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**Contact:** Kate Cyrul / Bergen Kenny (Harkin) 202-224-3254

Erica Chabot (Leahy) 202-224-7703

Rachel Racusen/Aaron Albright (Miller) 202-226-0853

## **BICAMERAL LEGISLATION WILL PROTECT OLDER WORKERS FROM DISCRIMINATION; RESTORE CIVIL RIGHTS**

WASHINGTON, D.C. – Today, three Chairmen – Senator Tom Harkin (D-IA), Chairman of the Health, Education, Labor and Pensions (HELP) Committee, Senator Patrick Leahy (D-VT), Chairman of the Senate Judiciary Committee and Congressman George Miller (D-CA), Chairman of the House Education and Labor Committee, introduced landmark legislation that restores vital civil rights protections for older workers in the face of the Supreme Court’s decision in *Gross v. FBL Financial*.

In *Gross*, the Supreme Court rewrote civil rights laws, overturning well-established precedent and making it harder for workers facing age discrimination to enforce their rights. The Court ruled that it is no longer enough for a victim of discrimination to prove that age was a motivating factor in an adverse employment decision. An employee must now prove that it was the decisive factor. The Court’s holding specifically means that victims of age discrimination face a higher burden than those alleging race, sex, national origin or religious discrimination. And, the opinion has already had reverberations in a wide range of civil rights cases beyond age discrimination. Senators Durbin (D-IL), Specter (D-PA), Kohl (D-WI), Schumer (D-NY), Franken (D-MN), Sanders (I-VT), Brown (D-OH), Cardin (D-MD), Merkley (D-OR), Feinstein (D-CA) and Dodd (D-CT) are original co-sponsors of the bill.

“For decades we have had a consistent standard, whether based on race, sex, national origin, religion or age. The *Gross* decision established a far higher standard of proof for age than for other forms of discrimination, without any rationale or justification,” **Senator Harkin said.** “Today we will introduce the Protecting Older Workers Against Discrimination Act with the simple purpose of reversing the Court’s decision and restoring the law to what it was for decades. We intend to make certain that, once again, Jack Gross and all older workers in this country enjoy the full protections of the law.”

“Preserving the Age Discrimination and Employment Act is important to ensure that the great progress we have made in widening the doors of opportunity for all Americans continues in the future. I am concerned that the *Gross* decision will allow employers to discriminate on the basis of age with impunity as long as it is paired with other reasons,” **Senator Leahy said.** “I fear that in the wake of *Gross* few, if any, of these victims will achieve justice. The Protecting Older Workers Against Discrimination Act will restore vital protections that have long secured the promise of equal rights and equal opportunity for older workers.”

“The same conservative Supreme Court justices responsible for the backward ruling against Lilly Ledbetter have now thrown another legal barrier in front of hard-working older Americans,” **said Rep. Miller**. “Workplace discrimination based on age is just as wrong as discrimination based on any other irrelevant factor -- and it should be treated as such in the court of law. The Protecting Older Workers Against Discrimination Act will ensure that all workers are treated fairly and not subject to decisions based on an employer’s prejudice, especially in this difficult economy.”

"Thanks to the leadership of Chairmen Harkin, Leahy and Miller, this legislation will protect older workers from being relegated to second class status when they try to vindicate their rights under the ADEA," **AARP Executive Vice President Nancy LeMond said**. "For more than fifty years, AARP has been fighting against age discrimination and working to promote the value and experience older workers bring to the job. AARP is proud to endorse this legislation, and we urge Congress to quickly approve this bill as a critical first step to restore protections under our age discrimination laws."

**The Protecting Older Workers Against Discrimination Act will restore fundamental fairness.**

- The Act reverses the *Gross* decision and restores the law to what it was for decades before the Court rewrote the rule. The Act makes clear that when a victim shows discrimination was a “motivating factor” behind a decision, the burden is properly on the employer to show it complied with the law.
- The Act is modeled on the Civil Rights Act of 1991, which passed the Senate on a bipartisan basis 93-5. Among other things, the Civil Rights Act of 1991 codified the “motivating factor” framework for race, sex, national origin and religion discrimination claims under Title VII of the Civil Rights Act of 1964.
- The Act makes clear that this “motivating factor” framework applies to all anti-discrimination and anti-retaliation laws – treating all workers, and all forms of discrimination, equally.

The bill is supported by the AARP, the Leadership Conference on Civil Rights, the National Senior Citizens Law Center and the National Women’s Law Center.

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