TESTIMONY OF ANDY MORRISON, ASSOCIATE DIRECTOR, NEW ECONOMY PROJECT

BEFORE THE NEW YORK STATE SENATE STANDING COMMITTEES ON CODES AND CONSUMER PROTECTION ON "CURRENT PATTERNS IN WHITE-COLLAR CRIME AND FRAUD, AND POSSIBLE UPDATES TO LAWS PROTECTING NEW YORKERS AND MARKETS"

March 4, 2026

Honorable Chairs Myrie and May, and Members of the Committees, thank you for the opportunity to testify. My name is Andy Morrison, and I am the Associate Director of New Economy Project, a 30-year-old New York City-based economic justice organization that works with community groups to build an economy that works for all—based on cooperation, racial justice, neighborhood equity, and ecological sustainability.

My testimony today focuses on financial technology, or "fintech," schemes structured to evade New York's longstanding usury and consumer protection laws and exploit working New Yorkers and communities of color with deceptive, high-cost predatory loans.

As the Committees know, payday lending is categorically illegal in New York. Our civil usury law caps interest at 16%, and it is a felony to charge more than 25% under our criminal usury statute. Yet fintech companies operating under the label "Earned Wage Access" conduct business in New York—making loans with average interest rates exceeding 330% APR.[1]

We estimate that the EWA industry has drained, since 2019, well over half a billion dollars in predatory fees and interest from working New Yorkers[2]—effectively forcing workers to pay to get paid.

So how does an industry that charges effective interest rates far above New York's usury caps continue to operate here, where payday lending is illegal?

The answer is that fintech companies falsely claim their products are not loans, in order to circumvent New York's robust, longstanding usury and consumer protections laws.

Here's how it works:

EWA companies use slick phone apps to aggressively market supposedly fast, supposedly free advances to working New Yorkers—on social media, in workplace breakrooms, and even in the

New York City subway system—only to impose high and hidden fees that trap users in cycles of repeat borrowing.

The companies disguise interest as "expedited transfer" fees, subscription charges, and even "tips." They require users to grant broad access to their bank accounts, enabling repayment through direct debits. By falsely claiming their products are not loans, companies also seek to avoid federal protections that apply to credit transactions—including restrictions on conditioning credit on preauthorized access to a consumer's bank account under the Electronic Fund Transfer Act. According to the New York Attorney General's office, one of the largest EWA companies recoups payment more than 99.99% of the time.[3]

Throughout the borrowing cycle, companies feed user data into proprietary AI underwriting systems to determine whether a worker will be offered an advance and in what amount. The same financial data is used to monitor workers' accounts, predict when paychecks will arrive, and automatically debit funds. These predictions are often inaccurate, leading to premature debits, ensuing bank overdraft fees, and cascading financial harm.

At every step, EWA companies design their products to evade enforcement of laws that prohibit high-cost lending. The industry seeks to nullify state usury protections by claiming its products are not loans—an argument that relies on strained interpretations of legal concepts such as "recourse." This is regulatory arbitrage: designing a business model to exploit loopholes and sidestep laws meant to bar high-cost lending.

Like traditional payday lenders, EWA companies disproportionately target low-income people and communities of color, exacerbating financial instability and a widening racial wealth divide. According to the Government Accountability Office, EWA apps are primarily used by individuals earning less than $50,000 annually[4]—meaning these fees fall most heavily on low-wage workers already struggling amid New York's deepening affordability crisis.

The Community Service Society of New York found that nearly one-third of New Yorkers under age 30 report using these payday loan apps "frequently" or "all the time."[5] Black and Latino workers were significantly more likely to report frequent use than White respondents, underscoring the industry's disproportionate impact on communities of color.[6]

New York bans payday lending for a reason. Our usury laws reflect longstanding public policy to protect New Yorkers from exploitative high-cost loans that strip wealth from communities and trap people in cycles of debt—leaving them worse off than before they borrowed.

Importantly, New York's usury laws turn on substance, not branding. When money is advanced, repayment is required, and fees are collected, the law should apply. That is why the New York Attorney General is suing two leading EWA companies, DailyPay and MoneyLion, alleging violations of our usury and consumer protection laws.[7]

The Attorney General complaints, filed in April 2025, describe gross and systematic misconduct. The companies charged workers fees translating into triple-digit effective interest rates, often as high as 750% APR or more. Many borrowers were lured into taking out advance after advance—frequently multiple times per week—with repayment automatically deducted from their next paycheck. In one case cited in the litigation, a single worker took out hundreds of advances over two years and paid nearly $1,400 in fees. This, too, is by design. Companies structure their products to drive repeat borrowing, limiting advance amounts so borrowers must return again and again, generating more fees each time.

As scrutiny increases at the state level, the fintech industry has turned to Congress and federal regulators—backing efforts to further weaken the Consumer Financial Protection Bureau under the Trump administration, and lobbying for federal legislation that would preempt states' authority to regulate EWA.

At stake is whether states like New York will retain the power to protect residents from the scourge of predatory payday lending.

Meanwhile, the industry and its backers in Silicon Valley and on Wall Street have only become more emboldened. DailyPay, for example, has now raised more than $1 billion in debt financing, including through a $200 million asset-backed securitization.[8] In practical terms, that means the exorbitant fees pulled directly from workers' paychecks are pooled together and sold to banks and institutional investors as investment products.

That creates a built-in and pernicious incentive: the more workers borrow, the more Wall Street profits.

Like Buy Now, Pay Later—which the Governor and Legislature have taken significant steps to rein in—Earned Wage Access and similar emerging fintech products reflect a broader trend: the financialization of everyday life. Their proliferation threatens to normalize usurious debt as a routine survival strategy, and to reframe structural economic problems—rent that keeps rising, groceries that cost more, and paychecks that don't stretch far enough—as individual cash-flow gaps to be bridged through high-cost credit.

New York must reject this premise and hold the line against predatory and deceptive lending—particularly as federal regulators abdicate their responsibility to protect communities and consumers. The Legislature must take clear, decisive action this session to crack down on unlawful Earned Wage Access payday loans before the industry further entrenches itself in our state.

The Attorney General has already taken important enforcement action. But fintech is an extremely well-capitalized industry with national legal teams and powerful lobbying operations. The industry is actively litigating similar cases across the country—while pushing for federal legislation that would preempt state authority entirely.

The Legislature has the power and duty to rein in this industry, by reaffirming and clarifying that EWA advances are, in fact, loans under existing New York law and that all fees must be included in the calculation of interest for purposes of our usury statutes. We urge you to use that power to defend New Yorkers from financial predation.

We do not support doing so through a special licensing regime, as contemplated in bills such as S3332-A/A258-A. A close reading of that bill, which the industry supports, makes clear that it would carve Earned Wage Access products out of New York's usury framework and effectively ratify the industry's existing pricing model. New York does not license storefront payday lenders; it bans them. It must not license their equally harmful digital counterparts.

Instead, the Legislature should enact the Stop Taking Our Pay Act (S8939/A9644), sponsored by Senator Brouk and Assemblymember Raga. The STOP Act would clarify existing law that EWA advances are loans and that New York's usury caps apply to them.

For years, advocates across the state have been forced to play regulatory "whack-a-mole" with high-cost lenders seeking new ways to blast open New York's doors to predatory payday lending. Earned Wage Access is simply the latest iteration of predatory payday loans. Without clear guardrails, more will follow. Strong consumer protection and enforcement that keep up with our changing financial services system are essential.

At the same time, EWA and other predatory schemes gain traction by exploiting New Yorkers who are struggling to make ends meet. New York must pair enforcement with structural solutions. Alongside living wages and truly affordable, decommodified housing, the state should expand support for community development financial institutions and credit unions that provide responsible loans—and enact legislation to bring public banking to New York.

Finally, while the Attorney General has taken important and necessary enforcement action, the scale and sophistication of these digital lending models demand sustained institutional capacity. The Legislature should ensure that the Attorney General's office has the resources necessary to pursue complex fintech-based usury and consumer protection cases. It should also ensure that local enforcement authorities have the funding and expertise to address financial predation, and it should direct the Department of Financial Services to treat high-cost app-based lending as a supervisory and enforcement priority, including scrutiny of the regulated financial institutions that facilitate these products.

New York State has long been a national leader in keeping predatory lenders out and cracking down on financial predation. At a time when federal consumer protections are being systematically dismantled—emboldening high-cost lenders and exacerbating racial and economic inequities—the Governor and Legislature must act quickly and decisively to defend New Yorkers from wealth extraction and exploitation.

Thank you again for the opportunity to testify today.

Endnotes

1. California Department of Financial Protection and Innovation, “2021 Earned Wage Access Data Findings” (2023).
2. New Economy Project, “$500 Million and Counting: How Unchecked Payday Loan Apps Are Draining New Yorkers’ Paychecks” (2025).
3. New York Supreme Court, “People of the State of New York vs. DailyPay” (2025).
4. Government Accountability Office, “Financial Technology Products Have Benefits and Risks to Underserved Consumers, and Regulatory Clarity Is Needed” (2023).
5. Community Service Society of New York, “Credit Alone? What New Yorkers’ Use of Fintech Tools Means for State Consumer Protections” (2025)
6. Ibid.
7. New York Attorney General, “Attorney General James Sues Payday Lending Companies for Exploiting Workers with Illegal Loans” (2025).
8. New Economy Project, “NY Coalition Blasts Wall Street’s Latest Scheme – Underwriting Payday Loans to Low-Wage Workers” (2025).