

MEMORANDUM

DATE: March 11, 2025
TO: Senate Industry and Business Committee
FROM: Corey Krebs, Assistant Commissioner
SUBJECT: Neutral Testimony on House Bill No. 1393

Chairman Barta and members of the Senate Industry and Business Committee, thank you for the opportunity to testify on House Bill No. 1393.

Mr. Chairman and members of the Committee, House Bill 1393 creates a new section of title 13 of the North Dakota Century Code to regulate earned wage access providers. The decision to regulate an industry and the specific approach to regulate the industry is a public policy decision, thus we are not advocating for or against this bill. I am here today to provide you with information about the earned wage access industry, how this regulation looks in different states, the approach this bill is taking, and to answer any questions you may have.

Earned wage access is a financing product that allows people to borrow money against wages owed to them by their employer. There is a wide range of business models within this space, ranging from an employer paid benefit to their employees to products offered by independent third parties which are comparable to payday lending products. Effective annual percentage rates on these products typically range from as high as 320% or as low as 0%.

These companies typically will require a borrower to download an app. The app will link to the user's bank account and possibly the employer's payroll system. The employee makes the request for the funds and agrees to the fees associated with the financing product. Funds are then provided to the customer, typically less than 3 days of the request. On payday, the borrower will be paid the balance of the money owed to them by the employer and the earned wage access company will also be paid. Not every company's process looks exactly like this but follows this general process.

These products can be beneficial to consumers; however, there may be risk as well. The benefit is quick financing, and with regards to the employer provided or low fee products, a cheap source of funds. The risk is that not all products are low cost, and frequent use of the higher cost products could put the consumer in a debt trap, a constant reliance upon a

financing product which is expensive in the long term. This is a similar risk to the use of payday lending products.

States have taken different approaches to regulating earned wage access products. Some states have defined earned wage access transactions as a consumer loan, which would subject these products to traditional lending regulations such as the interest rate caps. Some states have defined earned wage access as a separate industry with disclosure rules but without other consumer protections such as maximum fees. Some states have established both disclosure requirements and maximum fees.

House bill 1393, as amended, falls into this second category, the bill requires disclosures to the customer, it does not establish maximum fees. Additionally, in part, it mandates that a no cost option be available for consumers, creates a reporting requirement, and outlines a number of prohibited practices. This bill as amended looks similar to the law governing earned wage access in Kansas and a few other states.

A recurring point of conversation during the committee work in the House was the need to better understand the industry. These products are relatively new, and more than one business model exists which means the risks are not the same with every product offered. With the reporting requirement within this bill, the department over time should get an

understanding of the effectiveness of the consumer protections within this bill, and we can make recommendations for adjustments in the future if necessary.

We have a fiscal note on this bill. Based upon the experience of states which have licensed earned wage access companies, we estimate 16 companies may apply for licensure. Licensing and examination fees are estimated to generate \$43,000 in revenue over the biennium. Estimated expenses associated with regulation of the industry for the biennium is \$14,500.

Mr. Chairman, thank you for the opportunity to provide this testimony. I would be happy to answer any questions the Committee may have.