



National Grocers Association

December 21, 2020

Bill Summary for H.R. 133 - *Consolidated Appropriations Act, 2021*

Congressional negotiators reached an agreement on a coronavirus economic assistance package and omnibus appropriations bill. The COVID relief portion of the bill expends \$900 billion to boost the economy through small business assistance, tax relief, direct payments to individuals, and relief to jobless workers. Ultimately, the removal of the two most controversial elements, liability protection provisions and funding for state and local governments, helped clear the logjam for legislation that is expected to clear Congress and be signed by President Trump at some point tonight or in the early hours tomorrow.

Here is a summary of key provisions of the legislative package that will impact the independent supermarket industry. The following is broken into three parts: COVID relief and aid, omnibus appropriations for fiscal year 2021, and additional authorizing provisions (commonly known as “policy riders”).

PART 1: COVID Relief Package

Nutrition Programs

- SNAP Benefit Increases - Temporarily increases monthly SNAP benefits for 6 months—from January 1, 2021 through June 30, 2021
- SNAP Work Requirements - Temporarily suspends work requirements for SNAP-eligible college students while work-study programs may not be operating during COVID-19
- SNAP Online Improvements - Provides \$1 million in additional support for FNS to conduct end-to-end testing for SNAP online purchasing, as well as technical assistance to educate retailers on the process and technical requirements for the online acceptance of SNAP benefits and to support and expedite SNAP online purchasing
- SNAP Online Technical Support – A watered-down NGA lobbied-for provision that provides \$1 Million in additional support for FNS to conduct end-to-end testing for SNAP online purchasing, as well as technical assistance to educate retailers on the process and technical requirements for online acceptance of SNAP benefits to support and expedite SNAP online purchasing
- Puerto Rico NAP Program - \$614 million for nutrition assistance grants to Puerto Rico, American Samoa, and Commonwealth of the Northern Mariana Islands
- P-EBT Clarification - clarifying eligibility to include each child under the age of 6 in SNAP households where a local school or covered daycare has been closed or has reduced hours
- Task Force on Supplemental Foods Delivery in the Special Supplemental Nutrition Program (WIC) - Requires the Department of Agriculture to establish a task force on food delivery models in the WIC program so that participants have access to curbside pickup and other safe food purchasing methods during the pandemic.
- Gus Schumacher Nutrition Incentive Program (GusNIP) - An NGA lobbied-for provision that provides \$75 million for Gus Schumacher Nutrition Incentive Program (GusNIP) to remain available until



National Grocers Association

expended. Reduces the non-federal match required under the program from 50 percent to 10 percent during the public health emergency. Will expand opportunities for retailers to participate in nutrition incentives.

Unemployment Assistance Provisions

- Pandemic Unemployment Assistance (PUA) -
 - Program Extension - Extends Pandemic Unemployment Assistance (PUA) to March 14, 2021 and allows individuals receiving benefits as of March 14, 2021 to continue through April 5, 2021, as long as the individual has not reached the maximum number of weeks.
 - Increase in Maximum Weeks of Unemployment - Increases the number of weeks of benefits an individual may claim from 39 to 50.
- Extension of Federal Pandemic Unemployment Compensation - Restores the Federal Pandemic Unemployment Compensation (FPUC) supplement to all state and federal unemployment benefits at \$300 per week, starting after December 26 and ending March 14, 2021.

Tax Provisions

- Additional 2020 recovery rebates for individuals - Provides a refundable tax credit in the amount of \$600 per eligible family member. The credit is \$600 per taxpayer (\$1,200 for married filing jointly), in addition to \$600 per qualifying child. The credit phases out starting at \$75,000 of modified adjusted gross income (\$112,500 for heads of household and \$150,000 for married filing jointly) at a rate of \$5 per \$100 of additional income.
- Extension of certain deferred payroll taxes - Employers can defer withholding employees' share of social security taxes from September 1, 2020 through December 31, 2020. Beginning on May 1, 2021, penalties and interest on deferred unpaid tax liability will begin to accrue. The provision extends the repayment period through December 31, 2021. Penalties and interest on deferred unpaid tax liability will not begin to accrue until January 1, 2022.
- Clarification of tax treatment of Paycheck Protection Program loans - Clarifies that gross income does not include any amount that would otherwise arise from the forgiveness of a Paycheck Protection Program (PPP) loan. This provision also clarifies that ***deductions are allowed for otherwise deductible expenses paid with the proceeds of a PPP loan that is forgiven, and that the tax basis and other attributes of the borrower's assets will not be reduced as a result of the loan forgiveness.*** The provision is effective as of the date of enactment of the CARES Act. Provides similar treatment for Second Draw PPP loans, effective for tax years ending after the date of enactment of the provision.
- Extension of credits for paid sick and family leave - Provision extends the refundable payroll tax credits for paid sick and family leave, enacted in the Families First Coronavirus Response Act, through the end of March 2021. It also modifies the tax credits so that they apply as if the corresponding employer mandates were extended through the end of March 2021. This provision is effective as if included in FFCRA.



National Grocers Association

- Extension and Expansion of the Employee Retention Tax Credit (ERTC) - Extends and expands the refundable ERTC established in the CARES Act. The tax credit is intended to keep additional workers on payroll. Specifically the provision would: Increase credit rate from 50 to 70 percent, Raises limit on per-employee creditable wages from \$10,000 for the year to \$10,000 each quarter, Expands eligibility for the credit by reducing the year over year decline in gross receipts from 50 to 20 percent, Increases the eligibility to employers with 500 or fewer employees

Vaccine Deployment

- The package includes \$20 billion for purchase of vaccines, nearly \$9 billion for vaccine distribution and \$22 billion to help states with testing, tracing and COVID-19 mitigation programs.

Expiration of FFCRA Paid Leave Requirements

- FFCRA Paid Leave Requirements for Small Businesses – The FFCRA requirement for small business (less than 500 employees) to provide workers with 2 weeks of sick leave related to COVID-19 at full pay and up to 12 weeks of FMLA at 2/3 pay is **NOT EXTENDED**.
- Paid Leave Credits – The bill extends the refundable payroll tax credits for paid sick and family leave that were established in the Families First Coronavirus Relief Act (see tax section above)

Paycheck Protection Program

- Expansion – the legislation allocates \$300 billion towards the expired PPP program to allow for Second Draw Loans.
- Additional Eligible Expenses - Makes the following expenses allowable and forgivable uses for Paycheck Protection Program funds:
 - *Covered operations expenditures*. Payment for any software, cloud computing, and other human resources and accounting needs.
 - *Covered property damage costs*. Costs related to property damage due to public disturbances that occurred during 2020 that are not covered by insurance.
 - *Covered supplier costs*. Expenditures to a supplier pursuant to a contract, purchase order, or order for goods in effect prior to taking out the loan that are essential to the recipient's operations at the time at which the expenditure was made. Supplier costs of perishable goods can be made before or during the life of the loan.
 - *Covered worker protection expenditure*. Personal protective equipment and adaptive investments to help a loan recipient comply with federal health and safety guidelines or any equivalent State and local guidance related to COVID-19 during the period between March 1, 2020, and the end of the national emergency declaration.
- Expanded Forgiveness - Allows loans made under PPP before, on, or after the enactment of this act to be eligible to utilize the expanded forgivable expenses except for borrowers who have already had their loans forgiven.



National Grocers Association

- Simplified Application - Creates a simplified application process for loans under \$150,000.
- Specific Group Insurance Payments as Payroll Costs - Clarifies that other employer-provided group insurance benefits are included in payroll costs. This includes group life, disability, vision, or dental insurance.

PART 2: Omnibus Appropriations

- WIC – The bill provides \$6 billion in discretionary funding for WIC, which fully funds participation this year. This includes \$90 million for the breastfeeding counselor program.
- Child nutrition programs – The bill provides for \$25.1 billion in required mandatory funding for child nutrition programs. The bill provides \$42 million for the Summer EBT program and \$21 million for the WIC farmers market nutrition program.
- SNAP – The bill provides for \$114 billion in required mandatory spending for SNAP. This fully funds participation as well as the SNAP enhanced allotments authorized by the Families First Act.

PART 3: Additional Authorizing Provisions

- American Innovation and Manufacturing - Directs EPA to implement an allowance allocation and trading program to phase down the production and consumption of hydrofluorocarbons (HFCs) by 85 percent over 15 years. Will impact EPA regulation of refrigerant systems.
- Energy efficient commercial buildings deduction – Makes permanent the deduction for energy efficiency improvements to building envelope, lighting, heating, cooling, ventilation, and hot water systems of commercial buildings.
- New Markets Tax Credit - Extends annual \$5 billion allocations of the New Markets Tax Credit for years 2021 through 2025. The provision also extends through 2030 the carryover period for unused New Markets Tax Credits.
- Work Opportunity Tax Credit - Extends, through 2025, an elective general business credit to employers hiring individuals who are members of one or more of ten targeted groups under the Work Opportunity Tax Credit program.
- Employer tax credit for paid family and medical leave - Extends, through 2025, the employer credit for paid family and medical leave, which permits eligible employers to claim an elective general business credit based on eligible wages paid to qualifying employees with respect to family and medical leave. The credit is equal to 12.5 percent of eligible wages if the rate of payment is 50 percent of such wages, and is increased by 0.25 percentage points (but not above 25 percent) for each percentage point that the rate of payment exceeds 50 percent. The maximum amount of family and medical leave that may be taken into account with respect to any qualifying employee is 12 weeks per taxable year.
- Exclusion for certain employer payments of student loans - Extends, through 2025, the allowance for employers to provide a student loan repayment benefit to employees on a tax-free basis. Under the provision, an employer may contribute up to \$5,250 annually toward an employee's student loans, and such payment would be excluded from the employee's income. The \$5,250 cap applies to both the



National Grocers Association

student loan repayment benefit as well as other educational assistance (e.g., tuition, fees, books) provided by the employer under current law. The provision applies to any student loan payments made by an employer on behalf of an employee through 2025.

- Employee retention tax credit modifications - Extends and expands the CARES Act employee retention tax credit (ERTC). It also contains technical corrections to the CARES Act. Beginning on January 1, 2021 and through June 30, 2021, the provision:
 - Increases the credit rate from 50 percent to 70 percent of qualified wages;
 - Expands eligibility for the credit by reducing the required year-over-year gross receipts decline from 50 percent to 20 percent and provides a safe harbor allowing employers to use prior quarter gross receipts to determine eligibility;
 - Increases the limit on per-employee creditable wages from \$10,000 for the year to \$10,000 for each quarter;
 - Increases the 100-employee delineation for determining the relevant qualified wage base to employers with 500 or fewer employees;
 - Removes the 30-day wage limitation, allowing employers to, for example, claim the credit for bonus pay to essential workers;
 - Allows businesses with 500 or fewer employees to advance the credit at any point during the quarter based on wages paid in the same quarter in a previous year
- Temporary allowance of full deduction for business meals - Provides a 100-percent deduction for business meal food and beverage expenses, including any carry-out or delivery meals, provided by a restaurant that are paid or incurred in 2021 and 2022. Currently, the deduction is available for only 50 percent of such expenses.
- Preventing Online Sales of E-Cigarettes to Children Act - Prevents underage purchases of e-cigarettes by requiring age verification, package labeling, and checking identification in delivery of e-cigarettes products bought online.