

**LEGISLATIVE UPDATE  
End-of-Session Report  
March 11, 2014**

The Oregon legislature brought the 2014 short legislative session to a close on Friday, March 7th, yielding positive results for seniors and people with disabilities. The Aging and People with Disabilities (APD) budget outlined in [HB 5201](#) includes funding for most all of the items contained in the [Special Purpose Appropriation Funding Request](#) collectively developed and supported by Oregon's Campaign for Seniors and People with Disabilities. And for those SPA requests that were not funded at this time, the legislature held back funds for future distribution by the Emergency Board in May. See page 3 for the detail on APD's budget.

**Key Bill Outcomes**

Following are the bills that passed of most impact, potential impact or interest to LeadingAge Oregon members. Copies of the bills may be found at the highlighted links.

**[SB 1534](#) – Passed** - Makes corrections to provisions related to income tax subtraction for senior medical expenses, tax treatment of domestic international sales corporations and distribution of proceeds from cigarette tax.

**[SB 1542](#) - Passed** - Allows private payers to hire home care workers through registry maintained by Home Care Commission. Requires the Home Care Commission to establish and administer the Private Pay Consumer program to enable private individuals to purchase in-home care services from the Commission through the Home Care Registry. The bill directs the Home Care Commission to create a subcommittee of the commission to define and establish new classifications of in-home care workers. Ensures that the state incurs no liability for the cost of home care services purchased by private payers through the program by specifying that if revenue generated by private pay consumer payments are insufficient to pay the costs of home care services, the commission may modify the payment rate. In addition, if the modifying the payment rates will not generate sufficient revenue, the commission may suspend the program following 30 days advance written notice to private payers and home care workers participating in the program. The bill requires the private pay program to be implemented by July 1, 2015; and operational by January 1, 2016. The bill contains an emergency clause, and is effective on passage.

**[SB 1553](#) – Passed** - Directs Governor to appoint Oregon Public Guardian and Conservator in office of Long Term Care Ombudsman to provide public guardian and conservator services for persons without relatives or friends willing or able to serve as guardians or conservators.

[SB 1577](#) - **Passed** - Requires Department of State Police and all sheriffs and municipal police departments to adopt written policies relating to missing vulnerable adults on or before January 1, 2015.

[HB 4039](#) – **Passed** - Provides exemption from ad valorem property taxation for property of nonprofit corporation that, for tax year beginning on July 1, 2012, was actually offered, occupied or used as low-income housing and granted exemption by county.

[HB 4108](#) - **Passed** - Requires Oregon Health Authority to contract with community-based organizations to operate pilot project to provide used durable medical equipment to medical assistance recipients.

[HB 4114](#) - **Passed** - Allows the probate court to appoint a volunteer to provide the court with monitoring of a guardianship or conservatorship. Bill does not apply to financial institutions and trust companies who act as fiduciaries.

[HB 4148](#) – **Passed** – Changes interest rate accruing on deferred taxes under homestead property tax deferral program from six percent compounded annually to six percent per annum.

[HB 4151](#) - **Passed** - Requires the Department of Human Services (DHS) to complete investigations of abuse of persons 65 years of age or older within 120 days. Specifies that the 120 day requirement does not apply to ongoing concurrent criminal investigations. Requires the preparation of a written report upon the completion of an investigation. Requires DHS to plan the creation of a regularly updated database of reports and investigations of elder abuse. Directs DHS to augment the department’s existing criminal background check system with a regularly updated registry of all persons working or seeking to work in adult foster homes, nursing facilities, residential facilities, and assisted living facilities. Directs DHS to report to a Legislative committee regarding the implementation of this bill by January 1, 2015. Renames the Oregon Elder Abuse Work Group as the Oregon Elder Abuse Prevention Work Group and expands the scope of the group. Modifies the definitions of Neglect and Sexual Abuse.

### **Bills that Did NOT Pass**

[SB 1543](#) – **Failed** - Makes reduction of hours worked by full-time employee for sole purpose of preventing employee's eligibility for coverage under Patient Protection and Affordable Care Act unlawful employment practice.

[HB 4088](#) – **Failed** - Modifies crime of criminal mistreatment in first degree to include sexual contact with dependent person by person paid to provide care for dependent person.

[HB 4105](#) - **Failed** - Effective January 1, 2016, abolishes the Housing and Community Services Department Electricity Public Purpose Charge Fund and the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund.

**HB 4141 - Failed** - Provides that certain property tax exemptions and certain cancellations of property taxes do not apply to property taxes imposed by school districts or education service districts. Original bill included an extensive list of property tax exemptions that would no longer apply to taxes imposed by school districts include the following impacting LeadingAge Oregon members:

- ORS 307.130 - Property of art museums, volunteer fire departments...benevolent, charitable...organizations
- ORS 307.140 - Property of religious organizations
- ORS 307.147 - Senior services centers
- ORS 307.242 - Property of nonprofit corporation providing housing to elderly persons
- ORS 307.370 - Property of nonprofit homes for elderly persons

ORS 307.811 - Essential community provider long term care facilities certified under ORS 443.888 (Nursing facility, assisted living facility or residential care facility and has an average residency rate of 50 percent or more who are eligible for Medicaid.)

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## **2014 Legislative Session** **Aging and People with Disabilities Budget Detail**

The budget adjustments approved by the Subcommittee in House Bill 5201 for the Aging and People with Disabilities (APD) program reflect an increase of \$12.2 million General Fund, a decrease of \$6.8 million Other Funds limitation, a decrease of \$4.0 million Federal Funds limitation, and a decrease of 78 positions (82.25 FTE).

Overall caseloads in long-term care facilities are down about 3% from the level funded in the legislatively adopted budget. In-home caseloads are just over 8% higher than budgeted, while both community-based facilities' and nursing facilities' caseloads are lower, by about 10% and 2%, respectively. After costs associated with higher acuity levels and lower than expected provider tax revenues, these changes drive a net savings of \$4.0 million General Fund. In addition to the caseload savings, APD also has \$6.6 million General Fund in savings due to the FMAP change noted previously.

While the caseload trends are consistent with APD policy goals, the Department is concerned that it may be too early in the biennium to safely capture and repurpose the associated savings. Risks include the implementation of the K Plan and the initiative to reduce nursing facility bed capacity.

To support creation of the new program structure, \$15.6 million total funds and 85 positions (85.00 FTE) are transferred out of APD and into PDS. Technical adjustments and transfers account for an increase of \$4.8 million total funds for this program and mostly consist of a net \$4.7 million total funds increase realigning budgets between APD and OHA (Addictions and Mental Health).

In addition to the rebalance changes and statewide adjustments, this program was significantly impacted by the Subcommittee's approval of funding for several senior programs or initiatives, including two pieces of legislation. While APD is not always the directed recipient or primarily participant in these projects, the bulk of the money does flow through DHS and the program has a key role in coordinating activities and reporting. The following section discusses the funding decisions and associated expectations.

### **Recommendations for 2013 Special Session \$26 million Special Purpose Appropriation for Seniors**

During the 2013 Special Session in September 2013, as part of HB 5101 (2013), \$26.0 million General Fund was set aside in a Special Purpose Appropriation (SPA) to the Emergency Board for Board for future distribution to programs or activities supporting seniors. Over the four months between that action and the 2014 Legislative Session, the Department worked with a group of stakeholders to develop a list of proposals for funding allocation.

The Subcommittee approved most of the requested projects; the remaining unallocated General Fund will stay in the Senior SPA for future distribution by the Emergency Board. The legislative intent is that the proposals currently unfunded will have first priority (i.e., portions of the SPA are set aside for these) in the next round of SPA allocations, which is likely to occur as soon as May 2014. Projects are also funded with the caveat that, for ongoing initiatives, overall 2015-17 costs should not exceed the initial 2013 Special Session revenue allocation of \$41 million plus standard inflation. This funding level restriction should be considered as the both the executive and legislative branches develop budgets for the 2015-17 biennium. In addition, some projects were approved as one-time expenditures and are generally not expected to roll forward; these programs have been identified as such in the following narrative. However, these programs' status as one-time expenditures may be evaluated for ongoing status based on program development and the level of resources available in 2015-17. If included as ongoing, the program costs should be clearly identifiable within the 2015-17 budget build.

Funding recipients are expected to work with the Department of Human Services to provide to the Joint Committee on Ways and Means Subcommittee on Human Services during the 2015 Legislative Session a coordinated update on what was accomplished with these investments.

Projects or proposals brought forward for consideration for Senior SPA funding, along with the Subcommittee's recommendation are summarized in the table below. Subsequent narrative sections describe expectations regarding each project or proposal and next steps, including future allocations for projects for which funds are not being authorized at this time. For reference, summary item numbers 1 through 21 correspond in order to the consensus list developed by the Campaign for Oregon's Seniors & People with Disabilities; three other proposals were added as issues surfaced during the legislative session. The budget adjustments approved by the Subcommittee in House Bill 5201 for the Aging and People with Disabilities (APD) program reflect an increase of \$12.2 million General Fund, a decrease of \$6.8 million Other Funds limitation, a decrease of \$4.0 million Federal Funds limitation, and a decrease of 78 positions (82.25 FTE).

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## 2013 Special Session \$26M Appropriation Allocation Recommendations

Item #	Item	Who	Request	Approved	Recommendation
1	Geriatric/disability/mental health and addiction specialists for each county	OHA - AMH	2,800,000	-	Hold; present plan in May
2	Senior mental health training	OHA - AMH	700,000	-	Hold; present plan in May
3	Enhance funding for elder and disabled transit services	ODOT	4,000,000	4,000,000	Fund
4	Geriatric medication competency training pilot	DHS - APD	1,600,000	1,600,000	Fund but require May report on RFP
5	Training on Alzheimer's/dementias	DHS - APD	450,000	450,000	Fund but require May report on RFP
6	Training for caregivers on challenging behaviors	DHS - APD	400,000	400,000	Fund but require May report on RFP
7	First responder training on Alzheimer's/dementias	DHS - APD	500,000	500,000	Fund but require May report on RFP
8	Increase access to caregiver training statewide	DHS - APD	350,000	350,000	Fund but require May report on RFP
9	Restoration of Quality Care Fund sweep	DHS - APD	1,000,000	1,000,000	Restore fund but report on spending plan
10	SB 1553 - Public Guardianship Program	LTCO	949,183	949,183	Fund
11	Re-establish annual reporting for long term care	DHS - APD	750,000	100,000	Partially fund; report back in May
12	Develop community based care capacity index	DHS - APD	750,000	100,000	Partially fund; report back in May
13	General Assistance study	DHS - APD	112,000	112,000	Fund
14	Collect/analyze data on via annual BRFSS report	OHA - PH	30,000	30,000	Fund
15	Cash Oregon Grant for technology upgrade	DHS - APD	150,000	150,000	Fund
16	Personal Incidental Fund (PIF) from \$30 to \$100 per month	DHS - APD	1,300,000	539,728	Fund at \$60 and start indexing
17	Initiate SB 870 to expand coverage for younger persons with disabilities	DHS - APD	3,000,000	-	Hold; present pilot plan in May
18	HB 4151 - Elder Abuse Task Force Recommendation	DHS - APD	149,365	149,365	Fund
19	Adult Protection Services Technology Investment	DHS - APD	1,000,000	-	Hold; pending business case and plan
20	AAAs - Replace Older Americans Act lost due to sequestration cuts	DHS - APD	2,500,000	-	Hold; pending actual awards/need
21	AAAs - Evidence based health promotion/disease prevention	DHS - APD	1,250,000	1,250,000	Fund
22	Senior Property Tax Deferral Hardship Fund (\$313,800)	DHS - APD	313,800	313,800	Fund
23	SB 1542 - Expand Home Care Registry to Private Payers	DHS - APD	1,281,297	1,281,297	Fund
24	Medford Senior Center Nutrition Program	DAS	20,000	20,000	Fund

Total **25,355,645** **13,295,373**

SPA Amount	26,000,000	26,000,000
SPA Remaining	644,355	12,704,627

**Items #1 and #2** were not funded by the Subcommittee, pending a report to the May meeting of the Emergency Board. The current \$3.5 million General Fund (\$7.0 million total funds) proposal places geriatric and disability mental health and addiction specialists in all 36 county mental health programs, in order to improve services for older adults with mental illness. Behavioral health services for older adults rest in systems of care that are often times disconnected. These systems include Aging and People with Disabilities long term care, home health, Medicare (including Medicare Advantage plans) and community mental health programs. The geriatric specialist would focus on the coordination of these systems within their community to meet the behavioral health needs of older adults. In its report, the Oregon Health Authority will provide a more detailed plan for both the services and training components of the proposal. The report should include how to structure the program and how to best work with Coordinated Care Organizations, in both the short and long run, considering that these staff would service Medicare clients as well as those eligible for Medicaid. The report should also address the appropriate level of staffing in different areas of the state.

**Item #3** was funded, adding \$4.0 million General Fund for senior and disabled transportation budgeted in the Department of Transportation (ODOT). The program distributes funds to counties, transit districts, and tribes that provide transportation services for older adults and persons with disabilities. This infusion brings total funding for the biennium to \$11.0 million, which is about 30% of the estimated need as evaluated in a 2010 study by Portland State University.

**Items #4 through #8**, at a total of \$3.3 million General Fund were approved on a **one-time** basis for the Department of Human Services to fund a broad scale Caregiver Training Initiative designed to provide consistent, standardized, and evidence-based training across all segments of the long term care services and supports (LTCSS) continuum. The growing population of seniors and people with disabilities requires a well-trained workforce and the development of additional community resources for both professional and family caregivers. Curriculum, trainings, and capacity development will be targeted in the following areas:

- Geriatric medication management and competency
- Alzheimer's disease and related dementias
- Challenging behaviors in non-dementia populations
- Specialized training for the public safety workforce on Alzheimer's and related dementias
- Enhanced training and access to caregiver trainings in underserved areas, populations and settings

DHS will issue a Request for Proposal (RFP) for organizations with the demonstrated experience, competency, expertise and ability to develop, coordinate and conduct trainings, curriculums and materials to reach all the intended audiences identified. Organizations will need to demonstrate the ability to work statewide with both private and public entities in the development, coordination and successful execution of this initiative. Programming should be aligned with current state policy initiatives.

The Subcommittee directed DHS to report back to the Emergency Board in May on the status of the RFP with the goal being for trainings to commence by July 2014.

For **Item #9**, the Subcommittee approved a **one-time** allocation of \$1.0 million General Fund, which allows Quality Care Fund resources to be directed back from general program expenditures to training, technical assistance, quality improvement initiatives and licensing activities. The fund's revenue comes from long-term care facility licensing fees and civil penalties. Prior to formally allocating Quality Care Fund dollars to projects or initiatives, the Department will report to the Emergency Board on the spending plan, the process used to decide on fund allocations, and the overall plan for managing the fund going forward. This report will be provided in May 2014 in conjunction with the training RFP report discussed above.

Funding for **Item #10**, which was approved in the amount of \$949,183 General Fund, will support a new Public Guardian and Conservator program within the office of the Long Term Care Ombudsman (LTCC). The program is created with passage of SB 1553 (2014); more information on the program is included in the LTCO narrative.

**Items #11 and #12** take care of two data and information reporting gaps in the Department of Human Services. The approved initial allocation of \$200,000 General Fund (\$100,000 per project) will allow DHS to develop a work plan and more precise costing for these projects before returning to request the remaining funding. The first project will restart annual Nursing Facility and Community Based Care utilization reports, which were discontinued in 2009 due to budget reductions. The second effort is around improving availability of quality information on community based care facilities, through development of a website that will contain information on facility location, type of care, vacancies and customer satisfaction.

An allocation of \$112,000 General Fund (**Item #13**) will allow the Department of Human Services, with stakeholder participation, to conduct a **one-time** study on and make recommendations for a program designed to provide temporary cash assistance to low-income, childless adults with disabilities (at a minimum). The Department will report the study results and program recommendations to the appropriate House and Senate policy committees and the Joint Committee on Ways and Means during the 2015 Legislative Session. The report should include, but not be limited to, data on special populations, such as homeless persons, veterans, and individuals nearing or on post-prison supervision, eligibility requirements, services offered, desired outcomes, cost avoidance, potential pilot projects, and a menu of program/funding options.

**Item #14**, funded at \$30,000 will go to the Oregon Health Authority (Public Health) to pay for collecting specialized data on cognitive data and caregiving under the Behavioral Risk Factor Surveillance System. These data are particularly important for the Oregon Chapter of the Alzheimer's Association and its efforts to advance research, to provide and enhance care and support, and to reduce the risk of dementia through the promotion of brain health.



The Subcommittee approved **Item #15**, at \$150,000 General Fund, which supports a grant to Cash Oregon to support the one-time purchase of new laptops for the AARP Tax Aide program. This is a volunteer program that helps low-income seniors prepare tax returns.

Each Medicaid nursing facility resident has a monthly allowance to cover personal incidental needs (**Item #16**); this amount has been set at \$30 per month for the last twenty years. The Subcommittee approved \$539,728 General Fund and \$952,472 Federal Funds for DHS to increase the amount to \$60 per month, effective July 2014. Beginning with the 2015-17 biennium, the Department is directed to begin indexing personal incidental fund increases in nursing facilities to annual increase percentages published by the social security administration. (The approved recommendation was modified from the original proposal, which requested an increase to \$100 without any indexing.)

For **Item #17**, the Subcommittee retained \$3.0 million General Fund within the SPA for distribution in May 2014, after DHS and stakeholders have brought forward a pilot project plan to make Oregon Project Independence services available to people with disabilities, as envisioned by SB 870 (2005). To provide more specific direction, the Subcommittee adopted the following budget note:

**Budget Note:**

The Department of Human Services shall develop a pilot project to expand Oregon Project Independence services to people with disabilities effective July 1, 2014. To meet this timeline, the Department will need to make emergency rules; that rulemaking will incorporate the feedback of appropriate stakeholders and advocates. Appropriate parties include, but are not limited to, the Oregon Association of Area Agencies on Aging and the Disability Services Advisory Councils. The pilot shall cover a regionally diverse area of Oregon, including both rural and metropolitan areas. The Department shall report on the pilot project plan, which should cover structure, outreach, evaluation, and budget components, and request release of SPA funds at the May 2014 meeting of the Emergency Board.

The Department of Human Services will study and report back to the appropriate 2015 legislative committees on the potential to transition Oregon Project Independence to a statewide, age neutral program that assesses and serves seniors and persons with physical disabilities based on need. This report will include cost projections for the expansion of services, projected caseloads and demographic distribution.

Funding for **Item #18**, which was approved in the amount of \$149,365 General Fund, \$118,680 Federal Funds, and two positions (1.34 FTE) supports work under HB 4151 (2014). This bill sets consistent timelines for investigations of elder abuse cases by DHS and directs the agency to adopt policies and guidelines for the development of an electronic database of abuse reports and to standardize investigation and reporting practices. A registry of persons working or seeking to work in elder care facilities will be implemented by January 1, 2015; the registry will augment the existing criminal background check system. One of the new positions will work with the standardized practices and protocols related to the abuse reporting and investigating

components of the bill. The other one will responsible for the registry work, including coordination with reporting facilities and development of registry rules.

Discussions regarding various systems and worker registries led the Subcommittee to adopt an associated budget note:

**Budget Note:**

The Department of Human Services will report to the Joint Committee on Ways and Means during the 2015 Legislative Session on the “ready to work” registry and associated rules required under HB 4151 (2014). The report should also include a section on the feasibility of developing a comprehensive (diverse care settings) and multipurpose (employment, referral, certification, background check, abuse) care worker registry, including potential efficiencies, benefits, costs, and barriers. Lastly, the report will provide an update on how administrative rule changes required by HB 3168 (2013) have reduced duplicative background check counts and decreased waiting times for applicants.

The Subcommittee did not fund **Item #19**, which is a DHS request for funding to begin developing a new system to manage adult protective services activities. At a minimum, the Department plans to finalize a system business case and explore opportunities for federal funding before returning the Emergency Board to report on the project’s progress and potentially request at least an initial allocation from the Senior SPA.

**Item #20** is a request for \$2.5 million in state funding to backfill anticipated federal reductions in federal Older Americans Act dollars. Several programs administered by the local Area Agencies on Aging (AAA) are potentially affected by sequestration reductions. However, federal funding award letters have not yet been received and more recent information indicates that the shortfall may be much less than expected, if not completely mitigated. Accordingly, the Subcommittee did not allocate funds, but welcomes a SPA allocation request during the interim, depending on final federal awards and demonstrated need. Not taking action on potential sequester reductions at this time is also consistent with the approach taken in other areas of the DHS budget, where sequester impacts continue to remain an unfunded risk.

The Subcommittee approved **Item #21**, which provides \$1,250,000 General Fund to support statewide AAA efforts in the areas of Evidence Based Health Promotion and Disease Prevention. These programs serve individuals with long-term services and supports needs regardless of eligibility for entitlement programs. The money will be distributed through formula, with each region putting together a plan for that will include anticipated numbers of individuals served and outcomes.

To address back taxes for certain seniors who were allowed back into the senior property tax deferral program after being disqualified in 2011, the Subcommittee added \$313,800 General Fund (**Item #22**). The plan is for these **one-time** funds to flow through DHS to one or more Area Agencies on Aging to perform eligibility and authorize payments.

Funding for **Item #23**, which was approved in the amount of \$1,281,297 General Fund and five positions (1.41 FTE) supports work under SB 1542 (2014). This bill requires the Home Care

Commission (budgeted within DHS) to administer a program enabling private payers to buy home care services from the Commission's home care registry. Currently, only individuals covered by Medicaid may hire caregivers through the registry. Under the program, the Commission will be responsible for a variety of tasks, including publicizing the registry, screening workers, setting standards, providing referrals, establishing rates, and paying wages. After General Fund pays for **one-time** start-up costs, the program will be self-supporting; the bill allows the Commission to set consumer rates at levels that support recovering up to 107% of program costs.

For **Item #24**, the Subcommittee approved \$20,000 General Fund in the DAS budget as a **one-time** pass-through to the Medford Senior Center to cover emergency need in its senior nutrition program. Last fiscal year, the program provided 17,159 meals for the elderly in Jackson County.