

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0568.01 Bart Miller x2173

SENATE BILL 15-101

SENATE SPONSORSHIP

Balmer,

HOUSE SPONSORSHIP

Pabon,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF EMPLOYERS TO PAY WAGES TO**
102 **EMPLOYEES ELECTRONICALLY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows employers, at their discretion, to pay wages by electronic credit transfer to an employee's account in a financial institution or to deposit wages on a paycard if:

- ! The employee has the option of electronic credit transfer to a financial institution account in lieu of credit to a paycard;
- ! The employee has 7 days after receiving notice of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- option to designate an account for electronic credit transfer;
- ! The employer provides the employee with a written or electronic explanation of any fees associated with both electronic credit transfer and paycard;
- ! The employer provides the employee with one withdrawal either by check, automated teller machine withdrawal, or electronic transfer per pay period with no fees;
- ! The employer offers a program to the employee that does not charge a monthly maintenance fee to use the prepaid paycard; and
- ! The employer allows the employee to always have the option to be paid by electronic credit transfer in lieu of credit to a paycard.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-4-102, **amend** (2);
3 and **repeal** (2.5) as follows:

4 **8-4-102. Proper payment - record of wages. (2) Direct deposit**
5 **and paycard.** (a) ~~Nothing in this article shall prohibit an employer from~~
6 ~~depositing~~ NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
7 EACH EMPLOYER IN THIS STATE, AT ITS DISCRETION, MAY PAY BY
8 ELECTRONIC CREDIT TRANSFER ALL wages due or to become due or an
9 advance on wages to be earned, ~~in an~~ WITH THE WRITTEN CONSENT OF THE
10 EMPLOYEE, TO HIS OR HER account in any bank, savings and loan
11 association, credit union, or other financial institution authorized by the
12 United States or one of the several states to receive deposits in the United
13 States ~~if the employee has voluntarily authorized such deposit in the~~
14 ~~financial institution of the employee's choice.~~ OR BY DEPOSITING AN
15 EMPLOYEE'S WAGES ON A PAYCARD IF THE FOLLOWING REQUIREMENTS ARE
16 MET:

17 (I) THE EMPLOYEE HAS THE OPTION OF BEING PAID BY ELECTRONIC
18 CREDIT TRANSFER TO HIS OR HER ACCOUNT IN ANY BANK, SAVINGS AND

1 LOAN ASSOCIATION, CREDIT UNION, OR OTHER FINANCIAL INSTITUTION
2 AUTHORIZED BY THE UNITED STATES OR ONE OF THE SEVERAL STATES TO
3 RECEIVE DEPOSITS IN THE UNITED STATES IN LIEU OF CREDIT TO A
4 PAYCARD;

5 (II) THE EMPLOYEE IS PROVIDED NOTICE OF THE OPTION TO
6 DESIGNATE AND AUTHORIZE AN ACCOUNT FOR ELECTRONIC CREDIT
7 TRANSFER TO BE EFFECTIVE AT THE END OF THE FIRST PAYROLL PERIOD;

8 (III) THE EMPLOYER PROVIDES THE EMPLOYEE WITH A WRITTEN OR
9 ELECTRONIC EXPLANATION OF ANY FEES ASSOCIATED WITH BOTH
10 ELECTRONIC CREDIT TRANSFER AND PAYCARD;

11 (IV) THE EMPLOYER PROVIDES THE EMPLOYEE WITH ONE
12 WITHDRAWAL EITHER BY AUTOMATED TELLER MACHINE WITHDRAWAL
13 OR ELECTRONIC TRANSFER PER PAY PERIOD AT A LOCATION OR FINANCIAL
14 INSTITUTION DESIGNATED BY THE EMPLOYER WITH NO FEES;

15 (V) THE EMPLOYER OFFERS A PROGRAM TO THE EMPLOYEE THAT
16 DOES NOT CHARGE A MONTHLY MAINTENANCE FEE TO USE THE PAYCARD;
17 AND

18 (VI) THE EMPLOYER ALLOWS THE EMPLOYEE TO ALWAYS HAVE
19 THE OPTION TO BE PAID BY ELECTRONIC CREDIT TRANSFER IN LIEU OF
20 CREDIT TO A PAYCARD AND THE ABILITY TO CHANGE THE ACCEPTANCE OF
21 WAGES FROM PAYCARD TO ELECTRONIC CREDIT TRANSFER.

22 (b) AS USED IN THIS SECTION, "PAYCARD" MEANS A CARD
23 DISTRIBUTED TO AN EMPLOYEE BY AN EMPLOYER, OR BY ANOTHER ENTITY
24 BY ARRANGEMENT WITH THE EMPLOYER, THAT PROVIDES AN EMPLOYEE
25 WITH IMMEDIATE ACCESS TO THE EMPLOYEE'S WAGES.

26 (2.5) **Paycard.** ~~(a) Nothing in this article shall prohibit an~~
27 ~~employer from depositing an employee's wages on a paycard, so long as~~

1 the employee:

2 ~~(I) Is provided free means of access to the entire amount of net~~
3 ~~pay at least once per pay period; or~~

4 ~~(II) May choose to use other means for payment of wages as~~
5 ~~authorized in subsections (1) and (2) of this section.~~

6 ~~(b) As used in this section, "paycard" means an access device that~~
7 ~~an employee uses to receive his or her payroll funds from his or her~~
8 ~~employer.~~

9 **SECTION 2. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
11 the expiration of the ninety-day period after final adjournment of the
12 general assembly (August 5, 2015, if adjournment sine die is on May 6,
13 2015); except that, if a referendum petition is filed pursuant to section 1
14 (3) of article V of the state constitution against this act or an item, section,
15 or part of this act within such period, then the act, item, section, or part
16 will not take effect unless approved by the people at the general election
17 to be held in November 2016 and, in such case, will take effect on the
18 date of the official declaration of the vote thereon by the governor.

19 (2) This act applies to the payment of wages to employees on or
20 after the applicable effective date of this act.