Testimony Supporting S.B. 361: An Act Preventing The Use of Credit Scores by Certain Employers

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Thank you Chairperson Prague, Chairperson Zalaski and members of the Labor & Public Employees Committee for the opportunity to testify today. I am Robert Hiltonsmith, a Policy Analyst at Demos, a national, non-partisan policy research and advocacy organization. Founded 11 years ago, Demos works with advocates and policymakers around the country in pursuit of four overarching goals: 1) A more equitable economy with widely shared prosperity; 2) A vibrant and inclusive democracy with high levels of voting and civic engagement; 3) An empowered public sector that works for the common good; and 4) Responsible U.S. engagement in an interdependent world. I am happy to be here today to testify in support of Senate Bill 361, introduced by Senate Majority Leader Martin Looney, which limits the use of credit screening by employers when making hiring and firing decisions.

Over the past nine years, Demos has conducted extensive research on credit card debt among low- and middle -income households. As part of this research, we have become increasingly concerned with how families are being financially penalized for being in debt, making it difficult, if not impossible, for them to ever get out of debt. The proliferation of the use of credit reports and scores in particular have resulted in families in debt being forced to pay more for basic services, such as water and gas, being denied a rental apartment, being charged more for auto or homeowners' insurance, or, as I'll discuss today in more detail, being denied a job— which is the very thing they need to get out of debt.

As many of you know, economic insecurity has become the "new normal" in America. Fourteen million Americans are out of work, and the vast majority of Americans have seen their incomes stagnate or decline over the past decade. These stagnant incomes and job insecurity, in turn, have caused credit card debt to balloon. Among the 60% of households with credit card debt, revolving card balances averaged nearly $10,000 in 2008.

Demos' extensive research on credit card debt among middle- and low-income households has found that most indebted families go into debt to pay for basic expenses: groceries, utilities, child care, and health care[1]. In fact, in a 2008 survey we commissioned of low-and-moderate income households, 37% of credit card indebted families had used their credit cards to pay for basic expenses and 52% had used them to pay for medical care in the past year. Simply put, Americans are borrowing to make ends meet.

Against this backdrop of troubled family finances, as mentioned above, there has been a dramatic increase in the marketing and use of consumer credit reports for a purpose completely unrelated to extending credit: employer decisions to hire or fire workers[2]. Employer surveys conducted by the Society of Human Resources Management (SHRM) suggest that over the last 15 years, employers' use of credit reports in hiring processes has gone from being a marginal practice, one used by less than one in five employers in 1996, to a commonplace one used by 6 out of every 10 employers in 2009[3].

This increase in employers' use of credit-history information to make hiring and firing decisions comes despite strong evidence that credit checks have *no* validity in predicting job performance and warnings from the Equal Employment Opportunity Commission that the practice produces discriminatory hiring and firing decisions that violate federal civil rights and deny equal opportunity to workers. Further, credit reports are often inaccurate.

Employers who use credit checks typically argue that they are necessary to determine who "the best fit for the job" is and also to protect against employee fraud.[4] However, according to the Chief Psychologist for the Equal Employment Opportunities Commission, there is "very little evidence that credit history is indicative of who can do the job better" and it is "hard to establish a predictive relationship between credit and crime."[5]

Some representatives of credit reporting agencies have acknowledged the lack of evidence showing a relationship between credit-report data and job performance. Most notably, Eric Rosenberg, TransUnion's Director of State Governmental Relations, acknowledged earlier this year that: "... we don't have any research to show any statistical correlation between what's in somebody's credit report and their job performance or their likelihood to commit fraud."[6]

The one rigorous study of the use of credit checks for employment purposes conducted by qualified experts found that credit history information does not accurately measure job performance. This study sampled 178 employees, split between active and terminated, holding "financial services and collections" jobs with the employer.[7] It compared each of the specific categories of credit information in the employees' credit reports—for example, the number of past-due accounts in an employee's report—with the performance ratings (of the active employees) and termination data. The study found *no* relationship between the various indicators of poor credit and the performance ratings of active employees or whether or not the employee was terminated. More research, clearly, needs to be conducted investigating the existence of a connection between credit quality and employee performance, but this study and other anecdotal evidence show that the practice including credit information in hiring decisions is troubling, and that laws should strongly be considered to regulate the practice.

Given the size and revenues of the credit reporting industry, it is more than reasonable to expect their reports to have few or no errors. But, in fact, error rates are high. A 2008 Federal Trade Commission (FTC)-sponsored pilot study found that about 31 percent of people who reviewed their credit report found errors that they wanted to dispute.[8] About 11 percent of people reported errors that were categorized by the FTC as "material", i.e. errors that significantly affected credit scores.[9] The FTC pilot study also provides evidence that individuals with lower credit scores are much more likely to allege errors after viewing their report. In particular, material errors were alleged in half of the cases with a credit score under 610 and one-third of cases with a score between 610-689.

The 2008 FTC pilot study is limited in scope and similar to other available studies, doesn't rely on a nationally representative sample. However, if the findings are even roughly representative, it would mean that somewhere in the range of 20 million Americans have material errors in their reports.

At least four states—Hawaii, Illinois, Oregon, and Washington—have already come to the conclusion that allowing employers to view credit reports and scores when making hiring and firing decisions is unjust and unfair, given that credit checks have *no* validity in predicting job performance and that they are often inaccurate. Each state has enacted legislation since 2007 restricting the use of consumer reports for employment purposes and many more states, around 16, are currently considering similar legislation.

Following the precedent of these four states, I'd like to recommend that the bill be amended to prohibit employers from checking the credit of current or potential employees; simply prohibiting employers from requiring employees submit to credit checks may still leave the window open for employers to discriminate against potential applicants who refuse to submit to such a check.

If America is the "land of the second chance" and committed to equal opportunity, it's hard to think of a practice that flies more in the face of this than letting employers deny jobs to people on the basis of their credit history. Connecticut should act now to end the unfair and arbitrary use of credit reports to make hiring and firing decisions. Especially in today's economy— with 170,000 Connecticut workers currently unemployed and almost 100,000 forced to accept part-time work, and debt delinquency rates that have more than quadrupled over the last four years —the stakes for Connecticut workers are too high to allow employers to outsource hiring decisions to credit reporting agencies.

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[1] Tamara Draut and Jose Garcia, "The Plastic Safety Net: How Households are Coping in a Fragile Economy", Demos 2009, available at: http://demos.org/publication.cfm currentpublicationID=C1B896F4-3FF4-6C82-56F2B3EF557CCFF5

[2] See, e.g., Ben Arnoldy, The Spread of the Credit Check as Civil Rights Issue, The Christian Science Monitor, January 18, 2007; Thomas Frank, When 'Bad' Credit Stands in the Way of a Good Job, USA Today, February 21, 2009; Jonathan D. Glater, Another Hurdle for the Jobless: Credit Inquiries, N.Y. Times, August 7, 2009; Andrew Martin, As a Hiring Filter, Credit Checks Draw Questions, N.Y. Times, April 9, 2010.

[3] Society of Human Resources Management, Background Checking: Conducting Credit Background Checks, January 22, 2010.

[4] See, e.g., Statement of Michael Eastman, U.S. Chamber of Commerce, EEOC Meeting on Employer Use of Credit History as a Screening Tool, October 20, 2010.

[5] Statement of Dr. Richard Tonowski, EEOC Chief Psychologist, EEOC Meeting on Employer Use of Credit History as a Screening Tool, October 20, 2010.

[6] Andrew Martin, As a Hiring Filter, Credit Checks Draw Questions, N.Y. Times, April 9, 2010.

[7] Jerry K. Palmer and Laura L. Koppes, Investigation of Credit History Validity at Predicting Performance and Turnover, paper presented at meeting of Society for Industrial and Organizational Psychology, Chicago, IL, April 3, 2004.

[8] Federal Trade Commission, Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003 (December 23, 2008).

[9] A material error was defined as having a credit score less than 760 and including the following types of errors: negative items, bankruptcies and other negative public record information, accounts sent to collection, and number of inquiries for new credit. Thus, errors that were material for someone with a score under 760 were treated as non-material for those with scores above

760. This limited definition of materiality likely excludes errors that are material in the employment context where it is the specific pieces of information in the report, and not credit scores (which generally are not available to employers) that can have an adverse impact. Even for employees with scores above 760, a single error could result in denial of a job offer.