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January 14, 2020

U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative:

On behalf of the members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing in support of the Protecting Older Workers Against Discrimination Act (POWADA) (H.R.1230). Age discrimination occurs all too often in workplaces across the United States. Statistics reveal that three in five older workers report experiencing some form of discrimination on the job. POWADA would help to restore older workers' rights under current law.

Fifty-one years ago, the Age Discrimination in Employment Act of 1967 (ADEA) was enacted to protect certain applicants and employees 40 years of age and older from employment-based discrimination in private employment. The 1974 amendments to ADEA extended the same protections to workers employed by the states. However, there are gaps in current law with respect to damages. And, the courts have gutted many of the protections. In cases like *Hazen Paper v. Biggins* (91-1600), 507 U.S. 604 (1993), for example, the Supreme Court held that interfering with an employee's pension does not automatically violate the ADEA, though it is a clear ERISA violation. While older employees may have more years of service, age and years of service are independent of each other. Similarly, in *Kimel v. Florida Board of Regents*, 528 U.S. 62 (2000), the court held that Congress did not have the power to abolish state immunity to ADEA claims and thereby enabled individuals to sue states and state agencies in federal court for age discrimination. These and other cases have pointed out the need to strengthen the law and remedy these and other gaps in coverage.

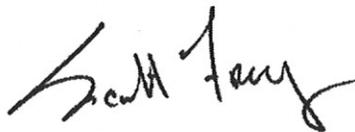
POWADA is bipartisan legislation that amends the ADEA of 1967 and other laws to help level the playing field for older workers and restore their ability to fight back against age discrimination. The workforce is aging and workers in the 65 plus range is the fastest growing. We must protect them. Discrimination based on age is wrong and unfair, and holding older workers who have been discriminated against to a higher legal standard of proof than others is unjust. Age discrimination is a key reason it takes unemployed older workers nearly a full year, on average, to find another job. When they do land a new job, it's often for less money, which can have a crushing impact on older workers' long-term financial security and ability to live independently in retirement as they age.

**American Federation of State, County and Municipal Employees, AFL-CIO**

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Older workers should have the same rights as every other worker to be judged on their merits. We urge members of the House to vote favorably on this bill.

Sincerely,

A handwritten signature in black ink that reads "Scott Frey". The signature is written in a cursive style with a large, sweeping initial "S".

Scott Frey  
Director of Federal Government Affairs

SF:KLS:rf