



American Payroll Association

Government Relations • Washington, DC

February 12, 2007

The Honorable Representative Steven Brunk
Chair, Commerce and Labor
State Capitol
Room 231-N
Topeka, Kansas 66612

Via email: brunk@house.state.ks.us

Re: Support of HB 2316, with suggested changes

Dear Chairman Brunk:

We are writing *in support of House Bill 2316*, concerning payment of wages, with certain technical changes. The American Payroll Association is a nonprofit professional association representing more than 22,000 individuals and their companies in the United States and Canada. The APA works with legislative and executive branches of all levels of government to find ways for employers to meet their requirements under law and support government objectives, while minimizing administrative burden for government, employers, and individual workers/taxpayers. To address members' interest in the use of payroll cards in the United States, the APA monitors their development and use with an aim toward helping educate policymakers and regulators about the benefits and uses of these cards.

The APA believes that HB 2316 would be a "win-win" for Kansas workers and employers. It would clarify that workers whose employers wish to offer only electronic payment of wages have the option to elect to receive their wages via payroll debit card ("payroll card").

According to a report issued by the Federal Reserve Board, more than 8.4 million workers nationwide have already chosen to receive their pay via payroll card as of May 2005; up from 2.2 million in 2003. Payroll cards offer substantial benefits to workers, notably improved security and cost savings. Some of these benefits follow:

- Employees who are absent from work due to illness, travel, or even winter storms get immediate access to their pay, since they don't have to pick up a check or go to the bank or a check cashing facility.
- Employees without bank accounts often have no alternative to check cashing stores, which charge 2% - 3%, on average, of the check's face value. The FRB estimates that about 13% of households do not have a bank account.
- Payroll cards are particularly important as a transaction account for the hundreds of thousands of Americans who can not get a bank account because of prior banking problems.
- Once they cash their check, the employee is carrying up to two weeks' net pay in cash, which can be stolen or lost. Employees with payroll cards are protected from loss. Lost cards are easily replaced, with remaining funds transferred to a new card.

- Workers are also protected from fraudulent use by their PIN, and by federal liability limitations under Federal Regulation E. Workers can also dispute transactions in accordance with Regulation E.
- Payroll card holders can avoid real difficulties and costs in paying bills. With paper paychecks, they typically have to buy money orders or pay in cash, in person, by traveling to the each store, utility company and so on.
- Payroll cards provide new purchasing power for goods and services that require a debit or credit card, such as auto rentals, hotel reservations, utility bills and on-line purchases.
- Payroll cards include customer service to answer questions, and provide account balances, and deposit and withdrawal history.
- Workers receive periodic paper or on-line statements detailing all credits and spending, which helps them manage their money and become comfortable with the banking system.

Again, the American Payroll Association supports House Bill 2316 and recommends that the Committee on Commerce and Labor approve it with some technical changes. First, we would suggest that payroll cards be added under 44-314.(b) as a fourth alternative, to clarify that payroll cards may be offered to workers independently, rather than exclusively in the context of a mandatory direct deposit program. We suggest the following language be added as follows:

(b) The employer may designate the method by which employees receive wages, provided all wages shall be paid by one or more of the following methods:

(1) In lawful money of the United States;

(2) by check or draft which is negotiable in the community wherein the place of employment is located;

(3) by electronic fund transfer or deposit to an automated clearinghouse member financial institution account designated by the employee;

(4) by payroll card as defined in c(5) of this section.

Secondly, APA recommends amending proposed section 44-314(c)(1)(B), which provides for at least one free withdrawal per pay period. This committee and virtually every state that has addressed the issue agree with the spirit of this provision, and almost all payroll cards offer one free ATM withdrawal per pay period. However, some payroll debit card programs enable access to funds in several ways other than an ATM withdrawal or conventional cash withdrawal, including:

- Purchases at Point-of Sale terminals with cash back (no fees apply),
- The transfer of funds from the payroll card to any other financial account (no fees apply),
- Free convenience checks that can be used for bill payment or to cash out all funds,
- Free teller withdrawals at any bank that displays the card logo,
- The purchase of money orders, and
- The ability to pay bills on-line (no fees apply).

This committee recommends that the term “means of funds access” be substituted for “withdrawal” to avoid inadvertently limiting the ways in which workers can obtain their funds without cost.

*(B) allow employees who use payroll cards at least one ~~withdrawal~~ **means of funds access** 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 earnings statement; and*

A third recommendation concerns proposed section 44-314(c)(2): "Wages ... shall be owned by the employee." No one would argue that wages paid should not be owned by the employee; however, there may be an unintended effect in the terminology used that may affect employers' ability to make corrections. Employers who pay by direct deposit are able to correct inadvertent overpayments (e.g., \$5,000 mistakenly entered instead of \$500) by reversing and replacing the direct deposit within five banking days under NACHA rules. Employers who pay by check can stop payment and replace the check. But the language in (c)(2) could be interpreted to prohibit any corrections under the language proposed. Employers should have the same rights to correct inadvertent errors regardless of the mode of payment. We suggest the following language:

(2) Employers shall retain no interest in wages paid by electronic funds transferred to an employee's payroll card account ~~shall be owned by the employee,~~ other than the right to correct inadvertent overpayments caused by administrative error in accordance with the rules governing direct deposit.

We have also enclosed background information on payroll debit cards, including excerpts of laws and regulations enacted in the various states that have explicitly addressed the issue to date.

Again, we applaud the sponsor and other members of the Commerce and Labor Committee that took the initiative to improve the means by which Kansas workers received their pay. We believe that many workers would like the option to receive their pay via a paycard, and this bill, with the technical alterations described above, appropriately clarifies that Kansas employers may offer this alternative. Please let us know if you have any questions.

Sincerely,

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William Dunn, CPP
American Payroll Association
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cc: Commerce and Labor Committee members