



American Payroll Association

Government Relations • Washington, DC

March 12, 2007

Hon. Edgar H. Mears
Chairman, Labor, Industrial and Rehabilitative Services Committee
Room 307 LOB
Concord, New Hampshire
Via e-mail: edgar.mears@leg.state.nh.us

Dear Chairman Mears,

We are writing to comment on Senate Bill 611, an act relative to payment of wages by automated paycard. The American Payroll Association supports employers' ability to use these instruments and firmly believes that paycards provide financial management opportunities for employees. Please accept this letter and the accompanying paper, "State Recognition of Paycards," as written testimony in your hearing.

About the American Payroll Association

The American Payroll Association is a nonprofit professional association representing more than 22,000 individuals and their companies in all 50 states and Canada. The APA's central mission is to educate its members and the entire payroll industry about the best practices associated with paying America's workers their wages while successfully complying with all federal, state, and local wage payment, employment tax withholding, and information reporting laws. The APA's secondary mission is to work 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.

SB 611

Senate Bill 611 would amend RSA 275:43 by including paycards as a valid method of wage payment. The added language is as follows:

- (d) [A> BY AN AUTOMATED PAY CARD PROVIDED THAT THE EMPLOYEE CAN MAKE AN INITIAL WITHDRAWAL UP TO THE ENTIRE AMOUNT OF NET PAY AND SUBSEQUENT WITHDRAWALS OF ANY PORTION OF THE BALANCE AT A BANK OR AUTOMATED TELLER MACHINE LOCATION

CONVENIENT TO THE PLACE OF EMPLOYMENT, AND PROVIDED THERE SHALL BE NO COST TO THE EMPLOYEE; OR <A]

The APA considers four elements of the section to warrant comment.

1. *The employee can make an initial withdrawal up to the entire amount of net pay.* We interpret this to mean that initial withdrawals at a bank or automated teller machine (ATM) shall not be limited to a set dollar amount. We agree that employees should not be limited in their ability to access their pay. We ask you to note, however, that the banks, and not employers, control this factor. Therefore, we ask that employers not be held responsible for noncompliance with regard to this issue.
2. *Subsequent withdrawals of any portion of the balance at a bank or automated teller machine.* While we certainly agree that employees should be able to access any portion of their pay at a bank or ATM, we believe the language of the bill limits the usefulness of the paycard and ultimately causes a disservice to the cardholder.

Paycards are versatile tools that may be used at millions of retail establishments across the United States and in many foreign countries in point-of-sale transactions. The ability to receive cash back at a retail establishment outside of “banker’s hours” is one of the most beneficial uses of the card, especially considering the fact that the cardholder can receive lower denomination bills and coins. We ask that the language be amended to include retail establishments and other businesses:

Subsequent withdrawals of any portion of the balance at a bank[,] ~~or~~ automated teller machine [, or other business]

3. *Bank or automated teller machine convenient to the place of employment.* While we may agree with the sentiment, we find the terminology to be so vague and open to interpretation that it may cause compliance problems.
4. *There shall be no cost to the employee.* The APA understands and agrees with the concept that an employee should not be required to pay money in order to receive his or her wages. We believe that employees should not be subject to “loading” or similar charges from the employer.

Further, we believe that every paycard holder should be entitled to one free bank transaction per pay period. Beyond that one transaction, however, we do not feel that the cardholder’s employer should be liable for charges that the cardholder incurs as a matter of convenience. We feel that it is in the best interests of the

employer and employee that any fees associated with use of a paycard be explained clearly and up front.

Paycards are versatile tools and may be used in a variety of ways that provide convenience for the cardholder. In addition to the initial free transaction, each paycard program provides one or more free transaction features, such as:

- a. purchases at point-of-sale terminals with cash back (no fees apply),
- b. the transfer of funds from the payroll card to any other financial account (no fees apply),
- c. free convenience checks that can be used for bill payment or to cash out all funds,
- d. free teller withdrawals at any bank that displays the card logo,
- e. the purchase of money orders, and
- f. the ability to pay bills or make purchases on-line (no fees apply).

Where a cardholder chooses, for the sake of convenience, to use the card in a way that will incur fees (e.g., repeated withdrawals from an ATM within the same pay period), we ask that the cardholder be responsible for those fees. We also seek an understanding that the cardholder's employer does not benefit in any way from fees the bank may charge.

With respect to the comments above, we offer this language to replace subsection (d) of RSA 275:43(I):

- (d) By an automated pay card provided that the employee can make (i) an initial withdrawal up to the entire amount of net pay at no cost to the employee and (ii) subsequent withdrawals of any portion of the balance at a bank, automated teller machine, or other business location, with prior disclosure of costs to the employee. Third-party fees not within the control of the employer shall not constitute a violation of this section.

Because New Hampshire employees will continue to have the option to receive their pay by paper check, the paycard will only be used by those employees who wish to take advantage of the features a paycard offers. The APA is confident that employers that offer paycards deem them superior vehicles for wage payments and will seek to avoid alienating the users, their employees.

Please direct your attention to our accompanying paper, "State Recognition of Paycards," written by members of the APA's Government Affairs Task Force, Paycard Subcommittee.

Sincerely,

Cathy Beyda, Esq.
Chair, Paycard Subcommittee
Government Affairs Task Force
American Payroll Association



Pete Isberg
Chair, Legislative Subcommittee
Government Affairs Task Force
American Payroll Association



William Dunn, CPP
Manager, Government Relations
American Payroll Association

Chairman: Edgar H. Mears edgar.mears@leg.state.nh.us
Vice Chairman: Mary J. Gorman
Clerk: Marlene M. DeChane marlene.dechane@leg.state.nh.us
Jane P. Kelley jkelly64@comcast.net
Jeffrey P. Goley j.goley@comcast.net
Larry Converse lcallcone@aol.com
Stephen A. Johnson stephen.johnson5@comcast.net
Sally H. Kelly sally.kelly@leg.state.nh.us
John K. Knowles john.knowles@leg.state.nh.us
Mary Ann Knowles maryann.knowles@leg.state.nh.us
Thomas L. Loll
Lily Mesa lily.mesa@leg.state.nh.us

Saghir A. Tahir
Franklin C. Bishop
Gary L. Daniels gldaniels@verizon.net
Randolph N S. Holden ripholden@msn.com
William J. Infantine (603)647-0330
Russell T. Ober III.
Maurice R. Villeneuve moeville@peoplepc.com
Jason M. Bedrick jason.bedrick@leg.state.nh.us