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Chairman, House Education and Labor Committee
Opening Statement at Committee Mark-Up of H.R. 3185
The 401(k) Fair Disclosure for Retirement Security Act
Wednesday, April 16, 2008

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Today this committee will consider important legislation to help Americans better save for retirement: H.R. 3185, the "401(k) Fair Disclosure for Retirement Security Act."

Over the last three decades, the number of Americans with 401(k)-style retirement savings plans has skyrocketed, while the number of Americans with traditional pension plans has plummeted.

Fifty million workers have 401(k)-style plans. Nearly two-thirds of private sector workers who have a pension have a 401(k) – and only a 401(k).

Given the increasingly prominent role of 401(k) plans, it is critical that the plans provide the best possible deals for their participants.

Yet the median 401(k) account balance is now about $23,000. For many retirees, that's not even enough to finance a single year of retirement.

It's no surprise that many Americans worry about how they will ever have enough savings to last them throughout retirement.

Part of the problem is that far too many 401(k) plan participants are not getting the best deals possible.

Many 401(k)-style plans charge hidden fees that can cut deeply into workers' retirement savings. And many plan participants do not have access to low-cost investment options – index funds – that can help them boost their retirement savings.

Now more than ever, it is critical that we address both of these issues.

The bursting of the housing bubble has already diminished one of the key sources of wealth for millions of American families. But for workers with a 401(k), it has been a double-whammy, as the market downturn has also battered their retirement savings.

We cannot allow unjustified fees to compound this loss even further for people who have worked long and hard to build up these savings.

For too long, companies in the financial services industry have maintained a stranglehold on retirement savings that they didn't earn and that don't belong to them.

The purpose of this legislation is to take these hard-earned savings away from the special interests and return them to their rightful place – the retirement accounts of American workers.

At a Committee hearing last year, the Government Accountability Office testified about the problems posed by hidden 401(k) fees. Under current law, weak disclosure requirements mean that workers lack critical information about fees they are paying.

According to the GAO's testimony, because of weak disclosure requirements, 80 percent of workers did not know that fees were being taken out of their accounts.

Some of these fees may be reasonable and necessary. But 401(k) plan participants – the customers – should be able to make that judgment for themselves.

The negative consequences of these hidden fees can be significant. According to GAO, a 1-percentage-point increase in fees would cut retirement income by almost 20 percent after 20 years and 30 percent over 30 years.

H.R. 3185 is a modest approach to addressing the issue of fees.

The legislation does not mandate the fees that 401(k) service providers may or may not charge. It simply requires providers to disclose in clear and simple terms all the fees that they are charging to plan participants.

The fees would have to be broken down into four categories: fees for administrative expenses, fees for investment management, fees for transaction costs, and all other fees.

To help workers better understand their investment options, the bill would require 401(k) plans to provide workers with key information on their options, such as their historical risk, returns, and fees.

The legislation would also require employers to offer at least one low-cost index fund as an investment option for employees participating in 401(k) plans.

Studies have shown that index funds outperform an overwhelming majority of actively-managed, often higher-cost funds.

The bill would not require employees to invest in these index funds. It would simply ensure that such funds are available to workers if they choose to invest in them.

In fact, 72 percent of 401(k) plans already offer an equity index fund, according to a 2006 study. Clearly, there's no reason why we can't make index funds available to all workers, who should be able to choose for themselves whether or not to invest in them.

The legislation will provide information on fees not just to workers, but also to their employers. Companies sponsor these plans and offer them as an employee benefit.

Service providers would also have to disclose to employers any potential conflicts of interest they may have.

Lastly, the legislation puts teeth into these new requirements by requiring the Department of Labor to assess compliance with them and to issue citations for violations.

For most of this decade, American workers have not reaped their fair share of the economic benefits of their hard work. Faced with stagnant incomes and rising prices for basic goods and services, American families have had to struggle more than ever to put away some savings.

Workers earned those savings. Those savings belong to them.

Workers are the ones who will depend on those savings for a secure retirement. They are entitled to clear and complete information about their own savings.

After a lifetime of hard work, retirees ought to have financial security that allows them to focus on family and friends without sacrificing their standard of living.

Helping American workers to make better-informed decisions about their retirement options is a critical step towards increasing retirement security.

Thank you.