



January 20, 2025

The Honorable Jonathan Warrey
Chair
House Committee on Industry, Business, and Labor
Room JW327C, State Capitol
600 East Boulevard Avenue,
Bismarck, ND 58505-0360

Dear Chair Warrey and members of the Committee:

Thank you for the opportunity to submit testimony for the record regarding HB 1393. On behalf of the Chamber of Progress, a tech industry coalition promoting technology's progressive future, I write to **urge you to oppose HB 1393**.

This legislation would significantly hinder the ability of North Dakota residents to access their earned wages ahead of receiving their paychecks - making it harder to pay bills.

We are strong supporters of providing consumers with better alternatives to predatory lending and junk fees at banks. Earned wage and early wage access services help workers bridge the gap from today to payday, and free workers from dependency on the payroll cycle and a financial system that frequently disadvantages them.

Earned wage access operates on an agreement between the service provider and an employer, which allows the provider access to employee timesheets to determine earned wages.¹ On an employee's payday, the provider collects funds from the employer that were disbursed to the employee ahead of payday.

Early wage access is a similar concept, except the service provider does business directly with the consumer, without direct involvement from the employer. In this instance, the consumer downloads an application, establishes an account with the service provider and links their checking account information.

In both setups, the earned wage access provider allows users to access anywhere

¹ *Ask the Fed: Exploring the Rise of Earned Wage Access Programs*, The Federal Reserve Bank of Kansas City (Jan. 2021). <https://www.kansascityfed.org/ten/2021-winter-ten-magazine/ask-the-fed-exploring-rise-of-earned-wage-access-programs/>

between 50-100% of their earned wages at any given time, with limits sometimes placed by the provider based on frequency and consecutive use.²

Earned Wage Access Promotes Consumer Choice

Based on a survey conducted by three direct to consumer earned wage access service providers, an overwhelming number of earned wage access consumers said they understood how the service structure works and consider it the best option to manage their spending.³ Earned wage access provides consumers the opportunity to stretch their dollar farther than the standard two-week pay cycle, enabling them to avoid predatory payday loans.

Consumers overwhelmingly use earned wage access services to pay bills on time, buy groceries and avoid late fees.⁴ Notably, 8 out of 10 earned wage access consumers felt these services were the best available options to manage their spending, and 80% of users said that their life significantly improved after using these services.⁵ Earned wage access gives consumers a safer alternative to paying bills late and getting charged bank overdraft fees that can cause a further decline into debt.

In this post-COVID, inflationary economy, the usage of earned wage access has increased across the board. From 2018 until now, these services tripled in usage in response to consumers adapting to a financial environment where they are empowered to spend without a lack of liquidity.⁶ In fact:

- 82% of hourly workers whose employer offers earned wage access services say it is one of their favorite benefits.⁷
- 72% of earned wage access service users say the offering helps them feel more confident in managing their finances.⁸
- 95% of companies offering an earned wage access solution believe it has a positive impact on employee retention.⁹

² *Id.*

³ *Earned Wage Access: A Framework for Financial Inclusion*, Earnin (July 2021).

<https://www.earnin.com/assets/pdf/FTI-Earned-wage-access-memo.pdf>

⁴ *Id.*

⁵ *Id.*

⁶ *Earned Wage Access: Direct-to-Consumer Advances– Trends and Insights*, Center for Financial Services Innovation (April 2021).

https://cfsi-innovation-files-2018.s3.amazonaws.com/wp-content/uploads/2021/04/26190749/EWA_D2C_Advance-s_age_Trends_FINAL.pdf

⁷ The Harris Poll. [Nearly 3 in 4 Hourly Workers Love/Like Their Job](#). March 20, 2024.

⁸ Arizent Research. [Earned Wage Access: A Powerful, Cost-Eective Financial Wellness Tool](#). September 2023.

⁹ Hanover Research Study. [Companies with EWA Solutions](#). September 2023.

- 77% of earned wage access users state that the services help them save money by avoiding other more expensive alternatives to handle expenses.¹⁰

Additionally, the continued development of financial technology will lead to new earned wage access business models. If strict regulation is crafted around a preferred model, this may hinder innovation in this space and again, leave consumers with limited options.

Families working paycheck to paycheck are currently beholden to the 2-4 week pay cycle, trapped in a system that does not account for real life factors that cannot wait for payday. Earned wage access has an opportunity to make a greater impact by providing a service that meets the consumer where they are.

- Specifically, **the bill's cap on earned wage access at \$1,000 per consumer**, as outlined in *Section 1, Documentation of Earned Wage Access Transactions and Notifications to Consumers (6)*, **undermines the purpose of the service by restricting worker's access to their full earned wages**, potentially leaving them without critical financial support during emergencies or urgent expenses.

Like many other innovations in services, consumer choice with earned wage access will allow workers to choose the service that is best for them and their budget.

Earned Wage Access products are not credit and allows for financial inclusion

Unlike traditional credit products that may affect a user's credit score through payment history and credit utilization, earned wage access services do not involve lending-related activities such as pulling credit reports, underwriting, assessing fees based on creditworthiness, charging interest, or imposing origination fees.

Earned wage access providers earn revenue through expedited transfer fees, tips, or subscription fees. These fees are typically not required or imposed for a transaction to proceed. On the contrary, consumers opt in voluntarily to receive a premium service.¹¹

- **The bill's fee cap** outlined in *Section 1, Documentation of Earned Wage Access Transactions and Notifications to Consumers (5)*, **could stifle competition in the earned wage access market by limiting providers' ability to adjust pricing based on their unique costs and service offerings**. As a result, smaller or newer providers may struggle to cover operational expenses, reducing innovation and potentially leaving workers with fewer choices and less competitive pricing options.

¹⁰ Mercator Advisory Group. [Customer Perceived Cost Savings](#). August 2022.

¹¹ *Frequently Asked Questions*, Earnin. <https://www.earnin.com/faqs>

This legislation would hinder earned wage access in two other ways:

- Under *Section 1, Documentation of Earned Wage Access Transactions and Notifications to Consumers (16)*, these **frequency cap restrictions** could **interfere with consumers' ability to manage their cash flow effectively by limiting a consumer's ability to renew, refinance, or consolidate an earned wage access transaction within a short timeframe**, preventing individuals from accessing necessary funds when they need them most.
- Under *Section 1, Documentation of Earned Wage Access Transactions and Notifications to Consumers (19)(h)*, **mandating that providers give written notice of all fees and the full potential cost of the transaction, including the annual percentage rate (APR)**, could **create unnecessary barriers to accessing earned wages**. For consumers who need quick, small-dollar access to their earnings, this requirement could overwhelm or confuse them, deterring them from utilizing the service when they are in urgent need of funds.

Earned Wage Access complies with federal laws

Earned wage access providers already comply with extensive federal consumer protection and disclosure laws, including the Gramm-Leach-Bliley Act,¹² Electronic Signatures in Global and National Commerce Act,¹³ and Electronic Funds Transfer Act.¹⁴

Additionally, earned wage access providers are subject to state and federal prohibitions against Unfair, Deceptive, or Abusive Acts or Practices.¹⁵ Notably, even the Biden Administration's Consumer Financial Protection Bureau found that earned wage access payouts are not considered loans under Regulation Z of the Truth In Lending Act (TILA).¹⁶

With this in mind, **we urge you to oppose HB 1393.**

Thank you,

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Policy Analyst

¹² *Gramm-Leach-Bliley Act*, Federal Trade Commission.

<https://www.ftc.gov/business-guidance/privacy-security/gramm-leach-bliley-act>

¹³ X.3.1: *Privacy of Consumer Financial Information*, Federal Deposit Insurance Corporation (Jan. 2014).

<https://www.fdic.gov/resources/supervision-and-examinations/consumer-compliance-examination-manual/documents/10/x-3-1.pdf>

¹⁴ *Attachment to SR 08-7: Guidance on Supervisory Expectations for the Privacy of Consumer Financial Information*, Federal Reserve System. https://www.federalreserve.gov/boarddocs/caletters/2008/0807/08-07_attachment.pdf

¹⁵ *Unfair, Deceptive, or Abusive Acts or Practices (UDAAPs) Procedures*, Consumer Financial Protection Bureau (Sept. 2023).

https://files.consumerfinance.gov/f/documents/cfpb_unfair-deceptive-abusive-acts-practices-udaaps_procedures_2023-09.pdf

¹⁶ *Truth in Lending (Regulation Z): Earned Wage Access Programs*, Federal Register, vol. 85, no. 238 (Dec. 2020).

<https://www.federalregister.gov/documents/2020/12/10/2020-26664/truth-in-lending-regulation-z-earned-wage-access-programs>