>.

³⁶ Debbie Montgomery and Patricia Splett, *Economic Benefit of Breast-feeding Infants Enrolled in WIC*, 97 (4) J. OF AMER. DIETETIC ASSOC. 379, 384, available at <http://www.sciencedirect.com/science/article/pii/S0002822397000941>.

³⁷ *Id.*

³⁸ *WIC Program: FY 2015*, *supra* note 34; Victor Oliveira et al., *WIC and the Retail Price of Infant Formula* U.S. DEP'T OF AG., (2004) http://www.ers.usda.gov/media/330246/fanrr39-1_1_.pdf

³⁹ See Heidi Hartmann et al., , *How Increasing Breastfeeding Rates Will Affect WIC Expenditures: Saving Money While Meeting the Goals of Healthy People 2020*, INST. FOR WOMEN'S POL'Y RESEARCH (August 2012), <http://www.iwpr.org/publications/pubs/how-increasing-breastfeeding-rates-will-affect-wic-expenditures>.

⁴⁰ *Id.* at 3.

Increasing economic growth on all fronts is important to the future of Mississippi. The state currently ranks 48th nationally in unemployment.⁴¹ Furthermore, Mississippi is consistently ranked last in building new avenues for economic growth as reported by several nonpartisan studies⁴² and has the lowest GDP per capita of any state at just \$31,894.⁴³ These statistics illustrate the premium on economic gains for the state and increasing breastfeeding rates is an easy way to do this. It will benefit local business and spur economic growth.

Promoting and supporting breastfeeding, specifically through implementation of supportive workplace breastfeeding and lactation programs, directly benefits businesses. Individual case studies and wide-reaching reports have found that the benefits to businesses that implement breastfeeding-friendly programs far outweigh the costs. Specifically, companies that have implemented breastfeeding programs report saving \$3 for every \$1 spent on comprehensive lactation programs⁴⁴ and \$2 for every \$1 spent on basic lactation support.⁴⁵

Companies realize such high returns because women with children constitute a very valuable segment of the workforce. Mothers are the fastest growing sector entering the labor pool, and over the past two decades, the rate at which new mothers have returned to the workplace has grown by over 80%.⁴⁶ Currently, almost two thirds of new mothers rejoin the workforce within six months of having children⁴⁷, but companies with supportive breastfeeding policies have much higher retention rates.⁴⁸ Businesses reap the benefits of creating breastfeeding programs in four areas: reduced employee absenteeism, lower insurance costs, increased retention rates, and miscellaneous other benefits such as improved employee morale and company reputation.⁴⁹ The following sections will outline these benefits in detail.

⁴¹ *Unemployment Rates for States*, U.S. DEP'T. OF LABOR, <http://www.bls.gov/web/laus/laumstrk.htm> (last visited March 3, 2016).

⁴² Jeff Ayres, *Study Ranks Mississippi Last in Building 'New Economy'*, THE CLARION-LEGER (June 29, 2014) <http://www.clarionledger.com/story/money/business/2014/06/19/study-ranks-mississippi-last-building-new-economy/11032065/>.

⁴³ *Regional Data*, BUREAU OF ECONOMIC ANALYSIS, U.S. DEP'T. OF COMMERCE (2015 data) <http://www.bea.gov/iTable/iTable.cfm?reqid=70&step=1&isuri=1&acrdn=2#reqid=70&step=10&isuri=1&7003=1000&7035=-1&7004=naics&7005=1&7006=28000&7036=-1&7001=11000&7002=1&7090=70&7007=2015&7093=levels>. (last visited July 22, 2016).

⁴⁴ Beth, D., Branch et al., *Eat Smart North Carolina: Businesses Leading the Way in Support of Breastfeeding*. N.C. DIVISION OF PUBLIC HEALTH 4 (2013), http://www.eatsmartmovemorenc.com/Breastfeeding/Texts/ESMM_BreastfeedingGuide-lowink.pdf.

⁴⁵ *Business case for Breastfeeding: High-yield Return on Investment*, BREASTFEEDING COALITION OF OREGON, (2008), <http://www.breastfeedingor.org/employer/return-on-investment/> (2014).

⁴⁶ Wendy I. Slavitt et. al, *Investing in Workplace Breastfeeding Programs and Policies*, NATIONAL BUSINESS GROUP ON HEALTH 52, <https://www.businessgrouphealth.org/pub/f2ffe4f0-2354-d714-5136-79a21e9327ed>.

⁴⁷ *Id.* at 6.

⁴⁸ *The Business Case for Breastfeeding for Business Managers*, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES 2, <http://www.womenshealth.gov/breastfeeding/government-in-action/business-case-for-breastfeeding/business-case-for-breastfeeding-for-business-managers.pdf> (2008).

⁴⁹ *Id.*

Reduced Absenteeism

Absenteeism is a major source of lost profits for businesses. It costs U.S. companies billions of dollars each year through lost productivity, reduced quality of goods and services, high-cost replacement workers, and wages paid to absent employees.⁵⁰ Unscheduled absenteeism (typically absences due to illness) costs companies an estimated \$3,600 per year for each hourly worker and \$2,650 per year for each salaried employee.⁵¹ The farming, fishing, and foresting industries, which provide approximately one third of the jobs in Mississippi,⁵² suffers \$160 million in lost productivity due to absenteeism nationwide each year.⁵³

Increasing breastfeeding, specifically through breastfeeding support, can significantly reduce rates of absenteeism, especially among new mothers. In general, mothers who breastfeed and babies who are breastfed tend to be healthier, which can have a dramatic impact on the number of sick days the mothers take. Mothers of formula-fed infants accrue two to three times as many one-day absences while caring for sick children as do mothers of breastfed infants.⁵⁴ Another study of working mothers found that 75% of one-day absences due to child illness were taken by mothers of formula-fed babies, with only 25% by mothers who breastfed.⁵⁵ Additionally, many childcare facilities will not care for sick children, leaving mothers little choice but to stay home even if they want to work.⁵⁶ Improved infant health is therefore a key measure to reduce absenteeism. The correlation between lactation support programs and fewer missed days of work is not limited to mothers, either; male workers are less likely to miss work if their female partners are able to breastfeed.⁵⁷

Companies have realized significant savings due to reduced absenteeism stemming from breastfeeding support programs. For example, CIGNA Corporation recorded a 77% reduction in work time missed due to infant illness after it introduced a lactation support program called CIGNA Moms for its employees who chose to breastfeed after returning to work.⁵⁸ The estimated total annual savings from this reduction in sick days alone was \$60,000.⁵⁹ Home

⁵⁰ GALLUP-HEALTHWAYS Well-Being Index, <http://www.well-beingindex.com>.

⁵¹ *Absenteeism*, CIRCADIAN 1 (2005) <http://www.workforceinstitute.org/wp-content/themes/revolution/docs/Absenteeism-Bottom-Line.pdf>.

⁵² *Mississippi Agriculture Review 2015*, MISS. DEP'T OF AGRIC. & COMMERCE, <https://www.mdac.ms.gov/agency-info/mississippi-agriculture-snapshot/> (last visited July 22, 2016).

⁵³ *Id.*

⁵⁴ *Business Case For Breastfeeding*, *supra* note 45 at 2; Rebekah A. Cardenas & Debra A. Major, *Combining Employment and Breastfeeding: Utilizing a Work-Family Conflict Framework to Understand Obstacles and Solutions*, 20 J. BUS. & PSYCHOL. 31, 34 (2005), <http://www.jstor.org.ezp-prod1.hul.harvard.edu/stable/25092923>.

⁵⁵ Rona Cohen et al., *Comparison of Maternal Absenteeism and Infant Illness Rates Among Breast-feeding and Formula-feeding Women in Two Corporations*, 10.2 AM. J. OF HEALTH PROMOTION 148, 152 (1995), <http://www.mchservicesinc.com/art1.pdf>.

⁵⁶ Claire McCarthy, *Why Sick Kids Should Be Allowed at Daycare*, HUFFINGTON POST: PARENTS (Jun. 23, 2014, 11:35 AM), http://www.huffingtonpost.com/claire-mccarthy-md/should-sick-kids-be-allowed-at-daycare_b_5521093.html.

⁵⁷ Lange R. Cohen, *A Description Of A Male-Focused Breastfeeding Promotion Corporate Lactation Program* 18(1) J. OF HUMAN LACTATION, 61, 64 (2002).

⁵⁸ *The Business Case for Breastfeeding: Employer Spotlights*, U.S. DEP'T OF HEALTH & HUMAN SERVICES 5, <http://www.womenshealth.gov/breastfeeding/government-in-action/business-case-for-breastfeeding/employee-spotlights.pdf>.

⁵⁹ *Id.*

Depot also observed a reduction in absenteeism among nursing mothers due to infant illness after it implemented a lactation support program at its headquarters in Atlanta.⁶⁰ Sick days used by breastfeeding mothers dropped to just three days per year—one third of the national average—which led to estimated savings of \$42,000 per year for its home office.⁶¹

Businesses in Mississippi have a lot to gain if they implement breastfeeding friendly programs. Working mothers will be less likely to miss work due to illness and working parents will not have to take as many unscheduled days off in order to stay home caring for sick babies. This reduced absenteeism can help Mississippi businesses become even more productive with far less unplanned interruptions.

Lower Health Care and Insurance Costs

Businesses that implement lactation support programs will also save money on reduced insurance costs for employees. As previously discussed, breastfeeding reduces the rate of illness among mothers and infants alike. Therefore breastfeeding mothers report fewer doctor visits than non-breastfeeding mothers,⁶² and breastfed infants require fewer physician visits, hospital stays, and prescriptions.⁶³ One study found that 90% of formula-fed babies experienced illness in their first year of life, while fewer than half of breastfed babies were sick during the same period.⁶⁴ Not only does increased breastfeeding improve health and prevent both short-term and long-term illnesses in children and mothers, but employers also benefit from a reduction in insurance premium costs.

The cost of continued low breastfeeding rates is substantial. One study found that the country as a whole would save a minimum of \$3.6 billion in healthcare costs by increasing breastfeeding rates from the national averages to the averages recommended by the U.S. Surgeon General.⁶⁵ Some of these savings will come from a reduction in pharmacy costs; indeed, CIGNA Corporation reported that breastfeeding mothers and babies participating in their CIGNA Moms program required 62% fewer prescriptions.⁶⁶ Mutual of Omaha observed similar positive healthcare outcomes after it implemented its lactation support program. Hospital healthcare costs for children of non-participating mothers were about three times as much as for children of participating mothers⁶⁷ Healthcare claims for newborns averaged \$1,269 for each mother in the lactation support program compared with \$3,415 for each mother not in the program.⁶⁸

⁶⁰ *Id.* at 6.

⁶¹ *Id.*

⁶² Rebekah A. Cardenas & Debra A. Major, *supra* note 54.

⁶³ T.M. Ball *supra* note 24 at 870-76.

⁶⁴ Cohen et al., *supra* note 57 at 151.

⁶⁵ *Id.*; *The Economic Benefits of Breastfeeding: A Review and Analysis*, U.S. DEP'T OF AGRIC. iii, http://www.ers.usda.gov/media/329098/fanrr13_1_.pdf. This is likely an underestimation because it represents savings from the treatment of only otitis media, gastroenteritis, and necrotizing enterocolitis.

⁶⁶ *Employer Spotlights*, *supra* note 58 at 5.

⁶⁷ *Id.* at 9.

⁶⁸ *Id.*

In 2014, employers in Mississippi spent an average of \$10,414 per enrolled family on employer contributions to health insurance premiums.⁶⁹ This number could be significantly reduced through workplace support for breastfeeding mothers. As discussed, Louisiana was projected to save approximately \$200 million through widespread conversion to breastfeeding.⁷⁰ If Mississippi follows a similar course, the healthcare savings would likely be similarly significant and that would trickle down to the employers who bear a portion of their employees' insurance costs. The savings are especially significant if a long-term view is taken; consider that healthcare costs for the conditions which breastfeeding reduces, such as diabetes, respiratory illnesses like asthma, and obesity, continue throughout childhood and young adulthood while the child is still covered by his or her parent's health insurance.

Increased Retention

Increased employee retention is another source of savings for companies that implement lactation support programs. Reducing employee turnover saves employers the costs associated with finding and training replacement workers and with the temporary drops in productivity due to the loss of experienced workers. One study of the costs of employee turnover suggests that the typical cost of replacing an employee is about one fifth of that employee's yearly salary.⁷¹ This loss is not insignificant; using the median Mississippi salary, it could cost over \$3,500 every time a new mother doesn't return to work because of non-supportive policies.⁷² This problem is particularly impactful in the south, where one study found yearly turnover to be 26.4%, higher than in any other U.S. region.⁷³ Companies without supportive breastfeeding policies and practices also have a much harder time convincing new mothers to return to work after giving birth, as the mothers may find returning to the workplace while breastfeeding unappealing, unwelcoming, or even impossible. Mississippi, which ranks 50th of the 50 states in GDP per capita⁷⁴, cannot afford to leave this costly problem unaddressed. Increased retention of new mothers, 21% of whom quit their jobs following the birth of a child,⁷⁵ could stimulate Mississippi's economy in addition to saving money for its businesses.

A study of multiple companies with lactation support programs found an average retention rate of 94.2% among new mothers compared to the national average of 59%.⁷⁶ Mutual of Omaha found that its lactation support program helped to increase its retention of employees with newborns to 83%.⁷⁷ Children's Healthcare of Atlanta's employee retention rate rose from 64% to

⁶⁹ *Average Family Premium per Enrolled Employee For Employer-Based Health Insurance 2014*, HENRY J. KAISER FAMILY FOUND., <http://kff.org/other/state-indicator/family-coverage/> (last visited July 22, 2016).

⁷⁰ Ping, *supra* note 30.

⁷¹ Heather Boushey & Sarah Jane Glynn, *There are Significant Business Costs to Replacing Employees*, CTR. FOR AM. PROGRESS (Nov. 16, 2012), <https://www.americanprogress.org/issues/labor/report/2012/11/16/44464/there-are-significant-business-costs-to-replacing-employees/>.

⁷² *QuickFacts: Mississippi*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/28000.html> (last visited July 22, 2016).

⁷³ *US Annual Employment Turnover Rates by Industry and by Geographic Region Through Dec/05*, NOBSCOT CORP., https://www.nobscot.com/survey/us_voluntary_turnover_1205.cfm. (last visited July 22, 2016).

⁷⁴ *News Release: Broad Growth Across States in 2014*, U.S. DEP'T OF COMMERCE, BUREAU OF ECON. ANALYSIS, http://www.bea.gov/newsreleases/regional/gdp_state/gsp_newsrelease.htm. (last visited July 18, 2016).

⁷⁵ *Maternity Leave and Employment Patterns of First-Time Mothers: 1961-2008* U.S. CENSUS BUREAU 16 (Oct. 2011) <http://www.census.gov/prod/2011pubs/p70-128.pdf> [hereinafter *Maternity Leave and Employment Patterns*].

⁷⁶ *Business Case For Breastfeeding*, *supra* note 45 at 2.

⁷⁷ *Id.*

95% after it introduced a lactation and education program called Great Expectations.⁷⁸ The Los Angeles Department of Water and Power also observed similarly significant benefits from its pro-breastfeeding policies.⁷⁹ Despite the fact that only 20% of its workforce is female, the Department found that two thirds of *all* employees intended to remain working in the department long-term after implementation of the pro-breastfeeding policies.⁸⁰ Employers who implement breastfeeding programs improve their employees' quality of life and foster loyalty among both male and female workers, making these employees less likely to seek other work. Businesses therefore can cut costs associated with employee turnover by implementing these kinds of programs, especially when high turnover has been the norm.

Other Benefits

Businesses may also benefit from workplace support for breastfeeding through higher employee satisfaction, improved morale, and greater productivity.⁸¹ High rates of absenteeism can lower morale and lead to frustration among employees who are consistently present or who must compensate for absent coworkers.⁸² Additionally, when workers feel supported by their employer they will work closer to their due date, return sooner after giving birth, and be more willing to work outside of their scheduled hours.⁸³ Many businesses with lactation support programs also receive awards and recognition for their efforts and gain reputations as family-friendly employers.⁸⁴ That kind of positive attention helps with recruitment, community goodwill, and public relations.⁸⁵ For example, several of the companies mentioned in this report have received such accolades: the National Healthy Mothers/Healthy Babies Coalition has recognized CIGNA as a Workplace Model of Excellence⁸⁶ and *Working Mother* magazine listed Mutual of Omaha as one of the "100 Best Companies for Working Women."⁸⁷ Businesses that implement breastfeeding programs benefit by realizing reduced rates of absenteeism, lower healthcare costs, increased retention rates, improved employee satisfaction, improved office morale, and improved productivity rates.

V. Elements of a Successful Lactation Program⁸⁸

The best way for businesses support and reap the benefits of increased breastfeeding rates is to put into place a comprehensive lactation support program. The Department of Health and Human Services recommends that employers who seek to support breastfeeding employees

⁷⁸ Meghan Casserly, *The Business of Breastfeeding*, FORBES (Aug. 27, 2009), <http://www.forbes.com/2009/08/27/breastfeed-work-mother-forbes-woman-leadership-lactation.html>.

⁷⁹ *Employer Spotlights*, *supra* note 58 at 7.

⁸⁰ *Id.*

⁸¹ *Business Case For Breastfeeding*, *supra* note 45.

⁸² *The Causes and Costs of Absenteeism in the Workplace*, FORBES: PERS. FIN. (Jul. 10, 2013, 9:40 AM), <http://www.forbes.com/sites/investopedia/2013/07/10/the-causes-and-costs-of-absenteeism-in-the-workplace>.

⁸³ *See generally* *Maternity Leave and Employment Patterns*, *supra* note 75.

⁸⁴ *See generally* Branch & Sullivan, *supra* note 44.

⁸⁵ *Investing in Workplace Breastfeeding Programs and Policies*, NAT'L BUS. GRP. ON HEALTH, CTR. FOR PREVENTION & HEALTH SERVICES 5 (2008) §1.2, <https://www.businessgrouphealth.org/pub/f2ffe4f0-2354-d714-5136-79a21e9327ed>.

⁸⁶ *Employer Spotlights*, *supra* note 58 at 5.

⁸⁷ *Employer Spotlights*, *supra* note 58 at 9.

⁸⁸ *See* Mississippi Delta Project's *Model Lactation Support Program Guide* Appendix A for more details.

provide at least the following: 1) access to a private space for breastfeeding or pumping; 2) sufficient break time for milk expression; 3) education; and 4) support.⁸⁹

Though space may seem difficult to find, this is an easy requirement to satisfy; a clean, unused closet or a sectioned-off corner of a larger room would be sufficient.⁹⁰ This gives businesses a great deal of flexibility. After designating a suitable location, employers can either purchase a hospital-grade pump for only around \$1,000, rent one for \$50-80 per month, or simply allow mothers to bring their own breast pumps,⁹¹ which all insurance companies are required to provide for no cost.⁹² An employer may also choose to provide a refrigerator or cooler for breast milk or may ask mothers to bring their own coolers.⁹³

Furthermore, many companies that have implemented these programs have found that the time needed for a mother to express milk—approximately two to three 15-minute sessions per day—can easily fit within existing break times.⁹⁴ Pumping breaks are predictable and easily accommodated without losses in productivity, while absences due to the infant or mother illnesses that are correlated with lower rates of breastfeeding can be unpredictable and much more difficult to accommodate.⁹⁵ Finally, education and support can come in many forms, such as helpful information online or in the office or the subsidization of outside classes.⁹⁶ Some companies have chosen to place informational pamphlets, books, and videos in the break room or other public area, while others have gone a step further by bringing in a local expert to teach a class during lunch. Free and low-cost resources for employers are available through a variety of organizations.⁹⁷ For example, local breastfeeding coalitions can often provide a list of online resources and can connect a business to an International Board Certified Lactation Consultant (IBCLC) in the community.⁹⁸ For more specific information, please see the Model Lactation Support Program Guide in the Appendices.

VI. Model Lactation Programs⁹⁹

⁸⁹ *The Business Case for Breastfeeding: Easy Steps to Supporting Breastfeeding Employees*, U.S. DEP'T OF HEALTH & HUMAN SERVICES 1 (2008), <http://www.womenshealth.gov/breastfeeding/government-in-action/business-case-for-breastfeeding/easy-steps-to-supporting-breastfeeding-employees.pdf>. [hereinafter *Easy Steps to Supporting Breastfeeding*]

⁹⁰ *Id.* at 8-9.

⁹¹ *Id.* at 9.

⁹² Sarah Kliff, *The breast pump industry is booming, thanks to Obamacare*, WASH. POST: WONKBLOG (Jan. 4, 2013), <https://www.washingtonpost.com/news/wonkblog/wp/2013/01/04/the-breast-pump-industry-is-booming-thanks-to-obamacare/>.

⁹³ *Easy Steps to Supporting Breastfeeding*, *supra* note 89 at 10.

⁹⁴ *Id.* at 13.

⁹⁵ Bre Haviland, *The Business Case for Breastfeeding*, BUREAU OF MATERNAL AND CHILD HEALTH OHIO DEPARTMENT OF HEALTH 59 (2015), <https://www.odh.ohio.gov/~media/ODH/ASSETS/Files/cfhs/child%20and%20family%20health%20services/ODH%20Business%20Case%20for%20Breastfeeding.pdf>.

⁹⁶ *Easy Steps to Supporting Breastfeeding*, *supra* note 89 at 14.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ This section describes model lactation programs implemented in numerous U.S. businesses. For a general description of the components of a model lactation program, see the Appendix.

A. Mutual of Omaha

Mutual of Omaha, a Fortune 500 mutual insurance and financial services company based in Omaha Nebraska, has had a long history of commitment to employee health, offering an on site employee health clinic since 1948, and a maternity and lactation program since the late 1980s.¹⁰⁰ At Mutual, 80 to 85 percent of mothers breastfeed their children at some point, a fact the company credits to actively promoting and facilitating breastfeeding to the roughly 100 Mutual employees who give birth per year.¹⁰¹ Mutual provides well furnished “mothers’ rooms” with hospital-grade pumping equipment, comfortable chairs, and refrigerators, all of which ensure that mothers will be able to pump as needed, usually through only two twenty or thirty minute sessions each day.¹⁰² In the past, Mutual has even employed an on-site lactation consultant.¹⁰³ Currently, on-site Occupational Health Nurses, some of whom have specialty training in Obstetrics and Labor and Delivery are able to provide the same services,¹⁰⁴ with referrals to outside lactation specialists available as needed, and covered by employees’ health care plans.¹⁰⁵ Additionally, Mutual’s Breast Pump Reimbursement Program reimburses employees for the purchase of breast pumps for home use.¹⁰⁶

Mutual highlights employee retention and reduced health care costs as major reasons for its promotion of breastfeeding.¹⁰⁷ Mutual cites its accommodation and encouragement of breastfeeding as contributing significantly to its higher-than-average rates of mothers returning to work.¹⁰⁸ But their Manager of Employee Health Services has stressed that, above all, “We do it because it’s the right thing to do.”¹⁰⁹ The culture of breastfeeding contributes to employee morale and a sense of community in the workplace.¹¹⁰ In the past year, an official mother’s group, Mothers of Mutual (MoM) has evolved out of informal conversations that began in the mothers’ rooms.¹¹¹ MoM now provides mothers with an opportunity to meet and discuss not just breastfeeding, but maternal care more broadly.¹¹² In 2008, Mutual reported significantly reduced newborn health care claims as yet another benefit of the program, with hospital costs 2.7 less for infants whose mothers had participated in the breastfeeding program.¹¹³ Infants whose mothers participated averaged \$1,269 in health care costs, versus \$3,415 for non-participants’ infants.¹¹⁴ This added up to \$114,881 per year in additional costs for non-participants claims.¹¹⁵

¹⁰⁰ E-mail from Peggy Rivendal, Manager of Employee Health Services, Mutual of Omaha, to Kevin P. Crenny, Harvard Law School (February 2, 2016, 7:50 EST). Notes on file with Mississippi Delta Project.

¹⁰¹ Telephone Interview with Peggy Rivendal, Manager of Employee Health Services, Mutual of Omaha (Nov. 18, 2015). Notes on file with Mississippi Delta Project.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Rivendal E-mail, *supra* note 100.

¹⁰⁵ Rivendal Interview *supra* note 100.

¹⁰⁶ Rivendal E-mail, *supra* note 100.

¹⁰⁷ Rivendal Interview *supra* note 100.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Employer Spotlight supra* note 58 at 9.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

B. Airbus Helicopters, Inc.

Airbus Helicopters, Inc., is a subsidiary of the European aerospace and defense company, Airbus Group who manufactures helicopters. Airbus opened up a manufacturing plant and office in Columbus, Mississippi in 2004.¹¹⁶ The Columbus office built a brand new, designated mother's room in late 2015.¹¹⁷ The room is only 4' x 5', but it features a lock, a refrigerator for expressed milk, a sink, a comfortable chair, and outlets.¹¹⁸ Nursing mothers can use the room uninterrupted, as long as they schedule a particular time with the human resources department.¹¹⁹

"I feel this is something that you need if you're going to accommodate your employees," mentioned an employee relations manager at Airbus.¹²⁰ "People want the life benefits that breastfeeding gives."¹²¹ Airbus, she noted, has always prided itself on being employee-conscious.¹²² They want to make sure they have a good work environment—that employees want to be there. Building a designated nursing room was an obvious, important decision for the company.¹²³

VII. Survey of State Breastfeeding Laws

Policy is a critical tool when it comes to increasing breastfeeding rates. Laws protect nursing mothers by communicating to businesses the exact ways in which they can implement effective breastfeeding promotion. Twenty-seven states¹²⁴ and the District of Columbia¹²⁵ have laws that support and advance a working woman's choice to breastfeed. Laws that support breastfeeding employees do so in many ways. Many provide protections against discrimination for breastfeeding in the workplace or require that employers provide certain accommodations for

¹¹⁶ *Concord, Mississippi, AIRBUS HELICOPTERS, INC.*, http://airbushelicoptersinc.com/about_us/locations_columbus_mississippi.asp (last visited July 22, 2016).

¹¹⁷ Interview with Sharon Carmichael, Employee Relations Manager, Airbus Helicopters, Inc., in Columbus, Miss. (Feb. 13, 2016), notes on file with the Mississippi Delta Project.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ These 27 states include Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maine, Minnesota, Mississippi, Montana, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wyoming. Laws in these states include: ARK. CODE ANN. § 11-5-116; CAL. LAB. CODE § 1030; CAL. ASSEMBLY CONCURRENT RESOLUTION 155 (1998); CAL. GOV'T CODE § 12926; COLO. REV. STAT. ANN. § 8-13.5-104; CONN. GEN. STAT. ANN. § 31-40w; DEL. CODE 1953, § 710; GA. CODE ANN. § 34-1-6; HAW. REV. STAT. ANN. § 378-92; 820 ILL. COMP. STAT. ANN. 260/10; 820 ILL. COMP. STAT. ANN. 260/15; IND. CODE ANN. § 5-10-6-2; IND. CODE ANN. § 22-2-14-2; LA. STAT. ANN. § 17:81(w); LA. STAT. ANN. § 49:148.4.1; ME. REV. STAT. TIT. 26, § 604; MINN. STAT. ANN. § 181.939; MISS. CODE ANN. § 71-1-55; MONT. CODE ANN. § 39-2-217; MONT. CODE ANN. § 39-2-216; N.M. STAT. ANN. § 28-20-2; N.Y. LAB. LAW § 206-C (MCKINNEY); N.D. CENT. CODE ANN. § 23-12-17; OKLA. STAT. ANN. TIT. 40, § 435; OR. REV. STAT. ANN. § 653.077; 23 R.I. GEN. LAWS ANN. § 23-13.2-1 (WEST); TENN. CODE ANN. § 50-1-305 (WEST); TEX. HEALTH & SAFETY CODE ANN. § 165.003; UTAH CODE ANN. § 34-49-202; VT. STAT. ANN. TIT. 21, § 305; VA. CODE ANN. § 22.1-79.6.

¹²⁵ D.C. CODE ANN. § 2-1402.82(d)(1).

mothers in the workplace. Other states allow flexible maternity leave for breastfeeding or provide designations for businesses with policies supporting breastfeeding. Considering the health benefits to mothers and children, and the increasing female workforce in the state, Mississippi mothers would benefit from breastfeeding friendly policy. Mississippi businesses would save money through increased retention, higher morale, and lower absenteeism.

A. Required Accommodations in the Workplace

It is important to provide businesses with clear guidelines, so that mothers will be provided with everything they need to breastfeed and remain in the workforce. Breastfeeding laws are the most effective when they give businesses clear direction, especially when it comes to required accommodations. While many laws relating to accommodations in the workplace share several elements, they can vary significantly. Twenty states and the District of Columbia have laws requiring employers to provide reasonable break time each day to employees who need to express breast milk.¹²⁶ These laws vary in several respects. Seven states adjust this accommodation according to the time from childbirth. For example, Hawaii and Utah allow reasonable break time for one year after childbirth;¹²⁷ Oregon to eighteen months after childbirth;¹²⁸ Colorado to two years after childbirth;¹²⁹ and Maine, New York, and Vermont to three years after childbirth.¹³⁰

Fourteen states also require that employers make reasonable efforts to provide breastfeeding employees with a space in which they may privately expel breast milk.¹³¹ As with breast-pumping break times, requirements for breast-pumping facilities vary, but most states require that the location be private, not a bathroom or toilet stall, and in close proximity to the employee's work area.¹³² Several states limit this requirement to only certain employers¹³³ or provide hardship exemptions.¹³⁴

¹²⁶ ARK. CODE ANN. § 11-5-116; CAL. LAB. CODE § 1030; COLO. REV. STAT. §§ 8-13.5-104; CONN. GEN. STAT. § 31-40W; D.C. CODE ANN. § 2-1402.81 ET SEQ.; DEL. CODE 1953, § 710; HAW. REV. STAT. ANN § 378.92; 820 ILL. COMP. STAT. 260/10; IND. CODE ANN. § 5-10-6-2; LA. STAT. ANN. §17:81(w)(1); ME. REV. STAT. TIT. 26 § 604; MINN. STAT. ANN. § 181.939; MONT. CODE ANN. § 39-2-217; N.M. STAT. ANN. § 28-20-2; N.Y. LAB. LAW § 206-C (MCKINNEY); OKLA. STAT. ANN. TIT. 40, § 435; OR. REV. STAT. § 653.077 (but, if possible employees should use the rest periods or meal periods already provided to the employee); 28 R.I. GEN. LAWS ANN. § 28-5-7.4; TENN. CODE ANN. § 50-1-305; UTAH CODE ANN. § 34-49-202; VT. STAT. ANN. TIT. 21, § 305.

¹²⁷ HAW. REV. STAT. § 378-92; UTAH CODE ANN. § 34-49-202.

¹²⁸ OR. REV. STAT. § 653.077.

¹²⁹ COLO. REV. STAT. §§ 8-13.5-101-104.

¹³⁰ ME. REV. STAT. TIT. 26, § 604; N.Y. LABOR LAW § 206-C (2007); VT. STAT. ANN. TIT. 21, § 305

¹³¹ ARK. CODE § 11-5-116; CAL. LABOR §§ 1030-1033; COLO. REV. STAT. §§ 8-13.5-101-104; CONN. GEN. STAT. § 31-40W; 19 DEL. CODE §§ 710-11; HAW. REV. STAT. § 378-92; 820 ILL. COMP. STAT. § 260/15; IND. CODE § 22-2-14-2; IND. CODE § 5-10-6-2; LA. STAT. ANN. §17:81(w)(1); ME. REV. STAT. TIT. 26, § 604; MINN. STAT. § 181.939 (B); MONT. CODE ANN. § 39-2-216(1); N.M. STAT. ANN. § 28-20-2; N.Y. LABOR LAW § 206-C (2007).

¹³² See ARK. CODE § 11-5-116; CAL. LABOR §§ 1030-1033; COLO. REV. STAT. §§ 8-13.5-101-104; CONN. GEN. STAT. § 31-40W; 19 DEL. CODE §§ 710-11; HAW. REV. STAT. § 378-92; 820 ILL. COMP. STAT. § 260/15; IND. CODE § 22-2-14-2; IND. CODE § 5-10-6-2; ME. REV. STAT. TIT. 26, § 604; MINN. STAT. § 181.939 (B); MONT. CODE ANN. § 39-2-216(1); N.M. STAT. ANN. § 28-20-2; N.Y. LABOR LAW § 206-C (2007).

¹³³ IND. CODE § 5-10-6-2; IND. CODE § 22-2-14-2; LA. STAT. ANN. §17:81(w)(1); MONT. CODE ANN. § 39-2-216; OR. REV. STAT. § 653.077.

¹³⁴ HAW. REV. STAT. § 378-92 (stating that employers with less than twenty employees are exempt from these requirements if they can show that compliance would impose significant difficulty or expense on their business); Utah Code Ann. § 34-49-202; 21 Vt. Stat. Ann. § 305.

States that have passed these accommodations laws have seen much success in increasing their breastfeeding rates. When Indiana passed a such a law in 2008, 6.6% of infants were exclusively breastfed at 6 months old¹³⁵, while two years later in 2010, 10.5% of infants were exclusively breastfed at 6 months of age¹³⁶. When Connecticut passed a similar law in 2012, 12.6% of infants were exclusively breastfed at 6 months old¹³⁷, while two years after the law was passed in 2014, 19.2% of infants were exclusively breastfed at 6 months old¹³⁸. Southern states that have adopted these laws have also seen significant gains. Tennessee, Arkansas, and Louisiana have all adopted workplace accommodation laws. For example, Arkansas had an exclusive breastfeeding rate of 6.3%.¹³⁹ Four years later, in 2013, it was up by 50%, to a rate of 9.2%.¹⁴⁰

The numerous health and financial benefits to breastfeeding described above can only be achieved by working mothers if employers support their decision to breastfeed. Mississippi would do well to join alongside the majority of states in the country in requiring these modest and reasonable workplace accommodations for breastfeeding mothers. By guaranteeing that workplaces will provide such accommodations, Mississippi could guarantee that these mothers will have the ability to obtain the best health outcomes for their families.

B. Business designations

Three states, Texas, North Dakota, and Washington, have created, through statute, special designation programs for businesses that adopt certain breastfeeding-friendly workplace policies.¹⁴¹ All three states require that businesses submit their breast-feeding policies to the state department of health for approval. These laws assume that employers want a reputation as a mother friendly workplace.

Under North Dakota and Washington law, “infant friendly” workplace breastfeeding policies must include the following:

- a. “Flexible work scheduling, including scheduling breaks and permitting work patterns that provide time for expression of breast milk;
- b. A convenient, sanitary, safe, and private location, other than a restroom, allowing privacy for breastfeeding or expressing breast milk;
- c. A convenient clean and safe water source with facilities for washing hands and rinsing breast-pumping equipment located in the private location specified in subdivision b; and

¹³⁵ BREASTFEEDING REPORT CARD, NAT’L CTR. FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION 2 (2008), <http://www.cdc.gov/breastfeeding/pdf/2008breastfeedingreportcard.pdf>.

¹³⁶ BREASTFEEDING REPORT CARD, NAT’L CTR. FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION 2 (2010), <http://www.cdc.gov/breastfeeding/pdf/2010breastfeedingreportcard.pdf>.

¹³⁷ BREASTFEEDING REPORT CARD, NAT’L CTR. FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION 2 (2012), <http://www.cdc.gov/breastfeeding/pdf/2012breastfeedingreportcard.pdf>.

¹³⁸ BREASTFEEDING REPORT CARD, NAT’L CTR. FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION 4 (2014), <http://www.cdc.gov/breastfeeding/pdf/2014breastfeedingreportcard.pdf>.

¹³⁹ BREASTFEEDING REPORT CARD, NAT’L CTR. FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION 2 (2009), <https://www.cdc.gov/breastfeeding/pdf/2009BreastfeedingReportCard.pdf>.

¹⁴⁰ BREASTFEEDING REPORT CARD, NAT’L CTR. FOR CHRONIC DISEASE PREVENTION AND HEALTH PROMOTION 4 (2013), <https://www.cdc.gov/breastfeeding/pdf/2013breastfeedingreportcard.pdf>.

¹⁴¹ TEX. HEALTH & SAFETY CODE ANN. § 165.003; N.D. CENT. CODE ANN. § 23-12-17; WASH. REV. CODE ANN. § 43.70.640.

- d. A convenient hygienic refrigerator in the workplace for the temporary storage of the mother's breast milk.¹⁴²

Texas' criteria for "mother-friendly" policies differ in a few notable ways. While Texas also requires that businesses provide accessible locations allowing privacy to express breast milk,¹⁴³ it does not expressly require that the location be sanitary, convenient, safe, or a room other than a restroom as North Dakota and Washington do. Similarly, Texas requires access to "hygienic storage alternatives in the workplace for the mother's breast milk," but does not require that the storage space be a refrigerator.¹⁴⁴ Like North Dakota and Washington, Texas does require businesses seeking the "mother-friendly" designation to schedule breaks and work patterns to provide time for expression of milk and provide access nearby to a clean, safe water source and a sink for washing hands and rinsing out any necessary breast-pumping equipment.¹⁴⁵ While providing an adequate facility is an important step, mothers will not utilize such rooms—out of inconvenience or fear of retaliation—if they are not given time during the workday to express milk.

These programs have shown strong success in the states that have implemented them. In Texas alone, there over 2,300 work-sites have been designated "Mother-Friendly."¹⁴⁶ These designations are an important tool in increasing breastfeeding rates because they provide additional incentives for businesses to create breastfeeding work-place support. The recognition of this designation can help with the recruitment and retention of employees, as well as customers.¹⁴⁷ For example, West Acres Mall in Fargo, North Dakota pursued and achieved the state's infant-friendly designation.¹⁴⁸ Not only did it boost employee morale and retention, but also customer satisfaction after they opened up their lactation spaces to public visitors.¹⁴⁹ "We constantly get great reviews about that fact that we provide those mothers' rooms and give a quiet, private place for mothers to nurse," said Mall Manager Chris Heaton.¹⁵⁰

Creating this designation programs is on a state-level is a low-cost way to incentivize state businesses to support Mississippi mothers in creating necessary work-place lactation support. This would, in turn, result in a more positive, productive workforce in Mississippi.¹⁵¹ Increasing the number of mothers who felt able to breastfeed while active in the workplace, could increase mother and infant health and financially benefit businesses by improving their reputation in the community, improving their employee's morale, and improving their employee's loyalty to the business causing employee retention rates to increase.

¹⁴² N.D. CENT. CODE ANN. § 23-12-17; WASH. REV. CODE ANN. § 43.70.640.

¹⁴³ Tex. Health & Safety Code Ann. § 165.003(a)(2).

¹⁴⁴ Tex. Health & Safety Code Ann. § 165.003(a)(4).

¹⁴⁵ Tex. Health & Safety Code Ann. § 165.003(a)(1) and § 165.003(a)(3).

¹⁴⁶ *Texas Directory*, TEXAS MOTHER FRIENDLY, <http://texasmotherfriendly.org/texas-directory> (last visited August 14, 2016).

¹⁴⁷ *The Basics*, TEXAS MOTHER FRIENDLY, <http://texasmotherfriendly.org/getting-designated> (last visited August 14, 2016).

¹⁴⁸ Becky Parker, *Four North Dakota Employers added to the "Infant-Friendly" List*, WBAZ 8 (August 10, 2016), <http://www.wdaz.com/news/4091451-four-north-dakota-employers-added-infant-friendly-list>.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *See generally Employer Spotlights*, supra note 100.

VIII. Conclusion

Increasing breastfeeding rates will not only improve the health of Mississippi's citizens, but it has the potential to benefit Mississippi economically—by saving businesses money and by decreasing government spending. Mississippians suffer disproportionately from chronic health problems that harm children and remove workers from the labor force. Many of these problems can be significantly offset through breastfeeding.

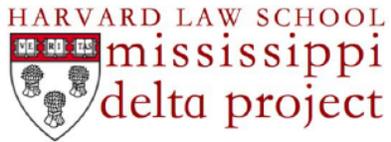
Furthermore, Mississippi stands to save money. The State spends millions on formula for mothers and infants through the WIC program. A bill that promotes breastfeeding will decrease the demand for formula among poor mothers and save taxpayers money spent on WIC. Furthermore, since mothers and infants who breastfeed have improved health outcomes, the State will also save on healthcare costs that stem from doctor visits, hospitalizations, and prescriptions.

By implementing pro-breastfeeding policies, businesses in the state will experience less economic drag by having healthier mothers and babies. Working mothers are more likely to return to work with employers who are supportive of breastfeeding, and breastfeeding mothers miss fewer days of work. Employers will see reduced health insurance premiums as a result of healthier mothers and children. Businesses that support breastfeeding will also benefit from improved morale, loyalty, and public relations.

This can all be achieved by implementing a law that guarantees nursing mothers will have the time and space necessary to express milk throughout the day. Businesses stand to gain by providing mothers in their workforce adequate breaks, as well as a private, clean space, ideally with a sink and cooler or refrigerator.

A simple step by Mississippi has the potential to save countless lives and millions of dollars—just by increasing the rate of breastfeeding.

APPENDIX



Making Breastfeeding Your Business: How to Design a Model Lactation Support Plan

Harvard Law School Mississippi Delta Project
Spring 2016

Model Lactation Support Plan for Businesses

Breastfeeding is the best source of infant nutrition and immunologic protection. It provides unparalleled health benefits to the child, including significantly reducing an infant's risk of childhood obesity, SIDS, certain forms of cancer, and diabetes.¹ It also significantly reduces a mother's risk of acquiring fatal and non-fatal conditions, such as breast, ovarian, and uterine cancer in addition to postpartum depression.² Research has shown that the implementation of a lactation support program not only benefits mothers and babies, but also saves money for businesses. Promoting and supporting breastfeeding, specifically through the implementation of supportive workplace breastfeeding and lactation programs, benefits businesses in many ways.

Individual case studies and wide-reaching reports have found that the benefits to businesses that implement breastfeeding-friendly programs generally far outweigh the costs. Companies that have implemented breastfeeding programs report saving \$3 for every \$1 spent on comprehensive lactation programs and \$2 for every \$1 spent on basic lactation support.³ Businesses see these returns in three main areas. First, businesses experience reduced employee absenteeism, as mothers of formula fed infants accrue 2-3 times more sick days than mothers of breastfed infants.⁴ Indeed, one study found that men also have reduced rates of absenteeism if their female partner is able to breastfeed.⁵ Second, businesses with breastfeeding programs have lower insurance costs. On average breastfed infants incur \$403 less in healthcare costs in the first year.⁶ Third, businesses' retention rates increase as evidenced by a study of companies with lactation programs that found an average retention rate of 94.2% among new mothers in the programs as compared to the national average of 59%.⁷ Since, on average, it costs around one-fifth of an employee's salary to replace them, this translates to significant business savings.⁸ Businesses also experience improved employee morale and improved productivity. These returns boost a business's reputation, which helps with recruitment, community goodwill, and public relations.

In order for a business to realize these returns, the business needs to implement an effective and comprehensive lactation support program. A lactation support program should include the following four components: (1) a private space for women to express milk, (2) proper equipment, (3) support for mothers before and after birth, and (4) workplace education.⁹

I. Space

It is important for breastfeeding mothers to have access to a private, clean space to pump in the workplace. While it may seem like a difficult task for businesses to designate otherwise useable workspace for this function, it is essential in order to facilitate continued breastfeeding in the workplace. Breastfeeding mothers generally need to express milk multiple times throughout the workday so having a space available is vital. Further, pumping at the

¹ STANLEY IP ET AL., BREASTFEEDING AND MATERNAL HEALTH OUTCOMES IN DEVELOPED COUNTRIES: EVIDENCE REPORT, U.S. DEP'T. OF HEALTH AND HUMAN SERVICES, 3-5, 40-44, 60-65, 81-86, 93-96 (2007).

² *Breastfeeding and the Use of Human Milk*, 129 PEDIATRICS 827, 832 (2012).

³ *Business case for Breastfeeding: High-yield Return on Investment*, Breastfeeding Coalition of Oregon, <http://www.breastfeedingor.org/employer/return-on-investment/> (last visited May 12, 2016).

⁴ Rebekah A. Cardenas & Debra A. Major, *Combining Employment and Breastfeeding: Utilizing a Work-Family Conflict Framework to Understand Obstacles and Solutions*, 20 J. BUS. & PSYCHOL. 31, 34 (2005), <http://www.jstor.org.ezp-prod1.hul.harvard.edu/stable/25092923>.

⁵ OHIO DEP'T OF HEALTH, BUREAU OF MATERNAL & CHILD HEALTH, *The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite*, 18 (May 2015), <https://www.odh.ohio.gov/~media/ODH/ASSETS/Files/cfhs/child%20and%20family%20health%20services/ODH%20Business%20Case%20for%20Breastfeeding.pdf>.

⁶ T.M. Ball, *Health Care Costs of Formula-Feeding in the First Year of Life*, 103 Pediatrics 870, 87 (1999), http://pediatrics.aappublications.org/content/pediatrics/103/Supplement_1/870.full.pdf.

⁷ Ortiz J., McGilligan K., Kelly P. (2004). Duration of breast milk expression among working mothers enrolled in an employer-sponsored lactation program. *Pediatr Nurs*; 30:111-119.

⁸ Heather Boushey & Sarah Jane Glynn, *There are Significant Business Costs to Replacing Employees*, CTR. FOR AM. PROGRESS (Nov. 16, 2012), <https://www.americanprogress.org/issues/labor/report/2012/11/16/44464/there-are-significant-business-costs-to-replacing-employees/>.

⁹ U.S. Dep't of Health & Human Services, *The Business Case for Breastfeeding: Easy Steps to Supporting Breastfeeding Employees*, 5 (2008), <http://www.womenshealth.gov/breastfeeding/government-in-action/business-case-for-breastfeeding/easy-steps-to-supporting-breastfeeding-employees.pdf>.

workplace can be a stressful endeavor, which can in turn affect a mother's milk supply, so it is important that designated space be designed to facilitate a mother's comfort as much as possible.

- New mothers should have access to a specially designated private lactation space. A restroom is not an appropriate substitute. A restroom is neither private nor comfortable and is not equipped with the proper equipment a mother needs to pump.
- Ideally, the room or space should be a minimum of 4' x 5' in order to accommodate a comfortable chair, a table for the breast pump, and a refrigerator. The space should have an electrical outlet in order for a pump to be plugged in, a door that locks from the inside to ensure privacy, and nearby access to hot and cold water for the mothers to use when washing and sanitizing the equipment.
- Many businesses have designated an unused office, a walled off corner of a lounge, or a corner of another room that is sectioned off. Clean closets that meet the above criteria may also be adapted to fit this need, but they should be outfitted accordingly.
- The size of the space should be appropriate for the number of new mothers that the business anticipates. Larger companies should consider breastfeeding suites, with individual lactation stations separated by partitions or curtains.
- Companies should consider implementing a method of scheduling for the room, especially larger companies with many female employees of childbearing age. Effective scheduling will ensure that all mothers' pumping needs can hopefully be accommodated and will optimize the space's use. For example, employees could use an online room schedule to reserve times, a sign-in sheet or whiteboard, or a system of email notices when the room is being used.
- Women should not have to walk a long distance to reach the lactation space, as they will need to express milk multiple times during a workday, so selecting a convenient location should be a priority.
- The room should be kept locked when no one is using it, and breastfeeding employees should have access to the key. Businesses can issue a key to each mother using the space, or alternatively can keep the key with the program coordinator to be checked out by mothers. In whichever system, all efforts should be made to minimize the hassle to mothers of accessing the room, while keeping the room's contents secure.
- To the greatest extent possible, the space should be made welcoming, comfortable, and friendly.

II. Equipment

Supporting breastfeeding in the workplace requires minimal equipment. A small investment in a few choice items, including a breast pump, cleaning materials, and a cooling system, may be enough to service an entire staff. It is important for businesses to ensure that working mothers have access to each of these items to facilitate breastfeeding.

- Women using the lactation space will need access to a high quality breast pump. Companies can either provide a personal, portable pump for each employee who needs one (most likely covered by insurance), or purchase or rent a hospital grade pump designed for multiple users (a Medela Symphony Plus Hospital Grade Breast Pump costs about \$2,000 at Walmart). If they choose the latter, they will also need to provide individual milk collection kits to users or notify mothers that they can purchase their own which are usually covered by medical insurance. A hospital grade pump is more efficient than the portable variety, and can save the company money over time, but some mothers might prefer a portable pump. Either kind should be plugged into an electrical outlet.
- The lactation space should be equipped with disinfectant and anti-microbial wipes or spray so the mothers can sanitize the pumps they use and the room itself. Businesses should outline a clear policy about cleaning the equipment and the room. Trash should be removed daily. Companies should designate someone to oversee the maintenance of the room to ensure that it remains sanitary and well stocked. Alternatively, businesses can create a rotating schedule with the mothers to care for and clean the space.
- Once breast milk is expressed, it needs to be stored in a refrigerator or cooler. Businesses should provide a small, personal refrigerator for this purpose either in the room, or nearby. If this is not workable, a company

could provide mothers with individual coolers, with portable pumps that include a cooler, or mothers could provide their own cooling systems. Though mothers may prefer not to store milk in a public, shared refrigerator, this is also a valid option. If a company chooses this route, they should be sure to develop storage guidelines and educate employees on protocol,

III. Support

In order to facilitate breastfeeding, it is important for businesses to provide resources and support for breastfeeding mothers on a daily basis. This support can range from something as simple as flexibility in the workday to pump to providing onsite direct lactation support. Individual implementation will depend on a business's available resources, but investment in breastfeeding support is essential to facilitate continued breastfeeding for mothers returning to the workplace. Not only does this investment support the mother, but it translates directly into tangible business gains such as to higher employee morale, productivity and reduced employee absenteeism.

- Help new mothers ease back into work by offering a flexible schedule as they transition back from maternity leave.
 - Employers should give new mothers at least 6-12 weeks of maternity leave to recover from childbirth and begin breastfeeding.
 - One possibility is for employers to allow new mothers to begin transitioning back to work gradually by allowing mothers to work part-time or telecommute for the first few weeks.
 - Another possibility is to allow the mother to work longer hours on Monday, Tuesday, Thursday and Friday, so that she can take Wednesday off to rebuild her milk supply. This would allow her to pump more often on Wednesday and less often on the other days of the week so that she can maintain the amount of milk necessary to feed her child while interrupting her work day as little as possible.
 - Employers can also consider offering a job-share program, which allows two employees to each work part time and share the responsibilities of a full-time job. This usually works best when the two employees are at the same level in a company. Job-share programs have been shown to increase employee retention and productivity. These programs allow mothers to continue to be committed to their job while also allowing them time to adjust to their new role as parent.
- Allow new mothers to take flexible breaks to express milk. During a typical workday, new mothers generally need to pump two or three times for around fifteen minutes each. The number of pumping sessions may decrease after the baby reaches six months of age and begins eating solid foods. If a mother requires more time to pump than her regular break schedule allows, offer her the flexibility to make up this time before or after the usual work day.
- If at all possible, allow the mother to feed her infant directly. This can be a good option if the employer provides onsite childcare, or if the infant's childcare is nearby.
- If feasible, provide new mothers access to a registered nurse or lactation consultant, for instance from a nearby hospital. This is particularly important to new mothers breastfeeding for the first time. The nurse or lactation consultant can help teach the mother how to breastfeed. Additionally, nurses and lactation consultants can be extremely useful to aid mothers if they ever run into problems while breastfeeding (such as not being able to produce enough milk).
- Offer a referral program helping employees find high-quality childcare. It is important that the mothers are able to find childcare that will work with them in feeding their child with breastmilk even while the mother is away at work.
- Encourage mother-to-mother breastfeeding support and information-sharing. Either offer to host breastfeeding support group meetings on site.
 - Another possibility is to establish a breastfeeding mother-to-mother peer program where new breastfeeding mothers returning to the workplace are connected with mothers that are currently or previously breastfeeding. They can serve as a direct resource for questions surrounding breastfeeding, both in and outside the workplace.

- Create a resource guide of breastfeeding resources and support outside of the workplace, include local support groups such as La Leche League, useful web resources, relevant pamphlets and materials, and specific support providers.

IV. Education

Businesses need to educate all of their employees on the benefits of breastfeeding and their policies on the issue. First and foremost, this will inform existing and potential breastfeeding mothers about the ways in which their company can and does support breastfeeding so that they will be able to fully utilize existing resources. Further, educating non-breastfeeding employees is essential not only to ensure that a company's breastfeeding policies are effectively implemented and adhered to, but also to generate supportive culture of the practice within the workplace. Lastly, large-scale education about both the benefits of breastfeeding and company policies can help to encourage female employees to make the choice to breastfeed in the future.

- Employers should ensure that the company's breastfeeding policy is clear and accessible. Consider posting it to the company website and/or heavily trafficked office areas like a break room so that it can be easily accessed. Employers should also offer trainings to inform all employees about the policies.
- Consider providing an onsite registered nurse/ lactation consultant to meet with pregnant employees and provide breastfeeding education both before and after the baby is born. In addition to teaching employees about the practice of breastfeeding, the consultant could work with new mothers to create a pumping schedule that will be viable in the company's work environment. This preparation will help new mothers seamlessly transition to breastfeeding in the workplace and will limit disturbances from occurring.
 - This consultant could hold lunchtime prenatal classes for both male and female employees, as well as for expecting partners of male employees. A health professional from a nearby hospital or a WIC breastfeeding coordinator might be good options to teach the classes.
 - If holding classes at the company is impractical, allow employees to take leave to attend classes within the community, and provide information to employees on what types of classes are offered and when.
- Provide breastfeeding pamphlets, books, and/or videos to pregnant employees and new mothers.
- Hold company-wide baby showers to encourage support among coworkers.
- Promote the program and inform both supervisors and co-workers of its benefits to ensure general support and a positive environment for new mothers.
- Engage in ongoing communication with new mothers to solicit feedback on the program and provide continued support.

Conclusion

Increasing breastfeeding rates will not only improve the health of Mississippi's citizens, it will also save businesses money. By implementing a lactation support program with the proper space, equipment, support, and education, businesses will see decreased absenteeism, lower insurance costs, and higher retention rates. Businesses that support breastfeeding will also benefit from improved morale, loyalty, and public relations. Supporting breastfeeding in the workplace costs businesses little, but creates significant benefits. It just makes cents (and dollars)!