

AMERICAN PAYROLL ASSOCIATION

March 18, 2021

The Honorable Nicole J. Cannizzaro
Majority Leader
Nevada Senate
Nicole.cannizzaro@sen.state.nv.us

The Honorable Pat Spearman
Chair, Commerce and Labor Committee
Nevada Senate
Pat.spearman@sen.state.nv.us

The Honorable Julia Ratti
Assistant Majority Leader
Nevada Senate
Julia.ratti@sen.state.nv.us

The Honorable Dina Neal
Vice Chair, Commerce and Labor Committee
Nevada Senate
Dina.neal@sen.state.nv.us

Re: In support of Nevada Bill S. 198 regarding on demand pay

Dear Senators:

The American Payroll Association (APA)¹ supports Nevada Bill, S. 198 regarding on-demand pay because it would enable employers to offer earned wage access (EWA) programs to their employees as a means of promoting financial wellness that is an inexpensive and efficient alternative to payday lending and bank overdraft fees. The APA also supports the bill because it would establish a reasonable approach to employer and employee protections. The APA is not commenting on EWA provisions for third-party on-demand pay services, as defined in S. 198, as these do not involve payroll management.

In particular, the APA appreciates the following provisions:

- Sections 12 and 15. Requiring providers to obtain a license from the state with an application including financial disclosures, how the EWA model functions, and protections for employees' personally identifiable information.
- Section 16. Requiring EWA providers to create policies and procedures to answer user questions and complaints as well as fully disclose fees associated with user participation. The APA believes that greater transparency in an EWA program will more likely enable employees to use the program successfully.

¹ Established in 1982, the APA is a not-for-profit association serving the interests of about 20,000 payroll professionals nationwide, including more than 200 physically located in Nevada. The APA's primary mission is to educate its members and the payroll industry about the best practices associated with paying America's workers while complying with applicable federal, state, and local laws and regulations.

- Section 18. Prohibiting providers from offering employers fees or other remuneration as part of their EWA program. This is important for employers to be compliant with wage and hour laws, prevent poor arrangements between employers and EWA providers, and for employers to avoid unscrupulous marketing by providers.
- Section 20. The APA supports the Nevada legislature's recognition that employer-integrated EWA programs are different than payday loans. This approach is supported by the federal Consumer Financial Protection Bureau (CFPB), which recently issued an [advisory opinion](#) and compliance assistance sandbox (CAS) [approval order](#) that identified certain characteristics for EWA that impact a credit determination under the Truth in Lending Act (TILA). The opinion and order were issued strictly in response to the facts presented in the individual requests regarding the applicability of TILA, Regulation Z, but the CFPB appears to favorably recognize the consumer protections offered by employer-based programs.

To discuss EWA and APA's comments further, please contact me at 202-669-4001 or by email at ajacobsohn@americanpayroll.org.

Sincerely,



Alice P. Jacobsohn, Esq.
Director, Government Relations

For:

APA's Government Relations Task Force
Subcommittee on State and Local Topics
Chairs: Pete Isberg; Carlanna Livingstone, CPP; and Bruce Phipps, CPP

Workgroup on Early Wage Access/On-Demand Pay
Chairs: Pete Isberg and Karen Settembrino, CPP