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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 1/27/2025

**SPONSOR** Cadena/Lujan

**BILL**  
**NUMBER** House Bill 59

**SHORT TITLE** Earned Wage Access Services Act

**ANALYST** Montano

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
License Fee	\$0	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Recurring	General Fund
License Fee	\$0	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Financial Institutions Division	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
 Regulation and Licensing Department (RLD)

## SUMMARY

### Synopsis of House Bill 59

House Bill 59 (HB59) proposes the establishment of the Earned Wage Access Services Act, (EWASA) granting the Financial Institutions Division (FID) of the Regulation and Licensing Department (RLD) authority to oversee the licensing, enforcement, and examination of earned wage access (EWA) providers. Earned wage access providers allow a consumer to draw amounts equal to wages and other income that the consumer has earned but has not been paid.

The bill outlines several requirements for licensed EWA providers, including maintaining operating capital, submitting license application information, providing consumer disclosures,

undergoing annual renewals and reporting, and adhering to restrictions on fees and the use of voluntary tips or gratuities for determining eligibility. A banking corporation, savings and loan association, or credit union operating under the laws of the United States or of a state is exempt from the licensing requirements of the Earned Wage Access Services Act. The provisions of HB59 would apply to EWA service providers that receive licenses on or after October 15, 2025.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

Under HB59, the FID could charge up to \$1,000 for an EWA provider license application fee, up to \$500 for a new or renewed license, and up to \$200 for an annual examination fee. The projected revenue is dependent on the count of licensees and for how long these licensees stay licensed. The ceiling for revenue is dependent on the total number of commercial entities interested in being licensed; however, banking corporations, savings and loan associations, credit unions, and EWA service providers operating before October 15, 2025, are already exempt from the licensing requirement. The commercial entities affected are companies like DailyPay and Earnin, which are financial services companies that provide payroll services to their customers, allowing them to pay a fee to receive an advance on their paycheck.

Predicting how many entities might pursue a license in New Mexico is challenging, and absent an accurate count of these commercial entities, accurately estimating potential revenue is difficult. Requiring these financial service companies to be licensed through the FID may dissuade potential licensees, which in turn leads to marginally lower fee revenue. Due to these factors, the fiscal impact is estimated as indeterminate but minimal.

RLD comments that FID might not have sufficient staffing levels to adequately oversee this new function in its division. This may be true if there is a high volume of earned wage providers getting licensed in the state, and if a big portion of New Mexican residents use this service. However, there may also be minimal need for earned wage providers and the services the company provides. RLD highlights that FID's current multi-state automated licensing system will be able to handle the additional licensing.

## **SIGNIFICANT ISSUES**

As the bill is currently written, the services provided under this bill shall not be classified as a loan or any other form of credit or debt. FID argues this type of transaction is similar to a loan based on the Federal Consumer Financial Protection Bureau's (CFPB) analysis on these types of transactions. The CFPB identified two (2) emerging models of earned wage products: employer-partnered; and (2) direct-to-consumer. These two models both relate to an employee receiving earned income before they receive their paycheck. However, when withdrawing this income from a bank before the paycheck has been deposited, then the employee is technically receiving an advance on money that has not been deposited into their account. This is the same definition as credit or a loan.

FID also had this commentary on how HB59 relates to the New Mexico Small Loan act of 1955: Section 12 of HB59 (page 26, lines 15-18) limits the allowable fee on EWA proceeds to

\$7.50 per transaction. However, an unintended consequence of allowing a flat dollar fee is that, when calculated in accordance with the New Mexico Small Loan Act of 1955 (SLA), Section 58-15-17(J) NMSA 1978, the annual percentage rate (APR) of EWA proceeds could far exceed the 36 percent [annual percentage rate] cap specified in the SLA. For example, an EWA advance on earned but unpaid income of \$1,080 for one week, with a \$7.50 transaction fee and no voluntary tip or gratuity, would result in an APR of approximately 36 percent. However, if the earned but unpaid income were only \$500 under the same conditions, the APR would rise to about 77.5 percent; at \$250, the APR would climb to approximately 154 percent. This structure could be considered to have a regressive, disproportionately negative impact on lower-income New Mexico residents, who are more likely to rely on EWA services.

## PERFORMANCE IMPLICATIONS

As the bill is currently written, renewals and licenses would be handled through a paper system. FID has been transitioning licensing processes to the National Multistate Licensing System and Registry (NMLS) to take advantage of automation efficiencies, which eliminates paper renewal process. FID's performance would decline if there is a high volume of earned wage providers renewing licenses due to not having an automated system in place. If there is a low volume of licensees, or FID can use the NMLS system, there should be very minimal changes relating to performance.

## ADMINISTRATIVE IMPLICATIONS

FID will have a new license type added to their administrative responsibilities. FID expects this to be the only administrative implication, if this license is able to be managed and regulated under the NMLS system. However, the bill as written requires the handling of this license type to be done through paper with in-person renewal, which would require FID to handle this license type differently compared to other licenses.

## OTHER SUBSTANTIVE ISSUES

FID raises a number of concerns:

Language in Section 5 (page 9, line 22) of HB59 stipulates that annual licenses expire on July 1, and Section 6 (page 11, lines 12-13) requires renewals to be filed on or before April 1 for the July 1 renewal date. The NMLS opens its renewal season on November 1 and closes on December 31 each year, with all licenses issued through NMLS expiring on December 31 of the following year. FID respectfully requests the addition of language authorizing the use of NMLS, or any comparable licensing system, in HB59, and recommends amending the licensing dates to align with the NMLS renewal period (November 1 to December 31) and the December 31 expiration of licenses.

Language in Section 5 (page 10, lines 2-18) includes provisions regarding required information on the license itself and mandates that it be "conspicuously posted in the provider's principal place of business and all other locations of the business in New Mexico." Additionally, lines 24-25 address "a person whose name does not specifically appear on the face of the license." However, if the FID utilizes the NMLS, paper licenses are not issued. Instead, consumers can verify licenses and associated information via the

NMLS consumer access website. deliver the physical license to the FID director with written notice of its surrender. The FID respectfully requests that this requirement for the delivery of a physical license be removed to accommodate the use of online consumer access for license information via NMLS and the associated lack of a physical license. Further, Section 16 (page 30, line 2) refers to "a certified copy of a license," which the FID respectfully requests be removed to align with the use of the NMLS and its online license verification system. Finally, the provisions of HB59, as currently written, would apply to earned wage access service providers issued licenses on or after October 15, 2025. To harmonize with the use of the NMLS for licensing under this act, the FID respectfully requests that this provision be amended to apply to licenses issued on or after November 1, 2025.

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