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## The 'Senior' Senator from Wisconsin

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By Kerry Pechter      *Wed, Jun 9, 2010*

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*The soft-spoken Herb Kohl (D-WI) fights for retirees as chairman of the Senate Special Committee on Aging, which will hold hearings on retirement income June 16.*

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The champion of retirement income security in the U.S. Senate is a famously low-profile 75-year-old moderate Democrat from Wisconsin who owns Milwaukee's NBA franchise and may be the richest (estimates vary) of the Senate's many millionaires.

Herb Kohl, a Harvard MBA whose family long ago sold the grocery and department store empire that still bears its name, rarely makes headlines. "The soft-spoken, reserved Kohl... can usually duck in and out of the Senate without much notice," wrote a staffer for *The Hill*, a Capital Hill newspaper.

But, as chairman of the Senate Special Committee on Aging, he occasionally draws the media spotlight, as when the committee targeted the overlooked risks of target date funds last year. On June 16, Kohl's committee will delve into the issue of lifetime income with a one-day hearing in Washington.

Assistant Labor Secretary Phyllis Borzi and Treasury official J. Mark Iwry will speak at the hearing, which staff members say will extend the discussion started this spring by the Labor/Treasury request for information on lifetime income options in employer-sponsored savings plans.

A June 2 profile in *Fortune* magazine described Kohl, a Senator since 1989, as "Congress's go-to leader on retirement issues" behind the scenes and as "grandfatherly" and "solicitous" in person.

He favors tweaking Social Security back to solvency and increasing fee transparency in 401(k) plans. When he sponsors a bill, it's often to protect the medical or financial welfare of the elderly. The Alliance for Retired Americans gives him a 98% lifetime rating for his voting record, although it marked him down to 90% for 2009 for opposing the Fair Medicare Premiums Act.

Last month he was among 20 recipients of AARP's annual Legislative Leadership Award, which recognize his "dedication to advancing solutions to better prevent, detect, and respond to elder abuse will help improve the physical, emotional, mental, and financial well-being of older Americans."

To financial services companies, however, he is a soft-spoken scourge. The Aging Committee's hearings on target date funds, for instance, exposed the high losses that many near-retirees suffered in the 2008-2009 crash despite holding the supposedly age-appropriate funds, as well as the double layer of management fees that many of the funds-of-funds levy.

Kohl is currently drafting legislation, which the fund industry opposes, that would deem target-date

companies to be fiduciaries under ERISA, according to *Fortune*. Such a designation, which Fidelity Investments says is redundant with the Investment Advisers Act, could expose target-date fund providers to litigation for misleading consumers about asset allocation.

He favors strengthening Social Security. The aging committee recently issued a report, "Social Security Modernization: Options to Address Solvency and Benefit Adequacy," that outlined a number of patches for Social Security's anticipated funding shortfalls. The report did not champion one particular solution, but Kohl made his stance on Social Security clear.

"Modest changes can be made over time that will keep the program in surplus," he told The Associated Press. "They are not draconian, as the report points out, and they can be done and will be done."

Last year, he and Sen. Claire McCaskill (D-MO) introduced the Illegal Garnishment Prevention Act, which would prevent the Treasury Department from promoting the use of direct deposit for Social Security beneficiaries until they stop private creditors from illegally garnishing government benefits from the bank accounts of private citizens.

As chair of the Antitrust, Competition Policy and Consumer Rights Subcommittee of the Senate Judiciary Committee, Kohl has been an ardent anti-monopolist. He recently contested Comcast's proposed acquisition of a controlling interest in NBC Universal on anti-competitive, anti-consumer grounds and called on Comcast to divest itself of NBC's interest in Hulu, the online video site, among other stipulations.

Although a reliable Democrat, Kohl is not the most liberal senator. Based on his voting record, Kohl ranks 35<sup>th</sup> in terms of liberality, according to Jeff Lewis and Keith Poole's analysis of the 111<sup>th</sup> Senate. (All of the 59 most-liberal senators are Democrats, and all the 41 least-liberal are Republicans. There are no outliers.)

When the Moderate Democrats Working Group was formed in 2009, Kohl was one of its 20 founding members. The group of centrist, "fiscally responsible" Democrats includes Evan Bayh of Indiana, Tom Carper of Delaware and Blanche Lincoln of Arkansas.

The Senate is known as a millionaire's club, and Kohl is one of the wealthiest of the wealthy. In 2008, his estimated assets of over \$215 million put him at the top, though figures vary. He bought the Milwaukee Bucks basketball franchise in 1985 from Jim Fitzgerald for \$18 million to make sure the team stayed in Milwaukee. He flirted with selling the Bucks to NBA legend Michael Jordan in 2003, asking a reported \$170 million, but then changed his mind.

But the Kohl family started with little. The senator's father, Max Kohl, was a first-generation Polish immigrant who toiled in a Milwaukee factory until saving enough to open a small southside grocery in 1927. In 1946, he opened the brew town's first modern supermarket, with a then-revolutionary in-store bakery and delicatessen.&nbsp;

The elder Kohl opened a department store in Brookfield, Wis., in 1962, positioning it between high-end stores and discounters. By 1978, he sold an 80% interest in his 50 supermarkets, six department stores, three drug stores and three liquor stores to BATUS, Inc., the U.S. retail division of the British-American

Tobacco Company.

BATUS sold Kohl's to a buyout group in 1986. The company was taken public in 1992, became a Fortune 500 company in 1998 and now operates 1,067 department stores in 49 states, with sales of \$17.2 billion in 2009, according to its website.

Kohl's current term in Senate ends in 2012. Assuming that he runs again, and he can afford to finance his own campaigns, he is likely to be re-elected. In his past two elections, in 2000 and 2006, Wisconsin voters returned him to the Senate with more than 60% of the vote.

Under Kohl's leadership, the Senate Special Committee on Aging has held the following hearings since last September:

- Dietary Supplements: What Seniors Need To Know
- Aging in Place: The National Broadband Plan and Bringing Health Care Technology Home
- LISTENING SESSION: The War on Drugs Meets the War on Pain: Nursing Home Patients Caught in the Crossfire
- Seniors Feeling the Squeeze: Rising Drug Prices and the Part D Program
- Default Nation: Are 401(k) Target Date Funds Missing The Mark?
- Sticker Shock: What's the True Cost of Federal Long-Term Care Insurance
- Achieving Health Reform's Ultimate Goal: How Successful Health Systems Keep Costs Low and Quality High