



Kids at the Capitol



2007 Legislative Summary

The 2007 Legislative Session:

The 2007 session of the Arkansas General Assembly was a successful one for children and families. Under Governor Beebe's leadership and with the support of legislative leaders, the state took major steps to improve the well being of children and families. Most notably, the legislature approved the final \$40 million of funding for quality Pre-K as part of the 6-year plan to increase annual funding by \$100 million in order to provide Pre-K for all low-income children.

Allocating the budget surplus and meeting educational adequacy requirements were clearly the driving issues during the session. In light of the surplus, the session began with differing views on how to reduce taxes to the citizens of Arkansas. The Governor and legislative leaders worked behind the scenes to develop a tax relief package that touched families at all income levels and provided tax relief to the manufacturing industry. Once negotiations were completed, the tax legislation moved quickly through both chambers, and then

the Legislature focused their attention on other issues.

The school facilities issue was faced head on to meet educational adequacy requirements imposed by the Arkansas Supreme Court in the Lake View case. Nearly half of the \$919 million surplus was used for school facility needs. The Governor also requested more funding for education than was called for in the adequacy study update. This funding will go toward programs to help secure quality teachers.

From the onset of the session, school health issues also spawned a lot of debate. Several bills were aimed at rescinding many new policies concerning childhood obesity. Due to the diligence of Arkansas Advocates and the Kids Count Coalition partners, several meetings were convened to address issues raised and maintain the intent and integrity of the original policies. One of the highlights of the session became the new partnerships that were built between the education and health communities to



Getting to the Win-Win

promote better health for children in our state. A true commitment was made by everyone involved to work together during the interim to look for more ways to improve opportunities for children's health initiatives in the school setting.

Children's mental health was another highly charged issue. Finding the win/win was much more difficult in this situation. A widening gulf between private mental health providers and community mental health centers made it difficult to bring all the right players to the table. Governor Beebe and the First Lady stepped in to support the establishment of a "system of care" that would focus more on the individual needs of children and families and include all types of providers and a broader range of more appropriate services. The discussions from the session will be taken up by the newly legislated Commission on Children's Mental Health, which will include a broad base of representatives including parents and youth.

The greatest disappointment of the session may have been the lack of legislation concerning payday lending. Despite the best efforts of consumer and family advocates, the Legislature failed to pass legislation that would have forced compliance with the Arkansas Constitution and limited the interest rates charged by payday lenders. The one bright spot in the payday lending debate was the defeat of an industry-backed, "do-nothing" bill that would have had very little impact in practice.

The Arkansas Kids Count Coalition and its members left their mark on issues ranging from taxes to school health. Coalition members were included at the table when options were being discussed and were often the trusted ally to provide data and information on the issues. Thanks to the strength of the Kids Count Coalition and the network we were able to find the win-win in many situations for the children and families of Arkansas.

Education

Legislation that would positively impact pre-kindergarten programs in the state was met with approval by members of the 86th General Assembly. Advocates supporting an increase in funding for quality pre-k programs were extremely pleased with the passage of Act 229 that added an additional \$40 million dollars to expand services to all eligible at-risk three- and four-year-olds in Arkansas. The Arkansas Better Chance Program (ABC) will now be funded at \$111 million annually thanks to long hours of pre-session work by the Invest Early Coalition. Special language contained in Act 229 decreased the amount of monitoring and administrative monies used by the Division of Early Care from 2% to 1.8% of total program expenditures. The language, however, does allow the Division an opportunity to request up to 2% if there is a need for additional monies during the interim. Advocates of the ABC Program and quality pre-k indeed appreciate the ongoing support of the Governor during this legislative session.

New funding to meet the mandates of the ongoing Lakeview School Case for K-12 education continued to be a priority for this legislative body of the 86th General Assembly. The funding of public school facilities was tops on the list of mandated items to demonstrate conformity with adequacy and equity requirements in providing a quality education for Arkansas's children. Act 1753, the general improvement legislation, provided \$455 million dollars for public school academic facilities. Several other pieces of legislation were passed that will examine compliance issues in maintaining facilities and short term loans for improvements to facilities in high growth districts.

Appropriations for charter school facilities were also passed during this session. Five million dollars was approved for facilities construction and incentive aid for charter schools in Act 1490. In Act 1492, \$7 million dollars was approved for construction, renovation and equipment for open enrollment charter school facilities that target high poverty areas and have demonstrated success in student performance on national norm test.

In accordance with Act 57 of the second extraordinary session of 2003 to continue to increase the amount of per pupil funding for the public schools, Act 272 and Act 273 increased the per pupil amount and provided an additional enhanced amount of funding to achieve adequacy and equity. The enhanced per pupil funding was \$51 per student for 2007-2008 and \$87 per student for 2008-2009.

Act 462 increases the age of a child's enrollment in public school kindergarten by amending the date that the child must have reached age five. For the 2009-2010 school year, children must have reached age five by September 1 rather than September 15, which was the old law. The date is scaled back to August 15 for the 2010-2011 school year and back to August 1 for 2011-2012.

Child Welfare

Act 1232 provides for an \$8 million increase in the Division of Children and Family Services' annual budget. This increase is much needed and will restore 75 DCFS staff positions as well as provide an additional \$3 million for service contracts, an additional \$1 million for foster care board payments, an additional \$1 million for adoption subsidies, and

additional funding for training and technology for workers.

Act 703, which creates Arkansas Child Safety Centers, is one of the most important pieces of legislation passed this session for child welfare. Its purpose is to establish centers throughout the state that provide locations for forensic interviews, forensic medical examinations, and forensic mental health examinations of children who have been victims of sexual abuse or serious physical abuse, as part of the child maltreatment investigation. These comprehensive centers will serve the important purpose of allowing a child to be interviewed and examined only once, by trained professionals in a child-friendly facility, instead of multiple times in multiple places by various agencies involved in an investigation. The Act also calls for the Department of Higher Education to coordinate with learning institutions that prepare students for professions that are mandatory reporters under the child maltreatment Act. The purpose is for these professions to be better trained in identifying and reporting child abuse and neglect. This Act also requires the Administrative Office of the Courts to develop a web-based training program for mandatory reporters.

Act 869 will help fund the Child Safety Centers by adding a 1% excise tax on the sale of beer. The tax is projected to raise approximately \$3 million in revenue annually. Specifically, this money will allow DCFS to hire 32 new investigative positions for the child safety centers, provide more support for the child abuse hotline, provide funds to the Arkansas Child Abuse/Rape/Domestic Violence Commission to administer the child safety center program, and provide operational support to the centers.

Act 216 allows foster youths under the age of 18 to obtain driver's licenses by providing that a DCFS employee or foster parent may sign the driver's license application without assuming personal liability. Before this change, it was difficult for a foster youth to obtain a driver's license, because the adult who signed the application could be held liable for any negligence or damages caused by the foster youth while driving. Now the state will assume the liability. This important change will allow more foster youths to learn an important skill, helping them become more independent.

Act 284 revises portions of Garrett's Law, which passed in 2005. The former law required the child abuse hotline to accept a call when a baby was born with a health problem as a result of the mother's drug use, shown by a positive drug test of the mother at the time of the baby's birth. Under the new law, a health problem in the baby is not required for a Garrett's Law report. A call must be accepted by the hotline when a mother tests positive at delivery, regardless of the health status of the baby, so that DCFS may investigate to ensure the child will go home to a safe environment. The new law also allows DCFS to exempt the mother from being placed on the child maltreatment registry if there is only a positive drug test at delivery and no other findings of abuse or neglect. The true finding of neglect based on the positive drug test remains automatic and DCFS will investigate and provide services. This change will serve simply to prevent the mother's future employment opportunities from being limited, as long as there are no other findings of abuse or neglect.



Act 621 creates a subsidized guardianship program, which will be implemented if federal funding becomes available. When a foster child cannot return home and adoptive parents cannot be found, the child can be permanently placed with a guardian. This new law allows guardians to receive subsidized payments so that they will be able to care for these children. There is a strong chance that federal funding will become available for these subsidized guardianships, which would allow more children to have permanent placements.

Juvenile Justice

Act 159 requires that, upon a student's suspension, the school shall immediately notify the student's parent or guardian to inform them of the suspension. Contact will be deemed sufficient if made in person, by telephone, voicemail, or text message, or by e-mail or regular first-class mail if communication by telephone is not possible. Schools are required to keep logs of notifications attempted and made to parents and guardians.

Act 643 requests that the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth study the juvenile justice system, specifically regarding juveniles who have been committed to the Division of Youth Services or other detention facility. The Committees are to evaluate the educational outcomes of those juveniles and report back to the Interim Committees on Education. The Interim Committees on Children and Youth are to conduct investigations and solicit testimony from all stakeholders, including the Director of DYS, the Commissioner of Education, the Director of the Administrative Office of the Courts,

a representative from the Juvenile Ombudsman Division of the Arkansas Public Defender Commission, and disability rights advocates.

Health

School health and mental health were the two general health issue areas focused on during the 2007 session. From the opening bell, school health was a major topic and much of the proposed legislation repealed recent regulations that were adopted by the state concerning nutrition and physical activity in the schools. The debate was often heated but many new relationships were forged, and in the end compromises were reached to maintain a lot of good health policies in the schools.

School Health Legislation

Act 317 repeals the state mandate for 150 minutes of physical activity/physical education a week for public school students. The bill changed the requirements to 60 minutes of PE and 90 minutes of physical activity for children in K-6 where it is all in elementary school. Middle school and junior high (5-8 grades depending on how it is configured) will have the annual equivalent of 60 minutes of PE and high school is only required to have the current ½ credit of PE. The Legislature retained the physical activity for elementary school, but removed the requirement for middle school and high school.

Act 201 changed the requirements for the Body Mass Index (BMI) screening in schools. Major provisions in the Act include:

- The BMI screening will be done every other year (previously every year) on a child starting in



kindergarten. Eleventh and twelfth graders will be exempt from the screening requirement.

- There will be a clear parent opt out option.
- The Department of Education will promulgate procedures for performing the BMI.
- The Community Health Nurses in the Educational Co-ops will provide quality assurance for school nurses performing the BMI.

As part of the compromise on the BMI screening, an interim study will be conducted to look at better ways to perform child health screens in the schools that will require less out-of-class time and reduce cost.

Act 456 amends the operations of the legislative Health Adequacy Committee. The bill extends the committee to 2009.

Act 719 changes the membership of the child health advisory committee and amends its powers and duties. This bill made additions to the committee that bring in additional education and minority health representation. It also allows the committee to address Coordinated School Health as part of their duties. Arkansas Advocates staff drafted the legislation and actively worked the bill through both the Senate and House.

Act 1050 establishes the human services workers in the schools program, provides definition of human service workers, and calls for an evaluation of the program by the Coordinated School Health program at the Department of Education. Arkansas Advocates staff drafted the bill and actively worked the bill through the House and Senate.

Other bills that would have impacted school health that did not pass included HB 1522, HB 1739, and SB 897. HB 1522 would have allowed public schools to develop a policy allowing the use of candy and gum in the classroom. The only limits placed on the candy or gum were that it had to be individually wrapped and not over 50 calories a piece. It passed the House with ease but was defeated in Senate Education Committee.

HB 1739 called for an increase of 50 cents to the tobacco tax. It would have helped fund school nurses, coordinated school health and the Community Health Centers. Unfortunately, it did not get out of the House Rules Committee.

SB 897 was supported by the beverage industry and would have allowed schools to vend beverages all day in junior high and high school if they met certain content guidelines for healthy vending. This bill was sent to interim study.

Other Child Health Legislation

Act 680 protects women who breast-feed children in public from being charged with indecent exposure. Additionally, it has specific language allowing breast-feeding in public. This law can be viewed as both a protection from being charged with a crime as well as requiring public institutions to allow breast feeding.

Act 384 allows the Governor to de-merge the Division of Health from the Department of Health and Human Services. It also clearly defines and creates the role of Surgeon General of the state as a cabinet level position to provide advice and information to the Governor and the State Board of Health. Oversight of the Health Department will still be

separate from the Surgeon General position.

Act 596, the Medicaid Fairness Act of 2005, places restrictions and requirements on the Arkansas Medicaid Program which limit its ability to deny claims and require additional documentation of services. Act 596 is the result of a workgroup consisting of Medicaid representatives and mental health providers to make improvements to the bill passed during the 2005 legislative session. The changes clarify issues around physician fraud and abuse, claims review, re-coupmment and rebilling that will allow Medicaid to provide better oversight of the program.

The Legislature failed to pass two bills that sought to improve driver safety in the state. SB 196 attempted to improve the safety of roads and highways in the state by addressing issues related to the licensing of beginning or youthful drivers. This bill called for the age for a learner's permit to be increased to 15 and also added new stipulations to the requirements for licensure. The bill was amended but still failed to pass the House. Another bill, SB 227, would have improved the safety of motorists on Arkansas highways and roads by allowing primary, rather than secondary, enforcement of mandatory seat belts (i.e., secondary enforcement allows for enforcement only if a driver is pulled over for some other purpose). The bill passed the Senate but failed in the House Public Transportation Committee.

Children's Mental Health

Act 1593 begins the process of reforming the children's mental health system by implementing System of Care Activities. This legislation creates a Governor's Commission on children's mental health and requires DHHS to make \$2 million dollars avail-

able for non-traditional services that families need but are not reimbursable by Medicaid.

Act 1589 authorizes the Health Services Permit Agency to impose fines against health care facilities that fail to provide required health care data. Health care facilities are required to provide certain information concerning the beds they have in their institutions. In the past, some institutions have felt threatened by providing this information and don't do it. This will allow the Health Services Permit Agency to use fines to help encourage participation. This bill was opposed by certain private mental health providers.

Children's Mental Health issues did not get geared up until the end of the session. Initially two bills were filed (SB 944 and SB 945) that were proposals of the private providers association. According to the sponsor and the private providers, the intent of these bills was to allow "any willing provider" to be able to access schools and other venues to provide services. The opinion of DHHS and other advocates was that they were very restrictive on Medicaid's ability to operate and could have serious effects down the road. The Governor made it clear the he did not support SB 944 and SB 945 and ultimately the bills were pulled down and sent to interim study.

Economic Self-Sufficiency

Efforts to put a stop to predatory payday lending in Arkansas were not successful. The Legislature failed to pass a bill that would have required a \$300 criminal penalty for each violation of the usury clause in the Arkansas Constitution (the section that prohibits the charging of interest rates in excess of

17 percent). However, the session generated widespread news coverage that exposed the predatory nature of these loans and this industry. It also led the House Judiciary Committee to defeat a House sponsored industry bill that would have given payday lenders the appearance of regulation.

Act 707 revises the allowance for gratuities in the minimum wage law. This Act changes the tip credit (the amount employers have to pay those employees engaged in any occupation in which gratuities are a part of their income) from a percent of the minimum wage (now set at 58% of the \$6.25 minimum) to an actual dollar amount of \$3.62. Although this does not change the current amount of the tip credit in Arkansas, it keeps employers from having to pay such employees more if the minimum wage increases in subsequent years. Those employees would have to make up the difference in increased gratuities.

Tax & Budget

The 86th General Assembly enacted a broad set of tax cuts based on a \$919 million budget surplus. Although we unsuccessfully lobbied for a refundable state earned income tax credit (EITC) for low income families, two tax reforms were enacted which will provide significant relief for many low income families. A major part of Governor Beebe’s legislative agenda was reducing the state sales taxes on groceries from 6% to 3%. Another significant piece of legislation was Act 195, which created low income tax credits eliminating the state income tax for families earning incomes up to 125% of the poverty level. Homeowners will also receive additional tax relief from Act 142 which increases the property tax homestead credit from \$300 to \$350 per year. Other legislation with significant revenue impacts includes

reducing the sales tax on energy sources for manufacturers to 4.5% and then to 4% in FY ‘09, and reducing the tax farmers pay for off-road diesel. A summary of this legislation and the related revenue impacts are below.

Act 110

Sales tax reduction on groceries – reduces the rate from 6 to 3% on food for at home consumption

Fiscal Year Impact in millions:

2008: \$122.1 2009: \$131.2

Act 185

Reduces state sales tax on energy used by manufacturers, from 6% to 4.5% and then 4% in FY 09.

Fiscal Year Impact in millions:

2008: \$20.2 2009: \$30.5

Act 195

Low Income Tax Credits – eliminates state income tax on families up to 125% of the poverty level.

Fiscal Year Impact in millions:

2008: \$14.7 2009: \$16.8

Act 142

Increases the homestead property tax credit from \$300 to \$350 per year. (Note: these funds will be transferred from the property tax relief fund).

Fiscal Year Impact in millions:

2008: \$26.9 2009: \$27.7

Total General and Special Revenue Impacts

2008: \$197.8 2009: \$221.4

The large growth in revenues allowed significant increases in the allocation of general revenues for FY08 and FY09. As of April 23, 2007, DFA's official forecast of general revenue funds available for distribution for fiscal year 2008 was \$4,366,141,990. This represents an increase of 7.08% over fiscal year 2007. A summary of revenues available for various parts of the budget is below.

General Revenues Available for Distribution

(In Millions)

Public School Fund

FY '08: \$1,856.7

% Change from FY '07: 7.95%

General Education Fund

(Including Department of Education, Workforce Education and Technical Institutes)

FY '08: \$99.2

% Change from FY '07: 6.36%

Human Services

FY '08: \$1,042.1

% Change from FY '07: 1.52%

State General Government

FY '08: \$502.8

% Change from FY '07: 11.17%

Other Special Funds

FY '08: \$138.3

% Change from FY '07: 12.47%

Conclusion

Although not perfect, the 2007 Legislative Session can most certainly be described as a success. More children will be able to take advantage of quality early education, more support will be given to those in charge of our children's welfare, children's health will continue to be among the top priorities of our state, and all Arkansans will receive tax relief, most importantly, those who need it most. And all of this was done in record time!

Arkansas Advocates for Children and Families and the Kids Count Coalition will continue monitoring these issues and new ones in an ongoing effort to safeguard the kids of our state. With your continued help, we can make sure that we are even more successful in 2009.



Left: State Rep. David Rainey (D-Dumas) speaks to the Arkansas Kids Count Coalition at this year's Kids Count Day at the Capitol.

Right: Small group discussion at Kids Count Day at the Capitol.



Left: Kids Count members gather information in preparation for meeting with their legislators during Kids Count Day at the Capitol.





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The mission of Arkansas Advocates for Children & Families is to protect and promote through research, education and advocacy the rights and well-being of Arkansas children and their families, to assure that they have the opportunity to lead healthy and productive lives.

Partnering with the Arkansas Kids Count Coalition

