Honorable George Miller (D-CA)
Chairman, House Education and Labor Committee
Opening Statement at Committee Mark-Up of H.R. 2989
The 401(k) Fair Disclosure and Pension Security Act of 2009
Wednesday, June 24, 2009

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The Education and Labor Committee meets to consider H.R. 2989, the 401(k) Fair Disclosure and Pension Security Act of 2009.

The economic collapse has fueled Americans' concerns about whether they will have enough savings to last them throughout retirement.

They have seen their financial security undermined by backroom sweetheart deals, undecipherable disclosures and hidden fees.

They have seen a financial market collapse while Wall Street titans escape with their golden parachutes.

Americans are justified in losing confidence with our financial system and their ability to save for retirement.

Today, this committee has an opportunity to begin in a new direction and end business as usual.

It is beyond time that American workers have basic and clear information on costs and choices contained in their 401(k) plan.

H.R. 2989 includes 401(k) fee disclosure and independent advice legislation approved by Mr. Andrews' subcommittee last week.

In addition, the bill will make modest adjustments to pension funding rules to help pension plans weather the financial crisis.

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First, H.R. 2989 will ensure that employers who sponsor and workers who participate in 401(k)-type plans will have clear and complete information on the fees they pay.

Let me be clear: This bill does not mandate the fees that 401(k) service providers may or may not charge.

But, the bill simply requires that fees be disclosed to plan participants. Americans should be entitled to know the fees taken from their hard-earned retirement savings.

Before an employer contracts with a service provider or an employee enrolls in a plan, the 401(k) plan would have to disclose fees for each investment option.

Fees will be broken down into four basic categories: fees for administrative expenses, investment management, transaction costs, and all other fees.

The bill will also require 401(k) plans to provide workers with key information on their options, such as their historical risk, returns, and fees.

In addition, all fees taken from a plan participants' 401(k) account would be disclosed in one simple dollar amount in their quarterly statement. Participants would be able to request additional fee information from their plan administrator.

The legislation would also require plans to offer at least one low-cost index fund in a 401(k) plan in exchange for providing limited fiduciary liability for employers.

Most financial experts agree that passively managed index funds outperform an overwhelming majority of actively-managed, often higher-cost funds.

The legislation will 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.

Although nearly three-quarters of 401(k) plans already offer an index fund, there is no reason why this investment option shouldn't be available to all workers.

H.R. 2989 would also require service providers to disclose to employers any potential conflicts of interest they may have. And it will put teeth into disclosure rules by requiring the Department of Labor to assess and enforce compliance.

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Second, H.R. 2989 includes provisions from Mr. Andrews' Conflicted Investment Advice Prohibition Act approved last week in subcommittee.

These provisions ensure that if workers get investment advice through their jobs, that advice be based on the workers' needs -- not the financial interest of those providing the advice.

Federal pension law gives clear direction that those who assist workers or their companies on their retirement plans do so for the benefit of workers, not their own bottom line.

But, some in Wall Street found a friend in the Bush administration when they successfully turned this fundamental principle on its head.

In the final hours of the Bush administration, the Department of Labor gave Wall Street a long-sought after way to line their pockets at the expense of the account holder.

They said that it's perfectly fine to recommend a product or investment because it will increase your income, not because it is the best for the worker.

Well, it's about time that Wall Street stop viewing workers' 401(k) accounts like a gold deposit to mine.

That's why this bill will put a stop to the Bush administration rules and set up reasonable rules of the road that will help more workers access independent investment advice that they can trust.

The bill also incorporates financial literacy language recommended by Ms. McCarthy that encourages basic retirement financial literacy for all workers. This will help Americans make good choices for themselves and their financial future.

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Finally, H.R. 2989 makes modest but important adjustments to pension funding requirements for both single employer and multiemployer plans.

Our nation's economic crisis coupled with new funding requirements has put a strain on many traditional defined benefit pension plans.

Unfortunately businesses are facing a perfect storm of a bad economy and tough funding rules signed into law by the previous administration.

Unless we provide relief with these modest adjustments, plan sponsors may have to choose between making forced contributions, freezing plans or cutting jobs.

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Americans' retirement security is at stake. 401(k)s should be run in the best interests of Americans working hard to save for retirement, not for the sake of boosting Wall Street's bottom line.

H.R. 2989 will help Americans make good decisions about their financial future security by providing the basic information they need to make informed choices and help root out conflicts of interest.

It will give Americans a fighting chance to strengthen their retirement and increase our nation's future economic security.

Thank you. I now yield to the Ranking Republican, Mr. Kline, for his opening statement.

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