

# Reflections on Aging Advocacy— and Imperatives for Its Future

By William Benson

A longtime advocate for aging services compares political climates, past and present, and looks to what is ahead.

When first arriving in 1985, at age 34, as a new staffer at the Senate Special Committee on Aging, I was taken aback by several things: how young the staff were—I went from being younger than everyone who worked for me to being the second oldest person on staff; how incredibly bright most everyone was, which made me question whether I belonged, despite my “real life” experience; that I was given an electric typewriter when I previously had the services of a stenographer at the California Department of Aging (CDA); and the lack of transparency in the congressional legislative process. As to this last surprise, I was particularly shocked.

## The Legislative Journey: A Transparency Comparison

As the State Long-Term-Care Ombudsman and head of the CDA’s Office of Advocacy Assistance and Civil Rights, I had worked a great deal with the California legislature. Anyone, back then, could get an up-to-date copy of any piece of

legislation, which reflected changes made to it as it wended through the legislative process. Moreover, one could see and track which amendments had been made via “strike-through” language showing deletions and changes, and new language was italicized. It was easy to track the bill’s journey—what was cut, changed, and added. The process was transparent.

This was not the case in the U.S. Senate or the House of Representatives, where it is much more difficult to track changes made in legislation between a bill’s introduction and its final disposition. Yes, one can get a copy of a bill when first introduced, maybe get a copy after it is “marked up” (amended) in a committee, followed by a report reflecting amendments made in committee, and a “redline” (Senate) or “Ramseyer” (House) version after its consideration on the floor.

At hearings in the California legislature, the Committee Chairman would ask interested parties to line up to express their support or oppo-

→**ABSTRACT** As Congress begins its 116th Session, a longtime advocate reflects upon past and present political climates—what has stayed the same, what has changed, the impact on aging programs, and the future of aging advocacy. Highlighted is the need for education, relationship-building, coalitions with programs across the life span, and involvement, at all levels, of professionals and older adults. As Congress faces new challenges, all must speak loudly and often on behalf of and with older adults. | **key words:** *Congress, Committee on Aging, Older Americans Act, Elder Justice Act, Social Services Block Grant, Sen. Bob Casey, Sen. Susan Collins*

sition to a bill and they were invited to speak briefly to the matter at hand. One's view might not matter much in many cases, but at least it could be expressed.

Not so in the U.S. Congress. Not then or now. Hearings are highly choreographed, scripted, and controlled events. No one gets a say at a congressional hearing unless invited to testify, having submitted a statement in advance. I quickly appreciated this approach because it meant we on the other side of the dais from the public in hearings mostly heard exactly what we expected to hear. But it was *not* an open process.

Some things, however, have changed (for better and for worse) on Capitol Hill over the past three-plus decades. Hill staffers and members of the public no longer have to descend into the bowels of the Senate or House of Representatives to get a copy of a bill (as it looked when first introduced, or after it became law) from the Documents Room. Now people can go to [www.congress.gov](http://www.congress.gov) to get a copy—though it is difficult to discern what changes were made during the bill's journey, after its introduction.

On the downside, there are far fewer hearings and far fewer witnesses at most hearings than in the past. Holding fewer hearings eases staff and committee member workloads, but it also means less public airing of viewpoints and information that become part of the permanent record. More is being done behind the scenes, or “behind the veil.”

### **What Does All This Mean for Aging Policy?**

When it comes to aging concerns and aging policy, there now is one less committee of relevance. Congress in 1992 eliminated the House Select Committee on Aging and its four distinct subcommittees (National Archives and Records Administration, 1974–1992), meaning even fewer hearings, investigations, reports, and introduced bills addressing contemporary aging issues. The House Select Committee on Aging was a busy place with a lot to show for its work. During my tenure as staff director of the Select Committee

on Aging's Subcommittee on Housing and Consumer Interests, and those of my predecessor Mike Rodgers and successor Brian Lindberg, we tackled an array of housing matters and influenced housing policy. Since the Committee's demise, there has been much less congressional attention to housing for older Americans.

With regard to legislative proposals or bills, far, far fewer of them now become law. Very few bills emerge out of the legislative pipeline in one chamber, get approved, are taken up by the other chamber, and then become law. In 2017, in the first session of the 115<sup>th</sup> Congress, an above average number of bills—7,162 to be exact—were introduced. A below average amount, ninety-seven bills, were enacted. According to Quorum, bipartisan co-sponsorship of bills also is decreasing (Quorum, 2018).

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### ***‘Congress in 1992 eliminated the House Select Committee on Aging.’***

So-called freestanding bills that become law are now a legislative rarity. There are exceptions, such as the National Alzheimer's Project Act, but they are low in number (National Alzheimer's Project Act, 2009–2010). In the “good old days,” a member of Congress would introduce a bill addressing a specific issue and, if the member was powerful, had sufficient advocacy or public interest behind the bill, and was able to get it to the floor and get a vote on it, he or she could perhaps see it through to a successful end.

Today, for the most part, the only realistic way to get a legislative proposal, especially one dealing with aging or human services, enacted into law is to attach the proposal to a much larger, far more comprehensive measure that is moving through the process. Often, these measures are omnibus bills or reconciliation packages—think of them as a form of “bundling.”

The Elder Justice Act (EJA), first introduced in 2003 and repeatedly in the following three Congresses, was eventually folded into the Affordable

Care Act (ACA), along with myriad other proposals, and signed into law in 2010 (Patient Protection and Affordable Care Act, 2010). The ACA made it possible for the EJA to become law, but EJA's association with the ACA proved to be an albatross. The use of such omnibus legislation is not new; note the sweeping nursing home reforms included in Omnibus Budget Reconciliation Act (OBRA) 87 (Omnibus Budget Reconciliation Act, 1987), but it was about the only game in town.

Moreover, freestanding bills enacted into law today are more likely to come without any money or with very small authorized dollar amounts. The 2017 Elder Abuse Prevention and Prosecution Act (2017) provides for the U.S. Department of Justice to engage in a variety of initiatives addressing elder abuse, among other provisions. Yet the Act provided no authorization of funds.

In July 2018, Congress passed the Supporting Grandparents Raising Grandchildren Act (2018), establishing a federal Advisory Council to Support Grandparents Raising Grandchildren. The

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### ***Today's Senate Special Committee on Aging continues to work on a bipartisan basis.***

Act explicitly states it has no provision to pay for the Advisory Council and its related obligations. Fortunately, however, Congress ended up appropriating \$300,000 for the Council for Fiscal Year 2019, thanks to the efforts of the bill's chief sponsors, Senators Susan Collins (R-ME) and Bob Casey (D-PA) (Department of Defense, 2018). Parenthetically, there was once a "permanent" Federal Council on Aging, which was eliminated by Congress in 1996 (National Archives and Records Administration, 2018).

Perhaps more importantly, even if a cherished bill becomes law and Congress includes appropriations authorizations, there is no guarantee of seeing that money. When the EJA was enacted, it authorized \$100 million for funding to states to support Adult Protective Services (APS). To date,

not one cent of the authorized amount has been appropriated to directly fund states for APS.

### **The Current Partisanship Landscape and Its Impacts**

There are many other changes that have occurred on Capitol Hill over these past thirty-three years—some positive, some not, and the jury is still out on others.

Today's extreme partisanship tops the list of changes. Much is being said about partisan politics, but I feel blessed to have worked in what may have been the halcyon days of bipartisanship. There were major, often fierce, political and policy differences on many topics between "Rs and Ds." But at the end of the day (or the congressional session), it was possible, indeed frequent, to negotiate, to compromise, and to reach agreement with the "other side."

Such collaboration across the aisle made it possible to get much accomplished, not only in terms of legislation introduced or enacted, but also when it came to congressional work such as the focus and scope of investigations, hearings, and other forms of "deep dives" into issues (i.e., "jobs," as they are known) by the Government Accountability Office. For instance, when two Senate investigators from the Republican side and I, a Democratic staffer, showed up unannounced at the Health Care Finance Administration (now the Centers for Medicare & Medicaid), we spotted a note taped to the side of an agency staffer's desk that read something like, "If contacted by anyone from the Senate Special Committee on Aging, immediately call . . ." The note didn't differentiate between Republican or Democrat Committee staff, but any Committee staff who showed up, period. I don't think that would happen now. It is worth noting that at least one of the two, and possibly both, of the Republican Committee staffers with me were actually Democrats. That isn't likely to be found today.

Fortunately, today's Senate Special Committee on Aging, under the leadership of Chair Senator Susan Collins and Ranking Member Senator

Bob Casey, continues to work on a bipartisan basis to a large degree—it is one of the few committees where that is evident.

A close colleague and terrific advocate for aging issues says the biggest change today in Washington, D.C., is the “extremes in the political environment,” noting that he “worked for Republicans who were extremely progressive on aging and healthcare issues. There are almost

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none of them left; there are very few leaders and followers of these leaders on the right,” he adds, meaning that if a Republican championed a progressive stance, there were other Republicans who would likely line up with him or her.

Today, a Republican such as Senator Collins may provide leadership on a relatively progressive measure, but finds few if any other Republicans to line up with her. This is disastrous when Republicans control one chamber, much less both, and a huge barrier to achieving bipartisanship, even when Democrats control a chamber. I do not anticipate today’s extreme bipartisanship will change any time soon; that will require a major, perhaps profound, generational and cultural shift in American society.

**Other effects of the current political playbook**

If this extreme partisanship makes forging effective federal policy and advocacy on aging (and many other issues) difficult, the challenges are compounded significantly by other factors in the current political environment. Budget proposals from President Trump, as well as from Congress, to eliminate programs such as the State Health Insurance Assistance Program, the Low Income Home Energy Assistance Program, and the Social Services Block Grant (SSBG), which is the funding lifeblood for many states’ APS programs, and others, means that advocates have to

play defense and fight on many policy fronts.

Add to that the fact that the relaxing and eliminating of many administrative rules is undermining, if not destroying, many important programs and regulations at an unparalleled rate, requiring advocates in the aging sector and their allies to try to protect regulations that often took years to put into place, such as those governing nursing home quality and resident rights. Industry groups, be they Big Pharma, the nursing home industry, or others have far more influence today not only with the Trump Administration, but also with the growing number of Congress members on the right. Thinly resourced aging advocacy is spread across a very long policy front at the moment. We advocates often are outgunned, to say the least.

Several longtime, experienced colleagues with whom I’ve discussed the current state of policy and advocacy affairs agree with my observation that there are fewer Capitol Hill staffers with expertise and passion for aging issues than in the past. For many of us, going to work in Congress meant an opportunity to advance social policy, especially policy that affects older adults. It seems today that many more staffers are there because it is a good career move or to engage in partisan politics, or both. Moreover, frequent staff turnover means constant education of new staff, however bright they may be, about programs and issues many of them have never heard of.

Another experienced colleague, who works in the Executive Branch, agrees with me on this point, noting, for example, that there are many working in the aging network who seem unaware of the unique language of the Older Americans Act (OAA) explicitly requiring advocacy by the aging network at the federal, state, and local levels. If staff have not read the OAA, they are less likely to engage in the advocacy the OAA envisions and promises.

**The Advocacy Imperative: Step Up!**

Advocacy on federal aging policy is more important than ever. But the efforts of the national

aging organizations and those they employ to advocate federally, as effective as some of them can be, is not enough (and never has been). People who care about aging programs and services, including those who make their living working in some aspect of the field of aging, must step up to the plate and engage in some form of advocacy—in practice, not just in spirit.

Despite today's extreme partisanship, building relationships across both sides of the aisle still matters. Spending time knocking on doors, getting to know staff, and giving them concise information on aging issues, as well as listening to their perspectives, is even more crucial today, given the demographic reality of America's growing aging population and the current political environment. This relationship-building also is key at the state and local levels, where getting to know state and district staffers can be invaluable in informing and persuading their bosses about aging issues.


Working in coalitions, not just among aging-related organizations, but also with other groups such as disability-related groups, is especially important. A favorite of mine is the Social Services Block Grant Coalition, coordinated by Generations United. It consists of aging, disability (e.g., Easter Seals), children's (e.g., Child Welfare League; Children's Defense Fund), and faith-based organizations (e.g., Lutheran Social Services), as well as the National Association of Counties, and others. Because of this Coalition's efforts, not only have efforts to eliminate the SSBG been defeated, but also funding has remained level and not slashed, which in today's political environment may be considered a victory.

The Leadership Council on Aging (LCAO), consisting of sixty-nine national aging organizations, provides a critical source of vital and timely information, usually through "sign-on" letters, which often focus on complex policy issues, especially those related to entitlement programs, and serve to share information

among aging organizations. Few aging organizations or individuals in the field know enough about or have the bandwidth to address many issues taken up by the LCAO; on their own they cannot reasonably articulate why they should support or oppose many legislative, regulatory, or other policy matters.

These sign-on letters and accompanying background material often provide advocates and organizations with enough knowledge to be adequately informed when interacting with policy makers. To illustrate, in September 2018, a letter was sent concerning "Time-limited equitable relief"—or TLER—regarding Medicare Part B enrollment problems. This seemingly arcane but important issue is complex. LCAO and individual member organization advocates, including those of us in Washington, D.C., and across the country, are better able to speak to this issue because of this letter.

Being an effective advocate for aging issues in Washington, D.C., has never been easy, but the challenges and the stakes are greater now. While it is true that many of our advocacy successes of late have been "stopping bad things from happening," as one D.C. colleague notes, there have been proactive successes such as garnering increased discretionary funding, including for the OAA, for Fiscal Years 2018 and 2019.

Despite these positive outcomes, many more and tougher challenges lie ahead, regardless of what the 2018 midterm election results have wrought. Key to any future successes for Washington, D.C.-based aging advocates—and for older adults residing across America who self-advocate—will be their acting upon the imperatives to be better informed and to speak out loudly—and often. 

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