



# ROB STAFSHOLT

STATE SENATOR • 10<sup>th</sup> SENATE DISTRICT

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P.O. Box 7882  
Madison, WI 53707-7882

**DATE: December 6, 2023**

**RE: Testimony on Senate Bill 579**

**TO: Members of the Senate Committee on Financial Institutions and Sporting Heritage**

**FROM: Senator Rob Stafsholt**

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Thank you members of the Senate Committee on Financial Institutions and Sporting Heritage for hearing Senate Bill 579.

Around the country, including here in Wisconsin, there has been rapid growth for new and innovative services, known as Earned Wage Access (EWA), in which employees can have quicker and easier access to their earned, but unpaid wages. As you will hear from other speakers in this hearing, there are a range of companies that offer EWA services with varying business models. Today, tens of thousands of Wisconsinites and hundreds of employers have already been using Earned Wage Access services.

Even though EWA is already being used, it is not currently regulated under statute. This bill creates a basic level of regulation for this expanding sector in the financial services industry. Specifically, this legislation ensures these companies and their services will not be regulated as payday lenders, because EWA is based on already earned wages that have not yet been paid. The bill also states that any fee in connection with this service is not interest or a finance charge. This bill is similar in language to legislation that has been signed into law in other states around the country, including Nevada and Missouri.

Employees are enthusiastic for EWA because it allows them to have better control of the timing of when they are paid. EWA also can help employers retain workers, even during a national labor shortage, because employees like the convenience of this service, and they want to work for companies that offer this flexibility.

Again, thank you and members of the committee for hearing my testimony on this bill. I'd also like to thank Rep. Dallman for his work on this in the State Assembly. I'd appreciate your support for this bill and would be happy to answer any questions you may have.



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# ALEX A. DALLMAN

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STATE REPRESENTATIVE • 41<sup>ST</sup> ASSEMBLY DISTRICT

## Testimony in Favor of Assembly Bill 574

*Senate Committee on Financial Institutions and Sporting Heritage*

December 6<sup>th</sup>, 2023

Thank you, Chairman Stafsholt and committee members, for allowing me to testify before you concerning Assembly Bill 574, which would establish regulation requirements for earned wage access (EWA) services in Wisconsin. I would also like to thank you Senator Stafsholt for your leadership on this legislation.

There has been a rapid growth across the United States to improve the way employees receive pay for earned but unpaid wages. It is estimated that over 90,000 Wisconsin residents have used an EWA product, and over 725 employers offer it to their employees. Leading providers of “daily pay benefits”-a voluntary benefit that enables employees to better control the timing of when they receive their paycheck continue to expand and offer services to a growing number of employers and employees across the nation.

This assistance has boosted employers’ ability to retain workers and provides quicker pay for work completed. It is employee directed and is voluntary.

There is enthusiasm and a demand to create a basic statutory regulatory framework which provides certainty and continuity of Earned Wage Access (EWA) services in Wisconsin. This bill will ensure EWA will **not** fall into the scope of payday loan regulations, as it is based on earned but unpaid wages. This bill is similar to other legislation that has been signed into law in states such as Nevada and Missouri.

### What is Earned Wage Access (EWA)

- An EWA provider, such as Daily Pay, coordinates with an employer’s time and attendance system
- The EWA provider keeps a running tab of net income that all employees have earned and can access during a pay period
- An employee can choose to take access to pay already earned at one or more points during their pay period, dispensing their earned wages into a bank account or other destination of their choice
- The average cost per EWA transaction to send earned money into your bank account is \$3

Thank you again, Chairman Stafsholt, for the opportunity to testify before this committee today and I would be happy to answer any questions you may have.



# DailyPay, Inc. Testimony

TO: The Wisconsin Senate Financial Institutions &  
Sporting Heritage Committee  
FROM: SB 579  
DATE: December 6, 2023  
SUBJECT: Testimony from DailyPay, Inc.

**Position: Support.**

**Testimony:**

Good afternoon and thank you Chair Stafsholt for providing me the opportunity to testify today on SB 579. My name is Ryan Naples and I'm from DailyPay. We provide Earned Wage Access or "EWA" to employees in Wisconsin and throughout the United States. This morning I'm joined by Ben LaRocco from EarnIn, another EWA provider. PayActiv, ZayZoon, WageStream, Immediate, & Cleo are five additional EWA providers who are not here today, but are supportive of this bill and provided me with their consent to speak on their behalf.

While we may not be household names, all of our companies are currently operating in Wisconsin. As of today, more than 90,000 employees in the Badger State have used our products and over 725 in-state businesses, including SSM Health, have offered EWA to their workers.<sup>1</sup>

EWA is popular with businesses because it reduces employee turnover, absenteeism, and filling open jobs. My company's own in-house surveys have found, that specifically, EWA is popular with employers because it reduces turnover by 45%, employee absenteeism by 38%, helps businesses and recruiters fill roles 52% faster, and employees are 3x more motivated to pick up extra shifts.

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<sup>1</sup> Data reported from January 2015 until October 16, 2023 from DailyPay, PayActiv, ZayZoon, & EarnIn.



It's popular with employees because Wisconsin workers today expect life on-demand, including from HR departments and payroll systems.

In addition, where nearly two thirds of Americans live paycheck to paycheck, everyday obligations and emergency events do not neatly arise every two weeks or once a month when an employer runs payroll.

EWA companies solve for these disconnects by facilitating access to ***already earned*** wages - not future wages - for either no fee or a very low fee. Put simply, EWA keeps workers from needing to take on debt or utilize costly financial strategies.

While each EWA company is slightly different, we all share a few key characteristics.

1 - First, all EWA is based on wages earned. Workers can only access their own money they have already worked for. We are not providing credit.

2 - Because our product is not a loan, no EWA provider charges interest or late fees.

3 - All EWA products are also non-recourse. If an employer fails to make payroll the risk is on the EWA provider, not the worker. There is also no requirement to repay, no collection activity, and no credit bureau reporting for non-payment.

4 - While there are usually some small costs associated with EWA, at least one "no cost" option is offered by most EWA providers, such as through a debit card, or a next business day ACH bank transfer. A nominal fee of about \$3 for instant delivery to any bank account is also common.

Without EWA, available options to access funds quickly can be very costly, especially without good credit. They typically include overdrawing a bank

**daily**pay.



believe these are necessary for our maturing industry for a few key reasons:

- (1) First, it helps prevent harmful overreaching regulatory treatment that while well-intentioned, would significantly harm consumers and the EWA industry and result in no additional consumer protections.
- (2) It provides legal clarity for all actors operating in good faith.
- (3) And finally, it creates a level playing field for existing providers.

I am grateful for your time today and your careful consideration of this bill. I also would be happy to take any questions.



**Senate Committee on Financial Institutions and Sporting Heritage**

**SB 579**

**December 6, 2023**

**Oral Testimony from Ben LaRocco on behalf of EarnIn**

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Chairman Stafsholt, Vice Chair Felzkowski, Ranking Member Spreitzer, and Distinguished Members of the Committee, thank you for having me here today. My name is Ben LaRocco, Senior Director of Government Relations and I'm here to testify in support of SB 579, a bill to regulate and codify the Earned Wage Access, or EWA, industry. This bill is the result of years of negotiation, both in Wisconsin and across the country with input from dozens of EWA providers, regulators, legislators, and consumer advocates. Similar bills have been introduced across the country, and have been signed into law in Nevada and Missouri.

EarnIn is one of the largest EWA providers. We work directly with consumers, but also have partnerships with large employers such as Home Depot and Walgreens. I'm also happy to announce a recent partnership with Union Plus, the benefits provider to the AFL-CIO. Last year more than 13,500 Badgers used EarnIn, and nearly 40,000 have used EarnIn historically. Nationally, last year about 1.8 million Americans used EarnIn to access their earnings on their own schedules.

Once you have worked and earned money, those funds are legally yours, but your employer gets to hold onto an individual's wages until payday because running payroll is complicated and expensive. This is why most employers pay biweekly or even monthly. EarnIn provides customers with access to their earnings as they are earned, without mandatory fees, interest, or recourse.

Traditional financial services often don't serve low income families very well, relying on high fees to penalize workers when they most need help. With EWA, EarnIn takes on all the risk, so it aligns incentives between the provider and the user. We only succeed when our customers do. If they don't pay us back, we lose that money, so it is in our interest to offer a product that is responsibly used.

This bill requires that there is a free option - so how do we get paid? Similar to other fintechs, like PayPal or Venmo, an ACH transfer option is free, and you will typically receive money in 1-



3 business days, or you can pay a small fee for an instant transfer. For EarnIn, this fee is \$1.99 to \$3.99. We also ask for a voluntary tip or gratuity. Less than half of transactions have a tip, and the average tip is less than \$2. However, many people receive EarnIn’s service for absolutely no cost whatsoever. There is no relationship between the voluntary tip and an individual’s ability to utilize the service.

Other consumer protections that we support in this legislation are strict disclosures and transparency of operations, robust privacy protections (EarnIn does not monetize nor sell any data), and a prohibition on any interest, late fees, or recourse such as sending someone to collections or reporting a non payment to a credit bureau.

EarnIn is working every day to find better solutions for consumers, and SB 574 places meaningful guardrails on an existing product to better serve Wisconsin consumers with free and low-cost options.

Thank you for the opportunity to speak today and I am looking forward to continuing to work together towards our common goal of serving Badgers and being there for them meaningfully when they need it.

Sincerely,

*Ben LaRocco*

Ben LaRocco  
Senior Director, Government Relations



*National Payroll Reporting Consortium*

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PO Box 850 ★ Henrietta, NY 14467-0850 ★ [www.NPRC-Inc.org](http://www.NPRC-Inc.org)

December 5, 2023

Senator Rob Stafsholt  
Chairman, Senate Financial Institutions & Sporting Heritage Committee  
P.O. Box 7882, State Capitol  
Madison, Wisconsin 53707

Re: Support for SB 579, Earned Wage Access Services

Dear Senator Stafsholt:

We are writing to encourage the committee to approve legislation to clarify the treatment of and regulate Earned Wage Access (EWA) services. The National Payroll Reporting Consortium (“NPRC”) is a non-profit trade association which represents businesses that provide payroll processing and employment tax services to employers. NPRC members serve over three million U.S. employers, representing roughly 48% of the U.S. workforce.

Financial technology advancements have given rise to Earned Wage Access (EWA) services, which enable employees to efficiently access their earned wages prior to the next scheduled payday. EWA services are becoming a commonplace offering from employers. According to research published by the Aite-Novarica Group, there were 37.2 million EWA accesses in 2019 and nearly 56 million in 2020<sup>1</sup>.

Most payroll service providers do not offer Earned Wage Access (EWA) services, but facilitate such services by verifying (upon authorization by the employer and employee) the amount of any wages earned to date. Our interests are in supporting a helpful new feature associated with payroll administration which appears to have dramatically positive effects in terms of employee financial wellness and productivity for employers. EWA programs have demonstrated a positive effect on employee retention and reduced turnover. EWA systems solve significant financial problems faced by virtually all employees, which is that urgent and unexpected spending needs often arise prior to the next scheduled payday. It is well documented that some 40% of U.S. households do not have a cushion of savings sufficient to withstand an unanticipated expense of \$400. Many EWA services also come with free tools to improve financial literacy and budgeting.

EWA has been recognized by universities and consumer research organizations as far

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<sup>1</sup> Aite-Novarica, [Making Ends Meet: On-Demand Pay and Employer-Based Loans](https://aite-novarica.com/report/making-ends-meet-demand-pay-and-employer-based-loans) (<https://aite-novarica.com/report/making-ends-meet-demand-pay-and-employer-based-loans>).





better than virtually every other alternative. A Harvard Kennedy Research paper<sup>2</sup> noted that EWA offerings “are more efficient than market alternatives and provide clear and compelling benefits to employees . . . one-seventh of the typical \$35 per overdraft fee charged by banks . . . 16.7% of the cost a payday loan, for which lenders typically charge \$15 per \$100 borrowed.” The study concluded that “the principal reason . . . to explain both the lower cost and the greater inclusiveness of these products is... the ability of the [EWA] provider to access an employee’s salary directly to ensure repayment of advances or loans.”

Employees cannot access more than a specified percentage of their earnings, and any EWA amounts are generally recovered in full with the next payroll. There is no option to repay over a longer period. There is no recourse in the event that an amount is not repaid; no reporting to credit agencies and no credit checks.

We support establishing strong regulatory standards, including appropriate licensing and regulatory oversight of EWA providers and consumer protections. Payroll service providers whose role is limited (e.g., to verifying the available earnings) and that are not directly providing EWA services (i.e., are not contractually obligated to fund EWA proceeds) are appropriately excluded from licensing in the draft bill. We would welcome the opportunity to discuss this further if it would be helpful. Please let us know how we can be of service.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Isberg", is positioned above the typed name.

Pete Isberg  
National Payroll Reporting Consortium  
909-971-7670

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<sup>2</sup> The Power of the Salary Link: Assessing the Benefits of Employer-Sponsored FinTech Liquidity and Credit Solutions for Low-Wage Working Americans and their Employers, May 2018

**AFC** American  
Fintech Council

**FTA**  
FINANCIAL  
TECHNOLOGY  
ASSOCIATION

  
**CHAMBER  
OF PROGRESS**

*payactiv*

*dailypay.*

 **ZayZoon**

**earn in**

  
cross river

 **WAGESTREAM**

**CLEO**

**Immediate**

Wisconsin Senate Financial Institutions & Sporting Heritage Committee  
P.O. Box 7882, State Capitol  
Madison, Wisconsin 53707

**Re: Support for the passage of earned wage access legislation SB 579**

Dear Honorable Committee Members:

Thank you for the opportunity to express our strong support for SB 579 to regulate earned wage access (EWA) that creates a licensing system for EWA providers in the state.

EWA is a new and innovative industry that allows workers to access their earned pay on their schedule without waiting until payday. By enabling Wisconsin workers to access their own, already-earned wages at little or no cost before payday, EWA provides a valuable service that allows them to manage their household finances on their terms.

It is estimated that over 90,000 Wisconsin residents have used an EWA product, and over 725 employers offer it to their employees. Research shows that this helps businesses to greatly reduce employee turnover, employee absenteeism, and the time to fill open positions.

Without this critical service, Wisconsin workers would have to wait weeks to see the benefits of working an extra shift, but with EWA, they can access those funds immediately. Accessing their

pay is also a responsible alternative to traditional, high-cost financial products if an unexpected bill needs to be paid between bi-weekly or monthly paychecks.

After nearly ten years of service in Wisconsin to businesses and their employees, it is time to codify operating rules and requirements for the EWA industry. To do so will create meaningful benefits for consumers, protect against bad actors, and provide regulatory clarity for the wide range of entities engaged in this innovative and important industry.

**We urge you to pass SB 579 and create a new license for EWA providers that will protect Wisconsin workers and help Wisconsin business owners thrive, while simultaneously promoting innovation and creating regulatory clarity for the EWA industry to grow.**

Sincerely,

**American Fintech Council**

Phil Goldfeder, CEO

**Chamber of Progress**

Kouri Marshall, Director, State and Local Public Policy Central Region

**Cleo**

Neela Kiely, Head of Legal and Compliance

**Cross River**

Joseph N. Garba, Head of External Affairs

**DailyPay**

Jared DeMatteis, Chief Legal & Strategy Officer

**EarnIn**

David Durant, General Counsel

**Financial Technology Association**

Penny Lee, President & CEO

**Immediate**

Michael Orme, COO

**Payactiv**

Aaron Marienthal, General Counsel

**WageStream**

Kevin Lefton, Head of Legal & Regulatory, North America

**ZayZoon**

Garth McAdam, General Counsel



December 5, 2023

The Honorable Rob Stafsholt  
Chairman, Financial Institutions and Sporting Heritage Committee  
Wisconsin Senate  
P.O. Box 7882, State Capitol  
Madison, WI 53707

Re: In support of the S.B. 579, relating to regulating earned wage access services

Dear Senator Stafsholt:

PayrollOrg, formerly the American Payroll Association,<sup>1</sup> supports S.B. 579 on earned wage access (EWA) in Wisconsin because it would enable employers to offer EWA benefits to their employees as a means of promoting financial wellness and retaining talent. PayrollOrg also supports licensing of EWA providers because it would establish a reasonable approach to employer and employee protections. Because PayrollOrg serves the interests of payroll professionals, we are not commenting on direct-to-consumer EWA models as these models do not impact payroll management.

PayrollOrg appreciates the following provisions in preliminary draft legislation:

**Clear definitions under section 203.01.** The definition of “earned but unpaid income” is extremely important because it distinguishes EWA benefits from other financial wellness tools and payday lending. Accuracy of earned wage data is key to a successful employer-integrated EWA program. This definition also helps payroll professionals understand the need to share employees’ personally identifiable information with EWA providers when under agreement with employers and is consistent with other states’ definitions on EWA programs.

In addition, the definition of “employer” excludes payroll service providers that support payroll professionals and their employers. Legislation on EWA should not increase employers’ payroll management costs when choosing to outsource.

**Provider licensing requirements under section 203.03.** Transparency for employers and employees is necessary to promote financial wellness opportunities and prevent predatory

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<sup>1</sup> Established in 1982, PayrollOrg is a non-profit organization serving the interests of more than 20,000 payroll professionals nationwide. One of PayrollOrg’s core missions is providing representation for payroll professionals at the federal, state, and local levels. This is done primarily through PayrollOrg’s Government Relations Task Force in which members educate government and community leaders about the payroll industry and the best practices associated with paying America’s workers.

practices. A licensing requirement adds reasonable consumer protections and provides payroll professionals and their employers with information about providers. Licensing legitimizes EWA benefits offered to employees in Wisconsin.

**Provider requirements under section 203.04(1).** Like provider licensing, the provider requirements offer transparency. PayrollOrg supports requirements for providers to create a means of responding to employee questions (subsection a), providing at least one no cost option to employees (subsection b), disclosing fees and program conditions to employees (subsection c), and allowing employees to opt out of their employers' EWA benefit later without fees and penalties (subsection e).

**Provider limitations under section 203.04(2).** PayrollOrg agrees that providers should not share with employers "any fees, voluntary tips, gratuities, or other donations that were received from or charged to a consumer" for EWA benefits (subsection a). The sharing of revenue would create an unwanted incentive for employers and providers, potentially, at the expense of employees and would defeat the purpose of financial wellness opportunities.

EWA is not a loan as the wages are already earned and owed to employees nor are EWA providers creditors. PayrollOrg supports provisions that prevent employee credit investigations (subsections b and e). In addition, PayrollOrg supports employee safeguards from predatory fees and repayment pressure by providers (subsections d and f).

To discuss EWA and PayrollOrg's comments further, please contact me at 202-669-4001 or by email at [ajacobsohn@payroll.org](mailto:ajacobsohn@payroll.org).

Sincerely,



Alice P. Jacobsohn, Esq.  
Director, Government Relations

For Government Relations Task Force:

State and Local Topics Subcommittee

Chairs: Pete Isberg; Carlanna Livingstone, CPP; and Bruce Phipps, CPP

Electronic Payments Subcommittee

Chairs: Nancy Fletcher, CPP; Ronald Gilson, CPP; and Kristine Willson, CPP