



THE NATIONAL RESTAURANT ASSOCIATION:

***Behind the Fight Against Working Families
and an Economy that Works for All***

The National Restaurant Association

The National Restaurant Association (NRA) has taken a leading role in fighting against the extension of paid sick days to all American workers, something it sees as a “hot button issue for the restaurant industry.”¹ NRA describes the current effort to extend paid sick days to Denver’s workers through Initiative 300 as a central front in this national battle, contributing \$100,000 through Keep Denver Competitive, a business coalition formed specifically to fight the November 1 ballot measure.²

NRA is one of the so-called Gang of Six big industry associations (along with the U.S. Chamber of Commerce, Business Roundtable, National Association of Manufacturers, National Federation of Independent Business, and National Association of Wholesaler-Distributors). NRA’s vice president of government relations, Brendan J. Flanagan, who “influences and tracks policy” on paid leave and “labor/workforce” issues for NRA, is on the executive committee of the Chamber-led Coalition for a Democratic Workplace, created to counter the union-backed Employee Free Choice Act.³

NRA has actively opposed paid sick leave initiatives in Connecticut, California, Massachusetts, Vermont, New York, San Francisco, Milwaukee, Seattle, and Washington, DC; and it points to the failure of these measures to advance in Iowa, Illinois, Indiana, Philadelphia and North Carolina as a source of encouragement. Its staff strategically tracks this issue on a real time basis.⁴

In April 2011, NRA created a Restaurant Advocacy Fund (RAF) to provide a rapid response capability to state-level initiatives it opposes, including bringing paid sick days to employees.⁵ Scott DeFife, NRA’s Executive Vice President for Policy and Government Affairs, has said that the Restaurant Advocacy Fund will be used to challenge “an increasing number of complex issues that threaten restaurants’ bottom-line.”⁶ The \$100,000 NRA donation to Keep Denver Competitive to fight Initiative 300 came from the Restaurant Advocacy Fund.

NRA has lobbied Congress, the Labor Department and the White House on “sick leave reform” (concerning the Family and Medical Leave Act, which provides for unpaid leave in businesses with 50 or more employees for care of a new child or serious illness), from 2009 to 2011. Its federal lobbying budgets for those three years on all issues totaled \$7,160,000.⁷

¹ Paul Frumkin, “[NYC Lawmakers Consider Paid Sick Leave](#),” *Nation’s Restaurant News*, September 15, 2009.

² Paul Frumkin, “[Sick Leave Spreads: Concerns Grow Over New Initiatives Mandating Paid Time Off For Illness](#),” *Nation’s Restaurant News*, October 10, 2011.

³ National Restaurant Association, “[Speaker Bio: Brendan J. Flanagan](#),” accessed October 14, 2011.

See strategy map, [National Restaurant Association website](#), accessed October 13, 2011; and “The Latest,” from Brendan Flanagan (the National Restaurant Association’s vice president for government relations), “[Issue Update](#),” September 25, 2011, slide 16. From Oregon Restaurant and Lodging Association website, accessed October 14, 2011.

⁵ National Restaurant Association, “[New Restaurant Advocacy Fund Advances Industry’s Policy Interests](#),” April 20, 2011.

⁶ National Restaurant Association, “[National Restaurant Association Unveils Restaurant Advocacy Fund to Play Key Role in Advancing Policy Interests of Restaurant Industry](#),” Press Release, April 13, 2011. DeFife was hired by NRA in January 2010 after a stint as the top lobbyist at the Securities Industry and Financial Markets Association (2007-2009). At SIFMA, DeFife received \$572,840 in compensation plus \$10,186 in benefits and deferred compensation during the fiscal year ending October 31, 2009. [Securities Industry and Financial Markets Association 2008 IRS Form 990](#), p.29.

⁷ Center for Responsive Politics, National Restaurant Association lobbying expenditures for [2009](#), [2010](#), [2011](#). Through October 14, 2011.

In the brochure touting its August 2011 Rocky Mountain Golf Classic, the benefits of which went to this Restaurant Advocacy Fund (checks were to be made out to the Colorado Restaurant Association), NRA boasts that the fund now known as RAF “has contributed nearly \$7 million to efforts across the country” to defeat workforce initiatives on minimum wage, paid sick days and other efforts. In Colorado alone, RAF has contributed, in total, almost \$800,000 to efforts to defeat the Denver minimum wage initiative in 1996, to help fight the state minimum wage increase in 2006 and to defeat the ‘Poison Pill’ initiatives in 2008.”⁸

The Colorado Restaurant Association is co-sponsoring yet another benefit golf tournament for the Restaurant Advocacy Fund in Williamsburg, Virginia, on October 20-22 along with industry heavyweights Brinker International, Darden, Coca-Cola, Georgia Pacific (which is owned by Koch Industries), Cintas and Ecolab.⁹

NRA’s Leadership and Activities

NRA, formed in 1919 and headquartered in Washington, DC, represents the \$600 billion restaurant industry and has an annual budget of over \$50 million.¹⁰ It has 53 state restaurant affiliates, and operates a nonprofit arm, the National Restaurant Association Educational Foundation, out of Chicago, which has an annual budget of over \$4.3 million.¹¹ NRA has 177 corporate restaurant members representing the dominant players in this global industry,¹² and other members including supplier companies, faculty and students in hospitality education, and nonprofits “such as state hospitals, state health care facilities, state schools, state prisons, military foodservice establishments, etc.”¹³

NRA’s political action committee was the largest food and beverage industry contributor to both the Republican and Democratic parties in the 2010 elections.¹⁴ NRA also contributed \$50,000 in October 2006 to Respect Colorado’s Constitution, the political committee fighting Amendment 42, in an effort to keep the state from raising the minimum wage.¹⁵ In addition, NRA contributed \$125,000 to HIPAC, the Hospitality Issue PAC, in September-October 2008.¹⁶ HIPAC, backed by the Colorado Restaurant Association, is one of the two major political committees fighting Initiative 300.

The Colorado Restaurant Association contributed nearly \$1.5 million to defeat the 2006 state minimum wage measure in Colorado, while that year NRA gave over \$600,000 to defeat minimum wage initiatives across the country, including \$223,000 in Colorado.¹⁷ That year major restaurant chains including McDonalds, Kentucky Fried Chicken, Applebees, Jack In The Box, Wendys, Dominos Pizza, Burger King, Chuck E Cheese, Arby’s Restaurant and Golden Corral, gave generously to state level campaigns against raising the minimum wage.¹⁸

⁸ [Promotional brochure](#), Rocky Mountain Golf Classic, National Restaurant Association, Restaurant Advocacy Fund, 2011. The “poison pill initiatives” were four pro-labor ballot initiatives in 2008 that were pulled in exchange for the business community contributing to the defeat of a “right to work” ballot initiative. Chris Bragg, “[‘Poison Pill’ Measures Pulled From Ballot](#),” *The Colorado Statesman*, October 3, 2008.

⁹ Promotional Brochure, “[Richard E. Marriott SAFE Golf Tournament, Supporting the Restaurant Advocacy Fund](#),” National Restaurant Association, accessed October 14, 2011.

¹⁰ National Restaurant Association, 2009 [IRS Form 990](#), p. 1. The \$600 billion figure for the size of the restaurant industry is NRA’s number, [from NRA website](#), “About Us.”

¹¹ National Restaurant Association Foundation, 2009 [IRS Form 990](#), p. 1.

¹² National Restaurant Association, “[National Restaurant Association Membership List](#),” accessed October 17, 2011.

¹³ National Restaurant Association, “[Join the National Restaurant Association](#),” accessed October 19, 2011.

¹⁴ Center for Responsive Politics, [Food and Beverage Sector, 2010 PAC Contributions](#).

¹⁵ Colorado Secretary of State Elections Division, [National Restaurant Association contribution to Respect Colorado’s Constitution](#), accessed October 14, 2011.

¹⁶ Colorado Secretary of State Elections Division, [National Restaurant Association contribution to Hospitality Issue PAC](#), accessed October 14, 2011

¹⁷ Linda Casey, “[Voters Give Workers a Raise: Money Raised Around The Minimum Wage Ballot Measures In Six States in 2006](#),” National Institute on Money in State Politics, October 11, 2007, pp. 7-8.

¹⁸ *Ibid.*

The restaurant industry has the highest percentage of workers who are paid the minimum wage.¹⁹ Many of these same conglomerates and their affiliates have contributed to the campaign to defeat Initiative 300, e.g., Arby's, Burger King, and Yum! Brands, the owners of KFC and Pizza Hut.²⁰

NRA also has a partnership with the independently published *Nation's Restaurant News*,²¹ which carries regular articles on industry and activist efforts to turn back paid sick days requirements, minimum wage initiatives and legislation, healthcare reform, and employee organizing rights.²²

Richard Berman, the prominent anti-union public relations operative who represents restaurant chains,²³ has written a column for years in *Nation's Restaurant News*. He is a hostile opponent of extending paid sick days to low-paid workers, which he derides as a "new legislative hobbyhorse" of "political activists bent on improving the situation of America's working poor."²⁴ Berman's personal mentor was the late billionaire restaurant mogul Norman Brinker, whose firm Brinker International (with \$2.76 billion in revenue thus far in 2011)²⁵ has contributed \$15,000 to Keep Denver Competitive's campaign against Initiative 300.

Berman also is president and CEO of the Employment Policies Institute, which the *National Journal* has described as "another new think tank with even closer ties to industry...started in 1992 by a group of restaurant companies that wanted an alternative source of research on labor issues."²⁶ In July Berman's institute released results of a poll it commissioned that erroneously cast Denver's paid sick leave initiative as an effort to enable workers to use paid days for non-medical purposes, "such as extending their summer vacation."²⁷ In 2009 the Employment Policies Institute paid Berman's own consulting company \$1,838,254 for "management services."²⁸

In addition to trying to block paid sick days initiatives, NRA's current top advocacy issues include repealing the new national health care law, fighting the Department of Labor's new tip credit notification regulations,²⁹ and opposing Restaurant Opportunities Centers United (ROC-United), a national restaurant workers' organization headquartered in New York. NRA's political strategists have also raised the possibility of exploring opportunities "for statewide pre-emption of local sick leave laws."³⁰

NRA's resistance to the Department of Labor's tip credit regulations, which were issued under the Fair Labor Standards Act, is part of a consistent pattern in the organization's long history. The National Restaurant

¹⁹ Kirk Heriot, Teresa Lang and Neal Thomson, "[Evaluating the Impact of Federal Legislation on Small Businesses: An Exploratory Study of the New Minimum Wage Rate and the Health Insurance Tax](#)," p. 76.

²⁰ City of Denver, Office of the Clerk and Recorder, City Clerk Division, campaign finance reports, [Keep Denver Competitive](#), July-October; and [Hospitality Issue PAC](#), Aug.-September 2011.

²¹ "[National Restaurant Association and Nation's Restaurant News Announce Strategic Media Partnership](#)," National Restaurant Association News Release, June 30, 2010.

²² E.g., see the following *Nation's Restaurant News* articles: "[Paid Sick Leave Takes Center Stage in NYC](#)," November 16, 2009; "[Sick Leave Spreads: Concerns Grow Over New Initiatives Mandating Paid Time Off For Illness](#)," October 10, 2011; "[Minimum Wage Hikes Hurt Foodservice, Endanger Entry-Level Jobs](#)," December 6, 2010; "[Paid Sick Leave Challenges Calif. Operators](#)," February 15, 2011; "[Card-Check Bill Spurs Familiar Fight](#)," March 22, 2009.

²³ For more on Berman see the September 19, 2007, 60 Minutes report "[Meet Dr. Evil](#),"; and Citizens for Responsibility and Ethics in Washington's [website on his activities](#).

²⁴ Richard Berman, "A Sickening Amount of Ignorance," *Retailing Today*, August 13 2007.

²⁵ "[Brinker International Inc.](#)," Market Watch, accessed October 17, 2011.

²⁶ Louis Jacobson, "Think Tanks on a Roll," *National Journal*, July 8, 1995.

²⁷ Employment Policies Institute, "[New Poll: Over Half of Americans Know Someone That's Used Paid Sick Leave to Take a Paid Vacation](#)," July 12, 2011.

²⁸ Employment Policies Institute, 2009 IRS Form 990, p. 8.

²⁹ On this issue see Robert S. Bressler, "[Labor Department Clarifies That Employees Own Their Tips](#)," *Labor and Employment Law Weekly Update* (Week of April 18, 2011), Foley & Lardner; and National Restaurant Association, "[DOL Changes Tip-Credit Regulations](#)," May 5, 2011.

³⁰ Brendan Flanagan (the National Restaurant Association's vice president for government relations), "[Issue Update](#)," September 25, 2011, slide 20. On ROC-United see slide 22.

Association was among the fiercest opponents of the Fair Labor Standards Act (FLSA), which established the national minimum wage, when the law was passed in 1938. In characteristic cry wolf fashion, NRA and other trade associations warned at the time that, as Willis Nordlund puts it, if the national minimum wage was passed, “firms would be destroyed, workers would be replaced by machines, prices would rise, exports would diminish, ad infinitum.”³¹

NRA has also weighed in on regulations they think will affect their bottom line -- for example, they sought an exemption from the requirement that they provide adequate space in their restaurants for nursing mothers.³²

NRA, which claims to represent 380,000 restaurants, suppliers, “educators and nonprofits,” is governed by a large board of directors chaired by Sally Smith, the president and CEO of Buffalo Wild Wings Grill and Bar, a Minneapolis-based restaurant chain with \$600 million in annual sales. Buffalo Wild Wings has contributed \$7,500 to Keep Denver Competitive, the committee campaigning against paid sick days in Denver.

Buffalo Wild Wings (BWW) views measures to strengthen health and labor protections through the lens of how it assumes these will hit their profits. Its most recent annual report states that “changes in employment laws or regulation could harm our performance,” citing “minimum wage requirements, overtime pay, healthcare reform, unemployment tax rates, workers’ compensation rates, citizenship requirements, union membership, and sales taxes. A number of factors could adversely affect our operating results, including additional government-imposed increases in minimum wages, overtime pay, paid leaves of absence and mandated health benefits, mandated training for employees, increased tax reporting and tax payment requirements for employees who receive tips, a reduction in the number of states that allow tips to be credited toward minimum wage requirements, and increased employee litigation including claims relating to the Fair Labor Standards Act.”³³ BWW is one of the out-of-state corporate restaurant contributors to the efforts to defeat Initiative 300.³⁴

BWW sees an additional threat to its bottom line from the possibility that “we could be required to make modifications to our restaurants to provide service to, or make reasonable accommodations for disabled persons.”³⁵

The National Restaurant Association’s chief executive officer is Dawn M. Sweeney, who was paid \$1,107,475 in compensation and \$97,131 in benefits during the fiscal year ending December 31, 2009.³⁶ She has attempted to soften NRA’s image by engaging in such activities as partnering with First Lady Michelle Obama on childhood obesity issues, but under her leadership NRA has moved aggressively to block paid sick days, a policy the First Lady and President have both publicly supported. Sweeney is also a member of the Chamber of Commerce’s influential Committee of 100 trade association leaders.

Herman Cain, the former CEO of Godfather’s Pizza, chairman of the Federal Reserve Bank of Kansas City (1995-96), and leading candidate for the 2012 Republican presidential nomination, was CEO of the NRA from 1996-99 and its chairman from 1994-95. From this perch at NRA he played an important role in the defeat of the Clinton health plan.

³¹ Willis J. Nordlund, *The Quest For a Living Wage: The History of the Federal Minimum Wage Program*, p. 44.

³² National Restaurant Association, “[Regulatory Comments of the National Restaurant Association](#),” on U.S. Department of Labor’s “Request For Information from the Public: Reasonable Break Time for Nursing Mothers,” February 22, 2011, p.1. NRA asserts that they do not have the space to make such provisions for nursing mothers: “Restaurant layouts maximize the utilization of every square foot of space—both in the kitchen and back of the house, as well as the front of the house.”

³³ Buffalo Wild Wings, Inc., [2010 SEC Form 10K](#), February 28, 2011, p. 16.

³⁴ City of Denver, Office of the Clerk and Recorder, City Clerk Division, “[Campaign Finance Report: Keep Denver Competitive, 9/1/2011](#),” p. 5.

³⁵ Ibid.

³⁶ National Restaurant Association, 2009 IRS Form 990, p. 21.

Stan Harris, the CEO of the NRA's Louisiana affiliate, was a speaker at the Labor and Business Regulation Subcommittee meeting at the August 2011 annual meeting of the American Legislative Exchange Council (ALEC). ALEC is a national organization attempting to drive a radical deregulatory agenda down into the states.³⁷ At its August 3-6 meeting, a panel discussion was held on how to coordinate a response to paid sick days initiatives, with speakers from Louisville-based Yum! Brands (the \$11 billion-a-year in revenues parent corporation of KFC, Pizza Hut and Taco Bell³⁸) and several restaurant associations.

According to the minutes of the meeting, obtained by the Center for Media and Democracy, "Paid family medical leave" was the only topic discussed at the meeting of ALEC's labor subcommittee, which is chaired by Yum! Brands. "Meeting attendees were given complete copies of Wisconsin's 2011 Senate Bill 23 (now Wisconsin Act 16), as a model for state override," CMD reported, and were also given National Restaurant Association strategy materials.³⁹

According to the Wyoming Lodging and Restaurant Association, ALEC has formed a new subcommittee on paid sick leave to drive a national agenda down into the states.⁴⁰

The Colorado Restaurant Association

The Colorado Restaurant Association established the Hospitality Issue PAC, which has raised more than \$183,000 to defeat Initiative 300.⁴¹ On August 11, the Colorado Restaurant Association's (CRA) board of directors held a noontime meeting of its government affairs committee to discuss the Denver ballot initiative on paid sick days. The importance of the discussion was flagged in the announcement: "All board members are members of this committee. We will be discussing Denver Paid Sick Leave, which will be on the ballot in November. Make sure you are in attendance."⁴²

Subsequently CRA contributed \$15,000 to Hospitality Issue PAC to oppose Initiative 300. CRA board member Robert Lanphier (of Buff Brothers) contributed to the effort as well. CRA board member Rick Boselli is a manager at McDonald's, which has used the Topeka-based Rocky Mountain Advertising Cooperative, which donated \$50,000 to the effort.

A National Effort Against State and Local Initiatives

It is clear from NRA's commitment of money, organizational clout, and mobilization of industry resources that the campaign against Initiative 300 in Denver is part of a wider national battle. As Rob Gifford NRA's executive VP for political advocacy has said, the NRA plans to take a more active role in state and local fights in the future. Gifford says "Denver should not be viewed in isolation."⁴³

³⁷ For more on ALEC see the [Center for Media and Democracy's website on the organization](#).

³⁸ Yum! Brands, "[Yum! Brands](#)," accessed October 17, 2011.

³⁹ Rebekah Wilce, "[Flu with that Burger? ALEC Wants Sick People Serving You Food](#)," October 19, 2011, *PR Watch* (Center for Media and Democracy).

⁴⁰ Wyoming Lodging and Restaurant Association, "[Paid Sick Leave Mandates could be Next Legislative Target](#)," accessed October 17, 2011.

⁴¹ City of Denver, Office of the Clerk and Recorder, City Clerk Division, "[Campaign Finance Report: Hospitality Issue PAC, 10/5/2011](#)," p. 2.

⁴² Colorado Restaurant Association, "[CRA Board and Committee Meetings: 11 Aug 2011](#)," accessed October 17, 2011.

⁴³ Paul Frumkin, "[Sick Leave Spreads: Concerns Grow Over New Initiatives Mandating Paid Time Off For Illness](#)," *Nation's Restaurant News*, October 10, 2011.