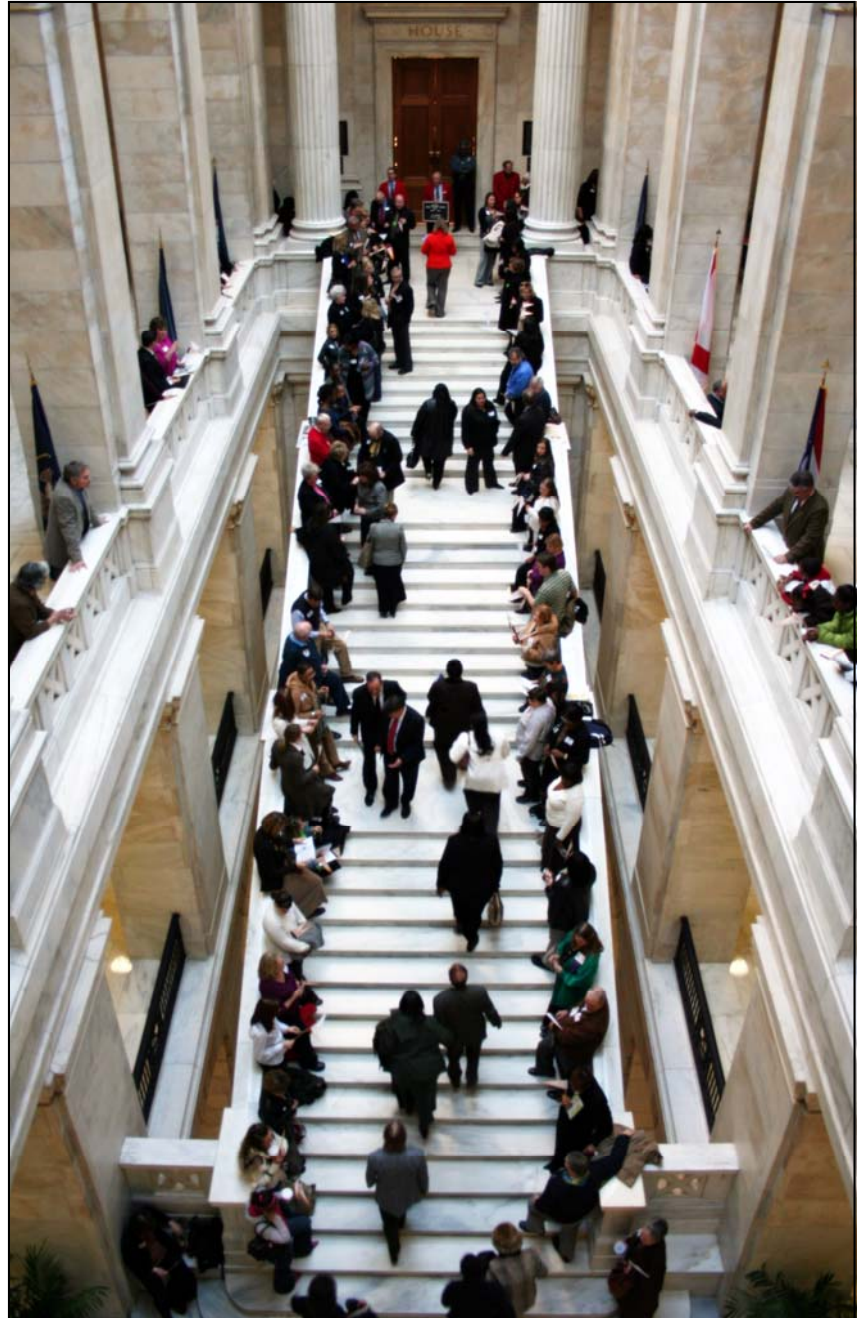




Kids at the Capitol



2009 Legislative Summary

2009 Session of the Arkansas General Assembly

Arkansas lawmakers couldn't miss dozens of child advocates as they entered the House chamber to cast a vote that will impact children for years to come.

On Feb. 4, child advocates from around the state gathered for Kids Count Day at the Capitol. They crammed onto the marble steps to encourage representatives to vote in favor of passing a tobacco tax increase to pay for critical health programs.

It passed 75-24—the exact number needed.

The pivotal vote was one of several successes advocates saw during a session in which lawmakers struggled with tight budgets. The victories ranged from expanded child health insurance and substance abuse services to more child welfare funding and strengthened juvenile interrogations. The victories are due to the work of The Arkansas Kids Count Coalition, the Arkansas Finish Line Coalition and many other advocates who called on legislators by phone, e-mail or in person.

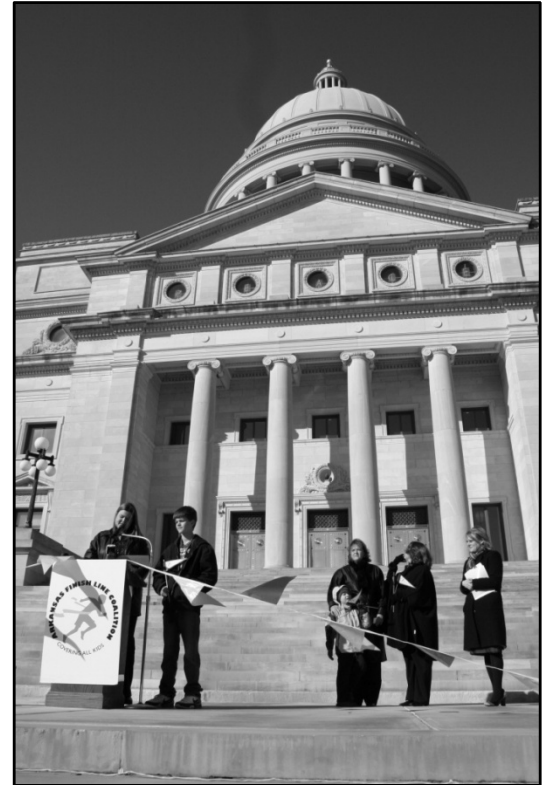
On the morning of Feb. 4, the Arkansas Finish Line Coalition held a rally and children's footrace on the Capitol lawn to urge Arkansas to cross the finish line to covering all kids with health insurance. Grandparents and parents spoke about how important ARKids First health insurance has been for them, and Rep. Gregg Reep, sponsor of the tobacco tax bill, reiterated the importance of its passage to pay for ARKids expansion and other health programs that support the state's working families.

The victories would not have been possible without the strong leadership of Gov. Mike Beebe and legislative leaders. Their support was critical to the wins for children this session.

Despite these victories, some efforts to improve the lives of Arkansas children failed to get out of the Capitol and will be on advocates' agenda in the future: In-state tuition for undocumented immigrant children, aligning the state and federal minimum wages, and limiting carryover of poverty funds for school districts, to name a few.

Perhaps the most disappointing was the General Assembly's failure to pass a small adjustment to the low-income tax threshold. The proposal was blocked along with unrelated tax-cut bills. It would have fixed a technical error from low-income tax relief during the 2007 session, which left out head-of-household taxpayers with two or more dependents. Given the bill's strong support, it was a blow to working single mothers who have been paying taxes for two years that should have been eliminated in 2007.

Despite those setbacks, child advocates have much to be proud of in the 2009 session. The following pages provide more detailed description of the acts that were passed that will have the greatest impact on Arkansas children and families.





After School and Summer Programs

The release of recommendations from the Governor's Task Force on Best Practices for After School and Summer Programs in August 2008 provided hope for significant expansion of these programs during the 2009 session. With the economic downturn and stiff competition for limited state revenues, expansion became less likely. Advocates instead relied on smaller targeted general improvement funds championed by individual legislators for programs in their districts.

Current hopes for expansion of quality programs now turn to the federal economic stimulus funds that can be used by state agencies and local school districts for after-school and summer programs.

The 2009 session did illustrate that these programs are viewed as critical to many communities across the state, and individual legislators wanted to make sure resources were available. More than \$312,000 in general improvement funds were approved for use in out-of-school time projects:

- Acts 985 and 1439 provide a total of \$202,000 to the DHS Division of Child Care and Early Childhood

Education for after-school programs for low-income rural school districts.

- Acts 1097, 1103, and 1121 provide \$85,000 to the Department of Rural Services for grants to Arkansas Boys and Girls Clubs.
- Act 1156 provides \$15,000 to the Department of Human Services for summer youth employment.
- Act 1052 provides \$10,000 to the Department of Rural Services for grants to after-school programs.

Child Care and Early Childhood Education

Arkansas maintained its commitment to providing high-quality early childhood education to every at-risk 3- and 4-year-old by fully funding the Arkansas Better Chance preschool program. Many other states have cut into preschool programs as they try to fill budget shortfalls.

Act 1421 appropriates \$2.6 billion for grants and aid to local school districts through the Department of Education. The act is an important funding bill for early childhood and includes \$113.7 million for Arkansas Better Chance and \$15.6 million for early childhood special education programs.

Act 133 appropriates money to the DHS Division of Child Care and Early Childhood Education. Some of the major provisions include \$16.4 million for the personnel and operational costs of the Division and \$62.7 million in federal funding for grants for the child care food program and child care development.

Act 29 expands the definition of children allowed to enroll in a Kindergarten program. Under the act, a public school or public school district shall allow a child to enroll in kindergarten if the child: was enrolled in a

state-approved pre-k program during the 2008-09 school year; attended a state-approved pre-K program in 2008-2009 for at least 100 days that year and any subsequent year in which he or she was enrolled in a state approved pre-k program; and who will be 5 years of age no later than September 15 during the year he or she is enrolled in kindergarten.

Act 426 ensures that the enrollment age in pre-kindergarten programs are consistent with the enrollment criteria for public school; and that adequate notice is given to pre-K program providers about the new age requirements.

Act 801 requires child care facilities to file written plans for emergency procedures to protect children during emergencies such as fires, natural disasters, or other situations that may pose a health or safety hazard to children.

Act 1485 requires the state Transitional Employment Assistance (TEA) program to pay the child care expenses for qualified TEA recipients enrolled in a two-year college for both day and evening classes.

Act 28 expands the membership of the Arkansas Early Childhood Commission from 18 to 24 members. Notable changes include the addition of: Arkansas Head Start Collaboration Office; an Early Head Start program; a Migrant/Seasonal Head Start Program; the Arkansas Chapter of the American Academy of Pediatrics; Arkansas Chapter of the American Academy of Family Physicians; and a clinical provider of mental health services specializing in prevention and early intervention.

Act 187 allows a person teaching in a public early childhood program to obtain a birth-through-pre-K teaching credential from the DHS Division of Child Care and Early

Childhood Education. The credential will be good for 5 years and may be renewed.

Act 776 requires the DHS Division of Child Care and Early Childhood Education to develop rules requiring sufficient and appropriate levels of general liability insurance coverage for licensed child care centers and child care homes, including transportation when available. The act also requires that DHS develop rules for licensing of drivers of vehicles transporting children.



Child Welfare

After the deaths of several children in the foster-care system in 2008, child advocates pushed lawmakers to increase funding for the child welfare system and change laws to require more disclosure when a child died in care.

Act 1496 provides a \$4.3 million increase in the annual budget of the Division of Children and Families Services (DCFS). This increase will provide \$2.3 million to support 113 new staff members, \$627,000 for two sites to develop a model child welfare system, \$440,000 to increase foster care payments, \$421,000 for adoption subsidies due to an increase in children adopted and an increase

in subsidy amount, and \$550,000 to support increased demand for placement services for children.

Ensuring Accountability in Child Welfare

Acts 674 and 675 require DCFS to disclose more information when a child dies in their care or nearly dies. This legislation will require certain types of information be released while the investigation is pending and additional information once the investigation is finalized. It also requires DCFS to publically disclose certain types of information on their website within 72 hours of the report to the child abuse hot line of a death or a near death while the child was in their custody.

Act 1399 requires DCFS to gather information on all adoptions in the state to be used in an interim study by the Legislature to see if changes are needed in adoption laws.

Act 391 requires DCFS to create a transitional plan for youth who will be turning 18 and aging out of the child welfare system without a permanent family. The plan must be created no later than the youth's 17th birthday or within 90 days of entering the child welfare system if the youth is older than 17.

Act 1311 requires DCFS to give notice to a child's adult grandparents and adult relatives when he or she enters foster care.

Act 749 made amendments to the Arkansas Child Maltreatment Act, several of those include: providing due process before an offender's name is placed in the Child Maltreatment Central Registry; increasing the criminal penalty to a class A misdemeanor for knowingly failing to report, for falsely reporting, and for disclosing confidential information regarding child maltreatment; adding a penalty for a person who prohibits a mandated reporter from directly reporting child maltreatment or who requires permission before reporting child maltreatment; and adding as mandated

reporters of child maltreatment employees of child safety centers and attorney ad litem.

Economic Self-Sufficiency

The economic security of families etched its way into the public view and brought more attention to the working poor in the state. As a result, a task force was created to explore ways to reduce poverty, the use of refund anticipation loans to deprive the working poor of needed cash was better regulated, and the structure for a housing trust fund was established—although it remains unfunded.

Act 722 creates a 22-member Legislative Taskforce on Reducing Poverty and Promoting Economic Opportunity that is to produce a final report by Nov. 1, 2010. AACF will serve on the task force.

Act 1402 creates the Refund Anticipation Loan Act to require full disclosure of the fees and conditions of these loans, and sets remedies for failure to comply with these requirements.

Act 661 creates the Arkansas Housing Trust Fund, a trust fund advisory committee, and established the administration of this fund by the Arkansas Development Finance Authority. The unfunded trust fund lays groundwork for establishing affordable housing in the state.

Act 1468 improves the individual development account program under the Department of Workforce Services.

Act 802 amends provisions of the Department of Workforce Services Law to increase the amount of an employer's payment to an individual that is not included in the definition of wages.

Act 150 repeals the requirement for an independent evaluator for the Temporary Assistance for Needy Families Program. AACF, which was instrumental in creating the evaluator position, opposed the bill.

Act 415 requires annual reports on the state Transitional Employment Assistance (TEA) program to the interim Public Health Committee.



Education

Meeting the mandates of the *Lakeview* Supreme Court mandate for K-12 education continued to be a top priority for the 87th General Assembly. Act 1474 will increase per-pupil funding from \$5,789 in FY 2009 to \$5,905 in FY 2010 and \$6,023 in FY 2011. On top of this, legislators also approved an extra \$35 per pupil higher than the amount the Legislature determined is needed to provide an adequate education under state law. The legislature also appropriated \$15 million to help pay for rising costs in teacher health insurance.

AACF advocated for several new laws that will help combat the educational achievement gap and strengthen school transparency. Act 1373 requires school districts to post infor-

mation on their web sites to inform and engage parents, including school improvement plans, expenditures of state national school lunch state categorical funds; annual school report cards; school improvement status of the district and each school, in parent-friendly language, including where supplemental educational services may be available.

In addition, Act 949 will allow early interventions to help under-performing schools before it's too late; Act 1369 will strengthen the Education Department's reporting on how National School Lunch Act (NSLA) "poverty" funds are being spent to help low-income students; and Act 1314 will reinvigorate the Arkansas Commission on Closing the Achievement Gap.

Unfortunately, SB987 made it through the Senate but did not pass the House Education Committee. It would have required districts that don't spend at least 80 percent of their annual poverty funds to ask for permission from the Department of Education and report why they aren't spending all of the money they receive to help low-income students.

Also, an effort to provide in-state tuition for undocumented immigrant children (SB799) was defeated on the Senate floor again this year, leaving a towering wall in the way of these students' efforts to educate themselves and provide a better future for their families.

Lottery Commission Established

In other higher education news, legislation enabling a state lottery, Act 606, was passed unanimously in both the House and Senate. AACF lobbied against the ballot initiative that allowed the creation of a state-sponsored lottery, due to its negative impact on low-

income families. Last year, AACF estimated that the lottery would produce far less revenue for college scholarships than the bill's proponents contended. Regardless of how much money the lottery generates, AACF will continue to monitor its implementation to make sure that it minimizes any negative impact on low-income families and fulfills its promise of alleviating poverty in the state by dramatically increasing the number of Arkansans with college degrees.

Health

This year's session was monumental for health care in Arkansas. Early in the session, Governor Beebe and legislative leaders made it clear that improving the health of Arkansans would be a major priority. The General Assembly delivered, especially for children and families, making tough decisions to raise taxes and impose restrictions that would improve safety on the roadways.

Act 180 raises the state tax on cigarettes by 56 cents and also taxes other tobacco products. The tax benefits public health by discouraging young people from starting to smoke and curbing the overall smoking rate. The increase is expected to raise about \$71 million annually to support a comprehensive statewide healthcare initiative including the development of a statewide trauma system, which Arkansas lacks. Many of the new investments may be matched by federal Medicaid dollars, bringing an additional \$170 million into Arkansas each year. Some of the other programs supported by tax revenue are listed below.

- ARKids First income eligibility increase (see below).
- Coordinated school health initiatives, which help use schools as vehicles to improve health by coordinating health care access, extending community

partnerships, and promoting healthy behavior among students and families.

- Other Medicaid services, including substance-abuse treatment services under Medicaid for pregnant women and children, adult dental care, small business health insurance, and health information technology.
- Community health centers, which provide preventive medical care to underserved and low-income communities.
- A University of Arkansas for Medical Sciences (UAMS) campus in Fayetteville, to help expand the pool of medical professionals in the state.
- School facility joint use support to help schools keep their doors open to the community on evenings and weekends for physical activity.
- Service coordination and support for autism, breast and cervical cancer, charitable clinics, and home- and community-based services.

Extending Health Insurance to More Children

Act 435 expands income eligibility for the ARKids First program to children in families with annual incomes up to 250 percent of the federal poverty level, making 8,000 more uninsured children eligible. For example, a family of three with an income up to \$45,000 will now be eligible to enroll their child in ARKids First if they are not covered by private insurance. The eligibility increase was a major goal of AACF's Finish Line campaign.

This measure will also reach children who are already eligible for ARKids but not enrolled, which makes up two-thirds of the state's uninsured children. Another 12,000 or more uninsured children will benefit as their families become aware of the program and its benefits thanks to new outreach efforts. Act 435 was a major victory for the Arkansas Finish Line Coalition, which is working to

ensure all children in Arkansas have access to health insurance.

Improving Vehicle Safety

A series of new laws will make Arkansas roadways safer for driving, especially among teens, and prevent accidental deaths and injuries. Act 394 strengthens graduated driver's licensing for new drivers, placing limits on non-related passengers (one) and late night driving (11 p.m. to 4 a.m.). Other states with these laws have experienced dramatic decreases in teen deaths due to car accidents. These limits do not apply to work, school activities, or church functions. Act 807 extends these limits to young drivers with hardship licenses, which are granted to young people under 16 in some circumstances.

Act 308 establishes a primary seatbelt law. This means that drivers can be pulled over for not wearing a seatbelt. Previously, a citation for failure to wear a seat belt was only allowable if the car was pulled over for another reason such as expired tags. Primary seatbelt laws have proven to increase seatbelt use and decrease car fatalities in other states. Passage of this bill also paved the way for Arkansas to receive certain federal transportation dollars.

Discussions about a primary seat belt law prompted concerns that it could lead to increased racial profiling. Two companion acts will examine and report incidences of racial profiling: Act 1458 establishes a racial profiling task force to look at racial profiling; Act 768 creates a toll-free hotline to report racial profiling to the attorney general's office.

Other driving restrictions place limits on mobile phone use. Act 181 bans all drivers from text messaging while driving. Act 197 and Act 247 ban drivers under 18 from using a wireless telephone while driving, and require 18- to 21-year-old drivers to use hands-free devices. All of these measures include exemptions related to emergencies.



Improving Access to Quality and Timely Care

In addition to ARKids First and the range of programs under Governor Beebe's Healthcare Initiative, several additional measures addressed health care access and quality. The new trauma system funded by the tobacco tax and structured through Act 393 will help ensure Arkansans get the right care at the right time after accidents. It will improve communication among hospitals and emergency personnel, as well as ensure that trauma centers are available to all.

Act 496, also known as the "Antony Hobbs III Act" reinforces this system by requiring that each school campus in Arkansas have an automated external defibrillator (AED) and trained personnel to quickly respond to

students or others who encounter unexpected heart problems.

Act 414 creates regulations for the operation of mobile dental facilities to ensure quality, timely and comprehensive dental care by individuals who are licensed to practice dentistry in the state of Arkansas. This paves the way for more accessible quality dental care in the state's rural and underserved areas.

Act 1272 addresses the critical need for autism treatment, by creating a legislative task force to explore best practices, funding opportunities and other opportunities to improve access to quality treatment.

Finally, until this session, Arkansas was one of only a handful of states where insurance companies could legally use a person's status as a victim of domestic violence to determine approval or cost of health insurance. Act 619 allows Arkansas to join the majority of other states by making sure victims don't have another barrier to getting the health care and resources they need for themselves and their families.

Immigration

The Legislature resisted efforts to pass a sweeping measure aimed at curbing illegal immigration in Arkansas by creating new criminal statutes regarding identification and other requirements. At the same time, lawmakers also failed to pass legislation that would have allowed the children of undocumented immigrants to have equal access to higher education (see page five).

HB 1093 would have required proof of citizenship to receive state benefits. It also would have implemented new state requirements for citizenship verification of public and private employees and created a state crime for those who "harbor" undocumented immigrants. The bill never came up for a vote in committee and was

recommended for interim study by the Joint Interim Committee on Judiciary.

Act 786 requires that the state issue driver's licenses and other state identification cards to non-citizens only for the period of time that they are legally authorized to reside in the United States.



Juvenile Justice

Efforts to reform the state's juvenile justice system continue to focus on development of more community-based services. The session did not have specific legislation designed to enhance these reforms, but it did provide more protections for juvenile offenders by encouraging the audio and video taping of interrogations.

Act 759 amends the Juvenile Code regarding judicial determinations of whether a juvenile's confession or waiver of counsel was made freely, voluntarily, and intelligently.

Act 338 amends the Arkansas code concerning extended juvenile jurisdiction and the readiness for offender reintegration into the community.

Act 334 provides notification of changes to a juvenile safety plan to school principals and assistant principals.

Substance Abuse

In recognition of the negative impact substance abuse has on families and children entering the child welfare, health, and justice systems, and because of the shortage of treatment services, important steps were taken this session to help close the addiction treatment gap in Arkansas.

With anticipated changes in Medicaid regulations that allow coverage of substance-abuse treatment to children and pregnant women, a portion of the increased tobacco tax went to treatment. In addition, drug courts for juveniles were expanded, general improvement funds were designated, and other steps were taken to begin closing the addiction treatment gap in Arkansas.

Act 800 creates 10 juvenile drug court positions for \$448,000 as part of the Juvenile Probation and Intake Officers Appropriation for the 2009-2010 Fiscal Year.

Act 905 sets up \$500,000 in grants to DHS Division of Behavioral Health for community providers for behavioral health and substance abuse and/or juvenile services.

Act 1356 sets up \$20,000 in Alcohol Abuse Rehabilitation and Treatment Center grants from general improvement funds.

Act 1105 sets up \$320,000 in Alcohol and Substance Abuse Programs, Prevention Resource Centers, Hospice and Handicap Care grants from general improvement funds.

Act 1122 appropriates \$500,000 in general improvement funds for DHS Division of

Behavioral Health – Alcohol and Drug Abuse Prevention.

Tax and Budget

Tight state revenues limited the amount of tax and budget reform that the legislature was able to achieve this session. Governor Beebe did achieve a major part of his legislative agenda by further reducing the state sales taxes on groceries from 3 percent to 2 percent (Act 436).

That will help lessen the regressive nature of the state's tax system, in which low-income families pay a greater percentage of their income on taxes for basics like food. The tax cut is expected to cost the state \$40.5 million in fiscal year 2010 and \$45.9 million in 2011.

The legislature also reduced the sales tax on energy sources for manufacturers again this year, from 3.875 percent to 3.125 percent (Act 691 and Act 695), at an annual cost of \$3.8 million to \$9.6 million.

Beyond these two tax cuts, the governor strongly urged the Senate Revenue and Tax Committee to reject the nearly \$64 million in tax cuts passed by the House, primarily benefiting corporate interests.

Failing to Help Working Single Mothers

Only one tax cut bill was introduced this session which would have targeted relief to low-income families: HB1378 by Rep. Allen Maxwell. This would have fixed a technical error from a low-income tax relief bill passed in the 2007 session. That bill left out head-of-household taxpayers with two or more dependents. Most of those taxpayers are single mothers.

Despite its small impact on state revenue (about \$3.6 million in a state general revenue budget of \$4.5 billion), even this bill failed to pass the Senate Revenue and Tax Committee.

Given the bill's strong support, this is a disappointing blow to poor, working single mothers who have been paying taxes for two years that should have been eliminated back in 2007.

Tapping State Surplus for Shortfalls

Stagnant revenue allowed only minor increases in the allocation of general revenues for fiscal year 2010. The General Revenue Stabilization Act (Act 1440 and Act 1441) sets the state's budget at \$4.5 billion for the upcoming fiscal year, leaving a gap of \$156 million in unfunded programs.

To help plug that shortfall, the proposal calls for using \$101 million of the state's \$310 million surplus in General Improvement Funds (Act 1442 and Act 1443), plus \$10 million from the state auditor's unclaimed property fund. Even with these infusions, approximately \$44 million in programs in budget category "B" will go unfunded next year unless revenues come in above forecast.

Also included in the General Improvement Fund legislation are \$50 million for the Governor's Quick Action Fund to promote economic development; \$9 million for the state police retirement system; \$63 million for the governor's special projects; and \$60 million for state legislators' discretionary spending (roughly \$30 million per chamber).

Moving to Annual Sessions

The General Assembly approved rules for annual legislative sessions, which voters approved last year through a constitutional amendment. The amendment requires the legislature to meet during odd years for regular sessions to consider any kind of legislation.

During even years, the legislature would only address budgets. In fiscal session years, the session would start the second Monday in February, with budget hearings held during

January for the "big six" departments: community corrections, corrections, education, higher education, health, and human services. A two-thirds majority from the legislature would be required to consider an additional department or agency.

General Revenues Available for Distribution

Public School Fund

- FY 2010: \$1,895,845,879
- Change from FY 2009: 0% (\$1,895,845,879)

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

- FY 2010: \$102,703,697
- Change from FY 2009: 3.1% (\$99,564,294)

Human Services

- FY 2010: \$1,019,676,653
- Change from FY 2009: 0.0% (\$1,024,225,892)

State General Government

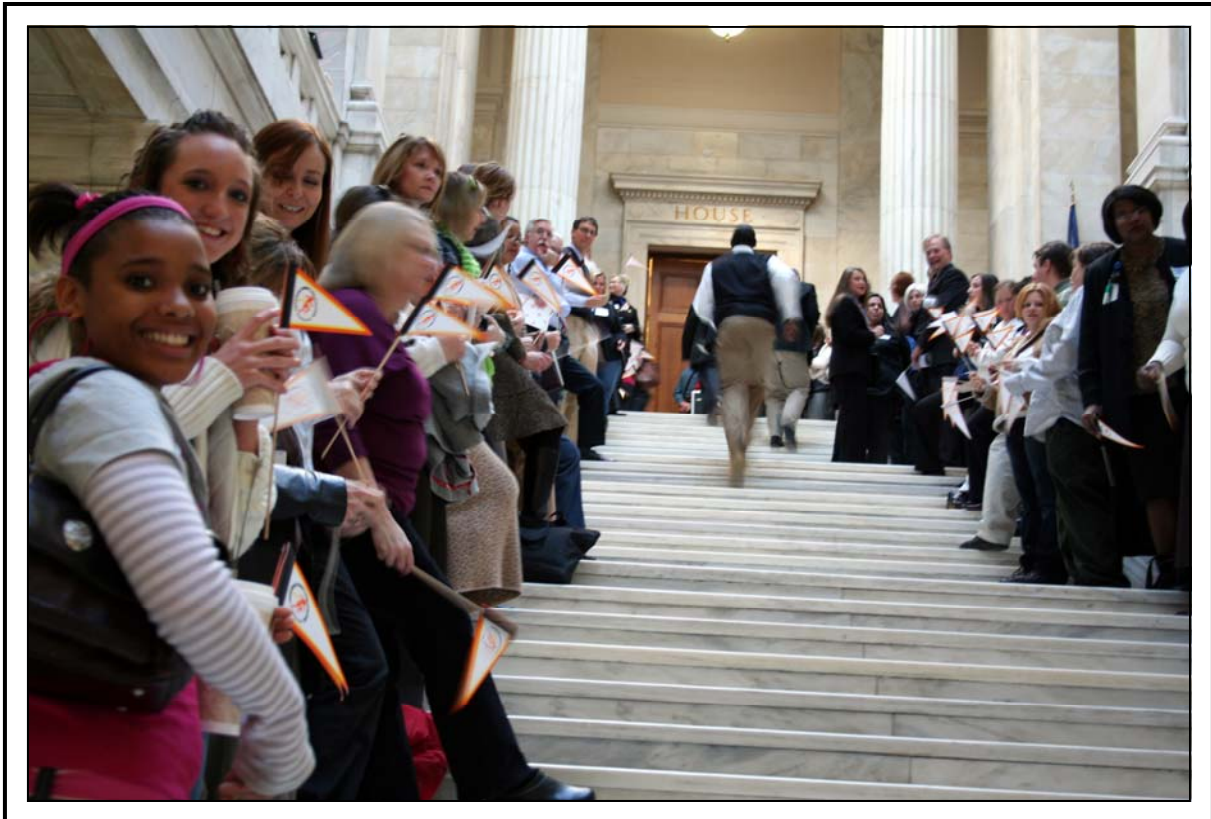
- FY 2010: \$518,192,024
- Change from FY 2009: 4.3% (\$496,846,303)

Other Special Funds

- FY 2010: \$231,271,586
- Change from FY 2009: 20.5% (\$191,889,115)



2009 Kids Count Day at the Capitol: Child advocates lined the steps to the Arkansas House of Representatives to encourage lawmakers entering the chamber to vote for a tobacco tax increase to pay for important health programs including expanding ARKids First health insurance. The bill passed 75-24.



All photos by Tara Manthey, AACF



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