



2013 Legislative End of Session Report

Department of Human Services

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July 22, 2013

EXECUTIVE SUMMARY:

From a DHS perspective, the 2013 Legislative Session proved to be a balanced mixture of budget and policy debates. It also focused on discussions regarding accountability of agencies and their use of public funds.

Although the economy showed some improvements and the legislature had more funds after the May forecast than anticipated at the beginning of the Legislative session, there was still a conversation of sustainability for programs and services as the session progressed. For the most part, policy matters had increased focus on major issues such as PERS that were not directly connected to DHS programs. That said, policy matters directly related to DHS were discussed and legislation that impacts DHS was passed.

The Legislature and state agencies seem to be adapting well to the annual sessions. There appeared to be more conversation from the legislators about taking major policy changes a bit slower and a willingness to use multiple sessions to accomplish some major policy decisions. Likewise, some of the budget conversations seem to suggest thinking beyond a two-year investment and plan for a long-term, sustainable outcome. Conversations regarding both revenue and budget reductions seemed to drive much of the policy communication.

This Legislative session also provided Oregon with more than a dozen new legislators. These “freshmen” legislators jointed with the senior legislators to create a fast-paced session that saw more than 2,000 bills introduced within the first three days of opening the 2013 legislative session. This session offered a Democratic majority House, Democratic majority Senate and a Democratic Governor (last session, we had a Split House, Democratic Senate and Democratic Governor). Monday, July 8, 2013 marked Sine die with more than 900 bills still alive to the end.

For your review, the DHS Legislative Team, DHS Budget staff and DHS Program staff compiled a brief overview of bills that passed this session which impact DHS. In addition, we reference some bills that did not pass but would have had an impact on DHS if passed; they may appear at some time in a future legislative session. This session, we tried to group the bills by “themes” rather than by “bill number,” to provide you with an easier read. We also have the themes grouped into program areas, again, hoping this will help you as you review the work from this Legislative session.

DHS INTRODUCED BILLS

AGING & PEOPLE WITH DISABILITIES SPONSORED BILLS

HB 2056—AMENDED INTO HB 2216 AND PASSED

HB 2056 extended the current long term care facility assessment for six more years until July 1, 2020, and all exemptions to the assessment—with the exception of the Oregon Veterans' Home—are eliminated. **HB 2056** also outlines a strategy for helping providers reach a goal of reducing Oregon's long term care bed capacity by 1,500 beds by the end of 2015.

Background: In 2003, the Legislature passed a bill requiring long term care facilities to pay a self-assessment to the state. The assessment is used to leverage matching federal funds, which in turn allow an increase in reimbursement rates paid back to the facilities. Under current law, the assessment is set to expire on June 30, 2014; however **HB 2056** extended the assessment through July 1, 2020. To give some perspective, it's estimated that the assessment will now collect \$127.7 million for the 2015-17 biennium. It will bring in \$218 million in leveraged federal funds.

HB 2056 also sets a goal of reducing Oregon's long term care bed capacity by 1,500 beds by December 31, 2015. The bill establishes procedures and a financial incentive for providers to purchase the bed capacity from another long term care facility. If the 1,500 bed reduction target is not met, DHS will start adjusting nursing facility reimbursement rates downward in 2016.

Notes: In the Ways & Means Subcommittee on Human Services, **HB 2056** was amended into **HB 2216**. **HB 2216** contains the hospital assessment and the long term care facility assessment, as well as the 1,500 bed reduction goal. It passed the Legislature toward the end of session. **HB 2216** is *effective October 8, 2013*.

SB 21—PASSED

SB 21 requires DHS to convene a committee in order to develop a plan for improving and strengthening the long term care system. The plan must cover several elements, including strategies supporting independence, care setting choice, and culturally responsive services. DHS will also gather related data on the long term care system and system cost drivers. Along with agency staff, committee membership will include community partners, consumers, seniors and people with disabilities, and legislators. DHS will provide an update to the Legislature in 2014 and a final report must be presented to the Legislature no later than February 1, 2015. *Effective July 1, 2013*.

Background: Oregon is a national leader in providing home and community-based long term care services for older adults and people with disabilities. However, with the expansion of the aging population and the need for assistance increasing, Oregon’s system cannot meet the demand with the current level of resources. Through SB 21 DHS asked to convene a public planning process with legislative oversight, to develop an improved and secure long term care system. The goal isn’t to change what’s working well, but instead to think about strategies such as better serving the non-Medicaid eligible population, increased service equity, and stonger in-home supports.

CHILD WELFARE SPONSORED BILL

HB 2053—PASSED

HB 2053 will make it possible for Oregon tribes or DHS to run criminal background checks on prospective and existing foster parents and others who live in their homes. DHS received advice from legal counsel that the statute was not clear in this area. This legislation clarifies law and provides assurance that criminal background checks can be conducted by either the Tribes or DHS for foster home certification. *Effective May 9, 2013*

Background: Prior to this bill, Tribes did not have a clear and consistent way to accomplish required criminal background checks on prospective foster parents and other persons who live in the homes of prospective foster parents. This legislation clarifies law and provides assurance that criminal background checks can be conducted by either the Tribes or DHS for foster home certification. Also, the criminal background checks are required by the federal code that governs the Title IV-E funds that are critical for maintaining and supporting the foster care programs. Federal law requires states to conduct criminal background checks for all adults in a potential foster home before placing a foster child in that home. Without this criminal background check, states are not allowed to use federal funds for placement of children in that foster home.

DEVELOPMENTAL DISABILITIES SPONSORED BILL

SB 22—PASSED

SB 22 updates several statues related to Developmental Disabilities because they are outdated and in need of revision. Over the last two decades there have been significant changes in the service system for people with intellectual and other developmental disabilities (I/DD). The cumulative effect of these changes is that many current statutes need to be updated. **SB 22** is a “clean up” bill that makes those adjustments. *Effective April 11, 2013.*

Background: We have closed all public and private institutions—the last two institutions, Fairview Training Center and Eastern Oregon Training Center, closed in 2000 and 2009 respectively. Our system now relies totally on community-based services. Oregon is one of only a few states in the country that can make that claim. Additionally, in the last 12 years we have instituted an array of cost-effective, in-home services but our statutes have not kept up with all these change. In response, **SB 22** does several things:

- a) Eliminates references to institutions that no longer exist (Fairview Training Center and Eastern Oregon Training Center),
- b) Updates language (e.g. mental retardation to intellectual disability),
- c) Adjusts for some current practices that changed as a result of eliminating institutions (e.g. civil commitment process, service eligibility determination that in current statute reference certain institutional requirements),
- d) Clarifies the authority of DHS to certify, license, and contract for programs for people with I/DD, and
- e) Updates the rights statement for people receiving services.

SELF SUFFICIENCY SPONSORED BILL

HB 2055—AMENDED INTO HB 2322 AND PASSED

HB 2055 continues the current suspensions to TANF. A program redesign in 2007 produced positive results for clients. However, in order to balance the budget in 2009 several reductions and suspensions were implemented. Those suspensions would have expired this year requiring additional resources, but **HB 2055** extends the suspensions until 2015.

Background: The Governor's Recommended Budget continued the TANF reductions and suspensions into the 2013-15 biennium. **HB 2055** is intended to align with the Governor's decision by providing the statutory language needed to make that happen. The bill was heard in committee together with HB 3440, which was a bill that would have required DHS to provide aid to prevent families from qualifying for TANF. Both bills were sent to Ways and Means for funding discussions. However, the Legislature only passed **HB 2055**, meaning that the currently reduced TANF program will continue into the next biennium.

Notes: Ultimately, the legislature decided to take the substance of **HB 2055** and place it in the end-of-session program change bill. You will find **HB 2055** amended into **HB 2322**.

**DIRECTOR'S OFFICE
LEGISLATIVE AND CLIENT RELATIONS OFFICE**

KEY BILLS

Improving Human Services Delivery

SB 450 establishes a task force on the delivery of human services. Sponsored by Sen. Steiner Hayward, it will: study the delivery of human services in Oregon and what is currently being done to streamline case management, investigate models in other states, identify existing regulatory barriers that prevent a unified delivery system and determine which human services programs are conducive to a unified delivery system. The task force will submit a preliminary report in 2014 and submit a final report to the Legislature in 2015. *Effective July 1, 2013*

Collecting Better Demographic Information

Two bills passed this session that helped focus a spotlight on collecting better information. Both pieces of legislation align firmly with current initiatives and involve DHS providing accurate and more detailed information and data for reporting race and ethnicity of our clients.

HB 2134 requires that OHA and DHS adopt rules identifying uniform standards for collection and reporting of data on race, ethnicity, preferred languages and disability status of public assistance recipients. *Effective June 4, 2013.*

Background: This bill was introduced at the request of the House Interim Committee on Health Care on behalf of the Asian Pacific American Network of Oregon and Oregon Health Equity Alliance. It received broad support from communities of color, OHA and DHS.

SB 463 requires the Oregon Criminal Justice Commission (OCJC) to provide a race and ethnic impact analysis for legislation being heard in a legislative committee also when legislators request it. The bill is written for two populations: criminal offenders and recipients of human services. It will allow DHS to submit data to the OCJC for impacts legislation may have on DHS clients. The bill also requires state agencies to have applicant providers seeking DHS grants (not contracts) to complete and submit a form (to be developed by DAS) regarding racial and ethnic impact statement. *Effective January 1, 2014.*

Background: Each session there are bills introduced that, if passed, could have an unintended consequence on communities of color. For the past six years, Sen. Shields has introduced legislation asking for a racial and ethnic impact analysis on bills receiving a public hearing. This session, **SB 463** passed the Legislature.

Supporting Service Members and Veterans

Legislation relating to services and supports for service members and veterans received broad support from legislators, the public, the Governor's Office and state agencies. Two bills supporting service members and veterans are listed below. A third bill supporting veterans is listed under the Aging and People with Disabilities section.

SB 125 directs agencies to give active duty service members notice of their right to postpone a contested hearing until they return from active service. Although DHS currently does this in practice, this bill requires DHS to give a notice to service members. In addition to this legislation, DHS is also partnering with the 211 Info Line to email important information which will be distributed to all service members wherever they are stationed. *Effective September 1, 2013.*

Background: Proponents of the bill felt that not all state agencies were making this right known to service members. DHS is adding a statement to comply with this bill on all notices mailed to clients regarding contested hearing rights. DHS staff with questions regarding this may call Robert Trachtenberg at (503) 947-5290.

HB 2422 directs DHS and OHA to refer veterans seeking services in Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Oregon Health Plan, Employment Related Day Care, Vocational Rehabilitation and programs for seniors and people with disabilities to a Veterans Administration Office to seek VA benefits. The bill allows DHS and OHA to implement this in the Modernization program role-out timeline. *Effective January 1, 2014.*

Background: Rep. Matthews is a strong advocate for veterans. He is concerned that they are unaware of the services available to them through the VA. DHS will partner much more closely with the VA as we move to enhance client services. This bill is one step closer to that end.

AGING AND PEOPLE WITH DISABILITIES OFFICE

KEY BILLS

Enhancing Financial and Other Protections

HB 3129 requires that professional guardians and conservators be certified by the Center for Guardianship Certification when appointed to serve as a fiduciary. This bill answers an unmet protective need; Without it, anyone however uninformed of the law they might be can be appointed as guardian or conservator. An earlier version of **HB 3129** would have established a Fiduciary Education Work Group to review practices and make recommendations related to fiduciaries, but the work group was removed in the final bill. *Effective when Governor signs.*

HB 2205 comes out of the Elder Abuse Work Group, a legislative group that works on ideas to respond and prevent elder abuse. **HB 2205** adds members, such as attorneys and certain medical professionals to the list of mandatory abuse reporters. It provides that financial institutions have up to 10 days to produce documents in financial abuse investigations. It also continues the work group another two years to focus on aligning abuse and vulnerable person definitions. DHS will continue in this role as a work group member. *Effective June 11, 2013.*

Improving Nutritional Assistance for Seniors

HB 2992 provides low-income seniors with vouchers known as SFDNP to purchase fresh fruits and vegetables from farmers markets and farm stands. Questions were initially raised about the intent behind this bill, but supporters said they only wanted to put into Oregon statute how SFDNP currently operates so that Oregon can administer the program if Congress fails to re-authorize key provisions of the Farm Bill. *Effective January 1, 2014.*

Background: OHA receives funding from USDA. It implements most of the administration of this program in addition to a similar program that provides vouchers to WIC recipients. The Legislature allocated an additional \$200,000 from the General Fund to OHA specifically for SFDNP.

Supporting Veterans

SB 1, sponsored by Senate President Courtney, employers must allow a paid or unpaid day off to veterans on Veterans Day. Veterans must show proof of service and work out details of the day off with their employer. Training on SB 1 requirements is needed for many people including Consumer/Employers who employ homecare workers or personal support workers. The target date for completion of this training is fall 2013. *Effective April 4, 2013.*

Other Legislative Action

SCR 1 is a resolution, rather than a typical bill that we monitor, and it states that the Legislative Assembly supports the implementation of the State Plan for Alzheimer's care. Although a resolution is only used to express an opinion of the Legislature and does not have the force of law behind it, SCR 1 was still important as it expresses support for a plan and goals that align with work already underway at DHS. To view the State Plan for Alzheimer's care, please go to http://www.alz.org/oregon/documents/spado_report.pdf. *Passed March 19, 2013.*

BUDGET HIGHLIGHTS

The APD budget is built upon the agency's successful request for federal approval of the Community First Choice State Plan Option (K Plan). The budget fulfills the required

maintenance of effort (MOE) expenditures. Along with the federal matching component, the funding is used to increase rates and increase the in-home housing allowance to support consumers who are served in their own homes., It also converts the relative adult foster care program to an in-home program. A portion of the investment is also targeted for home care worker collective bargaining.

The LAB also assumes the continuation of the Nursing Facility Provider Tax and corresponding increases in Nursing Facility rates. The budget provides a net \$14.9 GF decrease (2.0%) and a \$159.6 million TF increase (7.0%) in APD programs. Specifically, the 2013-15 LAB includes:

- **HB 2216** maintains the nursing facility reimbursement methodology and outlines a strategy for helping providers reach a goal of reducing Oregon's long term care bed capacity by 1,500 beds by the end of 2015. The nursing facility assessment is reauthorized through June 2020 and eliminates all exemptions, with the exception of the Oregon Veteran's Home, effective January 2014.
- Funding to serve more seniors with severe mental illness in the community instead at the more costly Oregon State Hospital, at a cost of \$7.3 million GF (\$10.7 million TF). Another \$1.9 million GF (\$5.3 million TF) will support community capacity needed to serve hard-to-place clients who require specialized care.
- An additional 6% that the state would draw down in FMAP because of the K Plan. The match on the MOE spend combined with the extra match in general, is expected to generate about \$92.9 million Federal Funds (FF).
- \$1.6 million GF dedicated to a new innovation fund. The fund supports pilot projects designed to either increase quality or decrease costs of long term care services.
- \$15.2 million GF (\$46.8 million TF) to increase home and community based care rates that have been flat since July 2008.
- A new design and restart for the Money Follows the Person program, along with funding for care coordination between local APD and Area Agencies on Aging (AAA) offices and Coordinated Care Organizations (CCOs).
- Investments in the statewide Aging and Disability Resource Connection (ADRC) to assist seniors, individuals with disabilities and veterans in navigating their options for long term services and supports.
- \$2 million GF (\$4M TF) to replace APD's obsolete case management system.

Budget Notes:

1. The first budget note for APD directs DHS and OHA to submit reports to the 2015 Legislature regarding plans and/or actions that address the recommendations contained in the *2013 Report on Senior and Disability Mental Health and Addictions* . They include:

- Create greater access to mental health and addiction services geared to the needs of seniors and persons with disabilities.
- Increase the capacity of the OHA Addictions and Mental Health program and providers to serve severely impaired seniors and persons with disabilities.
- In the health care transformation process, clarify the collaboration between the Coordinated Care Organizations and the APD program to develop best practices in dealing with the dual-eligible populations.
- Establish the role that senior and disability mental health and addictions will play in the re-definition of community-based long term care through APD.
- Provide for greater geriatric training for professionals in the system.
- Create greater public awareness of mental health and addictions issues among seniors and persons with disabilities.
- Create ability to track and report on Mental Health and Addiction.
- Services to elderly and persons with disabilities.

2. The second states that the Legislative Assembly is invested in ensuring that local resources exist to serve seniors, people with disabilities, individuals with mental illness, and individuals with physical or mental health needs in need of community transitions or placement. More capacity is needed to divert or transition individuals currently residing in the Oregon State Hospital or other costly inpatient settings.

As DHS conducts regional meetings required under House Bill 2216, it should consult statewide and locally regarding the need for more community based settings for these populations. DHS shall also engage with local nursing facility providers that are considering taking advantage of the capacity reduction initiatives contained in HB 2216 to assess opportunities for more residential and supported housing capacity development. DHS, in partnership with the provider community, shall track and report on discussions about capacity reduction and transition. The first report is due in 2014. The second report is due in November 2014.

POSSIBLE FUTURE LEGISLATION

HB 2671 would have created the Office of Public Guardian and Conservator to provide needs-based guardian and conservator services for Oregonians who lack the financial resources necessary to obtain a private guardian or conservator and who do not have a friend or relative willing or able to assume these duties. It did not pass, but might be re-introduced at a future date.

Background: HB 2671 is the result of work done by the Public Guardian and Conservator Task Force, originally created by the Legislature in 2009. The task force studied and made recommendations on the need for public guardian and conservator services as well as options or models for programs in Oregon.

HB 2712 This bill would have restarted the General Assistance program and require DHS to report to the legislature recommendations for the program to serve low-income, childless adults with disabilities.

CHILD WELFARE OFFICE

KEY BILLS

Assisting Foster Youth and Families

SB 123 was introduced by Sen. Shields. It establishes the Oregon Foster Children’s Bill of Rights. The rights include safety, clothes that fit, proper nutrition, communication with siblings and a confidential and safe means to report violations through a hotline. The DHS Governor’s Advocacy Office (GAO) will provide the hotline. *Effective January 1, 2014.*

Background: This issue came out of a three day summit of the Oregon Foster Youth Connection, a program of the nonprofit child advocacy organization Children First for Oregon, in 2012 and the adoption of an Oregon Foster Children’s Bill of Rights was one of the policy recommendations.

HB 2095 was introduced by the Governor at the request of the Oregon Student Access Commission. This bill aligns the definition of “former foster child” with the federal standard (in provisions of the College Cost Reduction and Access Act (2009)) in order to make them eligible for higher education grants, tuition waivers and scholarships. *Effective May 16, 2013.*

HB 3249 introduced by Rep. Krieger , it addressed a number of issues regarding grandparents’ rights including requests for visitation in both foster care and post adoption, the right to notice of dependency hearings and due diligence in the location of grandparents. The department worked with the sponsor and other parties. Eventually the 7 amendments were adopted. The bill requires the department to exercise due diligence to locate grandparents of a child who is in foster care, gives grandparents a right to be heard in dependency matters and allows a grandparent to request visitation rights with a grandchild in a dependency matter under certain circumstances. *Effective January 1, 2014.*

Accessing Records & Information

SB 622 was introduced by the Oregon Law Commission. Most Juvenile Courts have a “legal file” and a “social file” for children who are under their jurisdiction. The legal file contains matters relating to the court proceedings and the social file contains things such as clinical evaluations of the child. The term “social file” is not defined in statute. SB 622 formally defines these files as the “Record of the Case” and the “Supplemental Confidential File.” The bill further identifies who is entitled to view or make copies of each file.

Additionally, the bill clarifies that the court can allow release of information from the record of the case and supplemental confidential file to “any other person allowed by the court.” The bill does state that anyone obtaining information from either file must keep the information confidential. The final amendment to SB 622 delays the court’s authority to allow others than those authorized to obtain juvenile court files that are otherwise confidential. DHS Child welfare staff and the assistant attorney general served on the workgroup for this bill. *Effective January 1, 2014.*

SB 623 was also introduced by the Oregon Law Commission. It allows DHS to use its own adoption records for the purposes of administering its federally and state mandated child welfare programs. **SB 623** also opens court adoption records to birth parents and adoptees at the age of 18 under certain circumstances. *Effective January 1, 2014.*

Background: Current Oregon statutes can be read to preclude judges and their staffs from reviewing a court adoption file without a court order. In addition, other parties to an adoption case, including DHS cannot review their own adoption records absent a court order. DHS Child welfare staff and the assistant attorney general served on the bill development workgroup for this bill.

HB 3363 was introduced at the request of CASA (Court Appointed Special Advocates) and requires DHS to disclose case plan and written information to all parties in juvenile dependency proceedings related to abuse or neglect. The bill permits inspection of audio, video recordings in juvenile court proceedings as well as disclosure of reports and other material to the CASA as reasonably necessary. *Effective January 1, 2014.*

Background: Proponents of HB 3363 assert that the current human services delivery system remains fragmented, bureaucratic and difficult to navigate. It leaves many Oregonians spending time filling out paperwork and talking with multiple caseworkers. It also increases paper work and data entry work.

BUDGET HIGHLIGHTS:

The budget for the Office of Child Welfare includes target investments in the following areas:

The budget includes \$11.2 million GF (\$23.7 TF) for statewide implementation of **SB 964 (2011)** Preserving, Strengthening and Reunifying Families program. The program focuses on providing services to allow children to remain safely with their families and avoid foster care. Other budget highlights include:

- \$750,000 GF for the Homeless and Runaway Youth program, which supports local programs providing services such as street outreach, day drop-in and overnight shelter. This funding will expand the program beyond the current nine counties.
- Just under \$1 million GF and nine positions are allocated to improve state compliance with the federal Indian Child Welfare Act. The funding will help the department reduce the disproportionality of native children in foster care and serve more in their home.
- \$10.7 million GF and 113 positions are allocated to Child Welfare in an effort to improve workload model staffing and invest in increasing DHS' ability to continue implementation of differential response practices. Differential response is a practice change which increases services to allow the children to remain in their homes.
- About \$400,000 is provided to reinstate support post-adoption services (crisis response, consultation) and client care (survey visits) for children in residential care facilities.
- \$2.8 million GF was added to restore 48 residential beds. Because of budget reductions, lower utilization artificially suppressed projected need within the forecast model.

Budget Notes:

1) The Department of Human Services shall report to the Interim Joint Committee on Ways and Means in September 2013 on the following information concerning implementation of the Strengthening, Preserving, and Reunifying Families program under SB 964 (2011):

- An accounting of program funds spent during the 2011-2013 biennium. For contracted activities, for each contract report should include information on the contractor, services provided, amount of funds expended, specified outcomes and extent to which those outcomes were achieved.

- An accounting of any contracts issued under SB 964 (2011) in the 2013-15 biennium including information on the contractor, services provided, contract amount, and a delineation of expected outcomes in each contract.
- For the remaining 2013-15 contracts, information on issuance timelines, services provided, and expected outcomes.

2) The Department of Human Services shall report to the Interim Joint Committee on Ways in Means in September 2013 on its plan to allocate or reallocate new and vacant Child Welfare positions to target activities that have been understaffed in recent biennia. DHS must continue to protect children to the fullest extent possible. Focus areas should include implementation of the differential response model, family finding efforts and efforts to ensure that children move from foster care to permanency as quickly as possible. The report should indicate by DHS Child Welfare district and display both current and augmented positions by role as well as describe how the positions will help the agency meet desired outcomes. DHS will also report to the Joint Committee on Ways and Means during the 2015 Legislative Session regarding progress toward program outcomes.

<p>POSSIBLE FUTURE LEGISLATION</p>

HB 3032 would have required DHS or a law enforcement agency to immediately notify the appropriate school district, the Teacher Standards and Practices Commission (TSPC) and the Oregon Department of Education (ODE) if the reported alleged child abuse occurred in a school. The department would have worked jointly with law enforcement to determine the roles and responsibilities of each entity and would have been required to report the outcomes of investigations to the school district, the TSPC and the Oregon Department of Education.

Background: This bill comes from Disability Rights Oregon and stems from an abuse accusation against a school employee and a student with a developmental disability at the Centennial School District. . The Gresham Police Department would not investigate and DHS was not authorized to investigate teachers in this matter.

Notes: HB 3032 did not pass but DHS, ODE and Disability Rights Oregon met in June 2013 to discuss potential rule changes for notification purposes and how to keep kids safe. Discussions are continuing.

HB 3363, also establishes a work group on Juvenile Court Dependency Proceedings consisting of 11 members. The work group is charged with identifying impediments to timely resolution of dependency proceedings.

DEVELOPMENTAL DISABILITIES OFFICE

KEY BILLS

Revising Developmental Disabilities System

This session SEIU introduced a series of bills addressing the developmental disabilities system—the bills looked at issues such as a uniform assessment tool, placement choices, and transparency of rate assessments. Sen. Steiner Hayward led the negotiations between proponents, stakeholders and the department.

SB 559 states that any adult with developmental disabilities requiring comprehensive services who is being discharged or transferred from a residential care facility must be given three options of placement. These options must represent a variety of service settings. The bill also requires that individuals with developmental disabilities have equal opportunity for job placements. *Effective July 1, 2013.*

Background: Proponents of SB 559 said that the decision on placement is sometimes influenced by the case manager. Sometimes people do not get the full level of choices. They also said that people were often chosen for jobs based on where the individual lived (group home versus at home).

SB 640 and **SB 641** both would have required the department to provide transparency in its rate setting process. It also would develop a uniform assessment tool that would be used in the foster care system and the group home system. **SB 641** was folded into **SB 640** and the language around development of a uniform assessment tool was dropped in lieu of a budget note (see below). **SB 640** requires the department to pay a service rate that is sufficient to meet assessed support needs and requires notice if there is a rate change. Additionally, it requires re-assessments to be performed within 90 days of the request. *Effective July 1, 2013.*

Background: Proponents said that the two assessment tools (SNAP and CIS) were not an equitable way to make assessments and there should be a uniform tool. The department looked at this issue prior to the bill, and agreed to work with stakeholders to have this developed by 2015. Additionally, proponents frequently found the department's rate setting and changing process difficult to follow and wanted the department to commit to greater transparency.

Expanding Ombudsman's Office

SB 626, an SEIU introduced bill which they called their priority bill for developmental disabilities. The bill expands the duties of the Long Term Care Ombudsman (LTCO) to include the needs of residents of care facilities licensed to provide services for people with mental illness or developmental disabilities. It's expected that with the addition of services for people with mental illness or developmental disabilities, the LTCO's office

needs to nearly double in staff size. Under SB 626, a portion of the Quality Care Fund would be used to fund the expanded Ombudsman's office. *Effective July 1, 2014.*

Insuring Autism Spectrum Treatment

Sen. Bates led the discussions this session around the issue of insurance coverage for autism spectrum disorders. Multiple bills were introduced on this issue and **SB 365** passed. **SB 365** establishes requirements for coverage of applied behavior analysis for treatment of autism spectrum disorders. Initially the department was concerned with being tasked with licensing providers, but eventually that issue was resolved. *Effective when Governor signs.*

Background: For many years parents of children with autism spectrum disorders have talked about the extraordinary cost of services even though many of the services have had dramatic impacts, especially if received early in a child's life. Parents felt that requiring the coverage of these treatments in the private insurance market would make a dramatic difference.

BUDGET HIGHLIGHTS

The budget for the Office of Developmental Disabilities is also dependent upon the agency's successful request for a federal waiver under the Community First Choice State Plan Option (K Plan). The budget includes the required maintenance of effort (MOE) expenditures at \$29.5 million general fund, which are used primarily to restore 6% rate reductions taken by programs (group homes, supportive living, transportation, and adult foster care) in the previous biennia.

The budget also includes:

- \$1.2 million general fund to support four additional Family to Family networks in order to make services available to more families across the state with a particular focus on eastern Oregon.
- \$2.4 million GF (\$4.8 million TF) and 2 positions are provided in order to implement an electronic web-based central client record and case management system..
- \$10.3 million GF (\$25.7 million TF) and 40 positions to support the Employment First Initiative and associated Quality Assurance efforts. These resources will allow the program, in partnership with Vocational Rehabilitation and the Department of Education, to carry out activities under the Governor's Executive Order #13-04. The order sets out a process for moving people with developmental disabilities out of sheltered workshops and into integrated employment.

- An additional 6% that the state would draw down in FMAP because of the K Plan. The match on the MOE spend combined with the extra match in general, is expected to generate about \$126.6 million Federal Funds (FF).

Budget Notes:

1. The first budget note specific to DD states that by January 2015, the Department of Human Services will implement a uniform needs assessment tool for individuals receiving developmental disabilities services. Any assessment tool used by the Department must be evidence-based and consider broad stakeholder input. Implementation of the uniform needs assessment tool should be done equitably and with stakeholder input.

2. The second says as DHS implements the K Plan in Developmental Disability Services, the department shall eliminate program wide monetary caps on brokerage consumer’s individual service dollars. DHS shall base access and amount of an individual's brokerage personal service budget on needs identified through a functional needs assessment and the individual’s goals identified through the person-centered planning process. Also, DHS will continue to develop an individual service plan based upon the individual’s goals and designed to provide individualized supports necessary to further the achievement of those goals. Funding for all services will be in accordance with regulations established by the Centers for Medicare and Medicaid Services. The department is directed to keep person-centered planning and self-determination as foundations of the DD system.

POSSIBLE FUTURE LEGISLATION

HB 2769 was introduced by Rep. Gelser in an attempt to address children with severe developmental disabilities who are “residing” in nursing facilities. This was directed at one facility in Oregon, Providence Child Center. Rep. Gelser believes the system should not allow for children to permanently reside in a nursing facility and wants the department to work with Providence to see how we could best transition these children out and how most appropriately to use the facility. She agreed not to pursue the legislation in lieu of the department’s discussions with Providence but committed to bringing it back if sufficient progress is not made.

SELF SUFFICIENCY OFFICE

KEY BILLS

Developing an Integrated Early Learning System

HB 2013 directs the Early Learning Council and the Department of Education to assist school districts in creating a process for assessing a child’s readiness for kindergarten. ELC will lead on establishing policies necessary for a voluntary statewide early learning system with multiple components (including affordable quality child care). As part of the

services provided to support early learning and school readiness, the Child Care Division will start development of tiered quality rating and improvements systems for child care facilities. *Effective July 1, 2013.*

Background: HB 2013 was a top priority of the Governor's. It builds on past work in previous sessions regarding early learning, and calls for funding of seven community-based coordinators of early learning services—or hubs—in the first year of the biennium with an opportunity of funding nine more the second.

BUDGET HIGHLIGHTS

Oregon's economy was severely affected by the global recession of 2008, and has not yet fully recovered. The sudden and significant loss of jobs resulted in dramatic increases in Self Sufficiency's caseload. In particular, TANF experienced unprecedented caseload growth since the downturn of the economy. Federal funding has remained unchanged since 1996 making it increasingly difficult to adequately resource the program. Caseloads for the different program areas have started to level off, but they are declining at a much slower pace than anticipated.

The LAB provides a net GF increase of \$89.7 million (29.4%) and a TF change of \$116.4 (8.8% with non-limited FF SNAP funds, or a 13.3% increase without non-limited FF SNAP funding). The budget also includes the following:

- \$10 million GF to reverse a policy change in the Governor's budget, which would have implemented a 36 month, full family timelimit for the TANF program starting October 1, 2013. The current 60 month time limit is retained.
- An increase for the Employment Related Day Care program (ERDC), which provides child care subsidies to employed parents at 9,000 average cases over the biennium. This number may change after negotiation of provider rates.
- Continuation of several 2011-13 modifications made to the TANF program to reduce program spending. These include up-front eligibility process changes, denying aid based on a "job quit" period, eliminating enhanced payments for clients applying for federal Supplemental Security Income benefits and setting an income eligibility limit equal to 185% of federal poverty guidelines for non-parent caretaker relatives of dependent children.
- Funding for Self Sufficiency staffing levels at 71% of the workload model overall, including an increase in TANF case management staffing levels from about 35% to about 65%.
- Continuation of the Self Sufficiency Modernization project with an investment of \$7.1 million GF (\$56.1 million TF). DHS is transitioning from program-oriented process and duplicative systems to more efficient and streamlined systems. One

expected project outcome is workers having fewer business processes and less paperwork giving them more time with clients. Along with General and Federal Funds, the funding package relies on \$14.4 million in XI-Q bond proceeds.

- An add-back of \$5 million General Fund to the Job Opportunity and Basic Skills (JOBS) program which was continued at 2011-13 levels in the Governor’s budget. The add-back will allow the agency to serve more clients but the program will still be limiting services to those that are most “job ready” and “near job ready.” However, this will allow a 3 to 5% increase in services.

POSSIBLE FUTURE LEGISLATION

There were several pieces of legislation introduced this session addressing fraud or what was seen as an inappropriate use of public assistance funds. While none of the following bills passed this session, we most likely will see some of these ideas—or a variation of them—again since there is a program integrity workgroup, chaired by Rep. Olson, meeting during the interim. The goal of the workgroup is to develop ideas into legislation for the 2014 Session.

HB 2717—would have allowed DHS or OHA to suspend public assistance to individuals who fail to provide information to an investigator in connection with a possible overpayment.

HB 2718—would have required the Department of Administrative Services to establish and maintain a registry of individuals and families receiving social services from state and county agencies in order to enable agencies to coordinate the provision of services.

HB 2721—would have required public employees involved in the administration of public assistance programs to report suspected fraud using procedures adopted by DHS or OHA.

HB 3252—would have required all adults who receive TANF or SNAP benefits via an EBT card to have their photograph on the card.

HB 3322—would have required DHS to ensure EBT cards issued to TANF recipients cannot be used to purchase prepaid credit cards.

OFFICE of VOCATIONAL REHABILITATION SERVICES

KEY BILLS

Vocational Rehabilitation closely monitored several bills which have already been outlined in previous sections. They include:

HB 2134, which requires OHA and DHS adopt rules identifying uniform standards for collection and reporting of data on race, ethnicity, preferred languages and disability status of public assistance recipients. *Effective June 4, 2013.*

SB 125, which directs agencies to give clients who are active duty service members notice of their right to postpone a contested hearing until they return from active service. Although DHS currently does this in practice, this bill requires DHS to give a notice to service members. *Effective September 1, 2013.*

SB 559, states that any adult with developmental disabilities requiring comprehensive services and being discharged or transferred from a residential care facility must be given three options of placement. These three options must represent a variety of service settings. The bill also requires that individuals with developmental disabilities have an equal opportunity for job placements. *Effective July 1, 2013.*

BUDGET HIGHLIGHTS

The budget for Vocational Rehabilitation is 5.3% more GF and 13.6% more TF than the 2011-13 LAB, and includes the following:

- An addition of \$1,000,000 GF for distribution to Centers for Independent Living (CIL). This increase is expected to bring budgets for Eastern Oregon Center for Independent Living (EOCIL) and Lane Independent Living Alliance (LILA) up to minimal operating level. It also covers a portion of requested increase in overall base funding for all CILs.

SHARED AND CENTRAL SERVICES

KEY BILLS

Streamlining Background Checks (HR Background Check Unit)

Background: **HB 3168, 3330 and 3331** were introduced this session in an effort to improve and streamline the state's approach to non-criminal background checks. Two of the bills focused on using technology to streamline fingerprint capture and submission processes while the other two began work on centralizing rule writing for the standards applied to a background check.

HB 3168: This bill was introduced by Rep. Nathanson as a result a workgroup formed by HB 4091 (2012). This bill provides Oregon Department of Administrative Services (DAS) rulemaking authority for applicant background checks. These rules will shift the focus of a background check from the program to the population receiving services.

Instead of multiple background checks being required to work in an Adult Foster Home and as a Homecare Worker, one background check for providing services to the elderly will be required. *Effective January 1, 2014*

HB 3330: This bill requires use of electronic fingerprint capture technology for purposes of conducting criminal records checks not related to administration of criminal justice system. This section becomes operative January 1, 2014. This bill also requires each agency designated by State of Oregon to report, receive or disseminate criminal offender information to conduct study on fingerprinting processes and to report results of study to the legislature on or before October 1, 2014. This section sunsets January 2, 2015. This bill will positively impact our turn-around times for our end customers. The bill will allow exemptions for paper capture of fingerprints in more rural areas of the state where electronic capture would be a challenge. *Effective upon signature of Governor*

HB 3331: This bill directs the Department of State Police to establish a Voluntary Central Criminal Records Check Registry. It authorizes certain individuals who are required to complete criminal records checks to enroll in registry and submit evidence of enrollment in registry in lieu of future criminal records checks. This bill establishes a "clean-box" registry for individuals subject to background checks that have no criminal history. This will not meet all of our agency's needs as our abuse check and other program requirements may require fingerprints 100 percent of the time. Consequently, the benefits of the registry cannot be fully utilized. It can, however, potentially streamline a portion of the criminal records check process. It also helps to allow some portability of background checks in support of HB 3168. *Effective upon signature of Governor*

Increasing Payroll Efficiencies (Office of Financial Services)

HB 2207 requires payment of state payroll and pay statement by direct deposit or Accelpay card. DAS will be implementing state rule and agencies have begun making direct deposit and epaystub enrollment for all employees. *Effective June 13, 2013*

HB 2074 merges the Health Licensing Board with the Oregon Health Authority. OFS will participate with the Oregon Health Authority (OHA) transition group to merge accounting and payroll functions by July 1, 2014. *Effective January 1, 2014*

Strengthening Collection Practices (Office of Payment Accuracy and Recovery)

HB 2031, introduced by Governor Kitzhaber at the request of the Department of State Lands, allows the Department of State Lands to release state owned mineral rights on residential property that is unlikely to have any valuable minerals, instead of having the State Land Board release the rights at its quarterly meetings. The Estate Administration Unit (EAU) of the Office of Payment and Accuracy acquires title to several residential properties each year as part of the estate recovery process. Allowing the Department of

State Lands to release state mineral rights on those properties will speed the process and reduce the cost of selling those properties. *Effective June 4, 2013*

SB 184, introduced by Governor Kitzhaber at the request of the Department of Revenue, allows the Overpayment Recovery Unit (ORU) of the Office of Payment Accuracy and Recovery to deliver garnishments by first class mail, instead of by more costly personal service. However, to seek sanctions against a non-complying garnishee will still require the garnishment to be personally delivered. Savings are projected to be \$19,138 per biennium. Additional savings may be possible as new business processes take advantage of a newly deployed case management system. *Effective June 24, 2013*

SB 483, sponsored by Sens. Kruse and Prozanski and Reps. Garrett and Conger, this is the product of a work group that was formed to look at medical tort reform. The bill establishes a process for “adverse health care incidents” to be reported without liability risk to medical providers. It also establishes a mediation process for resolving “adverse health care incidents” where the medical provider may face potential tort liability. This will have some significant effects on the business practices of the Personal Injury Lien Unit (PIL) of the Office of Payment Accuracy and Recovery. *Effective March 18, 2013*

SB 558, sponsored by Sens. Boquist, Beyer and Rosenbaum, this bill makes modifications to legislation passed in a prior session. The previous legislation established a process for a homeowner to demand mediation for a non-judicial foreclosure of a residential trust deed. Most financial institutions switched to judicial foreclosures. **SB 558** now mandates the same mediation process be available to homeowners for judicial and non-judicial foreclosures of residential trust deeds. It included a number of additional minor revisions. The Estate Administration Unit (EAU) of the Office of Payment and Accuracy does hold the beneficial interest in residential trust deeds acquired through the estate recovery process. EAU exhausts every effort to avoid foreclosure. Despite its efforts, about five of these per year have to be foreclosed, frequently because the real property is at risk of being lost because of unpaid real property taxes. It is anticipated that the new requirements of this bill will result in about \$11,000 per biennium in additional costs in foreclosing residential trust deeds. *Effective June 4, 2013*

Increasing Efficiencies in Contracting (Office of Contracts & Procurement)

HB 2212, increases the small procurement threshold to \$10,000, efficiencies should be realized in a reduction of the administrative costs associated with what formerly was classified as a medium procurement. *Effective January 1, 2014*

BUDGET HIGHLIGHTS

Office of Information Services (OIS)

Approved Policy Option Packages (POPs)

1. DHS/OHA Computer and Network Infrastructure POP (101-8)

The POP will give OIS the resources to update agency hardware and IT service “infrastructure,” improving staff efficiency and effectiveness to better serve clients and partners.

The POP focuses on three main IT infrastructure issues:

- **Replace old, outdated computers**

Many computers being used by DHS and OHA staff are old, slow and cannot adequately support new systems and software required to do business and support clients. Staff had to continue using outdated computers due to past budget cuts.

The POP will help replace old, outdated agency computers and continue to replace them, which helps to meet ongoing technology needs.

- **Expand network infrastructure**

Many DHS/OHA buildings/locations and field offices do not have enough bandwidth capability to adequately support agency programs and systems. System response time is slow and staff have frequent problems and reboot issues that use up valuable work time.

The POP will give OIS the ability to update/expand DHS and OHA facility infrastructures with high-performance network environments that help meet the needs of health and human services programs and clients.

Bandwidth expansion already underway: OIS has already improved bandwidth capability at 15 field offices statewide and will expand capability at another 80 locations before 2014. Bandwidth increased between 3 to 12 times in the 15 field offices. Log in times decreased significantly and reboot issues were resolved. In all, the improvements have helped make the office staff more productive and effective.

OIS will continue to improve bandwidth capability at additional agency locations throughout the biennium.

- **Mobile computing, new capabilities**

OIS has already begun replacing old mobile devices with the new Apple and Android technology that give staff and caseworkers improved access and new capabilities in providing client services.

DHS and OHA staff will be notified in advance of changes that impact their teams or work sites as these improvements are rolled out statewide throughout 2013-15.

2. DHS/OHA Modernization POP (102-4)

The Modernization POP supports ongoing and expanded modernization efforts for both DHS and OHA:

- **Expand self-service options**

Clients will have more self-service options (online and by phone), helping reduce wait time in field offices and ensuring clients have the time they need with their case managers.

- **Continue to update legacy systems**

Legacy systems will continue to be updated reducing complexity and increasing system interoperability. Automating streamlined business processes will improve field office operations and reduce paperwork. This will give staff more time with clients and community partners.

- **New systems, automated business processes**

Innovative, more efficient IT systems and automated, streamlined business processes will improve field office operations, reduce paperwork and give staff more time with clients and community partners.

DHS and OHA staff will be notified in advance of changes that impact their work processes and systems as these improvements are rolled out throughout 2013-15.

Budget Note:

The Department of Human Services shall provide a report to the Joint Committee on Ways and Means during the 2015 legislative session on services, providers, and rates for each agency program relying on direct care workers for service delivery. Dependent on the project's final scope and expertise required, DHS may contract with a third party to complete the report. The report will include a description of the services, provider type, number of direct care workers, and worker turnover rates.

In addition, the report will show provider rates for the 2009-11, 2011-13, and 2013-15 biennia and the relationship between those rates and direct care worker wages. Where possible, the report will also show comparisons between the 2013-15 rates and what those rates would be if 2003-05 rates had been indexed to inflation from that biennium forward.

Within programs or specific services, the report will also describe how worker wages are determined. For example, whether by the employer or through a collective bargaining agreement. It will also identify any current data gaps, attempt to resolve them if possible, and outline strategies to resolve them for future reporting. Finally, the report will explore other options – beyond simply increasing rates – for ensuring that funding increases translate into wage increases for direct care workers. Some recognized strategies include implementing wage pass through legislation, providing enhanced reimbursements tied to workforce outcomes, specifying a minimum allocation of rate to direct care labor costs, and revising contract language. It is the intent of the Joint Committee on Ways &

Means that provider rate increases in the 2013-15 budget have as a priority salary and benefit increases for direct care workers in order to reduce turnover rates.

POSSIBLE FUTURE LEGISLATION

HB 2828 would have required OSP to establish a program to retain fingerprint cards or facsimiles of fingerprints received from the Federal Bureau of Investigation (FBI) or created during state criminal records check for notifying authorized agencies or districts that subscribe to the program of receipt of fingerprints for purposes related to administration of criminal justice. We anticipated positive impacts in the form of greater efficiencies for our office and our customers. This bill would have allowed OSP to develop and implement a "rap-back" system. Over time, as subject individuals subscribed to the system, DHS and OHA would have experienced a potential reduction in background check volume, and increased available applicant pools for programs, facilities and clients that access our background check services to receive services depending upon implementation.

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