



March 6, 2023

The Honorable Kevin McCarthy
Speaker
United States House of Representatives
Washington, D.C. 20515

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Hakeem Jeffries
Democratic Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, D.C. 20510

Dear Speaker McCarthy and Leaders Schumer, Jeffries, and McConnell:

The National Restaurant Association just released our 2023 State of the Restaurant Industry report, and after three years of persistence, I'm pleased to report that our outlook for the coming year is strong. **The restaurant and foodservice industry is fueling the American economy.** Our hiring rate and wage increases are outpacing the overall private sector, and this year our industry will contribute nearly \$1 trillion to the economy.

We forecast that the foodservice industry will add 500,000 jobs – bringing total industry employment to 15.5 million by the end of 2023, surpassing pre-pandemic levels. However, more than **60% of restaurant operators say they can't support customer demand** with the number of staff they currently have and nearly **80% of operators tell us they have jobs they cannot fill.**

The industry is settling into a new normal, and with that they are reacting to inflationary pressures. Operators tell us that their **food and beverage costs are up nearly 22%**, their **labor costs are up just over 18%**, and their **operating costs are up nearly 17%**. This doesn't even take into consideration higher rent, utilities, and outstanding debt they took on during the pandemic. For an industry with margins that average 3-5% pre-tax, even a small cost increase can be too much.

The good news is that **64% of adults believe restaurants are essential to their lifestyle**, and **84% of consumers say going out to a restaurant** with family and friends is a better use of their leisure time than cooking and cleaning up. Our sales numbers continue to show that even with an uncertain economy, people are going to continue to dine out.

Restaurants are the cornerstone of every community, providing jobs, adding to the local tax base, and supporting the region. Any investment Congress can make to support these small business owners can have a wide and positive impact right now.

Here's where Congress can make a difference with its support:

Create opportunity to expand the nation's workforce.

- **Establish a non-immigrant essential worker program.** With an expanded workforce, restaurants would be able to better serve their customers and support their communities. The Essential Workers for Economic Advancement Act (EWEA) creates a non-immigrant temporary worker program that would increase the labor pool in occupations that provide growth opportunities and career paths without a college degree, including the hospitality industry. This was introduced in the 117th Congress by Rep. Lloyd Smucker (PA-11) and we expect it to be reintroduced soon.
- **Strengthen existing visa programs.** Several challenges and limitations to current visa programs make it difficult for restaurants to use them effectively. Congress can help alleviate these challenges by:
 - **Raising the cap on H-2B Visas and providing an exemption for returning workers** –We urge your support of increasing the number of visas and exempt returning workers from counting against the cap.
 - **Expedite processing times for EB-3 and J1 Visas** –We urge Congress to provide additional resources to the Department of Homeland Security and the State Department to expedite processing times to provide more certainty and reliability to workers and employers seeking to fill open positions.
- **Provide clarity and a permanent fix to individuals already living in the U.S.** Immigrants play a critical role in the restaurant industry's success. Approximately 2.2 million restaurant workers in the United States are foreign-born, including 43% of restaurant chefs. Additionally, 38% of businesses in the hospitality industry are immigrant-owned. We support providing a pathway to legalization for beneficiaries of existing programs, including DACA and Temporary Protected Status. Doing so would create a more stable workforce by reducing employer and worker uncertainty. These individuals have already established themselves as indispensable contributors to our economy.
 - **Shorten the waiting period for asylum seekers to receive employment authorizations.** The current processing time for this documentation can take months, leaving asylum seekers to rely on community aid and no legal means to provide for themselves. Restaurants can provide jobs and communities to these people as they work to settle in the U.S.

Support changes that will help bring down the cost of doing business.

- **Advance the "Credit Card Competition Act" to stem skyrocketing swipe fees.** Credit card swipe fees are a top cost for a restaurant and fees continue to rise. Bipartisan legislation can create new market competition for credit card processing, opening up choice in vendors, while increasing market competition and savings for small business owners.
- **Permanently restore the business interest deduction to reduce tax burdens.** The business interest deduction helps restaurants when they are renovating or expanding a restaurant, as depreciation allows businesses to afford the new expenses and manage taxes. Of the 35 OECD countries that have earnings-based limitations, all use an earnings before income, taxes, depreciation, and amortization (EBITDA) standard rather than an EBIT standard, except for the U.S. — which limits companies' ability to invest domestically. On average, a restaurant affected by the change could see a three-fold increase in its incremental tax burden. If Congress fails to act on the business interest deduction cap, the average restaurant faces both higher interest rates when financing improvements and a stubbornly high tax rate.

Enhancing the quality of life for all we serve

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- **Scrutinize labor rules from the NLRB.** The National Labor Relations Board (NLRB) proposal to overhaul the “joint employer” standard impacts all businesses, small and large, by expanding liability threats to any business if it allows another contracted business to conduct services within the business’ premises. The NLRB’s newly designed “reserved and/or indirect control” definition of joint employer dramatically expands a small business’ liability concerns if it allows a third-party company to access its facility. Restaurants use these common, contractual agreements often, which means they’re set up to be at greater legal risk and exposed to unwarranted labor law enforcement. We urge Congress to use its oversight authority to examine why the NLRB has not only thrown out the current joint employer standard, which was maintained after judicial consideration, but expanded the joint employer standard far beyond the Obama-era precedent.

Stabilize and expand the food supply chain.

- **Fund agricultural development and insurance programs in the Farm Bill.** Food prices have skyrocketed in nearly every category. In 2022, wholesale food prices jumped 14.8%, according to the U.S. Bureau of Labor Statistics (BLS), with menu staples like eggs (163%), butter (66%), potatoes (59%), fresh vegetables (54%) at the top of the list. Prioritizing funding for risk management tools including crop insurance and commodity programs will protect farmers against extreme weather conditions, and expanding preparedness programs for animal disease threats such as avian flu can reduce the price shocks experienced by restaurants and customers alike.
- **Bolster the Restaurant Meals Program.** Congress also has the opportunity to improve the Restaurant Meals Program (RMP), which increases food access at restaurants throughout the country. By increasing education and creating guidance, more restaurant operators can participate in the RMP and provide meals to those experiencing food insecurity.
- **Unravel tariffs that spike costs throughout the restaurant value chain.** In January, we urged the Office of the U.S. Trade Representative (USTR) to disband the China 301 tariffs (and resulting retaliatory tariffs) that impact restaurant products, from aluminum to food to linens. Working families are disproportionately affected by these tariffs, according to research from the Progressive Policy Institute. With these economic realities, Congress can show leadership by supporting actions to remove tariffs which are contributing to inflation each day.

These actions will provide greater economic stability and have an overwhelmingly positive impact on businesses and workers in neighborhoods across the country. Even incremental changes can fuel economic growth in our industry – which will spread in our communities and down the supply chain. Congress can act in a way that will improve restaurant choice, employment, and investment in every area of the country.

We look forward to working with you to develop policies to help us achieve these goals. Thank you for your leadership and consideration.

Sincerely,



Sean Kennedy
Executive Vice President, Public Affairs