APA members have been actively advocating for effective paycard legislation in half a dozen states so far in 2011. Such legislation will enable employers to realize the promise of paperless pay technologies developed in the late 20th and early 21st centuries.

Paycards are used, legally, in every state in the country. However, a number of state wage payment statutes still do not mention paycards, which can be problematic since the legitimacy of their use can then be open to interpretation by state departments of labor.

APA favors consistent language among the various state laws in general, because it makes employers’ compliance easier and more likely.

In conjunction with the Electronic Payroll Coalition (EPC), APA has identified five fundamental principles relating to wages paid through paycards. As outdated state laws are amended to reflect this latest wage payment method, APA and EPC are striving to see that these principles are incorporated into new legislation.

The EPC comprises members and staff from the American Payroll Association, the Association for Financial Professionals (AFP), and NACHA — The Electronic Payments Association. EPC promotes best practices and raises awareness of the benefits of electronic payroll through both direct deposit and paycards.

five principles
The five fundamental principles are as follows:

1. **Restrictions on payroll cards**

William Dunn, CPP, is Senior Manager of Government Relations for APA.

should be no more onerous than those for other wage payment methods. Employees must have the ability to obtain their full wages each pay period without incurring a fee irrespective of the method used to deliver wages. Nothing should prohibit a paycard vendor from offering discretionary services to a cardholder for a fee so long as the fees are disclosed. Such services could include additional ways to check account balances (beyond the standard free methods), multiple ATM transactions per pay period, etc.

**APA’s comments:** Employers are, of course, responsible for paying employees safely, securely, accurately, and in a timely manner. APA feels that payroll cards have been shown to be superior to paper paychecks in each of these respects. Additionally, imposing onerous requirements on payroll cards is likely to result in higher administrative costs for employers, who will then be less likely to offer this beneficial option to employees. As a result, some employees will continue to pay high fees for check cashing if they stay with checks. Others will purchase general-purpose, reloadable prepaid cards directly from third parties and ask their employers to deposit their wages into the card account. Unlike employer-sponsored payroll cards, these cards are not subject to the protections provided by state and federal wage payment statutes.

2. **Employers should have discretion to compensate their employees using strictly electronic means.** Employers offering employees the choice
between direct deposit and payroll cards should not be required to offer employees a paper paycheck option. Instead, these employers should be allowed to issue paycards to employees who fail to provide the information necessary to implement direct deposit. While many employers can be expected to offer paper paychecks, doing so should be at the employer’s discretion.

APA’s comments: A fully-electronic wage payment program allows an employer to implement the processes and procedures necessary to ensure that all employees have access to their wages on the morning of payday, even when unexpected contingencies, such as severe weather and natural disasters, arise. Strictly electronic wage payments also allow employers to reduce their carbon footprint and maximize savings that can then be reinvested into the workforce. Such efforts also facilitate the entry of unbanked employees into the financial mainstream.

3. Employers should be able to deliver wage statements to employees electronically as part of their overall paperless wage payment programs. Businesses will be unable to achieve the complete benefit of paperless wage payments unless the ability to provide wage statements electronically is also included. Not all employees will need or want paper statements but employees can print the electronic statement if they so choose.

4. Employees should be able to opt into overdraft protection at their own discretion. Federal law permits overdraft protection on payroll cards so long as the employee opts in to the protection. Nothing in state law should prohibit employees from exercising this option.

5. Employees should receive card transaction histories in any manner permitted by Federal Reserve Regulation E. Regulation E requires financial institutions to provide account balance and transaction information to employees who receive wages on a payroll card. After researching the preferences of payroll card users, the Federal Reserve Board concluded that written statements need only be provided upon employee request.

shared philosophies and fundamental principles

Earlier this year, APA and EPC worked with the Consumers Union and National Consumer Law Center to identify a number of “shared philosophies” on the use of payroll cards, which serve as recommendations for all those who are engaged in issuing, selecting, using, or regulating payroll cards (see the Government Corner column in March 2011 PAYTECHonline). While those shared philosophies cover significant areas in which all of the engaged parties agree, APA and EPC believe that these five simple fundamental principles provide easy-to-understand guidance for our state legislatures and regulatory agencies, to help ensure that state legislative and regulatory activity will result in rules that are beneficial for both employers and employees.■