North Dakota Senate
Senate Industry and Business Committee
Re: HB 1393

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

My name is John Barnes, and I am the Vice President of Government Relations for Catalis. For nearly 25 years, Catalis (formerly known as Veritec Solutions) has partnered with state financial regulators to implement real-time compliance solutions in the non-banked consumer market, specifically small-dollar lending. Currently, we provide statewide database services in 14 states, including North Dakota since 2007, ensuring consumer protections are properly enforced while allowing responsible licensees to operate within clear and manageable regulatory guidelines.

Our nearly 25 years of experience in small-dollar lending regulation has demonstrated that real-time transaction monitoring is an effective and efficient tool for enforcing state law. In states that require lenders to use this type of centralized compliance system, every transaction must be checked against the database to confirm that a borrower and the transaction are in compliance with state law and regulations around eligibility requirements (e.g., restrictions on loan amounts, frequency of loans, APR limits, waiting periods between loans, etc.) before any consumer can be advanced funds.

There are two different types of EWA providers: direct-to-consumer and employer-integrated. Direct-to-consumer EWA providers operate independently, offering advances directly to workers without employer involvement. In contrast, employer-integrated providers work through an employer partnership, allowing them to access payroll data and ensure advances do not exceed employee's earned wages less any taxes or payroll deductions.

How The Database Got Started

In Florida, the payday lending industry had been operating since the 1980s and in 2001, the Florida Legislature was faced with mounting calls to regulate short-term payday loans. At the time, Florida consumers were caught in a dangerous situation. While consumer lending on a national scale had general regulatory oversight from the Federal Trade Commission, gaps in the regulation of these entities at the state level made it possible for consumers to take out multiple short-term loans from various lenders at the same time, with no oversight on how much was being lent.

Many consumers found themselves overleveraged across different lenders, all with the same due date. States like Florida did not have specific statutes dealing with short term lending. The Florida Legislature passed Senate Bill 561 in 2001 to establish a unique statutory code to regulate short-term, high-cost consumer lending by limiting consumers to a single outstanding loan statewide. Florida needed a complex, real-time database management solution.

Catalis (Veritec at the time) stepped in to provide the State of Florida with the Deferred Presentment Database and Program Solution – a real-time database that currently connects to more than 1,500 stores and licensees in the State of Florida and ensures that licensees operating under this chapter know that any loan they authorized will be in compliance with State law. This same system has been adopted in over a dozen states, including here in North Dakota, since 2007.

The Overextension Issue

Hearing from legislators, regulators and consumer advocates around the country, it sounds like they have many of the same consumer protection concerns that led states like Florida, Kentucky, Indiana, Oklahoma, South Carolina and others to adopt real-time databases around the country, are now emerging in the Earned Wage Access space.

Like the providers we help regulate every day, EWA providers operate independently. Unlike the lenders we regulate, EWA providers have no way of knowing how much a worker has already borrowed. In the states we operate in, all providers have access to the same information through a centralized database, which gives them the ability to know if an advance will be out of compliance with state regulation or state law.

However, without real-time tracking, a borrower could make multiple EWA advances from different providers in the same pay period, overextending themselves and potentially falling into a cycle of debt—an unintentional consequence of an underregulated EWA market.

Data from the California Department of Financial Protection and Innovation (DFPI) and the Center for Responsible Lending have confirmed these concerns. Some states are now evaluating ways to prevent overextension, with states like Florida introducing legislation that has a centralized database specifically for direct-to-consumer EWA advances, which will allow consumers to protected from overextension while ensuring access to EWA as a responsible financial tool.

Unlike employer-integrated providers, which have an added layer of oversight from the employers they work with, direct-to-consumer providers operate independently, meaning there is no external check on how much a borrower has already taken in a given pay period. Without a database, these providers lack the visibility needed to ensure that consumers are not taking on more advances than they can reasonably repay. Regulating direct-to-consumer EWA providers in a real-time database would close this oversight gap and help prevent financial harm to consumers.

How the Database Works

For EWA, a database would work very similarly to how it does today in 14 states where it enforces laws governing small-dollar lending products. The database functions in real-time, ensuring compliance at the point of issuance and preventing any transaction from being processed that would be out of compliance with state law or regulation. It does this by:

- Licensees connecting to the system through a simple API, requiring little technical investment from each provider. Licensees submit only the transaction details required by state law and there is nothing over burdensome that prevents licensees from processing legal transactions.

- The database verifies borrower eligibility before allowing an additional advance—like a **traffic light system**, if the borrower qualifies, the advance is processed; if they have reached their limit, or if for any other reason the transaction would cause the borrower to be out of compliance with state law or regulation, the transaction is blocked.
- The system does not generate credit scores, report to credit agencies, or collect borrower creditworthiness data. No one has access to the data except the Regulator. While licensees are notified that a consumer can't take out an advance, they don't see the specifics of the previous transactions, ensure consumer privacy is intact.
- Regulators gain real-time insights into lending activity through dashboard tools, supporting enforcement and policy decisions.

Regulatory Benefits & Consumer Protections

For regulators, the database offers several policy enforcement and consumer protection benefits:

- Statewide visibility into transactions, ensuring compliance with state-imposed borrowing limits by automated enforcement through real-time compliance.
- Prevents provider shopping, where borrowers attempt to take multiple advances across different platforms to circumvent regulations.
- Reduces the burden of manual audits, allowing for more efficient investigations.
- Allows for clear transparency and easy access of data for all reporting requirements.

Operational & Enforcement Efficiencies

For state regulators and policymakers, a database enables data-driven decision-making while improving regulatory efficiency:

- Comprehensive reporting tools allow regulators to track borrowing trends and adjust policies accordingly.
- Digital records reduce the need for extensive on-site examinations, streamlining enforcement.
- Supports fraud detection by identifying suspicious lending patterns in real time.
- Requires minimal integration costs for providers through web-based or API connections.

Funding & Implementation

- Self-sustaining model – No state funds required; a small transaction-based fee covers costs. This cost is determined by the State.

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- Efficient data management – The system automates reporting, reducing administrative overhead for both the industry and regulators.
- Minimal compliance burden – Providers interface via an automated system, requiring little technical investment from each provider.

Conclusion

As North Dakota evaluates regulatory approaches, we welcome the opportunity to work with the members of this committee and other stakeholders to explore how best to balance consumer protection with market innovation.

North Dakota has multiple options for Earned Wage Access oversight, and a real-time database is one tool that has proven effective in preventing borrower overextension while reducing compliance burdens on regulators and businesses. North Dakota has already successfully implemented a similar database for payday loans, ensuring that short-term financial products remain available while maintaining strong consumer protections.

Thank you for your time and consideration. I have included answers to some questions that may arise below, and I am happy to answer any additional questions or provide additional details about how real-time compliance solutions have supported financial regulation across multiple states.

John Barnes

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