

# AMERICAN PAYROLL ASSOCIATION

March 2, 2020

The Honorable Nellie Pou  
Chair, Senate Commerce Committee  
New Jersey State House  
125 West State Street  
Trenton, NJ 08608  
*Via email [SenPou@njleg.org](mailto:SenPou@njleg.org)*

Re: S.B. 866, *Earned Income Access Services*

Dear Senator Pou:

Thank you for hosting the meeting concerning S.B. 866 on February 20. The American Payroll Association<sup>1</sup> had four member companies that were able to participate. The discussion seemed very constructive, concluding with a request for input on potential consumer protection provisions. We appreciate this additional opportunity to offer recommendations.

As was discussed in the meeting, the ability for employees to access earnings prior to payday is a significant improvement for the two-thirds of the U.S. workforce that live on a paycheck-to-paycheck basis. The inability to meet emergency expenses also can prevent an employee from getting to work, compounding financial problems. Early access to one's pay offers a dignified way to manage volatile expenses and cash flow; i.e., employees will not need to ask for help from their employer, from friends, family, or as noted, from an out-of-state or Internet payday lender.

APA views these early wage access systems as closely analogous to bank ATMs, which are simply a convenient way for people to access their earnings. Fees associated with these systems are similar to bank ATM fees; i.e., free ATMs are available to most account holders, but many use nearby ATMs for convenience. Similarly, employees have the right to receive their pay without cost each payday. Early access to earned wages offers the opportunity to obtain one's pay prior to the regularly scheduled payday for a cost close to an ATM fee, which often means preventing the \$39 average bank insufficient funds or similar late payment fee that would otherwise be assessed.

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<sup>1</sup> Established in 1982, the American Payroll Association (APA) is a not-for-profit association serving the interests of about 20,000 payroll professionals nationwide. 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. APA members are directly responsible for calculating wages and tax withholding for their employers.

APA references California's S.B. 472, which, while still pending, is the product of countless hours of collaboration with industry and consumer advocates. S.B. 472 featured several important consumer protections that we supported. SB 472 would:

- Limit use to three times during per pay period;
- Limit the amount available to 50% of gross wages earned;
- Prohibit employers from charging employees for participation in early wage access programs, or from receiving any incentive from the service provider for offering early wage access;
- Limit fees to \$14\* per monthly pay period or the prorated amount for shorter pay periods;
- Require disclosures that clearly state all applicable costs and explain that employees can receive their full pay without cost by waiting until the next scheduled payday; and
- Require clear instructions on how to cancel participation in the program.

\*APA recommends a fee limitation of “\$18 per monthly pay period or the prorated amount for shorter pay periods” to avoid conflict with the frequency limit of three times per pay period. Roughly 70% of the workforce is paid twice per pay period, and \$14 per month would effectively restrict such employees to twice per pay period.

In addition, APA recognizes your concern regarding fee amounts in relation to amounts accessed; i.e., even a small fee such as \$3 would be costly relative to the amount accessed if employees access very small amounts. However, it seems important not to establish arbitrary limits that would prevent consumers from addressing an emergency requiring only a minor amount; for example, they may not have earned the minimum amount yet or may only need a small amount. We would recommend that S.B. 866 include a minimum amount of \$35 per access.

Again, thank you for the opportunity to offer recommendations on this important topic. We concur with the need to establish appropriate consumer safeguards and would be pleased to participate in future discussions. Please contact Pete Isberg at 909-971-7670 or [pete.isberg@adp.com](mailto:pete.isberg@adp.com) or Alice Jacobsohn at 202-248-3901 or [ajacobsohn@americanpayroll.org](mailto:ajacobsohn@americanpayroll.org) if we can be of assistance.

Sincerely,



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