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## FISCAL IMPACT REPORT

SPONSOR Picraux ORIGINAL DATE 02/02/07  
LAST UPDATED \_\_\_\_\_ HB 613  
SHORT TITLE Breast Pump Use in Workplaces SB \_\_\_\_\_  
ANALYST Hanika Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Labor (DOL)

Department of Health (DOH)

### SUMMARY

#### Synopsis of Bill

House Bill 613 enacts a new section of Chapter 28, Article 20 NMSA 1978 to require an employer provide a clean and private location for a nursing mother to utilize a breast pump in the workplace and to have a flexible break time in which to use it during work hours. Employers will need to provide a clean, private space, which is not a bathroom, nearby the employee's workplace for using a breast pump. Employers shall not be liable for storage or refrigeration of breast milk, or payment for a nursing mother's break time in addition to established employee breaks or payment of overtime incurred because a nursing mother is using a breast pump.

### FISCAL IMPLICATIONS

The bill provides no penalty for violation of the Act, and there are no existing penalties under Civil Rights statutes.

### SIGNIFICANT ISSUES

DOL reports that the bill will extend some level of protection to a woman once a child has been born that normally would end after pregnancy within pregnancy protection/discrimination laws.

The bill provides for a reasonable workplace accommodation to a mother who is nursing, in a manner that appears to have little fiscal impact on an employer yet significantly benefits a mother/child.

### **PERFORMANCE IMPLICATIONS**

DOH reports a small employer or an employer with limited space may find it difficult to designate an area for using the breast pump. The bill does not include how this new law might be monitored, where an employer might go to obtain training or information about implementing the law, or what kind of recourse a breastfeeding mother or an employer might have in the event these conditions are not met. Such training could include cost-savings estimates for the workplace when women are able to breastfeed or pump breast milk. DOH suggests allowing the NM Breastfeeding Task Force to assist with the training and implementation of the proposed law.

### **OTHER SUBSTANTIVE ISSUES**

The American Academy of Pediatrics recommends that infants be exclusively breastfed for approximately the first six months of life, and then continued for at least the first year of life; their recommendation includes encouraging employers to provide appropriate facilities and adequate time in the workplace for breast-pumping. Given health and economic benefits of breastfeeding, the federal Department of Health and Human Services recommends that all worksites support the continuation of breastfeeding through initiatives that include providing private rooms, adequate breaks and flexible work hours for nursing mothers.

Breastfeeding support is one health indicator where New Mexico is among the nation's 5 best states. The percent of New Mexican mothers who were breastfeeding when their infant's age was 60 days or more, and who were at work or in school, declined from 46.5% in 2002 to 43.8% in 2004. Of these mothers, nearly 20% reported that it was hard to use breaks or to find a place to pump or breastfeed. An earlier study of mothers in WIC found that allowing mothers to keep the baby at work or to use break time to pump are associated with breastfeeding rates similar to those of mothers not working or in school.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The right to use a breast pump in the workplace and to have a flexible break time will be left up to the employer.

AHO/yr