

KIDS AT THE CAPITOL



2011 Legislative Summary

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Arkansas lawmakers in the 2011 session were able to improve the health, economic security and education opportunities for many children and families, despite the continuing effects of The Great Recession.

On the top of the list of successes is child access to health care. We know that fewer disruptions in care and better access to oral health services help children stay healthy, learn in school and grow into healthy, productive adults. Gov. Mike Beebe and legislative leaders ensured that as many as 20,000 children already eligible for ARKids First are not pushed out of coverage because of unnecessary paperwork. Act 771 was championed by Sen. Jimmy Jeffress and Rep. Uvalde Lindsey to “cut the red tape” in ARKids First. It will remove enrollment and re-enrollment barriers that keep more than half of the state’s uninsured children off ARKids First rolls even when they are eligible. Sen. David Johnson sponsored a trio of bills to improve oral health of Arkansans. One will increase availability of fluoridated water around the state—a proven way to prevent tooth decay. The other two measures will make it easier for children and families to receive preventive dental services in schools, doctor’s offices and other new settings.

The Arkansas General Assembly considered myriad tax cut bills that would have cost more than \$266 million in 2012 alone. If passed, they could have risked major cuts to services that Arkansans rely on for education, health and safety. In the end, the final tax cut deal was reasonable and a few of the measures will directly support Arkansas families, such as Gov. Beebe’s additional cut to the state grocery tax. Importantly, lawmakers rejected proposals like reducing the capital gains tax, which would have raided the state’s revenues to benefit only the very wealthy.

One bill included in the tax cut agreement will mean more money in the pockets of low-income working families. In 2009, lawmakers failed to fix a tax glitch that has kept many families paying more in state taxes than intended. While low-income families were exempt from most state taxes in 2007, an error in the law left out single-parent families with two or more children. Rep. Uvalde Lindsey, Rep. Duncan Baird, Sen. Linda Chesterfield, Rep. Davy Carter, Sen. Larry Teague and many others worked hard to pass Act 736 to see that this mistake was corrected. Their dedication means more than 50,000 working single-parent families will have as much as \$200 a year to help them through the effects of the recession. Many local economies will benefit as these families pay for food, housing and transportation.

Efforts to close the educational achievement gap also advanced this session. Act 166, sponsored by Sen. Johnny Key, creates a framework for after-school programs across Arkansas. Thanks to a measure pushed by Gov. Beebe and sponsored by Rep. Bobby Pierce, schools may no longer hold on to large sums of state “poverty” dollars intended to close the achievement gap and support low-income children.

It was a mixed bag for efforts to reform the tax system. Act 1001, limiting the ability of out-of-state online retailers to escape state sales taxes, will make the tax system more fair for Arkansas-based businesses. But a related effort, HB1495, to close corporate tax loopholes that allow large, multi-state corporations to evade state taxes, had an informative hearing in the House Revenue and Tax committee but didn’t get out of committee.

With expensive tax cuts blocked, major program cuts were also avoided. The state general revenue budget adopted for fiscal year 2012 totaled \$4.56 billion, an increase of \$85.1 million or a 1.9 percent increase above the projected budget of \$4.47 billion for the current fiscal year (FY 2011). Most of this increase will go to the Public School Fund, which will see an increase of about \$55.3 million in state general revenue for fiscal year 2012 (for a total general revenue budget of \$1.94 billion). The only other two agencies to receive notable increases were the Departments of Corrections and Community Corrections, which saw increases of \$6.4 million and \$4 million, respectively. The increase will support the governor's prison reform legislation. Together, these three agencies were given more than three-fourths of the increase in new state general revenue for fiscal year 2012.

Most state departments were flat funded for the upcoming budget year, which could limit the ability of already-stretched systems including child welfare and juvenile justice to serve children in their care. Medicaid is another system to watch in the next biennium, since state officials expect a shortfall as early as 2013. Medicaid got no new state general revenue for fiscal year 2012, but will see an increase in its state funding due to heavy use of about \$216 million from the Medicaid Trust Fund, supported by the soft drink tax. The balance of the trust fund is expected to be cut by more than half during fiscal year 2012. Advocates should track Gov. Beebe's efforts to transform the Medicaid payment and delivery system and weigh in on new ways to address rising costs without cutting eligibility or services.

Finally, what didn't pass was as important as what did this session. The House and Senate blocked bills that would have eroded the economic security of Arkansas children and families during the recession. These included efforts to limit services to immigrant families (many with citizen children), attempts to restrict unemployed workers' ability to access unemployment benefits, as well as attempts to skirt or overturn the federal health reform law.

Each section below offers more detail in key areas: child welfare, early childhood education, economic self-sufficiency, education, health, immigration, juvenile justice, substance abuse and taxes.

Child Welfare

Arkansas foster children will have an easier time finding a forever home with three significant pieces of legislation.

Act 1027 expands the definition of who is eligible to be a guardian. The Division of Children and Family Services already has a waiver system in place to allow relatives convicted of felonies to become foster or adoptive parents depending on the circumstances. These individuals are now eligible to become guardians.

Act 607 makes changes to the adoptions act to help more children get adopted. Chil-



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dren who must live elsewhere to receive medically necessary health care will be exempt from the requirement to live in a home for at least six months. This allows children who have severe illnesses or physical disabilities requiring long-term hospital or facility care to be adopted by families who can provide loving support for the child throughout their life. It also allows siblings of children with these illnesses to remain a family. This act also makes it easier to receive adoption subsidies, encouraging more families to adopt.

Act 592 amends the Arkansas Subsidized Guardianship Act to allow state funds to be used for guardianship subsidies when the child is not eligible for federal Title IV-E funds, as long as they meet other requirements.

The following four bills support the rights of children and parents involved with the child welfare system.

Act 1175 makes several changes to the Juvenile Code including: clarifying that Court Appointed Special Advocates' role in a dependency/neglect case is to advocate for a child's best interest, states that a putative father is to be given legal representation at a termination of parental rights hearing if certain requirements are met, and adds that a judge has the right to terminate one parent's rights and not the other parent's rights, when it's based on the best interest of the child.

Act 1170 updated Arkansas law to be in compliance with the federal law ensuring that parents in active military duty are provided due process in dependency/neglect cases.

Act 1143 amends the child maltreatment act with several changes. It provides additional safeguards for sexually abused children by increasing the age from 10 to 13 before a child can be found guilty of sexual abuse. It also prevents children age 13 to 16 from being placed on the sex offender registry if they are not adjudicated delinquent or found guilty in court for the acts that led to the investigation. This is important because many of our children who act out sexually do so because they themselves have been abused. Placing them on the sex offender registry would have far-reaching damaging consequences instead of providing them with the help they need.

Act 783 states that a child safety center should be used if available and appropriate for specialized forensic medical and psychological examinations to allegedly abused children. Establishing these child safety centers was a big win for child advocates in the 2007 legislative session. The current legislation encourages the use of these facilities to lessen the trauma experienced by children who are sexually and seriously physically abused.

There was also legislation enacted that will help investigators do their job more effectively, safeguard client confidentiality, and strengthen mandated reporting procedures as listed below.

Act 1143, previously mentioned, makes it clear that schools must give a child's school records free of charge to the investigator during an investigation. Having these records enables the investigator to do a more thorough job when investigating child abuse. It also clarifies language on the procedures the child abuse hotline must follow.

Act 784 adds guidance counselors to the list of reporters the hotline must accept reports from of 'injury to a child's intellectual emotional or psychological development.'

Act 1236 requires all licensed school personnel to be trained on issues of child maltreatment within one year of initial licensure and all subsequent renewals. The training must cover how to recognize child maltreatment, the legal requirements of the Child Maltreatment Act, how to manage disclosures, and how to connect victims of child maltreatment to appropriate services. The training must be approved by the Arkansas Child Abuse/Rape/Domestic Violence Commission. This act is very important because teachers are

often our first line of defense in recognizing child maltreatment.

Act 613 ensures that a school will not notify a parent or guardian of a request of a child interview during an investigation if the parent or guardian is the alleged offender.

Act 985 requires that school districts update their school policies to be in compliance with child maltreatment laws within 60 days of the end of a legislative session.

Act 1126 puts more protections in place for keeping the information on children and families who are clients of a child advocacy center by making it a class A misdemeanor for improperly disclosing these records.



Other legislation in child welfare

Act 1149 expands the Arkansas Task Force on Abused and Neglected Children until June 30, 2013 and the Arkansas Task Force on Sickle Cell Disease to Oct. 1, 2013. Act 522 updated the child welfare licensing act clarifying who the act applies to. Act 1139 simplifies the subpoena process in administrative adjudications. Act 1128 requires hospitals and free standing birthing clinics to provide educational materials on shaken baby syndrome to mothers prior to being discharged after giving birth.

Early Childhood Education

Despite the best efforts of early childhood education advocates, there was no increase in funding for the Arkansas Better Chance Program, Arkansas's state funded pre-k program for 3 and 4-year olds in families with incomes below 200 percent of poverty. The program has not seen an increase in funding in several years and currently lacks adequate funding to serve all eligible children. Similarly, the legislature did not support an effort to transfer more federal TANF funds to child care to help cut the waiting list of 11,000 low income children needing child care. On the positive side, Act 636—the public-private partnership bill—allows for the Division of Child Care and Early Childhood Education to use interest from the Arkansas Child Care Facilities Loan Guaranteed Trust Fund to support an early childhood foundation. Planning for the foundation will take one to two years.

Economic Self Sufficiency

The economic security of Arkansas families was threatened by many pieces of legislation proposed during the session. Many bills would have made it harder for unemployed workers to receive their unemployment insurance benefits, but only one became law. Act 861 puts a minimum (\$81 a week) and a maximum (\$451 a week) on unemployment benefits a worker can receive. On the other hand, Act 1125 (SB305) was passed that would allow for the creation of an Unemployment Trust Fund. This act gives the Director of Workforce Services (with the approval of voters in a statewide election) to issue bonds for the Arkansas Unemployment Trust Fund in order to cover the debt owed to the federal government for Arkansas' portion of the federal Unemployment Trust Fund.

The state will set up a framework for supporting and administering quality after-school and summer programs, so services will roll out quickly when money becomes available.

Education

Schools will now have to spend 85 percent of “poverty” money on children it is intended for, rather than roll it over year to year.

New education laws will help improve after-school programs, postsecondary preparation programs and other programs to benefit low-income students. Act 166 directs the Arkansas Department of Education, in partnership with DHS, to set up a framework for after-school programs to better coordinate and improve quality of existing programs. This will also create a mechanism for financing quality after-school programs when money becomes available.

Act 1220 will ensure that schools no longer hold on to large sums of state “NSLA” or “poverty” dollars intended to close the achievement gap and support low-income children. The new measure requires schools to spend 85 percent of their annual NSLA allocation. It allows the money to be spent on school meals, initiatives to lengthen the school day or school year and remediation programs.

Two important bills will help schools better address bullying and prevent teen suicide. Act 907 requires schools to strengthen anti-bullying policies, intervene when bullying occurs and establish bullying prevention policies. Act 770 directs the Department of Education to provide professional development for educators on teen suicide and prevention.

Act 879 reduces the need for remediation once students enter college by improving access to postsecondary preparatory programs. Other new higher education laws include improving data reporting among institutions (Act 696), incentives in the higher education funding formula for public universities to increase the number of graduates (Act 1203) and improving data collection on students participating in the state scholarship lottery program (Act 635). Other bills related to the lottery include improving the detail and frequency of financial reports to lawmakers and the public (Act 1057), a study on the fairness of scholarship distribution (Act 1222), a decrease in the scholarship amount and other funding allocations (Act 1180) and a requirement of public notice of locations for self-service lottery vending machines (Act 1192).

Many expressed concern over the expansion of charter schools in Arkansas this session. Research shows that, beyond a few individual cases, they do not overwhelmingly perform better than public schools when family income and other demographics are taken into account. Despite this, lawmakers passed Act 987 to effectively remove the state cap

on open-enrollment charter schools through an application trigger process. Act 993 also details resources and clarifies reporting requirements for charter schools.

Health

Arkansas improved the health and safety of its citizens, particularly the most vulnerable, with the passage of several bills that will improve children’s health and access to health care.

Cutting the Red Tape in ARKids First

Act 771 makes several changes to the enrollment and renewal



process for ARKids First to “cut the red tape.” More eligible children will enroll and stay enrolled, while government becomes more efficient through better use of technology and paperless options.

Right now, families re-enroll their children in ARKids First by submitting a paper form; instead, this bill calls for an “ex parte” renewal process to verify an enrolled child’s ongoing eligibility for ARKids First. This system would use administrative databases (such as income records in workforce services databases) to determine eligibility when families are renewing. This could be easily integrated into the Access Arkansas online system. Parents would be asked to report changes to their income as they happen and would avoid having to submit forms each year to prove eligibility.

Under the “Express Lane” enrollment feature, case workers will be able to use approved applications from other programs—such as free school lunch applications—to approve ARKids First enrollment. Then families don’t have to submit the same information many times to apply for related programs. Arkansas DHS has agreed to start work on these first two items immediately to be implemented by the end of 2011.

Once state money is available, the state will offer 12 months of continuous coverage. Under ARKids First B, enrolled children currently keep coverage for a year, regardless of income changes during that year, ensuring that income fluctuations do not disrupt coverage. This bill would transfer children in ARKids First A to ARKids First B for the remainder of the 12 month enrollment period if their income changes.

Even implementing the first two simplification changes will put Arkansas in the running to compete for federal bonus money. Last year Louisiana won \$3.5 million and Alabama got \$55 million for simplifying their processes and covering more eligible, uninsured kids.

Healthy Teeth, Healthy Kids

The passage of three pieces of legislation made it clear that the oral health of Arkansans was an important topic. Act 89 allows dental hygienists to perform hygiene procedures in public settings, like area health centers and public schools, without the direct supervision of a dentist. Since many Arkansans live miles from the nearest dentist, this will allow more children to get preventative oral care, fluoride treatments, and dental sealants. Act 90 authorizes trained physicians and nurses to apply a fluoride varnish to children’s teeth during regular check-ups. Physicians are often the first and sometimes only health professional that children see. Finally, through Act 197, approximately 87 percent of all Arkansans will now have access to fluoridated drinking water. The Act requires all community water systems serving more than 5,000 people to fluoridate the water system. Fluoridated water decreases the risk of tooth decay in both children and adults.

Improving Access to Health Services

Many other new laws improve access to care for specific diagnoses or circumstances, particularly preventive care. For specific diagnoses, Act 196 requires health insurance companies to provide coverage of the screening, diagnosis and treatment of autism spectrum disorders. Act 68 clarifies that children with spina bifida and Down syndrome can access services through DHS Division of Developmental Disabilities Services. Act 909 will improve treatment access for the approximately 1,250 adults in Arkansas living with sickle cell disease by establishing an Adult Sickle Cell Clinic at the University of Arkansas for Medical Sciences.

- More medical professionals will provide preventive care under Act 147, which allows

20,000 children already eligible for ARKids First won’t be pushed out of coverage because of unnecessary paperwork.

Arkansas children will have healthier teeth with new laws to increase the availability of fluoridated water and increase the number of health providers who can provide preventative dental services.

pharmacists to administer vaccinations, immunizations and some medications to children ages 7 through 18 with proper protocol. Previously, pharmacists could only administer these services to adults. Act 1167 allows Advanced Practice Nurses to work with UAMS Area Health Education Centers (AHECs) to provide services and receive training.

- In response to a large health insurer leaving the state, Act 269 will require private health plans to offer child-only individual health insurance policies to children under 19 years of age, so no children experience a lapse of coverage.
- Two important new acts will help the state study and find solutions to address health disparities and close the gaps in health outcomes between minority and white Arkansans, as well as between low-income and higher-income Arkansans. Act 1162 directs the Senate and House public health committees to study the impact of changing demographics and diverse cultures on the health care delivery system and make recommendations on how health and public health professionals can provide culturally and linguistically appropriate services. Act 790 and Act 798 direct state agencies and programs to report and collaboratively address the large gaps in life expectancy in different counties. Nineteen “red counties” as those with mortality rates six to 10 years less than other counties need special attention.

Affordable Care Act

For the most part, the state can move forward with the Affordable Care Act, despite some efforts to undermine it. The Senate and House Public Health Committees blocked two bills that came closest to disrupting implementation of the health reform law. SB709 would have prevented state departments and agencies from implementing any part of it without legislation and extensive reporting on projected costs. The Arkansas Department of Human Services testified that the bill would put the Medicaid program in jeopardy, gambling with the health care of thousands of Arkansas children. HB1053 would have exempted individuals from being required to have some form of insurance. Similar challenges to that requirement are already in the court system and would potentially open up our state to more costly lawsuits.

Efforts to derail the ACA put the Arkansas Insurance Department budget in jeopardy, risking major disruptions in consumer protections. After three failed attempts, the department’s budget was passed, but without HB2138, a bill to start implementing a health insurance exchange, or public-private marketplace, required by the ACA. While it cleared committee on a second attempt, it was sent to interim study rather than being heard on the House floor. In the meantime, the insurance department will continue research and planning on exchange design.

Other legislation in health

Building on several tobacco-prevention measures passed in previous sessions, Act 811 prohibits smoking in vehicles with passengers under age 14 are present, protecting them from the effects of second-hand smoke. The car smoking ban previously applied to those riding with child passengers still in car seats. In the area of safe roadways, Act 37 bans the use of wireless devices while driving in school zones, Act 1743 requires school districts to develop procedures and professional development for physical activity in schools to more effectively prevent health emergencies, spread of communicable disease and other health risks. Act 1221 raises the minimum age to obtain a motorized bicycle permit to 14.

Immigration

Like their counterparts in other states, some Arkansas lawmakers sought to place a variety of restrictions on state agencies in hopes of curbing illegal immigration. In most cases, the proposals would have been expensive and harmful. AACF and its allies suc-

cessfully fought all these bills, from restrictions that would have made all state publications “English only” to legislation that would have repealed state-funded prenatal care for undocumented women.

Another session came and went without passage of a state “DREAM” Act, which would allow undocumented Arkansas high school graduates to pay the same college tuition rates as their peers. While no legislation to accomplish that goal was introduced in the session, a bill to do the opposite was defeated. House Bill 1008 would have banned state colleges and universities from offering in-state tuition to anyone who is undocumented. It failed in committee.



Because of the defeat of potentially harmful legislation, it was a good session for those who believe that all our state’s children, including immigrants, deserve the right to live up to their full potential.

Juvenile Justice

Arkansas continues its work on improving public safety, reducing costs and ensuring more positive outcomes and opportunities for youth in the juvenile justice system. The past few legislative sessions have focused on the development of community-based services for juvenile offenders. This legislative session saw a few more bills to support this progress passed into law.

Act 1117 appropriated \$42,857 to the Division of Youth Services for grants to community-based programs and juvenile delinquency prevention programs.

Act 1202 establishes a Regional Educational Career Alternative School System for Adjudicated Youth under a multiagency commission. The commission may create no more than 5 schools throughout the state and the goal is to have at least one open by the 2013-2014 school year. These schools must offer at least the 22-credit curriculum minimum required for a diploma, vocational education and certificates, career education services including the GED test, special education services and support services. While applauding the focus of appropriate educational curriculum for many students and an emphasis on vocational and non-traditional services, there is some concern about requiring the adjunction of youth in order to be eligible for these programs and a separation of such youth from the mainstream school environment.

Act 873 - Currently juveniles must be released from detention at the end of 96 hours if no delinquency petition is filed, this act clarifies that if the 96 hours falls on a weekend or holiday then the juvenile may be released by the end of the following business day.

Substance Abuse

AACF, along with many others in the state, has worked hard to raise awareness of the negative impact substance abuse and the lack of treatment has on children and families in Arkansas. Some fruits of that labor ripened in this legislative session.

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More than 50,000 working single-parent families will have as much as \$200 a year to help them through the effects of the recession

The biggest success this year was Act 570—To Improve Public Safety and Slow Corrections Growth. Focusing on reducing recidivism and containing costs, this “prison reform” legislation is a big step forward. It separates out non-violent offenders who can be better served through treatment and diversion programs. It updates sentencing mandates to be more rational and thoughtful. It establishes a comprehensive study of our current prison and criminal court system, requires community based rehabilitative programs to use proven practices that reduce recidivism and creates a community work project that allows people to work days off of their sentences for certain non-violent convictions. This law will keep the public safe while reducing recidivism, reducing cost, and containing the growth of the prison system. It was passed due to the hard work, dedication, and collaboration of many people, including Gov. Beebe.

Act 1117 indicates that a total of only \$176,964 in General Improvement Funds were allocated to the Drug Abuse Prevention and Treatment Fund for behavioral health services, and \$10,000 for operating expenses, construction, equipment, etc.

Other legislation in substance abuse

Act 834 exempts alcohol and drug abuse treatment centers from health facilities services licensing. This prevents alcohol and drug abuse treatment centers from having to meet regulations designed for medical facilities that do not apply to the types of counseling and treatment services these centers provide.

Act 304 authorizes the State Board of Health to create a Prescription Drug Monitoring system in the state and creates the Prescription Drug Monitoring Program Advisory Committee. The intent of this bill is to fight illegal trade and to reduce the abuse and misuse of controlled substances. The database will include the prescription and patient information. Physicians will be able to check the database prior to prescribing a controlled substance. The information in this database will be confidential and the Freedom of Information Act will not apply to it; however, the information will be used by law enforcement during investigations.

Act 588 gives pharmacists, in instances where there is no prescription, the ability to determine whether there is a legitimate medical need for ephedrine, pseudoephedrine, and similar drugs based on the pharmacist’s professional judgment and the client’s history.

Taxes

Tight state revenues again limited the tax and budget reform that could be accomplished this session. Gov. Beebe was able to further reduce the state sales taxes on groceries from 2 percent to 1.5 percent (Act 755). This change will make taxes a little more progressive, since low-income families pay a higher percentage of their income on taxes for basics like food. This tax cut is expected to cost \$20.8 million in fiscal year 2012 and \$23.4 million in fiscal year 2013.

Act 736 provided income tax relief to head-of-household taxpayers with two or more dependents. It fixes a technical error in a low-income tax relief bill that was passed in 2007. Single parent taxpayers with at least two dependents (mainly single mothers) will now get the same tax relief as other low-income families. It’ll cost \$3.7 million in fiscal year 2012 and \$3.8 million in fiscal year 2013.

Two laws were passed that improve the state’s ability to collect sales tax from online retailers, leveling the playing field for local businesses that have to collect these taxes. (Remote retailers include Internet sales, catalog sales, and television shopping sales). Though these two laws together will not require all remote sellers to collect sales tax on purchases made by Arkansans, but it is a good step in the right direction.

Act 291 amends sales and use tax laws to be more consistent with the “streamlined sales and use tax agreement.” This legislation makes quite a few changes related to liability of the seller for collecting sales and use tax in a timely manner, defines “good faith”, and redefines and sets new regulations for direct mail sourcing. Though this change will not allow additional revenue to be collected at this time, it puts in place a mechanism for collecting sales and use tax from remote sellers if Congress passes a law requiring them to do so.

Act 1001 requires that out-of-state retailers with Arkansas affiliates to collect sales and use tax at the same rate as in-state sellers. This law will provide for some increased revenue but is unclear how much at this point because large remote sellers have terminated their relationships with affiliates in other states with similar laws. However, as more states move toward this kind of regulation, it is unlikely that affiliate relationships will be terminated altogether.





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