

NEW YORK STATE  
A S S E M B L Y

SHELDON SILVER, SPEAKER



committee on  
Aging  
Jeffrey Dinowitz, Chair



Annual Report 2010

December 15, 2010

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

Dear Speaker Silver:

I'm pleased to forward to you the 2010 Annual Report of the Assembly Standing Committee on Aging.

The work accomplished during the 2010 Legislative Session reflects the Committee's dedication to protecting seniors' quality of life, health and safety, independence, and addressing their other concerns. This year the Committee advanced legislation regarding a wide range of issues such as model zoning to foster age-integrated communities, lowering barriers for naturally occurring retirement communities (NORCs), 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-B would create the Gold 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 thank 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

**2010 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 sixty-five. 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 2010 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. Further, this Committee held a hearing regarding senior centers, specifically their funding, challenges, and value to the community. The Committee heard from the New York City Department for the Aging, other local area agencies on aging, senior centers, and providers of services regarding how senior centers face their challenges and the value they bring to the communities they serve. A common theme was that funding difficulties make it difficult to continue to offer the services that enable so many seniors to remain in their homes and communities with a higher quality of life and at a greatly reduced cost to the state.

This report describes the Committee's major legislative activities during the 2010 Legislative Session.

## **II. 2010 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.

#### **Unreimbursed Medical Expenses in Calculation of Income for SCRIE**

A. 9516 (Dinowitz); Passed Assembly

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 seniors 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 goal of this Committee to actively try to prevent hazards and create appropriate responses.

#### **1. Missing Vulnerable Adults Clearinghouse**

A. 5220-B (Magnarelli); Veto Memo 6751

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.

## **2. 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.

## **3. Schedule of Fees for the Use of Air Conditioners in Adult Homes**

A. 5681-A (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. Model Zoning and Planning Guidelines**

A. 3397 (Englebright); Chapter 319 of the Laws of 2010

This law requires 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 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 will 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.

## **2. Eligibility under the Naturally Occurring Retirement Community Supportive Service Program**

A. 9838 (Dinowitz); Chapter 348 of the Laws of 2010

This bill would remove the head of household requirement from the definition of “elderly person” in the eligibility requirements for Naturally Occurring Retirement Communities (NORCs). Many older adults live with family such as children or other relatives when they can no longer live alone because of financial, health, or other concerns. They still need services, however, that a NORC can provide. In addition, it may be unclear who is the head of household in a situation where the dwelling is being shared by a mixed-age family. The purpose of a NORC is to serve older adults in their designated area, and a requirement to only count seniors that are a head of household may miss many seniors who are just as deserving of being counted. The population of older adults who have need of these services may be much higher than the number of older adults who are a head of household.

## **3. Consideration of in-kind support for Naturally Occurring Retirement Communities (NORCs) with approval**

A. 9841-A (Dinowitz); Chapter 410 of the Laws of 2010

This bill would allow NORCs and Neighborhood NORCs to count in-kind support toward the amount from other sources they are required to raise to match the funds provided by the state. NORCs and NNORCs would be able to count such in-kind support only upon approval of the Director of the State Office for the Aging and only to the extent matching funds are not available. Many NORCs operate in poor areas where the community may not have the money to properly support the NORC according to the current terms of the statute, which requires matching funds in order to receive state support. In such cases, SOFA would be able to authorize in-kind support from the community to fulfill the requirement for matching funds to avoid endangering vital state funds.

## **4. LTC Ombudsman in Assisted Living Residences**

A. 2548 (Englebright); Veto Memo 6744

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 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.

## **5. Delivery of Service to Traditionally Underserved Populations Study**

A. 3956 (Kellner); Passed Assembly

This bill would require the State Office for the Aging, in its 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 its 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.

## **6. 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 training on aging issues available to health, mental health, and social service providers in certain counties across New York State.

## **7. 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. NYSOFA on 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.

**2. Programs to address the needs of aging veterans**

A. 11225 (Dinowitz); Passed Assembly

This bill would require the State Office for the Aging (SOFA) to periodically work in consultation with the director of the State Division of Veterans' Affairs to ensure that the needs of the state's aging veterans are being met. SOFA would also have to develop improvements to existing programs in order to meet such needs. Our veterans require many services that are the same as other older adults, but they also have special needs that relate to their past service to our nation. It is important to honor and support our veterans as they age to ensure that their needs are being met by the programs designed to assist older adults age with dignity.

**3. Senior citizen energy packaging pilot program**

A. 11304 (Dinowitz); Passed Assembly

This bill would correct some parts of the elder law that are disorganized and potentially confusing. This bill would move the legislative intent for the senior citizen energy packaging pilot program from section 221, which is disconnected from the language that establishes the program, to section 222, where the program is established. In addition, section 203 has two subdivisions numbered eight; this bill would re-number one to be subdivision nine.

### III.SFY 2010-2011 BUDGET

The SFY 2010-2011 Budget did not have as harsh an impact on programs to help seniors as many had originally feared. The Assembly was able to maintain core funding for the initiative the Executive had proposed to eliminate, the Congregate Services Initiative. Other programs did not see a reduction in their core funding. Certain additions from the previous budget were not re-appropriated.

**Congregate Services Initiative** **\$ 806,000**

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.

**Elderly Pharmaceutical Insurance Coverage (EPIC) Program**  
**New York State Department of Health** **Total Appropriation \$ 348,458,340**

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 significant change was made to the EPIC program. The program was changed to make sure that the Medicare Part D plans are paying for the medications they should be covering. If the senior's Part D plan refuses to cover a medication, EPIC will cover an emergency supply as long as the senior's doctor agrees to follow the appeals process to attempt to get coverage from the Part D plan. If the appeal is unsuccessful, EPIC will cover the medication. This process will ensure that there is no interruption in a senior's medication while lowering costs to EPIC by making sure that the Part D plan is paying for the medication that should be covered.

## HEARINGS

### **A. Hearing on the Senior Centers, Funding, Challenges, and Value to the Community**

On November 16, 2010, the Aging Committee held a public hearing regarding senior centers, specifically their funding, challenges, and value to the community. Hundreds of thousands of seniors rely on programs provided by senior centers, even if it is only a place to go to socialize with their peers. These senior centers provide meals, socialization, and many other services that make them invaluable to the communities they serve. They 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. 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.

Senior centers have traditionally relied on funding related to providing meals. Once, that was their purpose. Now, senior centers provide much more. Meals may only be one component. Senior centers provide someone who sees seniors on a regular basis and who will notice if something is wrong and a place out of the seniors' home to go and socialize with peers, along with many other services that can include screenings and informative presentations.

Senior centers also face challenges aside from funding. Adequate and appropriate space and facilities to offer their services to seniors who have physical impairments, staffing to provide services and assist seniors when necessary, transportation to get seniors to the center, and other challenges can make running a senior center difficult. Challenges can differ from place to place, between upstate and downstate New York, and between rural and urban areas.

The committee heard from the New York City Department for the Aging, other local area agencies on aging, senior centers, and providers of services regarding how senior centers address the challenges they face and how they can continue to offer the value they provide to their communities. A common theme was that senior centers are vital to the community, but without assistance, they will find it difficult to continue operating, especially in municipalities that have cut funding for their centers due to the difficult economic climate.

#### **IV. OUTLOOK AND GOALS FOR 2011**

The 2011 Legislative Session promises to present many challenges to the Aging Committee. The Committee will pursue many of the issues it addressed during the 2010 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**

**CHAPTERS of 2010**

<b>CHAPTER #</b>	<b>ASSEMBLY BILL #</b>	<b>ASSEMBLY SPONSOR</b>	<b>DESCRIPTION</b>
319	A. 3397	Englebright	Requires model zoning and planning guidelines that foster age-integrated communities to provide for mixed-use development for senior residential housing.
348	A. 9838	Dinowitz	Removes the requirement that a senior be a head of household to be counted for a Naturally Occurring Retirement Community (NORC).
410	A. 9841-A	Dinowitz	Allows in-kind support for a NORC to be counted as matching funds with approval from SOFA.

**APPENDIX B**

**VETOS of 2010**

<b>VETO #</b>	<b>ASSEMBLY BILL #</b>	<b>ASSEMBLY SPONSOR</b>	<b>DESCRIPTION</b>
6744	A. 2548	Englebright	Would include assisted living residences within the definition of “long term care facilities” for certain purposes.
6751	A. 5220-B	Magnarelli	Would establish a Gold Alert system to find missing adults who suffer from cognitive impairments.

**APPENDIX C**

**BILLS PASSED ASSEMBLY**

<b>ASSEMBLY BILL # SPONSOR</b>	<b>SENATE BILL # SPONSOR</b>	<b>FINAL ACTION</b>	<b>DESCRIPTION</b>
A. 1962 (Benjamin)	S. 2031 (Golden)	Passed Assembly	Would create a drug guide for seniors.
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. 5681-A (Brennan)	S. 6932 (Montgomery)	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.
A. 9516 (Dinowitz)	S.6685 (Diaz)	Passed Assembly	Would include in the definition of income for the SCRIE program all sources after deduction of medical and prescription drugs not reimbursed or paid for by insurance.
A. 11225 (Dinowitz)		Passed Assembly	Would require the State Office for the Aging to review all programs to ensure the needs of aging veterans are being met.
A. 11304 (Dinowitz)	S. 8323 (Diaz)	Passed Assembly	Would make technical changes to the elder law to reduce potential confusion.

**APPENDIX D**

**2010 SUMMARY OF ACTION ON ALL BILLS REFERRED TO  
THE ASSEMBLY COMMITTEE ON AGING**

<b><u>Final Disposition of Bills</u></b>	<b>Assembly Bills</b>	<b>Senate Bills</b>	<b>Total</b>
<b><u>Bills Reported With or Without Amendment</u></b>			
To Floor; Not Returning to Committee	1	0	1
To Floor; Recommitted and Died	0	0	0
To Ways and Means	15	0	15
To Codes	4	0	4
To Rules	2	0	2
To Judiciary	0	0	0
Total	22	0	22
<b><u>Bills Having Committee Reference Changed</u></b>			
To Health	1	0	1
To Real Property	1	0	1
Total	2	0	2
<b><u>Senate Bills Substituted or Recalled</u></b>			
Substituted	0	0	0
Recalled	0	0	0
Total	0	0	0
<b><u>Bills Defeated in Committee</u></b>			
Bills Held for Consideration with a Roll-call Vote	5	0	5
Bills Never Reported, Died in Committee	89	6	95
Bills Having Enacting Clause Stricken	2	0	2
Motions to Discharge Lost	0	0	0
Total	96	6	112
Total Bills in Committee	120	6	126
<b>Total Number of Committee Meetings Held</b>	7		