

LATE TESTIMONY

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

**Senate Committee on Judiciary and Labor**

**S.B. 532, Relating to Breastfeeding in the Workplace**

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.**

**Director of Health**

**February 26, 2013**

1 **Department's Position:** The Department of Health (DOH) supports this measure but defers to the  
2 Department of Labor and Industrial Relations (DLIR) and encourages changes made in the DLIR  
3 proposed S.D.1 version which provides broader protection than the introduced proposal.

4 **Fiscal Implications:** None to the Department of Health.

5 **Purpose and Justification:** The purpose of this bill is to require employers to provide a reasonable  
6 break time and a clean place for breastfeeding employees to express milk in order to maintain milk  
7 supply and continue breastfeeding.

8 The Department supports the health benefits that this bill would bring, and supports changes made  
9 in the DLIR proposed S.D.1 version. Suggested language in S.B. 532 is similar to the federal policy  
10 designated in Section 4207 of the Patient Protection and Affordable Care Act. This bill, with the  
11 changes suggested by DLIR, will provide a method to strengthen and better enforce the federal  
12 breastfeeding accommodations policy by providing broader protection and a timely private right of  
13 action via an injunction or class action.

14 Current medical recommendations call for exclusive breastfeeding for the first six months of life  
15 and continued breastfeeding for at least the next six months, during which time appropriate  
16 complementary foods are added to the infant's diet. Both the duration and the exclusivity of

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1 breastfeeding are important. Exclusive breastfeeding appears to have an even stronger effect against  
2 obesity than breastfeeding combined with formula feeding. Breastfeeding provides many benefits  
3 including protecting infants and children from a host of significant acute and chronic diseases; reducing  
4 the risk of obesity throughout the life span; and for women who breastfeed a reduced risk of breast  
5 cancer, ovarian cancer, type 2 diabetes, postpartum depression, and cardiovascular disease.

6 Employment plays a key role in a woman's decisions about infant feeding. A woman's career  
7 plans have the most significant impact on both whether she breastfeeds exclusively and for how long she  
8 breastfeeds. Working outside the home negatively affects both initiation and duration of breastfeeding.  
9 Women employed full time are less likely to initiate breastfeeding and to continue breastfeeding once  
10 they return to work. Only 25 percent of employed women with children under age 1 combine working  
11 and breastfeeding for at least a month. There is ample evidence that a supportive worksite environment  
12 with a private place to express milk and access to a quality breast pump helps women feel more  
13 confident in continuing to breastfeed after returning to work, and that lack of accommodations  
14 contributes to shorter breastfeeding duration. Women who do not express milk regularly experience a  
15 drop in milk supply that leads to early weaning.

16 Lactation support at work also provides benefits to the employer. Lactation programs are cost-  
17 effective, showing a \$3 return on \$1 investment. By supporting lactation at work, employers can reduce  
18 turnover, lower recruitment and training costs, cut rates of absenteeism, boost morale and productivity,  
19 and reduce health care costs.

20 The Department supports passage of S.B. 532 due to the health benefits of breastfeeding, but  
21 defers to the DLIR on language to strengthen the bill.

22 Thank you for the opportunity to provide testimony.

23

LATE TESTIMONY



## HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 -PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 26, 2013  
10:00 a.m.  
Room 016

5

To: The Honorable Clayton Hee, Chair  
and Members of the Senate Committee on Judiciary and Labor

From: Linda Hamilton Krieger, Chair  
and Commissioners of the Hawai'i Civil Rights Commission

Re: S.B. No. 532

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

S.B. No. 532 requires employers with 50 or more employees to provide a reasonable break time and a clean, private location for breastfeeding employees to express breast milk. It also imposes posting requirements and a fine for each violation. Employers with less than 50 employees are exempt from these requirements only if the requirements pose an undue hardship. S.B. No. 532 places these protections under H.R.S. Chapter 387 and deletes the breastfeeding provisions in H.R.S. §378-10.

S.B. No. 532 conforms state law on breastfeeding and expression of breast milk in the workplace to the federal law provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. §207(r), which require an employer to provide a place, other than a bathroom, that is shielded from view and free from intrusions from coworkers and the public for an employee to express breast milk. The FLSA requirements, which took effect in 2010, also apply to employers with 50 or more employees; employers with less than 50 employees are exempt only if they can show undue hardship.

The HCRC supports the intent of S.B. No. 532 and the removal of the proposed breastfeeding and expression of breast milk in the workplace requirements from Chapter 378, Part I, because they are health and safety protections and not civil rights protections within the enforcement mandate and expertise of the HCRC.

HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU  
ADRIENNE KING  
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AMY MONK  
LISA ELLEN SMITH  
CAROL ANNE PHILIPS

Executive Director  
Cathy Betts, JD

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# LATE TESTIMONY

February 26, 2013

## Testimony in Support of SB 532, Relating to Breastfeeding in the Workplace

**To:** Honorable Clayton Hee, Chair  
Honorable Maile S.L. Shimabukuro, Vice-Chair  
Members of the Senate Committee on Judiciary and Labor

**From:** Cathy Betts, Executive Director, Hawai'i State Commission on the Status of Women

**Re:** Testimony in Support of SB 532

The Hawai'i State Commission on the Status of Women is in strong support of SB 532. In 2009, 50% of all mothers with children younger than twelve months old were employed. 69% of those women worked full time.<sup>1</sup> Breastfeeding women face many difficult challenges when returning to work. Many women are forced to discontinue breastfeeding upon returning to work because they are unable to take breaks. Some women simply cease breastfeeding because they are fearful of losing their job. Some women are given the proposition of expressing breast milk in unsanitary restrooms (although requiring the use of a restroom for expressing milk is a violation of existing law) or in locations lacking privacy.

Many employers do not recognize the many economic benefits that follow when female employees are provided reasonable time to express breast milk. Among the benefits are lower health care costs, lower absenteeism and lower turnover rates. Employees whose employers provide breastfeeding support report improved morale, better satisfaction with their employment and higher productivity.<sup>2</sup> 24 states, the District of Columbia and Puerto Rico all have laws protecting breastfeeding women in the workplace.<sup>3</sup> The Commission strongly supports SB 532 and respectfully requests that you pass this measure.

Thank you for this opportunity to testify.

Cathy Betts  
Executive Director  
Hawaii State Commission on the Status of Women

<sup>1</sup> United States Department of Labor, Bureau of Labor Statistics, Table 6, *Employment Status of Mothers of Children Under 18 (2010)* and Human Services, *The Business Case for Breastfeeding*, Health Resources and Services Administration (2008).

<sup>2</sup> National Conference of State Legislatures, *Breastfeeding Laws* (May 2011).

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE (808) 529-3111 · INTERNET www.honoluluupd.org

LATE TESTIMONY

KIRK W. CALDWELL  
MAYOR



LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE RN-JK

February 26, 2013

The Honorable Clayton Hee, Chair  
and Members  
Committee on Judiciary and Labor  
State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: Senate Bill No. 532, Relating to Breastfeeding in the Workplace

I am Alan K. Bluemke, Major of the Human Resources Division of the Honolulu Police Department (HPD), City and County of Honolulu.

While the HPD supports the intent of Senate Bill No. 532, we are in opposition to the passage of this bill in its current form. Requirements for employees expressing breast milk are currently in place under Section 7 of the Fair Labor Standards Act and allow for "reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk."

Senate Bill No. 532 does not set a time limitation regarding the length of time allowed for breastfeeding or expressing breast milk after the date of birth. Without a set time limitation, this bill would result in requiring employers to allow "reasonable break times" for potentially multiple years after a child's birth. This has the potential to lead to staffing issues for employers and an increase in costly discrimination or hostile work environment complaints or lawsuits.

The Honorable Clayton Hee, Chair  
and Members  
Page 2  
February 26, 2013

The HPD urges you to oppose Senate Bill No. 532 as written in its current form as this issue is adequately covered in the Patient Protection and Affordable Care Act.

Thank you for the opportunity to testify.

Sincerely,



ALAN K. BLUEMKE, Major  
Human Resources Division

Approved:

  
\_\_\_\_\_  
LOUIS M. KEALOHA  
Chief of Police

## Wage and Hour Division (WHD)

### Section 7(r) of the Fair Labor Standards Act – Break Time for Nursing Mothers Provision

Effective March 23, 2010, the Patient Protection and Affordable Care Act amended the FLSA to require employers to provide a nursing mother reasonable break time to express breast milk after the birth of her child. The amendment also requires that employers provide a place for an employee to express breast milk.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

- (r)(1) An employer shall provide—
- A. a reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk; and
  - B. a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.
- (2) An employer shall not be required to compensate an employee receiving reasonable break time under paragraph (1) for any work time spent for such purpose.
- (3) An employer that employs less than 50 employees shall not be subject to the requirements of this subsection, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business.
- (4) Nothing in this subsection shall preempt a State law that provides greater protections to employees than the protections provided for under this subsection.





**SB532**  
**RELATING TO BREASTFEEDING IN THE WORKPLACE**  
Senate Committee on Judiciary and Labor

February 26, 2013

10:00 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS SB532**, which would require certain employers to provide reasonable time and a clean location for breastfeeding employees to express breast milk in privacy. It would also require posting a notice to inform employees of their right to express breast milk in the workplace, and establishes a civil fine for employers who do not comply.

OHA's strategic priorities include Maui Ola (Health), which represents our commitment to improve the conditions of Native Hawaiians and quality of life by reducing the onset of chronic diseases.

Studies have shown that there are many health benefits to breastfeeding, which include reducing the risk of chronic diseases for the infant and mother. More specifically, the U.S. Department of Health & Human Services – Office of Women's Health (OWH) indicates that breast milk reduces the risks of chronic diseases in infants by lowering the risks for respiratory infections, diabetes, obesity, and childhood leukemia. Additionally, lactating mothers reduce their risk for diabetes, breast cancer, ovarian cancer, and postpartum depression.

Furthermore, breastfeeding benefits society and the environment. According to the OWH, the United States could save \$13 billion per year in medical care costs because breastfed infants typically require fewer doctors' visits, prescriptions, and hospitalizations. At the same time, breastfeeding fosters a more productive workforce because it would prevent mothers from having to take leave for a sick infant. OWH also states that breastfeeding helps the environment, as there would be a reduction in waste from formula packaging and bottles.

Currently, the U.S. Fair Labor Standards Act requires that employers with more than 50 employees provide a break for employees who wish to express breast milk. While we appreciate the federal policy, SB532 establishes a mechanism to improve the status quo at the state level by encouraging employers to provide a sanitary and private accommodation in the workplace for working mothers who choose to breastfeed.

OHA urges the committee to **PASS** SB532. Mahalo for the opportunity to testify.

**Testimony to the Senate Committee on Judiciary and Labor  
Tuesday, February 26, 2013 at 10:00 A.M.  
Conference Room 016, State Capitol**

**RE: SENATE BILL 532 RELATING TO BREASTFEEDING IN THE  
WORKPLACE**

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **has comments on SB 532 Relating to Breastfeeding in the Workplace.**

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

SB 532 requires all employers to make reasonable efforts to provide a break time and a clean location other than a bathroom for breastfeeding employees to express breast milk in privacy. Requires covered employers to post a notice pertaining to this provision in a conspicuous location. Establishes a civil fine for the failure of an employer to provide a location or post notice.

The Chamber understands and supports women in the workplace. We would appreciate if the penalty language be permissive and not mandatory. We believe that discretion be left up to the investigating staff of the Department of Labor and Industrial Relations.

We appreciate the exemption for small businesses with less than 50 employees where there is undue hardship to comply. This will help small businesses that do not have the resources to fully comply with the bill.

Thank you for the opportunity to express our views.



LATE TESTIMONY

February 26, 2013

**TESTIMONY BEFORE THE SENATE COMMITTEE ON  
JUDICIARY AND LABOR  
ON SB 532 RELATING TO BREAST FEEDING IN THE WORKPLACE**

Thank you Chair Hee and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

HTA requests an exception from this bill for employees whose regular duties require them to be on the road.

Drivers of commercial vehicles cannot be afforded a sanitary and private area to express milk when they are on the road and there is no employer owned facility on the drivers' route.

Furthermore, drivers cannot stop and park their tractor trailers, trucks, buses, etc., for any appreciable length of time, anywhere. Even in a legal loading zone there are time limits to remain in the space.

Such a rule could render the employment of female drivers untenable.

An amendment could be Under Section 2, 387-, paragraph (e), on page 3 stating, "**Drivers employed by a motor carrier as defined in chapter 286-201, are exempt from subsection (a).**"

Thank you.

hee2 - Kathleen

LATE TESTIMONY

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 25, 2013 6:32 PM  
**To:** JDLTestimony  
**Cc:** joyamarshall2003@yahoo.com  
**Subject:** \*Submitted testimony for SB532 on Feb 26, 2013 10:00AM\*

**SB532**

Submitted on: 2/25/2013

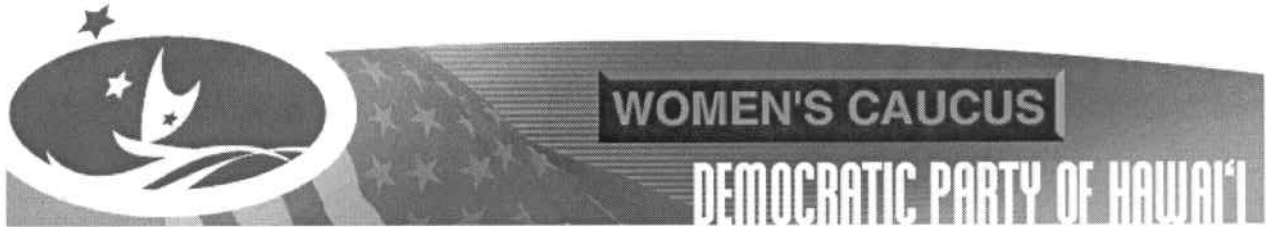
Testimony for JDL on Feb 26, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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February 26, 2013

To: Senator Clayton Hee, Chair  
Senator Maile Shimabukuro, Vice Chair and  
Members of the Committee on Judiciary and Labor

From: Jeanne Y. Ohta, Co-Chair

RE: SB 532 Relating to Breastfeeding in the Workplace  
Hearing: Tuesday, February 26, 2013, 10:00 a.m., Room 016

Position: Support

The Hawai'i State Democratic Women's Caucus writes in support of SB 532 Breastfeeding in the Workplace which requires certain employers to provide reasonable time and a clean location for breastfeeding employees to express breast milk in privacy.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls. It is because of this mission, the Women's Caucus supports this measure.

Only one in five children in Hawaii<sup>1</sup> receives the absolute minimum of six months exclusive breastfeeding, as recommended by the American Academy of Pediatrics and the World Health Organization to reduce risk of obesity, diabetes, infectious disease, asthma, allergies and certain childhood cancers. Women who breastfeed their children benefit too, with lower rates of breast and ovarian cancer, metabolic syndrome and type 2 diabetes. Society benefits with lower health insurance costs. Employers benefit with lower absenteeism on the job and less employee turnover.

According to the 2011 Data Book, 62% of Hawai'i's women are in the labor force. Because of our high cost of living, two-wage earners in households are very common. Children deserve the best start to a healthy life as possible. Allowing for accommodations to women who are breastfeeding is a common-sense solution. We respectfully request that the committee pass this measure.

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<sup>1</sup> The CDC Breastfeeding Report Card 2012: [www.cdc.gov/breastfeeding/data/](http://www.cdc.gov/breastfeeding/data/)

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 25, 2013 11:51 AM  
To: JDLTestimony  
Cc: leealdrige@msn.com  
Subject: Submitted testimony for SB532 on Feb 26, 2013 10:00AM

**SB532**

Submitted on: 2/25/2013  
Testimony for JDL on Feb 26, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lee Aldridge	Individual	Oppose	No

Comments: I wish to thank the JDL Committee for the opportunity to testify on SB532. I OPPOSE this bill. Even though the bill is an expression of good intentions and exempts employers of less than 10 employees (undefined as to including or excluding permanent, temporary, part time, or contact employees) the bill is nevertheless another example of an intrusive and overbearing imposition of government into business and places of employment. This bill requires employers to essentially construct or partition a dedicated "sanitary" room to allow for the access to private breast feeding activity. The bill states specifically that the space cannot be a bathroom or restroom. There are many business locations where this allocation of private space may simply be impractical or unattainable. Additionally, the bill establishes provisions for civil fines against employers for not providing such facilities. Not only does this bill create additional restrictions and added cost to doing business in Hawaii, but it also creates a new opportunities for unlimited litigation against employers for some "violation" of fairly l'll defined regulations. I wish to repeat my emphatic opposition to this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Tuesday, February 26, 2013

TO: Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

FROM: Michelle Tagorda  
Student at the University of Hawai'i at Mānoa

SUBJECT: Support for S.B. No. 532, Relating to Breastfeeding in the Workplace.

Thank you for this opportunity to testify for S.B. No. 532. I am an undergraduate student at the University of Hawai'i at Mānoa majoring in biology and psychology and currently studying public health policy. I am testifying in favor of S.B. No. 532, which requires employers to provide accommodations for employees who are breastfeeding. Accommodations such as a reasonable break time and a clean place for breastfeeding employees to express milk will allow for employees to maintain their milk supply and ultimately continue breastfeeding and providing crucial health benefits to the development of their babies.

The American Academy of Pediatrics (AAP) reported documented advantages of breastfeeding for both maternal and child health. AAP, the World Health Organization (WHO) and the Institute of Medicine (IOM) recommends that exclusive breastfeeding take place for the first 6 months with continuation for a year or longer in complement to introduced foods. The immunoprotective properties of human milk provide the support infants need throughout early development. With the growing economic need for mothers to go back to work, S.B. No. 532 will allow for mothers to continue to provide essential human milk to their child by having a safe, private, sanitary place to express milk while at work.

In addition to the complete nutritional benefits that are found in human milk, there are significant health benefits when infants are breastfed for the recommended duration. Respiratory tract infections such as pneumonia, respiratory syncytial virus bronchiolitis and otitis media can be reduced by up to 74%<sup>4,5,6</sup>. The most common and serious gastrointestinal disorder among hospitalized preterm infants, necrotizing enterocolitis can be reduced by 77%<sup>7</sup>. Reduction in the rates of other diseases such as obesity, diabetes and childhood leukemia and lymphoma has also been reported. And if 90% of mothers in the United States exclusively breastfeed their children for 6 months, more than 900 infant lives will be saved<sup>8</sup>. Breastfeeding not only provides health benefits for the child but also the mother. Various longitudinal studies including the longitudinal Nurses Health Study<sup>9</sup> and the Women's Health Initiative<sup>10</sup> reported maternal benefits for breastfeeding. Benefits include a decrease in the incidence of postpartum depression, in type 2 diabetes mellitus, in the development of rheumatoid arthritis, in hypertension, and in both breast and ovarian cancer.

In addition to the health benefits, there are also economic benefits. According to the Agency for Healthcare Research and Quality (AHRQ) \$13 billion per year can be saved if mothers exclusively breastfeed for 6 months<sup>8</sup>. Employers can benefit with a reduction in company health



care costs, reduction in need to hire new employees, and a lower number of absent employees if breastfeeding mother can be provided with the time and place to breastfeed while at work.

In the Hawaii Pregnancy Risk Assessment Monitoring System breastfeeding mothers reported fewer visits to the doctor regarding illness and an increase in work productivity. With the welfare for both child and maternal health in mind as well as the potential for economic and employer benefit, I strongly testify in support of S.B. No. 532. S.B. No. 532 will provide for a workplace environment that supports mothers and the goal of providing infants only breast milk. Thank you for this opportunity to testify in support of S.B. No. 532.

1. Breastfeeding and the Use of Human Milk SECTION ON BREASTFEEDING. *Pediatrics*; originally published online February 27, 2012; DOI: 10.1542/peds.2011-3552
2. World Health Organization. The optimal duration of exclusive breastfeeding: report of an expert consultation. Available at: [http://www.who.int/nutrition/publications/optimal\\_duration\\_of\\_exc\\_bfeeding\\_report\\_eng.pdf](http://www.who.int/nutrition/publications/optimal_duration_of_exc_bfeeding_report_eng.pdf). Accessed December 12, 2011
3. Institute of Medicine. Early childhood obesity prevention policies. June 23, 2011. Available at: [www.iom.edu/obesityyoungchildren](http://www.iom.edu/obesityyoungchildren). Accessed December 12, 2011
4. Ip S, Chung M, Raman G, et al; Tufts-New England Medical Center Evidence-based Practice Center. Breastfeeding and maternal and infant health outcomes in developed countries. *Evid Rep Technol Assess (Full Rep)*. 2007;153(153):1-186
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9. Karlson EW, Mandl LA, Hankinson SE, Grodstein F. Do breast-feeding and other reproductive factors influence future risk of rheumatoid arthritis? Results from the Nurses' Health Study. *Arthritis Rheum*. 2004;50(11):3458-3467
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