

New York State Assembly | Sheldon Silver, Speaker



committee on

Aging

Jeffrey Dinowitz, Chair

December 15, 2009

Honorable Sheldon Silver
Speaker of the Assembly
State Capitol, Room 349
Albany, New York 12248

Dear Speaker Silver:

It is my pleasure to forward to you the 2009 Annual Report of the Assembly Standing Committee on Aging.

The work accomplished during the 2009 Legislative Session reflects the Committee's dedication to and concern for seniors' quality of life, health and safety, independence, and other interests. This year the Committee advanced legislation addressing a wide range of issues such as long term care worker training, financial exploitation of seniors, and a drug guide for seniors that explains the purpose, function, and common interactions of drugs commonly used by persons over the age of 62.

A particularly important issue that the Committee has advanced legislation to address is the safety of individuals with Alzheimer's disease and other impairments who wander from their homes. A.5220-A would create the Jade Alert system to help ensure that these individuals are treated with respect and are returned home safely.

I would like to take this opportunity to thank the Committee members for their continued contributions to this past year's achievements. I would also like to express my appreciation for the assistance that the Committee received from the Committee staff in the course of our work. Finally, Mr. Speaker, I commend you for your continued leadership and support of our legislative initiatives to better protect New York State seniors.

Sincerely,

Jeffrey Dinowitz
Chair, Committee on Aging

2009 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON AGING
JEFFREY DINOWITZ, CHAIR

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I. COMMITTEE RESPONSIBILITIES AND GOALS

The New York State Assembly Standing Committee on Aging has jurisdiction over legislation affecting the quality of life of New York's senior citizen population. The Committee also reviews certain legislation providing real property tax relief for those over the age of 65. The Committee works closely with, and has legislative and budgetary oversight for programs administered by, the New York State Office for the Aging. The Committee works to ensure services are available so that seniors enjoy a high quality of life in their later years. This includes programs such as the Expanded In-home Services for the Elderly Program (EISEP), Caregiver Resource Centers, Long-Term Care Ombudsman Program, Retired and Senior Volunteer Program (RSVP), Senior Respite Programs, Social Adult Day Programs, Naturally Occurring Retirement Communities (NORC), Neighborhood Naturally Occurring Retirement Communities (NNORC), Foster Grandparent Programs, Elder Abuse Education and Outreach Program, and Meals-on-Wheels Programs. Furthermore, the Committee has legislative and budgetary oversight of the Elderly Pharmaceutical Insurance Coverage (EPIC) Program, which is administered by the New York State Department of Health.

During the 2009 Session, the Committee reviewed 126 bills and addressed numerous issues aimed at reducing the real property tax burden among low income seniors, protecting seniors from victimization, preserving the benefits provided under EPIC, ensuring that seniors are able to safely remain in their homes and communities for as long as possible with the supports they deserve, and providing supports and resources to seniors and their caregivers. Furthermore, this Committee held a hearing regarding the state of senior programs in the current economy. The committee heard from the New York State Office for the Aging, local area agencies on aging, and providers of services regarding how the economic situation has affected their ability to obtain funding and provide services. A common theme was that the economic climate has made it increasingly difficult to maintain services as funding becomes more difficult to find and sustain over time.

This report describes the Committee's major legislative activities during the 2009 Legislative Session.

II. 2009 COMMITTEE ACCOMPLISHMENTS

A. Real Property Tax

Property taxes are based on the value of the taxpayer's home, not on income or the ability to pay. This often creates a burden for low-income seniors who may rely on Social Security as their only source of income. It is the goal of this Committee to enable seniors to remain in their homes and out of costly institutions for as long as possible. One way this can be done is by providing real property tax relief through the Senior Citizen Rent Increase Exemption (SCRIE) program.

1. Includes Certain Unreimbursed Medical Expenses in Calculation of Income for SCRIE

A. 1800 (Dinowitz); Veto Memo 12

This bill would allow localities to modify the definition of income in relation to eligibility for the Senior Citizen Rent Increase Exemption Program (SCRIE) to offset income by the amount paid for all medical and prescription drug expenses not reimbursed or paid by insurance. For many senior citizens living on a fixed income, medical treatment and prescription drug costs not covered by insurance represent a financial burden that affects their standard of living. With the cost of living constantly rising, it is important that new and innovative approaches to providing assistance be explored.

B. Safety/Health and Well-Being

As we age we become more vulnerable to hazards such as falls, drug interactions, and victimization. Seniors are more likely to become injured and suffer more severe consequences because of that injury than are young adults. It is the responsibility of this Committee and of New York State to actively try to prevent hazards and create appropriate responses.

1. Senior Drug Guide

A. 1962 (Benjamin); Passed Assembly

This bill would require the New York State Office for the Aging to publish a guide explaining the purpose, function, and potential drug interactions of drugs commonly used by persons over the age of 62. The creation of a prescription drug guide for seniors would make seniors aware of the specific effects of the drugs seniors commonly use. Often, seniors are prescribed multiple medications and/or self-medicate with over-the-counter medicines. Certain drug interactions can be life-threatening. Seniors need to be made aware of the likely contraindications of certain commonly prescribed drugs and over-the-counter medications.

2. Senior Pedestrian Surveys

A. 1968 (Clark); Passed Assembly

This bill would require the Department of Transportation to do a state-wide survey to determine the safety of senior pedestrians and to study the feasibility of suggested methods to enhance the safety of such pedestrians. Every year senior citizens have a disproportionately high representation of those killed or injured in pedestrian incidents. Preventive pedestrian safety measures have been implemented outside New York State, and it is reasonable and prudent that these measures receive scrutiny and consideration for use in New York State.

3. Financial Exploitation Prevention Outreach, Education, and Training Program

A. 4743 (Englebright); Passed Assembly

This bill would create a Financial Exploitation, Outreach, Education, and Training Program within the New York State Office for the Aging. Seniors are often an attractive target of financial exploitation for a number of reasons. Seniors control over 70 percent of the nation's wealth. They may not realize the value of their assets, and often do not know what action to take when they are the victims of financial abuse. This bill would ensure that seniors receive the education and support they need to ensure they are not victims of financial abuse.

4. Missing Vulnerable Adults Clearinghouse

A. 5220-A (Magnarelli); Passed Assembly

The bill would create an alert system to find missing individuals age 18 or older who have a cognitive impairment, mental disability, or brain disorder. The Commissioner of the Department of Criminal Justice would be authorized to develop a system that local law enforcement personnel could promptly activate upon confirmation of a report of a missing vulnerable adult. The system would provide for the distribution of the name, description, and other pertinent information about the missing individual to broadcast media outlets, internet service providers, and commercial mobile service providers in such a manner as to ensure that it is not revealed to the public that the missing person is vulnerable. These entities would voluntarily provide details of the missing individual to the public.

5. Schedule of Fees for the Use of Air Conditioners in Adult Homes

A. 5681 (Brennan); Passed Assembly

This bill would require that the New York State Department of Health establish a schedule of fees for the use, maintenance, and repair of air conditioners by residents of adult homes, enriched housing programs, and residences for adults. Due to deaths in adult homes from extreme temperatures, two million dollars was added to the 2006-2007 Budget to enable residents of adult homes to purchase air conditioners. Since

then, many residents have enjoyed air conditioning, but have also seen dramatic increases in payments to the adult home operator for the use, maintenance, and repair of such air conditioners. It is the goal of this bill to set fair limits on the amount that an adult home operator can charge each resident who chooses to take advantage of the air conditioners purchased by the state.

C. Housing and Services

Housing is one of the largest unmet needs of seniors. Most seniors want to stay in the houses or apartments that they have called their own for most of their adult life. When retirement or changes in medical status cause them to leave their homes, it is often difficult for seniors to find the right combination of housing and services to meet their needs. It is the goal of the committee to increase available housing options and services for seniors to enable them to remain as independent as possible for as long as possible.

1. Authorizes the LTC Ombudsman in Assisted Living Residences

A. 2548 (Englebright); Passed Assembly

This bill would include assisted living residences within the definition of “Long-Term Care Facilities” for the purposes of the Long-Term Care Ombudsman program. There has been some concern that the Long-Term Care Ombudsman program has been refused entrance into assisted living residences because of some ambiguity in the State law. This bill cures any such ambiguity by requiring that all assisted living residences allow Long-Term Care Ombudsmen access in their facilities.

2. Model Zoning and Planning Guidelines

A. 3397 (Englebright); Passed Assembly

This bill would require the New York State Office for the Aging to develop model zoning and planning guidelines that foster age-integrated communities, including the incorporation of senior units in areas currently zoned for single-family residences and for mixed-use development. Affordable and accessible housing continues to be a primary concern and a top priority for senior citizens and senior advocates. Despite a growing population of seniors, finding housing that is suitable and affordable in communities throughout the state continues to be a challenge. Communities in many states are changing their zoning to create mixed-use age-integrated communities that bring together service businesses and different generations to create an environment that does not rely on motor vehicles. These model zoning and planning guidelines would be made available to cities, towns, and villages who would like to develop their communities, control sprawl, revitalize downtown areas, or redesign certain neighborhoods to meet their communities’ needs.

3. Delivery of Service to Traditionally Underserved Populations Study

A. 3956 (Kellner); Passed Assembly

This bill would require the State Office for the Aging, in their annual report, to assess progress, problems, and the effectiveness of service provisions to traditionally underserved senior populations, provide recommendations, and include a report on specific needs of traditionally underserved populations. The Office would also be required to define in their annual report traditionally underserved populations as populations defined by actual or perceived race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, marital status, disability, familial status, and/or language. The experience of marginalization places many traditionally underserved senior populations at a higher risk for isolation, poverty, homelessness, and premature institutionalization. Moreover, many members of traditionally underserved populations are members of multiple underrepresented groups, and as a result are doubly marginalized. Due to these factors, many seniors avoid using elder programs and services, even when their health, safety, and security depend on it. The State Office for the Aging would be authorized to make grants-in-aid to not-for-profits to provide training, outreach, and education to providers of services to the lesbian, gay, bisexual, and transgender senior populations.

4. Long Term Care Worker Training Pilot Program

A. 5864 (Lifton); Passed Assembly

This bill would expand access to quality training for long-term care workers to improve the quality of care available to seniors and improve access to care in high needs areas of the State. Many communities are challenged by increasing numbers of older adults who need supportive services such as recreation, income assistance, transportation, and wellness education, and with long-term chronic health problems that require home health care, supportive housing, or institutional care. Many areas face problems recruiting and retaining skilled front-line workers, as well as specialists with knowledge of the particular social and medical needs of older adults, and especially lack the resources of 'state of the art' education and training programs. This program would improve the quality of services provided to New York's elders by making available training on aging issues to health, mental health, and social service providers in certain counties across New York State.

5. Preserving EPIC Eligibility for Seniors Who Receive Small Increases in Retirement Benefits

A. 6646 (Brennan); Passed Assembly

This bill would ensure continuing EPIC eligibility for seniors who receive small increases in Social Security or pension benefits. The already high cost of prescription medicines is continuing to rise dramatically. Cost of living adjustments are usually minimal and quickly spent on other necessary services. It would be unfair to punish seniors who were previously eligible for EPIC but are no longer solely due to a cost of living adjustment.

D. Other

1. Adds NYSOFA to the Emergency Services Council

A. 4491 (Englebright); Passed Assembly

This bill would add the Director of the New York State Office for the Aging to the New York State Emergency Services Council. Natural disasters, man-made disasters, and other emergency situations require that the special needs of seniors be taken into consideration when the State develops strategies and responses. Therefore, it is imperative that this Council has representation from the aging community.

III.SFY 2009-2010 BUDGET

The SFY 2009-2010 Budget was a difficult one for the Aging Committee. The Assembly was able to partially restore funding for several of the initiatives the Executive had reduced, including the Enriched Social Adult Day Services program.

Enriched Social Adult Day Services Demonstration Project **\$ 245,000**

The Enriched Social Adult Day Services Demonstration Project would enable seniors who may need minor medical care to receive such care in Social Adult Day Programs instead of enrolling in more expensive Adult Day Health programs. Many times seniors need short term medical care due to an injury and have to leave the Social Adult Day program they are currently participating in as current state law forbids Social Adult Day programs from providing even minor medical care. This demonstration project would decrease the cost and increase the continuity of care provided to seniors needing day programming.

Long-Term Care Ombudsman Program **\$ 69,000**

Certified Ombudsmen are a vital link between residents of long-term care facilities and the government resources able to investigate and resolve their problems. Ombudsmen advocate for these senior citizens and ensure that residents' rights, unmet needs, and complaints are handled and resolved effectively, while maintaining resident and complainant confidentiality. Ombudsmen also work with the New York State Department of Health and enforcement authorities, making enforcement referrals in cases of abuse and neglect, and assisting in investigating the underlying causes and solutions to problems.

Community Services for the Elderly **\$ 1,000,000**

The Community Services for the Elderly (CSE) Program helps people who are at-risk of premature institutionalization and are often confused and frustrated when seeking services to meet their essential, and often chronic-care, needs. CSE also reduces the unnecessary public expense of caring for the needs of frail, at-risk older New Yorkers. This is accomplished by improving the ability of communities to assist elderly people who need help in order to remain in their homes and to participate in family and community life and by improving cooperation and coordination amongst providers of community services.

Expanded In-Home Services for the Elderly Program (EISEP) **\$ 2,000,000**

EISEP assists people aged 60 and older who are not eligible for Medicaid and need help with everyday activities, such as dressing, bathing, personal care, shopping, and cooking. Services may include non-medical in-home services, case management, non-institutional respite, ancillary services, and other community services. EISEP supports and supplements the care provided by families and friends. The program helps seniors stay in their homes and communities rather than move into a facility that costs significantly more and is not where they want to be.

Supplemental Nutrition Assistance Program (SNAP)

\$ 2,000,000

The Supplemental Nutrition Assistance Program provides funding primarily for home-delivered meals to seniors who are most often home-bound and unable to prepare meals for themselves. There was an increase of one million dollars in the 2007-2008 Budget to offset an increase in the number of seniors in need of home-delivered meals, as well as the increased costs of delivering such meals.

Congregate Services Initiative

\$ 81,000

The Congregate Services Initiative program provides recreational and health-related services in congregate settings. It is intended to preserve wellness and health in seniors, thus delaying the future need for more intensive health-related services. The program's services are aimed at meeting the needs of the well elderly. Allowable services are: information and referral; transportation; nutrition-related services; socialization/companionship; educational and cultural opportunities; counseling; support services for families/caregivers; volunteer opportunities; employment services information; and health promotion and disease prevention services.

Managed Care Consumer Assistance Program

\$ 844,000

The Managed Care Consumer Assistance Program provides services such as education, outreach, one-on-one counseling, and assistance with drug appeals and fair hearings relating to Medicare Part D coverage and EPIC coverage. Many of the individuals aided under this program have been referred from other programs because of the complexity of their situations. With the continuing issues relating to Medicare Part D coverage, and its integration with other insurance including the EPIC program, the groups who provide services under this program are increasingly vital to ensuring that seniors receive the coverage they are entitled to.

Elderly Pharmaceutical Insurance Coverage (EPIC) Program

New York State Department of Health

Total Appropriation \$ 468,361,000

EPIC was enacted in 1986 to assist low and moderate income seniors with the purchase of their prescription drugs. There are two ways a senior can enroll in EPIC. The Fee Plan, or comprehensive coverage, allows low income seniors to pay an annual fee to participate and then pay low-cost co-payments for each prescription they fill. To be eligible for the Fee Plan, one must have an annual income of less than \$20,000 if single and \$26,000 for a couple. The second plan is called the Deductible Plan or catastrophic coverage. This plan is for seniors who have annual incomes of between \$20,000 and \$35,000 if single and between \$26,000 and \$50,000 for a couple. It creates a schedule, based on annual income, of the amount that a senior must pay out of pocket for their medication expenses before EPIC will provide coverage. Once this deductible is reached, the senior is not charged an annual fee, but is responsible for the same low-cost co-payments as those participating in the Fee Plan.

This year in the budget, a few changes were made to the EPIC program. The program was expanded to include out-of-state pharmacies who register with the state, which gives seniors more options when

choosing a pharmacy that meets their needs. In addition, the EPIC program will now enroll eligible seniors in low-income subsidies and savings programs for Medicare. Both of these changes are anticipated to save money in the EPIC program by lowering costs without impairing the coverage that enrollees currently enjoy.

IV. HEARINGS

A. Hearing on the State of Senior Programs in the Current Economy

On October 5, 2009, the Aging Committee held a public hearing regarding the state of senior programs in the current economy. Hundreds of thousands of seniors rely on programs that serve them in a variety of ways. These programs provide services that range from home delivered meal services, home care, day programs, and respite services for families and caregivers. These essential services allow seniors to live in the communities in which they have been rooted for decades with a greater degree of independence than they otherwise would sustain if these services were not available. Community-based services for seniors have been proven to delay institutionalization, save both the State and the service recipient money, and enrich the lives of recipients.

Programs that serve seniors rely on a mixture of grants, private donations, and funding from the State and local governments. The economic downturn has reduced or eliminated these traditional sources of funding and, as a result, has required programs to scale back or discontinue essential services for seniors. At the same time, seniors have seen their retirement savings deteriorate, increasing the demand for services while State and local government support is declining.

The committee heard from the New York State Office for the Aging, local area agencies on aging, and providers of services regarding how the economic situation has affected their ability to obtain funding and provide services. A common theme was that the economic climate has made it increasingly difficult to maintain services as funding becomes more difficult to find and sustain over time.

V. OUTLOOK AND GOALS FOR 2010

The 2010 Legislative Session promises to present many challenges to the Aging Committee. The Committee will pursue many of the issues it addressed during the 2009 Session, and new issues will emerge for consideration. As in the past, the Committee will continue to address issues brought to its attention by legislators, the executive branch, staff, and by the people of the State of New York.

APPENDIX A

VETOS of 2009

Veto #	ASSEMBLY BILL #	ASSEMBLY SPONSOR	DESCRIPTION
12	A. 1800	Dinowitz	Would Include Certain Unreimbursed Medical Expenses in Calculation of Income for SCRIE

APPENDIX B

BILLS PASSED ASSEMBLY

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A. 1962 (Benjamin)	A. 2031 (Golden)	Passed Assembly	Would create a drug guide for seniors.
A. 1968 (Clark)	S. 1555 (Diaz)	Passed Assembly	Would require a state-wide survey of the safety of senior pedestrians and a feasibility study of methods to enhance safety.
A. 2548 (Englebright)	NA	Passed Assembly	Would clarify that Assisted Living Residences are Long Term Care Facilities for certain purposes.
A. 3397 (Englebright)	S. 4981 (Foley)	Passed Assembly	Would require model zoning and planning guidelines that foster age-integrated communities.
A. 3956 (Kellner)	S. 1385 (Duane)	Passed Assembly	Would require the State Office for the Aging (SOFA) to assess service delivery to traditionally underserved populations
A. 4491 (Englebright)	S. 2013 (Golden)	Passed Assembly	Would add the director of SOFA to the Emergency Services Council.
A. 4743 (Englebright)	S. 4990 (Foley)	Passed Assembly	Would create a financial Exploitation Prevention Outreach, Education and Training Program.
A. 5220-A (Magnarelli)	S. 2056-A (Valesky)	Passed Assembly	Would create the missing vulnerable adults clearinghouse.
A. 5681 (Brennan)	S. 3801 (Flanagan)	Passed Assembly	Would require the commissioner of health to establish a fee schedule for the use, maintenance, and repair of air conditioners used in adult homes.
A. 5864 (Lifton)	S. 5455 (Oppenheimer)	Passed Assembly	Would authorize the director of SOFA to establish a long-term care worker training pilot program.
A. 6646 (Brennan)	S. 1454 (Maziarz)	Passed Assembly	Would ensure continuing EPIC eligibility for seniors who may receive cost-of-living increases in Social Security or pension benefits.

APPENDIX C

**2009 SUMMARY OF ACTION ON ALL BILLS REFERRED TO
THE ASSEMBLY COMMITTEE ON AGING**

<u>Final Disposition of Bills</u>	Assembly Bills	Senate Bills	Total
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	2	0	2
To Floor; Recommitted and Died	0	0	0
To Ways and Means	22	0	22
To Codes	2	0	2
To Rules	0	0	0
To Judiciary	0	0	0
Total	26	0	26
<u>Bills Having Committee Reference Changed</u>			
To Health	1	0	1
To Agriculture	1	0	1
Total	2	0	2
<u>Senate Bills Substituted or Recalled</u>			
Substituted	0	0	0
Recalled	0	0	0
Total	0	0	0
<u>Bills Defeated in Committee</u>			
Bills Held for Consideration with a Roll-call Vote	1	0	1
Bills Never Reported, Held in Committee	90	3	93
Bills Having Enacting Clause Stricken	4	0	4
Motions to Discharge Lost	0	0	0
Total	95	3	98
Total Bills in Committee	123	3	126
Total Number of Committee Meetings Held	7		