

CO HB 25-1020

WRITTEN TESTIMONY

January 30, 2025

Dear Members of the House Committee on Business Affairs & Labor:

NetChoice appreciates the opportunity to testify on House Bill 25-1020, Colorado's proposed regulations on earned wage access services (EWA).

We thank the sponsors of HB 25-1020 for recognizing the many benefits of EWA. Our concerns lie with the provision banning requests for voluntary tipping. The Supreme Court has consistently held that solicitation is protected speech.¹ From charitable fundraising to political contributions, courts have recognized that the act of soliciting support is a core First Amendment right. By attempting to restrict how EWA platforms can request voluntary tips, Colorado is infringing on established constitutional protections.

This bill's solicitation restrictions are particularly problematic because they single out financial technology platforms while leaving identical solicitation practices in other industries untouched. This disparate treatment represents precisely the kind of content-based restriction the First Amendment prohibits.

The voluntary tipping model isn't just a financial mechanism—it's a form of expressive association. When users choose to tip, they're communicating support for a service that helps millions avoid predatory lending. By constraining this solicitation, Colorado would effectively silence a critical form of community-supported financial innovation.

The Supreme Court has repeatedly struck down laws that impose prior restraints on solicitation. In cases like *Riley v. National Federation of the Blind*, the Court made clear that solicitation carries robust constitutional protection. Colorado's bill would require government permission before platforms can even request voluntary support—a classic example of an unconstitutional prior restraint.

¹ The Supreme Court has long recognized that the First Amendment protects not just verbal expression but also conduct that communicates a message. See *Spence v. Washington*, 418 U.S. 405, 409-11 (1974); *Texas v. Johnson*, 491 U.S. 397, 404 (1989).

We greatly appreciate the Committee's willingness to work with industry to address this concern. Consumer protection can be achieved through less restrictive means that don't violate fundamental free speech rights.

Again, we respectfully ask for removal of the ban on voluntary tipping . As always we offer ourselves as a resource to discuss any of these issues with you in further detail, and we appreciate the opportunity to provide the committee with our thoughts on this important matter.

Sincerely,

Amy Bos
Director of State and Federal Affairs
NetChoice