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The mission of the Nebraska Restaurant Association is “To Represent, Educate and Promote the Hospitality Industry.” The purpose of this report is to share with you some of the ways we are working to accomplish our mission in 2011.

Legislative Review

Membership in the Nebraska Restaurant Association is a “two for one deal” as it also includes membership in the National Restaurant Association. The National Restaurant Association provides the research and financial resources to support and coordinate lobbying efforts at the federal level. At the state association level we are personally acquainted with the members of the state’s congressional delegations so we are able to meet with them on a regular basis and discuss national issues in person.

Both Associations have been working together diligently to represent the interests of the hospitality industry with particular focus on the following issues.

Federal Issues

The Employee Free Choice Act and Paycheck Fairness Act
These issues, both hostile to business, did not pass this session and with the Republican majority in the House of Representatives are not likely to do any better in the 2011 session.

Comprehensive Immigration Reform
This is a strategic issue and reform is necessary to support future economic growth and an adequate labor pool. We will continue to work for legislation that provides for control of our international borders, legal entry procedure for immigrants in adequate numbers to meet labor requirements, fraud proof identification for documented immigrants that employers can rely on, and establishes a process that will convert the estimated twelve million undocumented immigrants to legal status.

Interchange Fees
We worked hard in support of the Durbin Amendment to the financial reform package. Nebraska Senator Ben Nelson’s vote in favor was a key to getting it passed in the United States Senate. On December 16, 2010, the Federal Reserve released proposed regulations to implement the Durbin Amendment. Under the proposal, debit card swipe fees would be capped at no more than 12 cents per transaction rather than the current fee structure that can be as high as 2 percent of the purchase price. That means a restaurant would pay his or her bank a maximum of 12 cents to process a $100 transaction rather than a maximum of $2.00. However, Senator Ben Nelson has now nearly reversed his position and has come out in favor of delaying implementation to study the issue further. In our opinion, delay really means derail, and we are working to keep the original Durbin Amendment.

Depreciation
We are supporting the permanent reduction of the depreciation schedule for restaurant buildings to 15 years to promote economic growth for the industry and nation.

Health Care
Health care legislation passed both the Senate and the House and was signed by the President. It’s a complex law which we covered in detail in the last Main Course. We would like to get it repealed but that is probably not feasible. The National Restaurant Association is working with regulatory agencies to modify some of the provisions most burdensome to small business and restaurants. The focus is on defining a full time employee in a way that reduces the number of people for which small businesses are required to provide health insurance, extending the time after hire before insurance is required and reducing penalties.

We continue to coordinate with the National Restaurant Association, Immigration Works USA and the National Retail Federation to keep our congressional delegation informed of our concerns and define positions on a variety of issues of interest to our members.

State Issues – Nebraska Unicameral Legislature
The 2011 session of the Nebraska Unicameral is now history. The Nebraska Legislature operates on a two year cycle. Any bills introduced in the 2011 session

Continued on Page 6
The Nebraska Restaurant Association offers Farmers Insurance Group as its endorsed insurance provider for 2011. We are confident that Farmers Insurance Group will provide more comprehensive opportunities for our members.

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Nebraska.Statepaper.com
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Nebraska.Statepaper.com is the premiere online dining guide of the Nebraska Restaurant Association. In addition to a free listing, members of the Nebraska Restaurant Association may receive additional discounts with enhanced listings and websites.

Broadcast Music Incorporated (BMI)
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Contact: Cleve Murphy
615.401.2877

Nebraska Restaurant Association members can save up to 20% thru BMI. BMI collects license fees on behalf of songwriters, composers and music publishers and distributes them as royalties to those members whose works have been performed.
Nebraska Restaurant Association Partners With Share our Strength’s Dine Out for No Kid Hungry

Hungry children cannot thrive. Yet millions of kids in America are at risk of going hungry. Share Our Strength and the Nebraska Restaurant Association are changing that. We are honored to announce that we are a promotional partner of Share of Strength’s Dine Out for No Kid Hungry (formerly known as the Great American Dine Out), scheduled for September 18-24, 2011.

Share Our Strength provides on-line resources that make participation easy. Tools include a press release template, POP materials, guest communications, employee training guide, social media guide and so much more. Plus, Share Our Strength will employ social media strategies to encourage consumers to dine at participating restaurants for the week. Restaurant participation is flexible and you can extend your restaurant promotion beyond the week.

Be part of the event that is rallying the restaurant industry together to end childhood hunger in America. For more information, visit www.DineOutforNoKidHungry.org or contact Molly Burke at 202-478-6538 and find out how you can participate.

SEPTEMBER IS: National Food Safety Education Month
Lessons Learned from the Health Inspection

The National Restaurant Association encourages restaurant and foodservice operators to begin planning for the 17th annual National Food Safety Education Month. This month-long campaign is held every September and focuses on the importance of food safety education for the restaurant and foodservice industry, while raising public awareness of the industry’s commitment to food safety. The Nebraska Restaurant Association Hospitality Education Foundation (NRAHEF) has participated since 1994 emphasizing Food Handlers training from owners/managers to dishwashers. NRAHEF’s ProStart Program trains 1000 students each year.

Food Safety Education Month materials are FREE and are based on the ServSafe food safety training and certification program. The materials communicate concepts clearly and quickly to employees, and activities can be completed in less than 10 minutes. Since 1994, the Nebraska Restaurant Association Hospitality Education Foundation (NRAHEF) has participated and has emphasized Food Handlers training for owners/managers to dishwashers. Our Association’s ProStart Program trains 100 students each year.” For more information contact Beth Haas 402.488.3999 or visit the NRA Solutions website http://www.servsafe.com/nfsem/
and not acted on can still be considered in the 2012 session. Here are some of the issues we addressed:

**Budget**
The Legislature successfully dealt with a predicted two year shortfall for the State budget in excess of 900 million dollars. It took much time and intense soul searching as each agency and program fell under the scrutiny of the budget knife. It also doomed nearly any new legislation that would cost the state money. Nebraska is a national leader in fiscal responsibility, and the budget was addressed successfully, unlike many other states.

**Toys with Children’s Meals**
Senator Avery introduced legislation that would have made it illegal to include a toy with a children’s meal unless the meal met some strict dietary standards. Commonly called the “Happy Meal Bill,” it brought on significant media attention. We worked hard to stop the legislation. It was killed in the Agriculture Committee by a unanimous vote.

**Immigration**
State Senator Charlie Janssen of Fremont introduced an immigration bill similar to Arizona. Arizona’s bill requires police to verify a person’s immigration status if there’s “reasonable” suspicion the person is in the U.S. illegally. The Judiciary Committee did not advance the bill to the floor of the legislature. They chose instead to initiate an interim study on the issue. Senator Coash also introduced legislation that would require employers to use the E-Verify system. In light of recent supportive U.S Supreme Court action, that legislation will probably get more support in the 2012 session. We will work to ensure it is not overly burdensome on restaurants.

**Occupation Taxes**
In 2010, the cities of Lincoln, Omaha, Grand Island, and Norfolk enacted occupation taxes to be collected by restaurants. State law presently requires cities to get legislative approval to increase city sales tax but allows cities to enact and raise city occupation taxes. We supported legislation to put control on future city occupation taxes and were successful in limiting some occupation taxes in the future, but not as successful as we hoped. We will continue to work on this issue in upcoming sessions.

**Dram Shop**
“Dram Shop” refers to legislation that holds sellers/servers of alcohol liable for damage, injury, or death as a result of selling or serving an intoxicated person. The term “dram” comes from 18th century businesses in England that sold gin by the spoonful, called a dram. Nebraska is one of the few remaining “non dram shop” states. Each time someone is killed by a drunk driver, the momentum to make Nebraska a dram shop state grows. It especially grows when it is obvious that the seller served or sold to an intoxicated person and unfortunately there are a few who do. There have been numerous bills introduced over the last several legislative sessions to make Nebraska a dram shop state. To date, we have been successful in stopping all of them. Senator Carlson introduced dram shop legislation in the 2011 session. We aggressively opposed the legislation and the Judiciary committee did not advance it to the floor of the legislature. However, it could advance in the 2012 session.

**Driving While Intoxicated Legislation**
In an effort to further address and curtail people from driving while intoxicated, legislation was introduced and passed to address several areas of abuse. The original bill, as introduced, contained language that would have inflicted a minimum of “two days in jail or community service deemed equivalent” on a clerk who sells alcohol to a minor, including when this occurred in the process of a state compliance check. This would obviously be an unintentional mistake by the clerk. We were successful in getting that language out of the legislation. We testified in favor of requiring a breathalyzer ignition lock for drivers convicted of driving under the influence. We will continue to work with the legislature to find methods of keeping intoxicated drivers off the roads as long as no excessive or unfair penalties or third party “deep pockets” financial liability is imposed on the hospitality industry.

**Commission of Industrial Relations**
Along with other members of the Nebraska Chamber of Commerce and Industry, we supported efforts to reform the state’s Commission of Industrial Relations (CIR). An agreement was reached that reformed this process for the first time in 40 years. The compromise maintains collective bargaining for public union employees, but also provides local officials with new tools to contain labor costs. The compromise also requires the CIR to consider pensions and other benefits for public workers when deciding the prevalent wage. This
Roncalli Catholic High School of Omaha represented Nebraska on May 1 in the culinary portion of the National ProStart Invitational held in Overland Park, Kansas. The team had two hours and fifteen minutes to compete. The entrée, a chicken breast on jambalaya, was judged on knife skills, preparation skills, meal presentation, teamwork, team organization, recipe structure, recipe costing, menu costing, menu presentation and sanitation. The team was instructed by Mrs. Cathy Leak and mentored by Kimbler Harrold of The Magnolia Hotel. Team members included Abby Goetz, Kylie Tetzlaff, Nyasia Esterly – Torres and Matt Soltys.

Papillion LaVista South High School competed in the Management competition of the National ProStart Invitational. The team had to create a restaurant concept from the ground up and present to the judges. Their restaurant concept was a casual family dining restaurant based in ProStartville. Variant menu was a fusion of Asian, German, French and Mexican cuisine. The team was judged on their overall portfolio, the group presentation, critical thinking, teamwork, recipe and menu development and costing. The team was instructed by Ms. Louise Leak and mentored by Heather Douskey of Texas Roadhouse. Team members included Ashley Dernovish, Sydney Sumodi, and Bethany Weaver.

Congratulations to Roncalli Catholic High School and Papillion LaVista South on their success at the National ProStart Invitational!
Uncovering Labels

No hormones, no antibiotics, organic, all natural, certified. The list of food claims goes on. What do these labels mean?

As independent restaurant owners and chefs, we are bombarded by the issue of labels: no hormones, no antibiotics, organic, all natural, certified. The list of food claims goes on. What do these labels mean? Are they true? Do they point to valid food concerns or do they add to the hype? And, perhaps most intriguing, how much are these labels worth to a consumer?

While there are many points and counterpoints to each question, they can, at the very least, be evaluated on a purely scientific basis so that we can each create more informed decisions for ourselves. So when a milk rep came to see me, I offered the rep a seat, alongside a little science, which I knew from working decades in the business. This is what I told him.

Milk, as everyone knows, comes from dairy cows. American dairy farmers are sincerely trying to make their product as fresh, wholesome and safe to consume as possible. They understand that the smallest contaminant will express itself in milk. One such “contaminant” people may be aware of is the hormone bovine somatotropin, or BST, which is a naturally occurring hormone in the bodies of all dairy cows. Yes, all.

All hormones that occur naturally in humans and animals are strictly various forms of amino acid proteins. Each hormone naturally has its individual structure and eventual use to the body. Such is the case with BST. It has occurred naturally in the cow since the cow was created and will always be present in it.

BST’s main purpose is to naturally induce secretion of milk from the cow’s blood to oviducts in the cow’s udder for storage and subsequent release at milking time. Some BST, as a naturally produced hormone, is diffused from the blood to the milk in the secretion process, which means that all milk will contain BST naturally because of this process. Some cow’s milk may have more or less BST depending on the individual diffusion rate of each animal. Sometimes a cow’s hormone system doesn’t produce enough natural BST for sufficient milk production, so it can be given natural BST to replace the deficiency of the hormone. Sometimes it helps the cow produce more and sometimes it doesn’t. If the treatment doesn’t help, then the cow no longer gets the extra BST. Because BST is solely a complex protein of only amino acids, BST is not a contaminant. When we drink milk, our digestive system recognizes proteins in all shapes and forms. Our enzyme system then begins to digest or break down these proteins to their elemental structures, namely the amino acids. Our system then uses these elemental amino acids for our own body functions in rebuilding or replacing our own body’s daily need for protein.

This process is exactly what happens with milk and all of its proteins, including naturally occurring BST. It’s broken down like any other protein to the elemental amino acids that are utilized by our body. This complicated process has transpired since the cow was created and will continue forever. Nature will not change this process, ever.

By now the rep’s color had returned to his face and he said, “I guess that’s why we don’t test for added BST, but the dairy farmers have to sign affidavits stating that no additional BST was administered to the cows.”

It turned into a win-win conversation for us both. I accurately understood his product and he came away with a more detailed and confident position on his product, so that the next time he explains his milk, he can represent it fairly.

As independent operators, we often weigh personal opinions and concerns about animal care, handling or production practices against the markets we serve. We not only appreciate but require a straight story, like this one, on the food we purchase because, ultimately, we have to do not only what is profitable but what is right and what is safe.

Prepared with years of formal education in Animal Science, Chef Ed Sabatka worked as a cattle nutritionist and consultant for over 20 years. He began a smoked meats catering business in 1994 and, in 1998, opened Uncle Ed’s Steakhouse in Grand Island, Neb. Chef Sabatka has won numerous prestigious awards for his restaurant and his beef in particular, including 2009 Best Beef Restaurant by the Nebraska Beef Council.

The Independent’s Magazine March - April 2010
Foodservice Equipment & Supplies Magazine named Tom Schrack Sr. of Hockenbergs Equipment & Supply Co. as the winner of the 2011 Hall of Fame Award. FE&S presented the award during the annual Dealer of the Year and Industry Awards Gala at the Four Seasons Hotel in Chicago on Saturday, May 21.

As the president of Omaha, Nebraska-based Hockenbergs, Schrack continues to nurture the business by investing in the people and processes necessary to make the company successful. Tom has cultivated a reputation for being among the most honest and fair foodservice professionals in the industry. His word is his bond. Tom generously gives back to the industry and the communities he serves through numerous charitable endeavours. Like the previous eight foodservice professionals who have received this award, Tom’s integrity raises the bar for the entire industry.

FE&S’ Dealer of the Year and Industry Awards gala recognizes the foodservice community’s brightest stars by presenting them with some of the industry’s most time-honored awards. Held each year on the Saturday of the National Restaurant Association’s trade show in Chicago, this event brings together the best of the best to celebrate the ongoing success of the foodservice industry.

The Nebraska Restaurant Association congratulates Tom Schrack Sr. on this prestigious award and offers our thanks and appreciation for his ongoing efforts in support of the Hospitality Industry in the state of Nebraska.

All photos from Foodservice Equipment & Supplies Magazine.
Photography by Kameron Bayne Images
The Nebraska Restaurant Association held the 23rd Annual Taste of Nebraska dinner and awards presentation on Monday, April 18 at the Strategic Air & Space Museum in Ashland.

More than 570 guests dined beneath the wings of some of the most striking aircrafts in Hangar B of the Museum, while enjoying an extensive buffet catered by Upstream Brewing Company Catering.

The most prestigious award of the evening was presented to Denis Hall of Fernando’s Café & Cantina. Denis was presented the Mary Lutz Trophy Award for 2010 Restaurateur of the Year by Governor Dave Heineman. Tim Peterzen accepted the Allied Member of the Year award for Sysco Lincoln. Embassy Suites, LaVista was named Lodger of the Year.

The 2010 Nebraska Restaurant Neighbor Awards were also presented to Valentino’s, Grandmother’s, and Liberty Tavern at the Omaha Hilton. The National Restaurant Association and founding partner American Express developed the Restaurant Neighbor Award to raise awareness about the restaurant industry’s contributions in local communities across the country and to inspire other restaurant operators and owners to make even greater contributions in their communities.

The highlight of the evening was keynote speaker, NASA Astronaut, Clayton Anderson who entertained the crowd with his humorous slide presentation about the food he ate while in space. Clayton shared pictures taken during his flight on the space shuttle and conveyed his dedication to the state of Nebraska.

The Nebraska Restaurant Association would like to thank special guest, NASA Astronaut, Clayton Anderson, and Governor Dave Heineman for contributing to the success of the 2011 Taste of Nebraska!
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Cathy Leak of Roncalli Catholic High School Honored as 2011 Teacher of the Year

It was just two short years ago that Mrs. Cathy Leak’s Family and Consumer Sciences program at Roncalli Catholic High School in Omaha was cut and Mrs. Leak received her pink slip. Word spread throughout the school district that the program had been eliminated, along with Mrs. Leak, and alumni, parents, and friends gathered together and were successful in saving Mrs. Leak’s position and continuation of the ProStart® program.

Mrs. Leak’s dedication has not gone unnoticed. She was recently honored at the Nebraska ProStart® State Competition held at the University of Nebraska-Lincoln. In May at the National Restaurant Association Annual Trade Show, Mrs. Leak was named the 2011 Nebraska ProStart® Teacher of the Year.

For the past two years, Mrs. Leak’s team has represented Nebraska at the National ProStart® Invitational – but without a food budget. The school cannot afford all of the costs of the program, so Mrs. Leak’s ProStart® class uses catering dollars to offset some of the expense.

“Mrs. Leak is an inspiration to her students, their parents and past alumni of Roncalli Catholic High School. Mrs. Leak instills in her students determination, professionalism, and enthusiasm for the hospitality industry,” said Beth Haas, Education Coordinator at the Nebraska Restaurant Association.

Money on the Table

By Michael McCarville, Heartland Payment Systems

What a tough year we’ve been experiencing! And that, perhaps, is an understatement. Besides the economy, Mother Nature has been in a particularly bad mood. Well, let’s see if I can add a little sunshine to your life.

Labor costs are, and always will be, a big part of managing a restaurant. From scheduling to pay day, you need to stay on top of your game in order to remain a profitable business. Heartland Payment Systems is here to help. From our 360 POS labor management module to a Payroll product that offers more than any other in the market today, Heartland continues to bring great solutions to labor management problems.

The IRS estimates that 84% of all tipped income (over $500 million) each year is never reported or taxed while the law requires employees and employers to report and pay taxes on 100% of tipped income. As an employer, you are required by the IRS to submit the annual tip-reporting Form 8027. Form 8846 is optional for restaurants and/or bars to file for IRS TEFRA tax credits on employer matching FICA contributions.

If you are not filing Form 8846, you may be one of the thousands of restaurateurs that are missing out on millions of dollars in tax rebates each and every year. Heartland Payment Systems charges $100 per year to prepare both Forms 8027 & 8846 for their hospitality payroll customers. It doesn’t matter how many employees you may have, the rebates are available if you file.

Filing for tax rebates is just another way to control operating expenses. We’ll make it easy by preparing the forms for you. Heartland Payments Systems offers many other great tools for your business. We offer some of the best payment processing and marketing tools for the restaurant industry. We want to be your partner because we are the best provider of solutions for your business. Solutions that will bring more money to your table.

For more information, contact me at michael.mccarville@e-hps.com, or call 402.551.9832 office or 402.699.1502 mobile.
Patrons of fine-dining restaurants are willing to pay a premium for steak labeled as from Nebraska, even from a specific farm, indicating a potentially lucrative new marketing opportunity for source-verified beef, according to research by the University of Nebraska-Lincoln and Nebraska Department of Agriculture.

The research included online surveys and in-restaurant taste testing at restaurants on the East Coast and in the Southwest, said UNL meat scientist Chris Calkins. “Our objective was to determine the value of source-verified beef in fine-dining restaurants,” Calkins said.

The online survey was promoted to patrons of six restaurants - three each in Connecticut and Arizona. Most participants said they consumed beef at least weekly. Most preferred filet mignon when dining out, but ribeye and New York steaks also were favorites. In addition to the cut of beef, respondents also used price, USDA grade and whether there was a tenderness guarantee in choosing a steak.

Roughly 76% of survey participants were interested in knowing the origin of the beef. Sixty percent said they’d be willing to pay a premium for that information. UNL and NDA next took this research from gauging attitudes to measuring actual behavior.

Taste testing was conducted at two restaurants in Connecticut and one in Arizona. About 200 survey participants were given a coupon for $25 or $30 (depending on their state) that entitled them to a free steak dinner, or they could choose to pay more for a steak purported to be source-verified. On a special menu, they were given four choices— a steak with no source cited; and ones whose sources were identified as Midwest, Nebraska, and a specific farm in Nebraska.

Prices were randomized on the menus, so that differently labeled steaks carried different prices from menu to menu. The 14 ounce New York steaks all came from Nebraska.

Thirty-seven percent of the taste-testing participants ordered the steak that named farm of origin, and 31 percent ordered the one that listed state of origin. The state-of-origin and farm-of-origin steaks were most ordered regardless of price.

“So, about two-thirds of the participants chose steaks with more specific source verification in the description and were willing to pay extra for them,” Calkins said. Working with an economist, the researchers found that participants were willing to pay $4.74 more for a steak with the state-of-origin description and $8.75 more for a farm-of-origin description.

“That is huge,” Calkins said. “They were literally willing to reach into their wallets and pay more for those steaks.” “They view Nebraska as a great source of quality beef,” he added. In fact, after the steak tasting, 35 percent of respondents picked Nebraska as the source of the best beef, better than Texas and Iowa, 12 percent each.

These findings should be of interest to both restaurants and producers Calkins said. “There is a push for traceability. A lot of producers don’t see a reason for doing that,” he said. “But this should show Nebraska producers that the rest of the nation recognizes that Nebraska produces high-quality beef, and that can pay off.”

Lynn Gordon, livestock promotion coordinator with the Nebraska Department of Agriculture, said this research fits well with NDA’s goal of developing new marketing opportunities for Nebraska products.

“This tells producers a little bit about the demand out there for information about their products,” Gordon said. These results should help overcome doubts about whether a source-verification system is economically viable, she added.

Source: York News-Times Thursday, May 12, 2011

Restaurant Patrons Will Pay More for Nebraska Beef
Kearney Restaurant Claims “Best Burger” in the State

The Nebraska Beef Council recently announced The Cellar Bar & Grill in Kearney won the ‘Nebraska’s Best Burger’ contest.

The contest, sponsored by The Beef Checkoff, ran from February 15 through March 31, had over 3,100 online nominations. The Cellar Bar & Grill’s Western Burger was one of the top five nominees. It was awarded the best burger by a panel of judges who conducted an anonymous taste test.

“The Cellar Bar & Grill is certainly a worthy recipient of this award” said Adam Wegner, Director of Marketing for the Nebraska Beef Council. “All of the top nominated restaurants showed a passion for great tasting, high quality hamburgers.”

The Cellar Bar & Grill’s Western Burger is a fresh, hand-made Certified Angus Beef® ground chuck patty prepared on an open grill with Ameri-Swiss cheese, bacon, barbecue sauce and topped with a home-made onion ring.

“We are very honored to be selected as the winner in the Nebraska Beef Council’s ‘Best Burger’ contest” said Stacey Plautz, Director of Operations at The Cellar Bar & Grill. “There’s no doubt the Western Burger has been a customer favorite at The Cellar for many years. With a mouthwatering menu, innovative promotions and a dedication to satisfying guests, The Cellar Bar & Grill has remained a place where tradition has outlasted the trendy.”

As contest winner, The Cellar Bar & Grill receives the first place plaque, a $2,000 beef promotion courtesy of the Nebraska Beef Council, and will be the subject of a feature article on www.nebeef.org.

For more information on the contest results, visit www.nebeef.org or contact the Nebraska Beef Council at 308.236.7551.

Hot Off the Grill

Ed and Anita Sabatka, owners of Uncle Ed’s Steakhouse in Grand Island, were awarded Grand Island’s Small Business of the Year 2010. The couple was honored at the annual meeting and banquet of the Grand Island, Nebraska Chamber of Commerce on March 31, 2011.

Venue Restaurant and Lounge announced they will be partnering with Barrymore’s to provide happy hour food specials. Venue will be serving food at Barrymores from 4 p.m. until 7 p.m. Monday thru Friday. Appetizers include tempura battered green beans, onion rings, sliders western, asiago dip, steamed mussels, and chipotle BBQ wings. Congrats to Venue and Barrymores on their new venture!

Southeast Community College’s Food Service/Hospitality program has been recognized as an Exemplary Program by the American Culinary Federation Education Foundation Accrediting Commission. The award is presented to programs that demonstrate consistent compliance with all ACFEFAC accreditation requirements in the last two visiting team reports, along with excellence in program management. Congratulations to Southeast Community College and thank you for helping to assure a successful future for the industry!

Empyrean Brewing Co. now in its 21st year in operation, announced the newest beer to join their bottled lineup – Super Nova Summer Fest. Empyrean Brewing describes the beer as: easy drinking, with flavorful hints of sweet corn, bread and caramel, finishing with a blast of crisp, hop citrus that balances the sweet. Previously available only on draught at select locations, Super Nova Summer Fest will be the first seasonal beer to join the Empyrean bottled lineup.

The Parthenon received the Lincoln-Lancaster County Health Department Food Sanitation Excellence Award at the Board of Health’s annual meeting and awards ceremony. The restaurant was honored for its exceptional inspection scores, cleanliness and solid food handling practices. Way to go Parthenon!

Do you have newsworthy news? Contact Brandy Nielson with the Nebraska Restaurant Association to be included in the “Hot off the Grill” section of the next issue of Main Course. Recognize employees, announce a new store opening, and let people know how you support the hospitality industry of Nebraska with the Nebraska Restaurant Association!
The U.S. Department of Labor has issued a final rule on the use of the tip credit under Section 3(m) of the Fair Labor Standards Act. In addition to updating the amount allowed, the final rule will require employers to provide employees with additional information before taking a tip credit. The new rule became effective on May 5, 2011.

At the same time, the DOL issued other changes to the text of its current regulations. These changes are not significant.

Tip Credit, Notification
The FLSA allows an employer to pay a tipped employee an hourly wage less than the legal minimum wage under certain circumstances. The tipped employee’s tips and hourly wage combined must equal at least the legal minimum wage. The difference between minimum wage and the employee’s hourly wage is known as a tip credit. Federal law currently allows an hourly wage as low as $2.13 per hour, resulting in a maximum tip credit of $5.12 per hour (i.e., current minimum wage of $7.25 per hour minus $2.13 per hour minimum tip wage = $5.12 per hour maximum tip credit).

The final rule specified what information an employer must provide to tipped employees as a condition to being able to take the tip credit. An employer must notify the employee that it will be using a tip credit. The notice must include the following:

- The amount of wage the employer will pay the employee;
- The amount the employer will credit against tips received;
- That the tip credit will be no greater than the value of tips actually received;
- That the tip credit cannot be applied unless the tipped employee has been informed of the tip credit provisions of the FLSA; and
- That, except for valid tip pooling, all tips received by the tipped employee must be retained by the employee.

The rule states that requiring an employee share his or her tips with a lawful tip pool is the only permissible use to which an employer can put an employee’s tips. This regulatory position rejects the U.S. Court of Appeals for the Ninth Circuit’s decision in Cumbie v. Woody Woo, Inc., 596 F.3d 577 (9th Cir. 2010). The Ninth Circuit ruled that an employee has no property right in his or her tips under the FLSA, unless the employer takes a tip credit pursuant to Section 3(m).

The final rule also states that there is no cap on the percentage of an employee’s tips that may be contributed to a valid tip pool. This portion of the rule discards long-standing agency policy and acquiesces in the rulings of several courts that had rejected DOL’s position on this issue. Thus, employers may require tipped employees to pool their tips with other service personnel without a restriction on the amount pooled.

Fluctuating Workweek Rule Unchanged
Disappointingly, the DOL declined to clarify the rules relating to the fluctuating workweek method of overtime compensation. The DOL’s preamble, however, raises significant concerns regarding the application of the fluctuating workweek in certain situations. Specifically, DOL now apparently takes the position that paying additional compensation — such as a bonus or commissions — to a non-exempt employee paid a fixed salary for fluctuating hours is inconsistent with the policies behind the fluctuating workweek. DOL’s rationale for this new policy seems tenuous, and it remains to be seen what weight, if any, courts will give to DOL’s preamble, particularly given that it directly contradicts a position the Department articulated less than three years ago. Nevertheless, employers who use this payment method should consult with employment counsel, particularly if their employees receive any form of compensation above and beyond their fixed salary.
**Calendar of Events**

Find updates online at www.nebraska-dining.org

**August 15th**
Omaha Restaurant Association’s Golf Tournament
Champions Run of Omaha
Omaha, NE
Contact Jennie Warren at 402.493.4739

**September 18th-24th**
Share Our Strength’s Dine Out for No Kid Hungry

**September 19th**
Fall Golf Outing
Hillcrest Country Club, Lincoln
Contact Brandy Nielson to sponsor or register your team!
402.488.3999 ext. 2 or bnielson@nebraska-dining.org

**October 16th**
Omaha Restaurant Association Hall of Fame Dinner
Institute for the Culinary Arts at Metropolitan Community College, Omaha
Contact Jennie Warren at 402.493.4739

**July 30th**
Wings Under the Wings
Strategic Air & Space Museum
Ashland, NE
Wings tasting competition sponsored by Smart Chicken.
To register your team contact Beth Haas at 402.488.3999 ext. 1 or beth_haas@nebraska-dining.org

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**Welcome New Members**

**Restaurant Members**

**World Eats Company**
Doug Daize
12950 N. 1st Street
Raymond, NE 68428

**Lakehouse Bar & Grill**
Olivia Conrad
206 West Northlake Rd
North Platte, NE 69101

**Allied Members**

**Kent Marshall**
Quadis Technologies
5925 S. 56th Street, Ste. 2
Lincoln, NE 68516
402.423.4660
www.quadistech.com

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**SERVSAFE Calendar**

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**2011 Golf Classic**

Monday, Sept. 19, 2011 at Hillcrest Country Club,
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*Source: Technomic Inc. “2008 Volumetric Assessment of Beef in Foodservice Study”
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