

Holding the Line

Wage payment

State solutions to the U.S. worker rights crisis

Report • By **Jennifer Sherer** • July 23, 2025

What does current federal law say about wage payment?

The Fair Labor Standards Act (FLSA)—which establishes wage and hour standards that apply to most workers at private businesses with annual revenue of at least \$500,000, as well as hospitals, care centers, schools, and public agencies—requires that covered employers keep employee time and pay records. Beyond this minimal recordkeeping requirement, other important questions about wage payment are left up to states. The FLSA does not specify, for example, how and whether employers make time and pay records available to employees; when or how often employees must be paid; the manner in which pay can be issued (e.g., cash, check, direct deposit, electronic pay card, etc.); whether and under what circumstances employers can take deductions from workers' pay; and how and by when employees must be paid following separation from employment.

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What are the threats to federal wage payment protections?

Current threats to wage payment protections include:

- **Diminished federal Department of Labor (DOL) enforcement capacity:** Wage theft is an epidemic across the country, and diminished DOL capacity to enforce federal wage and hour laws will exacerbate this problem. As of May 2025, the number of federal DOL Wage and Hour Division investigators is at an **all-time low**.
- **Attempts to close the Consumer Financial Protection Bureau (CFPB):** The 2006 Electronic Funds Transfer Act included important **protections for workers** who encounter fraud or abuse when attempting to access wages issued via electronic pay cards (including disclosure requirements, error resolution rights, and

rights to other options for receiving pay). Trump administration efforts to **eliminate CFPB** may leave the federal government with little or no ability to enforce these protections.

How can states maintain and strengthen wage payment protections?

States have legal authority to establish their own wage payment standards since most issues related to wage payment are not covered by the FLSA.

Step I: Lock in and enhance federal recordkeeping requirements

At a bare minimum, all states should ensure that state code requires employers to keep detailed employee time and pay records.

- For example, **California** requires “payroll records showing the hours worked daily” by employees, and California wage orders contain more specific recordkeeping provisions “showing when the employee begins and ends each work period” as well as meal periods and split shift intervals (CA Code Regs Title 8, Ch. 11010, Sec. 7).

Getting started: Key questions for auditing state wage payment laws

- Is there recordkeeping and wage payment language in state code?
- What time and pay records are employers required to keep and in what form?
- When and how often are employers required to pay employees?
- What notice of wage rates and payment schedules must employers provide to employees?
- Are employers required to provide employees with pay stubs (or other access to written wage statements) with each paycheck?
- What forms or methods of payment can employers use to pay employee wages?
- Are employers allowed to take deductions from employees’ paychecks? If so, for what purposes? What notification is required in order to authorize deductions?
- What steps and timelines must an employer follow to issue an employee’s final paycheck following separation from employment?
- Which employers and workers are covered? Are some occupations excluded from coverage?

Step II: Ensure state code requires timely and accurate payment of wages for all workers

1. **Require pay stubs (written wage statements) with each paycheck:** Most states require employers to provide workers with a print or electronic pay stub at each payday. Pay stub requirements **vary widely** by state, and should at a minimum guarantee that workers receive critical information such as the rate of pay, hours worked, gross and net wages, and itemized accounting of any withholdings or deductions. The six states (Alabama, Arkansas, Louisiana, Mississippi, South Dakota, and Tennessee) that still lack a pay stub requirement should adopt one, as **Ohio did recently**.
2. **Ensure timely pay on established paydays:** State codes **vary widely** on the question of how frequently employers are required to pay workers and a few states lack any standard to ensure workers are paid at timely, predictable intervals. As a minimum standard, states should ensure employers are required to issue paychecks at least biweekly or twice per month on a regularly scheduled payday.
3. **Regulate forms of payment to prevent wage theft:** The proliferation of third-party vendors contracting with employers for payroll services that include use of electronic pay cards or debit cards has increased the risk that workers are charged fees for accessing their pay or are unable to access part or all of their wages. **Eleven states** already require that employers provide employees the option to receive payment of wages by check and many others set additional guardrails for the use of pay cards. For example, in **Connecticut** and **Illinois** employers can only use pay cards if they first obtain employee consent; explicitly offer direct deposit and paper check/cash as alternatives; provide clear written notice disclosing fees and terms of pay cards; and allow employees to revoke pay card authorization and switch to another method of payment at any time. Connecticut also requires that pay cards must allow at least three free withdrawals per pay period without fees.
4. **Prevent unauthorized deductions from paychecks:** The FLSA minimally bars employers from making deductions that bring a worker's hourly pay below the federal minimum wage, with **exceptions** for the "reasonable cost" of items provided to benefit the employee, such as food or lodging. States should at a minimum prohibit employers from taking deductions from workers' pay without clear written notice and employee authorization. For example, **New York** state code and accompanying **regulations** require employee authorization of payroll deductions and specify types of deductions considered legal or illegal.
5. **Mandate prompt payment of final paychecks:** To prevent the withholding of final paychecks after separation from employment (a common form of wage theft) many states set a deadline by which an employer must issue a worker's final pay. For example, **New Hampshire** requires employers to issue final paychecks within three days to workers who are terminated, and no later than the next regular payday if a worker resigns. In **Nevada**, workers must receive a final paycheck "immediately" if they are terminated, or within a week if they resign or quit. In **West Virginia**, workers must receive a final paycheck on or before the next regular payday.

Step III: Strengthen wage payment accountability and enforcement

1. **Require written notice at time of hire:** More states should follow the lead of [Minnesota](#) and others by requiring employers to provide written notice of terms of employment at time of hire. This type of notice includes very basic information about employment terms but can be a critical tool for workers and enforcement agencies in the event that wage commitments are not met. Such notices should at a minimum specify the employer(s) name(s) and contact information; the work location, the nature of the work, and expected period of employment; the wage rate including when overtime or premium pay will apply; and benefits to be provided and at what cost (with information provided in a language understood by workers).
2. **Strengthen enforcement:** States have a host of opportunities to strengthen enforcement of wage payment laws, including:
 - Updating penalty frameworks to ensure fines and damages are adequate to serve as deterrents;
 - Allowing workers to pursue a private right of action (in addition to agency remedies) to address wage payment violations;
 - Enacting strong [non-retaliation protections](#) to ensure all affected workers can speak up about violations;
 - Equipping state agencies with adequate resources and staffing;
 - Pursuing joint employer liability for wage claims when necessary; and
 - Adopting tested best practices for [strategic enforcement](#), co-enforcement, and employer and worker outreach and education.

Recommended sources for model legislation on these and related policies:

- [Winning Wage Justice](#) (National Employment Law Project)
- [The DNA of Worker Rights: Key Building Blocks of California's Model Framework of Wage and Hour Standards](#) (UC Berkeley Center for Law and Work)
- [Wage Theft Policy Playbook](#) (State Innovation Exchange)
- [The Labor Standards Enforcement Toolbox](#) (Rutgers Workplace Justice Lab)