

# EARNED WAGE ACCESS

## The Case for Federal Legislation

A Policy Brief for Federal Lawmakers | American Fintech Council

### EXECUTIVE SUMMARY

Earned Wage Access (EWA) allows workers to access wages they have **already earned** before their scheduled payday. Given that workers across the country are generally paid in arrears, workers are accessing money they already worked for and are owed simply on a more flexible timeline. EWA customers are **not getting a loan, they are leveraging technology to access their earnings when they are needed**. For millions of Americans living paycheck to paycheck, EWA is a lifeline. Accessing wages earlier, rather than on an employer’s schedule means avoiding payday loans, overdraft fees, and high-interest debt with a low-cost, low-risk tool for managing financial obligations and emergencies as they arise.

The evidence is clear and growing, EWA **increases monthly worker income by 11.5%** and reduces reliance on predatory lenders. Workers use it to pay rent, buy groceries, and cover car repairs. **EWA is for necessities, not luxuries**. According to an AFC analysis of member companies, consumers have submitted nearly **3.9 million app store reviews with an average rating of 4.6 out of 5 stars**, a consumer verdict that speaks for itself.

Yet today, EWA exists in a fragmented regulatory landscape. The absence of federal standards has left states to write their own rules, creating an inconsistent and unpredictable regulatory patchwork. Some states have gotten it right: California and Nevada have enacted workable frameworks that protect consumers while preserving access. Others have not. When Connecticut classified EWA as a loan, most providers exited the state, and workers were left without options. Connecticut later partially corrected course, but the fix created an uneven playing field for providers and consumers. **No two states have arrived at the same answer**. Congress must act to create a federal standard: clear, consistent rules that protect consumers and preserve access.

**\$31.9B**

in earned wages accessed by 10 million workers in 2022 alone

*Urban Institute, May 2026, citing national EWA provider data*

**\$334/month**

avg. income increase for first-time EWA users

*Prof. Jonathan M.V. Davis, University of Oregon, 2025*

**96%**

of employers offering EWA say it helps with recruitment

*ADP Survey, 2022, cited by Federal Reserve Bank of Kansas City*

**11.5%**

proven income boost for workers using EWA for the first time

*Prof. Jonathan M.V. Davis, University of Oregon, 2025*

## THE PROBLEM: AMERICA'S PAY CYCLE IS BROKEN

**Nearly 75% of workers** are paid less frequently than once a week.<sup>[1]</sup> Yet rent is due on the first, gas tanks don't wait for payday, and a medical bill doesn't care about the payroll schedule. The result is a cashflow mismatch that falls hardest on those who can least afford it. The regulatory environment needs to modernize with the changing needs of Americans.

The financial consequences to American families can be severe. In 2023, **22% of households had expenses that outpaced their income**, and **29% could not pay all bills on time**.<sup>[2]</sup> When workers face a shortfall, they have historically had few and mostly bad options.

### The Alternatives Workers Face Without EWA

- **Payday loans:** carry mandatory fees and an average APR of nearly **400%**, exceeding **650%** in some states. **Nearly 25% of payday loans are re-borrowed nine or more times**, and the average borrower takes **five months** to pay off what was advertised as a "two-week loan".<sup>[3]</sup> **70% of payday loan borrowers** use payday loans for regular, recurring expenses, such as rent, utilities, groceries.<sup>[3]</sup> EWA covers the same expenses, at a fraction of the cost.
- **Overdraft fees:** Americans paid more than **\$12 billion** in overdraft fees in 2024 alone, a direct tax on workers who need access.<sup>[13]</sup>

"I have tried payday loans, having a credit card, car title loans, gotten loans on my jewelry at a pawn shop. All of these charge fees at an insane interest rate. Getting advanced wages I have already earned through my employer is actually the safer alternative."

- EWA user, comparing EWA to payday loans, pawn shops, and credit cards<sup>[4]</sup>

### Financial Health is Linked to Physical Health: Financial Stress Impairs Productivity and Judgment

**76% of employees** who reported financial stress said it negatively impacted their work productivity.<sup>[3]</sup> Research shows liquidity crises deplete cognitive capacity, attention, and executive control. Financial stress does not just hurt workers' wallets; it impairs judgment and on-the-job performance. **EWA breaks that cycle by giving workers control over the timing of wages they have already earned.**

## THE SOLUTION: EWA WORKS - THE EVIDENCE IS CLEAR

A growing body of academic and government research now provides causal, not merely correlational, evidence that EWA delivers meaningful financial benefits to workers without creating harmful borrowing cycles.

### EWA Increases Worker Income

The most rigorous study to date, conducted by University of Oregon economist Jonathan Davis using comprehensive administrative data from EarnIn, found that first-time EWA usage **increases users' net monthly income by \$334, or 11.5%**.<sup>[5]</sup> This is not an anecdotal survey of consumer sentiment. It is an evidence-based, rigorous, independent study that proves EWA caused the income increase.

### EWA Does Not Create Harmful Borrowing Cycles

- **No statistically significant increase** in overdraft fees, interest payments, or other bank fees.<sup>[5]</sup>
- A small increase in insufficient funds fees of approximately **\$9/month**, which is far outweighed by the **\$334 monthly income gain**.<sup>[5]</sup>
- Workers used accessed wages for **essential expenses**: rent, utilities, fuel, prescriptions, and credit card payments; not discretionary spending.<sup>[5]</sup>

### EWA: What Workers Actually Spend It On

University of Oregon research found EWA usage was associated primarily with spending on essential expenses including rent, phone bills, gasoline, auto services, pharmaceuticals, and credit card payments. Spending on entertainment was not a significant category. [5]

### EWA Replaces Predatory Products with Demonstrable Savings

- Of the **21%** of users who had taken payday loans before EWA, **81% stopped entirely** after adopting EWA, saving an estimated **\$624-\$930 per year**.<sup>[3]</sup>
- Of the **39%** who had overdrafted before EWA, **79% reported overdrawing rarely or never** after using EWA, saving an estimated **\$660 per year**.<sup>[3]</sup>

### EWA Improves Mental Health and Financial Confidence

- **82%** reported feeling less stressed about their finances.<sup>[3]</sup>
- **77%** reported improved mental health.<sup>[3]</sup>
- **67%** of Connecticut EWA users said EWA had a positive impact on their financial situation.<sup>[6]</sup>

### Workers Across Generations Demand Access to EWA Services

- **91%** of millennials and **82%** of Gen Z say EWA is important for employers to offer.<sup>[7]</sup>
- **81%** of U.S. workers aged 18-44 would choose a job offering EWA over one that does not.<sup>[7]</sup>
- **96%** of employers offering EWA believe it helps with recruitment; **93%** say it improves retention.<sup>[7]</sup>

## THE REGULATORY CHALLENGE: A PATCHWORK THAT FAILS WORKERS

### The State Patchwork of EWA Laws Creates Chaos and Confuses Workers

The Urban Institute's May 2026 analysis of every enacted state EWA law and finalized regulation documents a regulatory landscape that is fragmented, inconsistent, and in some cases actively harmful to workers. Some states treat EWA as a distinct non-credit product and require registration; others have created hybrid frameworks.

For example, California classifies EWA as a loan but exempts it from most lending law requirements, creating uncertainty without providing meaningful consumer protection. Connecticut classified EWA as a loan outright (before changing course), causing most providers to exit the state entirely, leaving workers to resort to overdraft, credit cards, and payday loans instead. No two states have arrived at the same framework.<sup>[12]</sup> The Kansas City Federal Reserve Bank put it plainly: compliance uncertainty is “one of the biggest perceived obstacles to employer adoption,” suppressing access to a product that demonstrably benefits workers.<sup>[7]</sup>

Despite broad consensus on EWA's benefits, the regulatory landscape is fragmented, inconsistent, and, as Connecticut has demonstrated, may be actively harmful to the workers it purports to protect.

### CASE STUDY: Connecticut's Critical Misstep in Improperly Regulating EWA: A Cautionary Tale

In January 2024, Connecticut classified EWA as a small loan, requiring lending licenses. Most EWA providers exited the state. University of Connecticut researchers surveyed 508 affected users: majority female, single, with children, 71% with poor or fair credit, only 15% homeowners.<sup>[6]</sup>

**What workers used EWA for:** food, transportation, rent, utilities - basic survival needs. After Connecticut's regulation: 36% went without something they needed | 31% borrowed from friends or family | 26% put expenses on a credit card<sup>[6]</sup>

Connecticut partially corrected course in July 2025, enacting SB 1396 to bring providers back to the state. But the fix was imperfect: the new law's verification requirements and fee structures favor employer-integrated EWA providers over direct-to-consumer providers, effectively picking winners and losers within the market. Unfortunately, workers whose employers are not integrated with an EWA platform remain unserved.

**The lesson is not simply that Connecticut got it wrong and fixed it. It is that two years of harm to vulnerable workers was the price of regulatory experimentation. In the end, even the “fix” left gaps for workers. Federal legislation prevents that cycle from repeating in every state.**

## THE CFPB's Evolving Position on EWA Remains an Imperfect Solution

The CFPB's history with EWA spans nearly a decade, albeit with shifting positions on the service. That history now has a resolution, and it is a positive one:

- 2020: CFPB issued Advisory Opinion confirming that employer-partnered, nonrecourse, no-fee EWA is not credit under Regulation Z.
- June 2024: CFPB proposed interpretive rule declaring all EWA to be Regulation Z credit - a position that would have pushed responsible providers out of the market entirely.
- January 2025: CFPB rescinded the 2020 Advisory Opinion without adopting the 2024 proposed rule, leaving EWA in a regulatory vacuum.
- May 2025: CFPB withdrew both the 2020 Advisory Opinion and the January 2025 rescission, wiping the slate clean.
- **December 23, 2025: CFPB issued a new, definitive Advisory Opinion (90 FR 60069) - Covered EWA is NOT credit under Regulation Z.**

Throughout this entire period, AFC has maintained one consistent position across both Democratic and Republican administrations: **Federal Certainty for EWA is Crucial**. In February 2024, AFC wrote to CFPB Director Rohit Chopra urging formal rulemaking and explicitly warning that another advisory opinion would be insufficient.<sup>[10]</sup> In February 2025, AFC wrote to Treasury Secretary Scott Bessent in his capacity as Acting CFPB Director, renewing the same call and urging fixes for what AFC described as 'irresponsible and deficient' past CFPB handling of EWA.<sup>[11]</sup> **AFC's position is non-partisan**. It has not changed based on who sits in the White House, because workers' need for financial stability is not partisan.

In many ways, the December 2025 Advisory Opinion identified the necessary policy principles for federal legislation. Notably, it concluded that 'Covered EWA', i.e. EWA that does not exceed accrued wages, uses payroll process deduction, carries no recourse against workers, and involves no credit risk assessment, **is not credit, period**.<sup>[9]</sup> The CFPB also clarified that expedited delivery fees and voluntary tips are not finance charges under Regulation Z, and that qualifying direct-to-consumer providers are also covered.

**"[EWA] takes the embarrassment out of things. You don't have to ask a friend, a coworker, or a family member."**

- EWA user, Americans for Earned Wage Access, *available at* [fintechcouncil.org/americansforearnedwageaccess](https://fintechcouncil.org/americansforearnedwageaccess)

The December 2025 Advisory Opinion is an important step. But advisory opinions are not law. Congress must now do what the CFPB cannot establish permanent, statutory certainty for EWA providers and the workers who depend on them.

## THE LEGAL FOUNDATION: EWA IS NOT CREDIT

**We need statute based in rational legal foundations, not novel interpretations or conjecture.** A 2026 William & Mary Law Review article by University of Houston Law Professor Jim Hawkins - the most comprehensive legal analysis of EWA to date - argues that most EWA is not credit under existing law.<sup>[8]</sup> EWA differs from credit on three foundational dimensions:

- **Nonrecourse:** EWA providers cannot sue workers, report to credit bureaus, or send accounts to collections. **Providers bear all the risk.**<sup>[8]</sup>
- **No creditworthiness assessment:** EWA providers do not pull credit reports or perform underwriting.<sup>[8]</sup>
- **Often no mandatory cost:** Many EWA products have no mandatory fees. Where fees exist, they are for expedited transfer speed - not for access to the underlying wages.<sup>[8]</sup>

*Put simply: "EWA is more like an ATM - a source of cash you've already earned that's there when you want or need to access it."*

## THE CALL TO ACTION: WHAT FEDERAL LEGISLATION SHOULD DO

**Now, Congress must codify EWA standards into durable federal statute; because advisory opinions can be rescinded while a federal law cannot.**

Congress should pass the Earned Wage Access Consumer Protection Act (H.R. 9330, 119th Congress). This federal EWA legislation would:

- **Clarify that EWA is not credit** - establishing a uniform national definition treating EWA as a distinct financial product, not subject to TILA or state usury laws.
- **Mandate a fee-free option** - every worker should have access to a no-cost transfer option. Speed-based fees for instant transfer are acceptable; mandatory fees for basic access are not.
- **Require clear disclosures** – limits on access and all fees, including optional tips, must be disclosed transparently before the transaction.<sup>[4]</sup>
- **Prohibit debt collection** - EWA providers must not use debt collectors, report to credit bureaus, or pursue legal remedies against workers for unrecovered advances.
- **Establish Consumer Protections** – Ensures that EWA users are covered by non-discrimination protections.

**The evidence is clear. The need is urgent. The path forward is federal legislation.**

AFC supports a federal EWA standard that preserves access, ensures transparency, and protects the workers who have come to depend on this essential financial tool.

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