

# Kids at the Capitol

A summary of legislation affecting Arkansas' children

May 2005



After the historic special legislative session of 2003-2004 in response to the Lake View School funding lawsuit, the 2005 Legislative Session was slated to be a continuation of the state's education adequacy reform efforts. However, this session was different from the earlier special session in several key respects. Unlike the special session of 2003 in which there was general agreement that a large tax increase would have to be enacted to fund education (actually the largest tax increase ever), it was clear that legislators were not willing to consider any major tax increases this time. Their commitment to not raise taxes helped shape the legislature's initial priorities and was the key factor in the decisions they made during the session.

Another driving force during the session was the need to raise money to provide adequate school facilities and the decision about how to allocate these funds. This was the one remaining issue yet to be addressed in response to the State Supreme Court's mandate to reform education. The legislature was waiting on the results and recommendations of the school facilities review process underway since the end of the last legislative session. Even after this review was completed, it would take the legislative leadership more than a month to reconcile results of the review with input from local school districts. Only after the leadership decided how much money should be put into school facilities did the session really get going.

Since the legislature put more than \$400 million into teacher salaries and the education funding formula during the 2003-04 special session, the leadership decided early on that most of the new K-12 money would go into school facilities. Right or wrong, this did not sit well with many school districts (especially those who were losing students) that had wanted another major increase in the funding formula this session and threatened legal action to reopen the Lake View Case if they didn't get it (which subsequently occurred after the session). This debate helped fuel tense relations between the school superintendents and many legislators.

The impact of term limits on the House of Representatives was another defining characteristic of the session. This was the first session to really feel the full effects of term limits. There were 38 new representatives working to learn the legislative system and build relationships. Most of the energy early in the session was used to this end. As a result, Arkansas Advocates and other groups concerned with children's issues spent a tremendous amount of time educating new law makers about these issues and how they fit into the big picture of a legislative session.

Finally, there was a major power struggle in the otherwise congenial Senate that proved to be very divisive and took a heavy toll on relationships in that chamber during the final weeks of the session. This struggle will likely influence future legislative sessions.

Despite these challenges, the session was a success in many ways for children. Legislators ultimately agreed on a facilities plan that fit into the state budget, there was enough money to fund the Medicaid budget, and annual funding for the Arkansas Better Chance (quality pre-k) program was increased by \$20 million. The work of the Invest Early in Education Campaign and the Kids Count Coalition was evident as increasing money for pre-k and funding Medicaid were the second and third priorities of this session right behind education facilities! There was no need for massive campaigns or rallies (just several don't forget us messages!) as much of the work to build support for children's programs was done prior to the session. Legislators were on board and supportive of pre-k and Medicaid.

However, there was a down side to the session. Any hope of shifting from a regressive tax system (the current one disproportionately hurts low-income families) to a more balanced and fair system waned as the session progressed. There were discussions about closing corporate loopholes and keeping the estate tax, but ultimately there were no major changes to the existing system. In the same vein, our attempts to eliminate usurious activities, such as predatory payday lending, were not successful because of legislators' fear of deterring jobs and economic growth. Educating legislators and building public sentiment on these issues will take more than just a few sessions. It took a number of years to educate legislators and develop a consensus about the importance of quality early education and access to quality health care and development.

It is said that success comes in many forms. Success came throughout the 2005 session in the form of good legislation, challenging debate and expert testimony. Child-focused groups, many of whom are members of the Arkansas Kids Count Coalition, were viewed as experts for children and their families in child welfare, welfare reform, health care, education and taxes. There is still a lot of work to be done but many of the pieces are obviously in place to make a difference for families in our state.

## HEALTH

The 2005 legislative session included several health related bills that were pertinent to children. There was significant legislation passed for children's mental health services. These bills will help coordinate the system to meet children's needs and provide services as close to home as possible. However, there was no new money appropriated to ensure that CASSP (Children and Adolescent Services System Program) receives funding for coordinating these services. Aside from the CASSP legislation, most appropriation bills were passed that provided the needed funding for children's health programs. Specifically the Medicaid budget was funded at the Governor's original level of request plus a few added items from the session.

As is often the case, this session was as much about the legislation that didn't get passed as it was about the legislation that passed. HB2627 was introduced by Representative Roebuck to fluoridate all water supplies that served more than 5,000 people. In the past, this issue was basically "dead on arrival" but this year we saw house members stepping up to the plate and making tough decisions. The bill passed the house, but was voted down in Senate Public Health Committee. The ability to hold such excellent open debate about the topic has positioned us to come back next session and be successful!

Two other good public health bills passed the house and died in the Senate Public Health Committee. HB1823 by Rep. Ledbetter would have protected chain restaurants from lawsuits if they listed nutritional information on their menus. HB2727 by Rep. Bradford would have banned the sale of bottle rockets in the state. Finding the balance between individual rights and population based initiatives is often difficult. The Senate Public Health Committee leaned heavily towards safeguarding individual rights.

Finally, several pieces of legislation were filed that would have placed certain restraints or demands on the state Medicaid program. These restraints were the result of frustration by Medicaid providers with reimbursement procedures. These bills were the discussion of several very long meetings and ultimately were passed with amendments that gave providers the information and appeals process they wanted and the Department of Human Services the ability to still implement adequate monitoring and cost containment.

**ACT 660** (SB2) by Senator Womack would allow ½ credit units to be given to students participating in organized sports. These units can be used toward their PE requirements for graduation if the activity follows the physical education frameworks setup by the Department of Education and if the instructor is certified to teach physical education.

**ACT 490** – The Patient Protection ACT of 2005 (SB43) by Senator Faris is the any willing provider bill. It provides an avenue for a physician to participate in any network as long as they accept the negotiated rates of the network.

**ACT 256** (SB109) by Senator Malone limits access to "crystal meth" ingredients by making drugs that contain pseudoephedrine and ephedrine a schedule V controlled substance. Liquids and liquid gel caps do not fall under this bill.

**ACT 1176** (SB114) by Senator Wooldridge adds to the definition of abuse and neglect "giving birth to a child addicted to drugs." Additional appropriation was sought by Senator Wooldridge to help offset the cost of the new investigations that would have to be done. The appropriation bill did not make it through joint budget.

**ACT 384** (SB118) by Senator Johnson pertains to the tobacco settlement agreement for Arkansas. As part of the tobacco settlement a state must insure the manufacturers who are not participating in the agreement do not receive a competitive advantage because they are not having to pay the per pack penalty levied on all the participating manufactures. In Arkansas this was being done by requiring the non-participating manufacturers (NPMs) to pay an equal percent amount into an escrow account. The way this part of the agreement was written allowed the NPMs to take advantage of a loophole and thereby end up with a lower cost per pack than those who were part of the agreement. This legislation closes that gap and therefore protects Arkansas from a lawsuit that could negate our tobacco settlement agreement.





Rep. Kevin Goss visits with constituents during Kids Count Day at the Capitol. More than 250 people attended this year's activities on February 8 in the Capitol Rotunda. In addition to visits with legislators, participants attended committee meetings and heard from legislators on topics from healthcare and quality preschool to a fair tax system.

There were also students from several colleges and elementary schools who attended this year's event.

**ACT 1468** (SB578) by Senator Horn provides financial aid for nurses to receive an advance practice degree if they will serve in a rural area or teach at a college of nursing in Arkansas.

**ACT 2285** (SB965) by Senator Steele mandates school lunch menus to be shared with the Local Nutrition and Physical Activity Committees established in ACT1220 of the 2003 Legislative Session. This is an effort to help improve the nutritional content of food is served in school cafeterias to students.

**ACT 1758** (SB982) by Senator Wooldridge is known as the "Medicaid Fairness Act." It is an effort by Medicaid providers to have information concerning their denials and prior authorizations to protect them from monetary losses due to denied claims.

**ACT162** (HB1031) by Representative Mahony provides a mechanism for charitable clinics to receive unused medications from nursing home patients. This could help provide access to medications for the uninsured.

**ACT 583** (HB1241) by Representative McDaniel creates a program for uninsured families and individuals under 350 percent of poverty to receive their prescription drugs at the negotiated Medicaid pricing. This program will be administered by DHS and will have an annual premium of \$25.

**ACT 1858** (HB2296) by Representative McDaniel appropriates \$3.8 million of state general revenues to support his prescription drug program.

**ACT 1527** (HB1259) by Representative Mahony mandates that schools be reviewed each year by the state division of special education to determine if they are maximizing their Medicaid billings. If they are not billing at the levels they should then the billing will be done through their local education cooperative.

**ACT 439** (HB1452) by Representative Roebuck will ensure that health insurance policies cover anesthesia for dental work on children with special needs.

**ACT 1434** (HB1470) by Representative Reep provides Arkansas Center for Health Improvement access to health data by ensuring that the data will be kept confidential and that limited information will be shared with the federal organization.

**ACT 1438** (HB1734) by Representative Prater develops a standardized vision screening to be used by all schools on a set periodicity schedule. It also requires parents to get an eye exam on their child if they fail two screenings at school.

**ACT 1857** (HB2210) is an appropriation bill by Representative Prater for \$100,000 in funding to help with the expenses of a pilot study to determine the effectiveness of the vision screens.

**ACT 882** (HB1895) by Representative Blount requires all schools to provide ARKids First enrollment information to students and parents.

**ACT 1931**- Joshua's Law (HB2428) by Representative Harrelson expands newborn screening to several other diseases. It also calls for the Department of Health to implement an education program.

**ACT 1954** (HB2431) by Representative Matayo merges the Health Department and the Department of Human Services.

**ACT 1271** (HB2514) by Representative Bradford requires all residential treatment facilities to report utilization data to the Health Service Permit Agency. This will give us better information concerning the children that are in residential treatment facilities in the state.

**ACT 2227** (HB2691) by Representative D. Johnson is very similar to SB982. This is an effort by Medicaid providers and families to have information concerning their denials and prior authorizations to protect them from monetary losses due to claims being denied.

**ACT 1942** (HB2788) by Representative Bradford prohibits a child under the age of eight from riding on the back of a motorcycle unless it is in a parade.

**ACT 2251** (HB2867) by Representative Goss requires that the Division of Medical Services provide an override policy for asthma medication if they go to a fail-first option for their prescription drug benefits.

**ACT 2261** (HB2940) by Representative J. Johnson extends the Health Adequacy Committee until the next legislative session.

**ACT 1694** (HB2976) by Representative Fite requires schools to develop a mechanism for children who need asthma inhalers to be able to carry them at school. Currently most schools have a policy that all medications must be kept with the school nurse.

## **Children's Mental Health Bills**

**ACT 1958** (HB2095) by Representative Roebuck requires monthly reporting and tracking of the placement of children at both in-state and out-of-state residential treatment facilities paid for by Arkansas Medicaid.

**ACT2079** (HB2343) by Representative Roebuck is a \$4 million appropriation bill to fund CASSP. This bill was passed but no new money was set aside for funding. If DHS has additional money they can fund this bill during the biennium.

**ACT 1959** (HB2452) by Representative Roebuck sets guidelines for placing children in out-of-state mental health facilities. This bill standardizes a team assessment so as to identify the care needed and to keep children close to home.

**ACT 2209** (HB2535) by Representative Roebuck amends the original CASSP(Children and Adolescent Services System Program) legislation. This bill adds some reporting requirements and further defines individuals on the council and the plans they will create.



## EDUCATION

During the 2005 legislative session, the goal of the Invest Early in Education Coalition and the Kids Count Coalition focused on increasing the annual appropriation for quality pre-k by an additional \$20 million dollars for year one of the biennium and by \$40 in the second year of the biennium. Because of competing revenue demands such as school facilities, the increase in annual funding for pre-k was limited to \$20 million. Because of the focus of work during the session this summary only contains a brief discussion of the education facilities legislation and a summary of additional select pieces of education legislation. There is a complete summary available of all education legislation on the 85<sup>th</sup> General Assembly Website (<http://www.arkleg.state.ar.us/>) under the Education Issues section.



Sister Joan Pytlik, Robert Wright and Rep. Shirley Borhauer visit during lunch at Kids Count Day at the Capitol. The lunch was held in the AEA Auditorium.

**School Facilities** (information for this section was taken from “The Summary of the Legislation Enacted by the 85<sup>th</sup> Arkansas General Assembly Concerning Public Education” prepared by the Bureau of Legislative Research.)

There are 14 Acts that comprise the school facilities legislation. These Acts cover all possible school facility issues including: state oversight and consultation, local school district responsibilities, master plans, funding, wealth indexes, technology, energy conservation and contracting. The overall cost of school facilities was far less than originally proposed in the facilities study. This difference caused a lot of misunderstanding during the session and actually was the reason for extending the session.

The cost for school facilities over the next two years of the biennium is projected to be \$105 and was funded without any new state revenues being raised. \$35 million dollars is also built into the Revenue Stabilization base the second year of the biennium for the continuing support of school facilities funding. The need for these funds will be evaluated by each General Assembly in the future.

**Overall Education Funding** (information for this section was taken from “The Summary of the Legislation Enacted by the 85<sup>th</sup> Arkansas General Assembly Concerning Public Education” prepared by the Bureau of Legislative Research.)

An additional \$436.6 million was provided to education during this session. This includes the school facilities requirements as well as the new quality pre-k money. It also includes a \$97 increase in the per student foundation funding amount (\$5,400 to \$5,497) the second year of the biennium. This increase will provide an additional \$40 million to schools for educational purposes other than facilities. Even with this additional commitment some feel not enough was done to keep Arkansas on the adequacy track and have already petitioned the Supreme Court to step back in and require a cost of living adjustment in the foundation funding amount. The state is now awaiting a decision from the Supreme Court as to their role in education adequacy.



**ACT 2131** (SB 503) - Original HB 1078 - Expands the current Arkansas Better Chance for School Success Program for eligible 3 and 4-year-old children. In order for families with 3 and 4-year-old children to qualify to participate in the program, their incomes must be at or below 200 percent of poverty and they must be living in a distressed school district or a district with low proficiency test scores for the past two years. Any early care provider who meets the ABC quality standards is eligible to apply for these funds to provide developmentally appropriate quality learning opportunities for these at risk children. Providers can include Head Start Programs, HIPPIY, Faith Based Programs, School Districts and others. With this \$20 million dollar expansion around 5,000 more 3 and 4-year-old children will be able to attend quality pre-k programs in our state.

**ACT 2188** (HB1691) - With the expiration of the excise retail tax on beer after June 30, 2007, this ACT requires that the revenue lost be replaced by monies from General Revenue. The State Board of Education and the Department of Education shall fully budget, and fund the Arkansas Better Chance Program and the Child Development Fund. These monies shall be in addition to any other funding provided by law for essential programs such as subsidized child care for low income families.

**ACT1447** (HB2677) - With the establishment of priority consideration for funding for the Arkansas Better Chance for School Success Program having been designated, this allows those programs to continue to be funded. Any program that was given priority funding and established as an ABC Program will continue to receive funding even though the criteria for that funding may no longer exist for the school district the program is located in. This will assure that programs established in the fall and winter of 2004 will continue to be sustained.

**ACT 1881** (HB1559) This bill increases the state foundation funding amount so that school districts can pay an additional \$61 a month toward teacher health insurance.

## JUVENILE JUSTICE & CHILD WELFARE

A perennial juvenile justice issue of child advocates, eliminating the death penalty for children in Arkansas, passed quickly out of the Arkansas Senate. Its future status was superseded in March by the U.S. Supreme Court ruling against the death penalty for youth. It was a long awaited recognition that putting youth to death is not just cruel and unusual practice, it also:

- Violates a worldwide moral code,
- Ignores the scientific evidence on brain development in youth, and
- Contradicts all current law based on the common understanding that youth have difficulty thinking of consequences under stress and managing powerful impulses without adult help.

The Ombudsman program administered by the Public Defenders Commission that was instituted after a series of incidents at the Division of Youth Services Alexander Center experienced an additional cut. An original staff of seven ombudsmen, reduced to four in the 2001 session, was cut in half this session and is now down to two staff.

**ACT 1818** (SB1011) created a Child Death Review Panel at the Arkansas Child Abuse, Rape, and Domestic Violence Commission. The goal is to identify the causes of death to children and reduce the incident of injury and death to children by requiring a death review on all cases of unexpected deaths of children.

### Juvenile Code

There were numerous changes to the Juvenile Code and to laws affecting adoption, child maltreatment and other matters of child welfare. They are outlined below.





Five Acts were passed during the 2005 Legislative Session that amended the Arkansas Juvenile Code:

**ACT 874** permits placement of foster children in “provisional foster homes” which are foster homes that can be opened very quickly to relatives of the foster child. The relative provisional foster home has six months to be opened as a regular foster home or the foster child must be moved or the provisional foster home is closed. No board payment is made to the relative until the foster home is opened as a regular foster home.

**ACT 1176** “Garrett’s Law” amends the definition of neglect to include causing a newborn to be born with an illegal substance or a health problem as the result of prenatal illegal drug use by the birth mother.

**ACT 1191** is a lengthy clean-up bill. Important changes are: (1) Amended the definition of dependent-neglected to include a child present during manufacturing of methamphetamine with knowledge of parent, guardian or custodian; (2) Extended the jurisdiction on FINS children in foster care until age 21; (3) Clarified that a former foster child who is less than 21 years old and who left foster care after age 18 can petition the court to receive independent living services; (4) Requires the court to address the educational needs of juveniles in out-of-home placements; (5) Deleted the PPH goal of “independence” and inserted a goal of “another planned permanent living arrangement” which addresses the quality of services, including independent living services, and a plan for supervision and nurturing the child will receive; (6) Added a new section on Fifteenth-month Review Hearing and Post-termination of parental rights review hearing; (7) Added a new section on Court Reports which requires all court reports to be filed at least seven days before the hearing with a certificate of service of distribution of the report; (8) Requires all court reports to be admitted into evidence before the report can be considered by the court

**ACT 1255** directs educators, DHS, Department of Education, CASA, attorneys, parents, courts and providers to work together to ensure continuity of educational services to foster children. DHS is to consider school stability in making foster care placements. The local school district shall allow the foster child to remain in the child’s current school unless the court finds the placement is not in the child’s best interest and remaining in the current school conflicts with other laws, excluding the residency requirement. School districts are encouraged to work out transportation plans. Except for emergencies, DHS must provide written explanation prior to making a recommendation to move a child from his current school. School districts shall identify a foster care liaison who ensures and facilitates the timely school enrollment of foster children and assists foster children who transfer by promptly obtaining transfer of credits, grades and records. DHS must share all known information with the school that would impact the health and safety of foster children being enrolled or other children in the school. School districts will allow foster parents to be “parents” under IDEA. Schools cannot lower the grades of a foster child because of (a) a change in school, (b) attendance at juvenile court; or (c) attendance at court ordered counseling or treatment.

**ACT 1990** is another lengthy bill. Important changes are: (1) definition of abuse was expanded to include tying a child to a fixed or heavy object or binding or tying a child’s limbs together, giving a child or permitting a child to consume or inhale a poisonous or noxious substance or altering the mood of a child (marijuana, alcohol, narcotics) or purposely administering an overdose of an over-the-counter drug when the child is detrimentally impacted; (2) definition of abuse was expanded to include exposing a child to chemicals used or generated during manufacturing of methamphetamine and subjecting a child to Munchausen Syndrome by Proxy; (3) dependent juveniles now includes a child who has disrupted his adoption and the adoptive parents have exhausted all resources; (4) sexual contact was expanded to include encouraging a juvenile to touch an offender in a sexual manner or the offender requesting to touch the juvenile in a sexual manner; (5) indigent parents must re-qualify for counsel on appeals; (6) juveniles in shelters or awaiting foster care placement are “homeless children and youth” under federal law which requires the school district to allow the child to remain in the original school district and provide transportation; (7) Courts will be required to determine if the parent will have access to school records on foster children and if the parent may participate in school conferences or similar activities at school; (8) Courts can appoint individuals to serve as surrogate parents under IDEA for foster children; (9) new section on

emancipation of juveniles under juvenile court jurisdiction which requires the juvenile to be at least 17 years old, have an appropriate place to live, have the ability to manage his own financial affairs, have a legal source of income and health care coverage or a realistic plan to meet health needs.

## Adoption

Three bills amended the Adoption laws in Arkansas:

**ACT 437** clarifies the section on consent. A putative father's consent is only required if he has custody of the child, he has a written order of legal custody at the time the petition for adoption is filed, or he proves a significant custodial, personal, or financial relationship existed with the minor before the petition for adoption is filed. Consent to adoption is not required of a father who signs an acknowledgement of paternity or is listed on the putative father registry, but who fails to establish a significant custodial, personal or financial relationship with the juvenile prior to the time the adoption petition is filed. Juvenile court judges can order continued visitation with siblings of a foster child who is adopted if the judge finds it in the best interests of the siblings to continue visitation prior to the adoption. In addition, Act 437 clarifies state adoption subsidies. State adoption subsidies must be reevaluated annually. Legal adoption subsidies are available for all children in foster care or children who were in foster care and legal custody was transferred to a relative or other person.

**ACT 1685** is the Streamline Adoption Act which allows DHS to unseal an adoption file to obtain a copy of the home study from a prior adoption and the adoptive family indicates a desire to adopt a subsequent child from DHS. The adoptive family is permitted to use a copy of the original home study if it is accompanied by an update when adopting another child.

**ACT 1689** clarifies that a detailed, written health history and genetic and social history of a child is not required if the person to be adopted is an adult, the petitioner is a stepparent or petitioner and child to be adopted as related to each other within the second degree.

## Child Maltreatment

**Act 2000** an Arkansas Legislative Task Force on Abused and Neglected Children was created to examine and report on how Arkansas responds to child maltreatment, focusing on reporting, investigating, multidisciplinary cooperation, legal advocacy for children in courts, foster care and adoption, training and workforce needs, criminal justice and public safety support for families and accountability.

**ACT 1415** clarifies that the school is not required to notify parents when the school makes a report to the hotline or if a child maltreatment investigator comes to the school to interview a student about suspected child maltreatment.

**ACT 1706** is a lengthy clean up bill to the Child Maltreatment Act. Important changes are: (1) same definition changes as outlined above in the juvenile code; (2) juveniles who are named as offenders now have an automatic administrative hearing that can only be waived by the juvenile in writing and if the investigative determination of true is upheld at the administrative hearing, the juvenile will remain on the central registry if the juvenile is convicted in adult court, but if not, DHS removes the names of juvenile offenders if more than five years have lapsed and no more true findings and the offender can prove rehabilitation; (3) allows disclosure of pending investigations to school boards, superintendents or principals and other employers if DHS has determined that children under the care of the alleged offender appear to be at risk of maltreatment by the alleged offender; (4) the hotline will accept a report of physical abuse even if the bruise is not currently visible if the bruising happened within past 14 days, the bruise was the result of physical abuse and the existence of the bruise can be corroborated; (5) the hotline will accept reports of maltreatment naming an adult as the victim only if the alleged offender is a caretaker of a child and the reporter is the

victim, law enforcement, or the victim or offender’s counselor or therapist; (6) requires the investigator to advise the alleged offender of the allegations (without disclosing name of reporter) at the initial time of contact with the offender; (7) investigations on out-of-home offenders can be extended up to 30 additional days if the report will be determined true to allow the investigator to ascertain the conditions of the offender’s children and other children under the care of the offender.

**ACT 1466** restructures the Crimes Against Children Division into two sections – hotline and civilian investigation. This Act requires that if at any point in the investigation the information gathered becomes sufficient for a possible criminal prosecution, the case shall be referred for further investigation to the appropriate law enforcement agency.

**ACT 1176** Garrett’s Law Act, also amended the Child Maltreatment Act definition of neglect, as outlined above.

**ACT 912** adds dental hygienists as mandated reporters of child maltreatment.

**ACT 132** mandates that all administrative hearings on child maltreatment must be completed within 180 days or the offender’s name is removed from the central registry. DHS must report each quarter to Children & Youth Committee on any names removed.

**ACT 172** allows the offender, his attorney, or any party to request an in-person administrative hearing. DHS is allowed to use video conferencing in lieu of an in-person hearing.

## **Child Welfare Agency Licensing**

**ACT 1685** creates Streamlined Adoptions for families who have previously adopted from DHS if the previous adoption was within five years and more than one year has passed since the previous adoption (excluding siblings who can be immediately adopted). DHS will obtain the original home study, complete an update and obtain updated criminal background checks. The family does not have to attend training again. DHS is required to complete the adoptive home study on foster parents who are selected to adopt a foster child in their home.

**ACT 1766** defines “provisional foster home” and allows adoptive home studies to be shared with the AAL and CASA. Both Act 1766 and Act 1923 amend the criminal background check to exclude expunged crimes unless it is one of the 10 top ten crimes (listed).

**ACT 1961** requires DHS and school districts to work together for the best interests of foster children. DHS must notify the school by the next business day when DHS takes or is given custody of a child or when DHS transfers a foster child



Paul Kelly, senior policy analyst at AACF stands with members of the Woodruff County HIPPIY program and local Chamber of Commerce for the release of the rural kids count report “Family Economic Security for Rural Americans” at the Woodruff County Courthouse in Augusta.



to a new placement. DHS may share information with the school if DHS believes the foster child has experienced a traumatic event. DHS or its designee shall be the decision maker for all general educational matters for a foster child, subject to limitation only by the court, and a foster parent can be appointed as the decision maker under IDEA.

**ACT 2225** strengthens the Child Welfare Agency Licensing Act in the area of adoptions. The CWAL Board has the power to take action against unlicensed persons or agencies advertising or planning for adoptions in Arkansas. The Board has to promulgate rules to ensure adoption agencies treat clients in a professional manner, provide clients with information on where complaints can be made at DHS, and require adoption agencies to fully apprise clients in writing of the adoption program, including all possible costs. The Board is now empowered to issue letters of reprimand or caution to child welfare agencies and can take action against agencies who fail to engage in a course of professional conduct, demonstrate gross negligence or fail to provide correct and sufficient information to adoptive agency clients. Civil penalties were increased and DHS must maintain a website that contains information on child placement agencies.

**ACT 1191** cut the section on mandatory staffing before a foster child can be moved from a foster home that is currently in the juvenile code and moved it to the Child Welfare Agency Licensing Act.

**ACT 2234** allows physicians instead of psychiatrists to supervise psychiatric residential treatment facilities. The Board must now establish regulations on retention of licensing records.

## Miscellaneous

**ACT 166** - The Director of the Division of Children and Family Services was added as a member on the State Child Abuse and Neglect Prevention Board.

**ACT 200** - The Putative Father Registry purpose was clarified that registering only provides a putative father with notice, and that the putative father must establish a significant, custodial, personal, or financial relationship with the child before rights attach.

**ACT 2295** - The Division of Children and Family Services must encourage the TEA program and board to work with CFS to increase the number of human service workers in the school.

**ACT 1958** - DHS will report monthly to the Joint Interim Children & Youth Committee on the number of children placed in residential and inpatient treatment programs, including sexual offender treatment, when Medicaid is the payment source or when the child is in foster care.

**ACT 1959** - Prior to a court ordering a juvenile out of state for treatment, excluding border cities, the court will refer the child to DHS or its designee for an assessment (within 5 business days) of services needed for the juvenile and his family and whether or not those services could be provided while the juvenile remains at home, and if not, all appropriate in-state placements currently available that meet the juvenile's needs, with a preference for close proximity and least restrictive placements and with a plan for reintegration of the juvenile back into his community.

**ACT 2209** - The Child and Adolescent Service System Program (CASSP) was amended to require a Comprehensive Children's Behavioral Health System Plan of Care for children with emotional disturbances and the DHS Division of Behavioral Health is designated as the state agency responsible for coordination, oversight, planning and reporting.

**ACT 1764** - Children's Advocacy Center records are confidential and are only released as specified in law, including release to DHS, AAL and CASA.

**ACT 1530** - enacts the new Interstate Compact for Juveniles (to replace the existing Interstate Compact on Juveniles) which will not be in effect until enacted by 35 states.

**ACT 192** - prohibits juveniles found solely in criminal contempt from being sent to DYS.

**ACT 1186** - amends the law concerning inspections at youth service facilities by outlining the various rules and eliminating duplication of inspections of American Commission on Accreditation standards.

**ACT 1998** - requires schools to send educational records to DYS within 10 school days of the request.

**ACT 1820** - amends the statute on DYS commitment orders requiring the order to include that all health care providers will transmit all medical and health information within three days of the request by DYS and that the school transmit the educational record within 10 days of the request by DYS. The intake or juvenile probation officer must compile information on the juvenile and deliver it prior to or at the time the juvenile is transported to the youth services center.

*Note: Special thanks to Lisa McGhee, DHS Office of Chief Counsel, and Connie Hickman Tanner of the Administrative Office of the Courts for the information contained in this section.*

## TAXES & BUDGET

In 2003 and 2004, the legislature met in regular and special sessions. These sessions resulted in an increase in the state sales tax to 6% to fund education as well as an income tax surcharge to ensure that our state Medicaid program was fully funded. On the heels of these sessions to fund education, the 2005 legislature expressed little interest in raising taxes, even those that would ease the regressive nature of the Arkansas tax system. A bid to reinstate Arkansas' estate tax died in committee; a bid for corporate tax reform met an identical end as did a bid to extend the child care tax credit to 60% of the federal credit. The progressive income tax surcharge was (for all but one vote) unanimously repealed as one of the first items of business of the session.

Corporate interests were well represented and led to the introduction of many bills to exempt them from varying taxes. The House Committee on Revenue and Taxation passed many of these bills, but the Senate Committee (with an eye towards the overall state budget needs) held the line and passed tax exemptions sparingly, though there were a few that slipped through their blockade. Most notably the Tax Increment Financing (or TIF) bill, HB2735, passed the House and then passed the Senate committee by just one vote. Tax Increment Financing is used to fund infrastructure for development. The funds to pay for the development come from local property tax revenue which is capped at the pre-development level. All subsequent revenue (for a period of years) goes to pay for the development. One of the most-used arguments for the TIF bill was that the opponents had failed to "prove" that this type of financing would harm schools (property tax being almost the exclusive funding source for our public schools at the local level); opponents argued that the proponents had not proved that it wouldn't. The pro-development forces prevailed. Look for a TIF district near you, HB2735 is now Act 2231.

Other corporate interest bills which got the nod from the legislature include a bill to exempt electricity from the sales tax for a manufacturing company to be located in South Arkansas (estimated cost: \$1.1 Million) and a bill to provide a tax credit for the sale of biodiesel mixture (estimated cost: \$50,000). These are now Acts 877 and 2223, respectively.

As the Senate Committee held the line on tax credit handouts, they stood up for families. They realized that to keep our budget balanced and to adequately fund programs important to children, tax giveaways could not be part of the package. In pro-family actions, the legislature passed an extension of the beer tax to fund pre-K (see the Education section) and HB2642 (Act 2222), a bill that provides that a portion of proceeds from insurance premium taxes be credited to the Medicaid trust fund program.



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