



American Payroll Association

Government Relations • Washington, DC

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STATEMENT IN SUPPORT OF LB 765

(Before the Committee on Business and Labor)

The American Payroll Association (APA)¹ appreciates the opportunity to express our support for LB 765, an Act relating to the Nebraska Wage Payment and Collection Act (“Act”). If enacted, LB 765 would codify the existing administrative position that payroll cards are a permissible method of wage payment in Nebraska while ensuring that appropriate consumer protections, including full and free access to wages, are in place.

The Benefits of Electronic Wage Payment Are Undeniable

Electronic wage payment provides numerous benefits to employees and employers alike. These benefits include increased security and convenience, as well as prompt access to full wages regardless of employee location. Unfortunately, a surprisingly large number of employees are unable to participate in direct deposit because they do not have bank accounts or have limited access to traditional banking services.² These workers often are forced to rely on expensive alternative financial services, such as check cashers, to access their wages.

Many consumer advocates and government regulators agree that payroll cards can be a very beneficial option for these underserved workers. For example, Javier Palomarez, President and CEO of the United States Hispanic Chamber of Commerce, recently published an Op-Ed emphasizing that “Payroll cards offer those with no banking access a dependable option for protecting their finances. Empowering our citizens with this much needed access, security, and convenience of prepaid payroll cards allows the unbanked to save more of what they earn and helps them build a solid financial foundation.”³

¹ The APA is a nonprofit professional association representing more than 20,000 payroll professionals and their companies in the United States. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws. In addition, the APA's Government Affairs Task Force works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations, while minimizing the administrative burden on government, employers, and individual workers.

² A 2011 study by the FDIC revealed that 3.7% of Nebraska households are unbanked and another 17.8% are underbanked (meaning that they have a bank account but still rely on alternative financial services).

³ See, <http://www.huffingtonpost.com/javier-palomarez/payroll-cards-a-valuable-b-4555801.html#>; For another excellent discussion of payroll cards from an organization committed to protecting low wage earners, see Benjamin Mangan, *Stop Blacklisting Payroll Cards for Worker*,

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LB 765

If enacted, LB 765 would make clear that payroll cards are a permissible method of wage payment under Nebraska law provided the employer:

1. Complies with the requirements prescribed in the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq.;
2. Allows the employee at least one means of fund access withdrawal per pay period at no cost to the employee for an amount up to and including the total amount of the employee's net wages, as stated on the employee's earning statement; and
3. Does not require an employee to pay any fees or costs incurred by the employer in connection with paying wages with a payroll debit card.

Thus, LB 765 would require that employees be able to cash out their payroll card each pay period without fees like they would a paper paycheck. It would also prohibit employers from passing their costs onto employees, further insuring that employees have full and free access to their wages.

Finally, LB 765 would ensure that any payroll cards used in Nebraska carry important consumer protections by requiring employers to select a card that complies with the federal Electronic Fund Transfer Act (EFTA).⁴ While most of the provisions of the EFTA govern financial institutions, the compulsory use provision of the EFTA prohibits employers from requiring their employees to receive electronic fund transfers of their wages to an account at a particular financial institution.⁵ Because the employer generally selects the financial institution that issues the payroll card, the compulsory use provision prohibits employers from requiring the use of payroll cards alone; instead, employees must be provided at least one other payment option.⁶

Conclusion

The APA appreciates the opportunity to voice its firm support for LB 765. Please feel free to contact Bill Dunn, Director of Government Relations, American Payroll Association (202-232-6889) or Cathy Beyda, Chair of the APA's Government Affairs Task Force, Payroll Card Subcommittee (650-320-1824) with any questions.

<http://www.linkedin.com/today/post/article/20130710205603-132220-stop-blackballing-payroll-cards-for-workers>.

⁴ We assume that LB 765 is intended to put employers on notification of their existing obligations under the EFTA, as set forth in the compulsory use provision, and is not intended to impose additional requirements.

⁵ 15 U.S.C. § 1693(k)(2); 12 C.F.R. §1005.10(e)(2).

⁶ See Consumer Financial Protection Bureau, CFPB Bulletin 2013-10, Payroll Card Accounts (Regulation E) (September 12, 2013), available at http://files.consumerfinance.gov/f/201309_cfpb_payroll-card-bulletin.pdf.