



American Payroll Association

Government Relations • Washington, DC

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The Honorable Representative Rick Olson
Chair, Labor Committee
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The Honorable Representative Todd Taylor
Vice Chair, Labor Committee
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The Honorable Representative Wayne Ford
State Capitol
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Re: In Support of H.F. 707, Payment of Wages by Payroll Card, with Suggested Changes

Dear Chairman Olson, Vice Chairman Taylor and Representative Ford:

We are writing *in support of House File 707*, 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 HF 707 would be a "win-win" for Iowa workers and employers. It would clarify that workers have the option to elect to receive their wages via payroll debit card ("payroll card").

According to the Pelorus Group, an independent research firm, the number of paycards in circulation in 2006 was 7 million. This is more than a three-fold increase from the 2.2 million cards reportedly in circulation in 2004, and the number is expected to increase to 17.5 million in 2010. Paycards 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 have 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.
- Paycards 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.
 - 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.
 - 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 paycards are protected from loss. Lost cards are easily replaced, with remaining funds transferred to a new card.
 - Paycard 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.
 - Paycards provide new purchasing power for goods and services that require a debit or credit card, such as auto rentals, hotel reservations, utility bills and online purchases.
- 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.
- Paycards 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.

Concerns with H.F. 707

As we expressed last year (with regard to HSB 517, SSB 3009 & HF 2135), the requirement for an employer to pre-fund "any fees relating to the issuance of the payroll card charged by the financial institution" should be clarified to distinguish initial one-time costs of card issuance from ongoing fees such as ATM charges.

Sec. 2. Section 91A.3, subsection 3, Code 2007, is amended to read as follows:

c. An employer shall not pay wages pursuant to a payroll card pursuant to *this section* prior to paying to the issuing financial institution an amount equal to the wages due the employee **plus any fees relating to the issuance of the payroll card** charged by the financial institution.

The term "issuance" seems clear, but could be read broadly to include any fees arising from card usage. We agree that employers would pay for the cost of initial card issuance, but any broader requirement to prepay fees that may arise due to usage of the card (if that is what was intended by the provision) is not economically feasible, and would effectively prohibit employers from offering such cards. It is also not possible to pre-fund usage-based fee amounts because fees vary based on how the cards are used. Many workers incur no fees at all because they choose to withdraw or transfer all of their money at once. Others incur several fees if they

choose to make multiple visits to the ATM over the course of each pay period. Employers will not know in advance what fees a worker might incur.

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 means of funds access per pay period. 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).

However, if a card holder wishes to withdraw his or her pay via frequent ATM transactions in small increments, employers should not be made to bear the cost of the ATM fees. Payroll debit cards enable several ways in which workers can receive the full amount of their pay when due, without fees or difficulty. In practice, workers find these debit cards to be far more useful as a transaction account (versus a check or cash), and they choose for their own convenience to use the card in a variety of ways in which fees may apply. Employers should be deemed to have satisfied their obligations when they provide a debit card as a voluntary option, through which workers can receive the full amount of their pay when due, without fees or difficulty.

Recommendation for Change

We suggest that the committee adopt language clarifying that the employee must be able to obtain immediate payment in full, must receive at least one free transaction per pay period, and that any fees or other charges must be prominently disclosed to and subject to the written consent of the employee. The section in question could be amended as follows:

Sec. 2. Section 91A.3, subsection 3, Code 2007, is amended to read as follows:

c. An employer shall not pay wages pursuant to a payroll card pursuant to *this section* prior to paying to the issuing financial institution an amount equal to the wages due the employee plus any fees relating to the issuance of the payroll card charged by the financial institution.

unless

- the employee is able to obtain immediate payment in full;*
- the employee is provided with at least one free means of funds access per pay period, and;*
- any fees or other charges are be prominently disclosed to and subject to the written consent of the employee;*

Alternatively, it may be sufficient to insert the word “initial” to clarify the original language,

Sec. 2. Section 91A.3, subsection 3, Code 2007, is amended to read as follows:

c. An employer shall not pay wages pursuant to a payroll card pursuant to *this section* prior to paying to the issuing financial institution an amount equal to the wages due the

employee plus any fees relating to the **initial** issuance of the payroll card charged by the financial institution.


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

Again, we applaud your initiative to improve the means by which Iowa workers receive their pay. We believe that many workers would like the option to receive their pay via a payroll card, and HF 707, with the alterations described above, appropriately clarifies that Iowa employers may offer this alternative. Please let us know if you have any questions.

Sincerely,

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