

# LEGISLATIVE & PUBLIC POLICY PRACTICE

2022 CLIENT ACCOMPLISHMENTS



**Arnold & Porter**  
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# Legislative & Public Policy Practice – Results & Outlook

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The end of the 117<sup>th</sup> Congress in 2022 was one of the busiest legislative periods in recent history. Major legislation that became law included: The Inflation Reduction Act, the CHIPS Act, the Respect for Marriage Act, the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, the Ukraine Democracy Defense Lend-Lease Act of 2022, and two omnibus annual appropriations packages (for Fiscal Years 2022 and 2023). This document summarizes major legislative accomplishments the Legislative & Public Policy team secured for firm clients.

In 2023, the 118<sup>th</sup> Congress opens with a closely divided Congress, the House controlled by Republicans while the Democrats control the Senate and White House. It is easy to forecast a split Congress means legislative gridlock is likely, but the reality is more complex. Both parties have strong political incentives to show they can compromise and pass major legislation before the 2024 Presidential elections, and recent history shows a split-control Congress can muster the political will to do big things. At the very least, the policy debates of the next two years will go a long way to setting the parameters of major legislation to come when one party or the other regains total control of Congress.

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## 2022 Accomplishments for Arnold & Porter Clients

### Fiscal Year 2023 Appropriations

- Increased by \$1.8 billion funding for the Child Care and Development Block Grant (CCDBG) program to reduce child care costs for working families.
- \$14.5 million set aside for the National Longitudinal Survey of Youth's newest cohort, as well as detailed report language directing the Bureau of Labor Statistics to prioritize work on the new cohort while continuing to support previous cohorts.
- \$5 million to fund a university spectrum research center that goes beyond 5G, IoT, and other existing technologies to ensure Department of Defense dominance in future wireless technologies, systems, and applications for military science and engineering through the efficient use and sharing of the radio spectrum.
- \$3 million in increased funding for the Geriatrics Workforce Enhancement Program (GWEP) to provide training to integrate geriatrics into primary care delivery and develop academic primary care-community based partnerships to address gaps in health care for older adults.
- \$2 million for a non-profit foundation that provides scholarships for undergraduate students pursuing degrees in science, technology, engineering, and mathematics (STEM).
- \$1.5 million for continued support to build out a university's cybersecurity workforce pipeline program.
- \$1 million for a major urban public hospital's foundation to finance behavioral health programs and services.
- \$1 million for mental health services and treatment, including outreach and programming, at a children's hospital.

- \$1 million for facilities and equipment at a children's hospital.
- \$915,000 for training, education, and pediatric mental health services at a children's hospital.
- \$750,000 for a university's mixed-use development.
- \$500,000 for an institution of higher education to build out a data science innovation hub, including funding for equipment and faculty hires.
- \$500,000 for youth behavioral health services and equipment at a children's hospital.
- \$400,000 for a non-profit organization working in coordination with an institution of higher education to implement a college completion program focused on women in STEM.
- Funding for additional slots for new graduate medical education (GME) eligible for Medicare payment and report language directing CMS to prioritize applications in FY 2023 from any hospitals seeking to establish or expand residency training in certain needed specialties, specifically including geriatrics.
- Bill language reauthorizing Child Nutrition programs that specifically acknowledges the importance of a university's implementation model for meal delivery services for summer meals and extends the demonstration project studying this model to allow more states to implement it.
- Report language requiring transparency into a Census Bureau project, including a requirement for the Bureau to brief Congress on the project.
- Helped avert a 10 percent rate cut for physicians participating in the Medicare program through offsetting increases in reimbursement rates to avoid significant reductions that the Medicare program would otherwise have imposed under its annual payment rule, and a waiver of otherwise applicable statutory budget control provisions.
- Extended incentive payments for physician participation in advanced alternative payment models (APMs) through 2025, with a 3.5 percent bonus included for services covered in 2025.
- Secured an extension of Medicare telehealth flexibilities through the end of 2024 independent of the conclusion of the COVID-19 public health emergency (PHE). The provision also delays the in-person requirements under Medicare for mental health services furnished through telehealth or other telecommunications technology and allows coverage and payment for certain telehealth services furnished via an audio-only communication system.
- Advocated to include the INFORM Consumers Act (H.R. 5502) in the FY 2023 omnibus appropriations bill to bolster anti-counterfeit measures on e-commerce platforms, including for educational materials.

## Education & Workforce

- Increased by \$1.8 billion funding for the Child Care and Development Block Grant (CCDBG) program to reduce child care costs for working families.
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- \$2 million for a non-profit foundation that provides scholarships for undergraduate students pursuing degrees in science, technology, engineering, and mathematics (STEM).
- \$1.5 million for continued support to build out a university's cybersecurity workforce pipeline program.
- \$500,000 for an institution of higher education to build out a data science innovation hub, including funding for equipment and faculty hires.

- \$400,000 for a non-profit organization working in coordination with an institution of higher education to implement a college completion program focused on women in STEM.
- Secured language to reauthorize Child Nutrition programs that specifically acknowledges the importance of a client's implementation model for meal delivery services for summer meals and extends the demonstration project studying this model to allow more states to implement it.
- Mandated transparency into a Census Bureau project, including a requirement for the Bureau to brief Congress on the project.
- Secured an invitation on behalf of a university leader to participate in the White House Conference on Hunger, Nutrition, and Health.
- Prepared a university researcher to participate in a congressional hearing on increasing food access among older Americans.
- Drafted comment letters to the Department of Education and the Department of Health and Human Services related to the early care and education industry.
- Facilitated site visits for multiple members of Congress to visit various school locations for an early care and education provider.
- Secured an invitation for a non-profit association's CEO to attend the White House's National Summit on Cyber Workforce and Education.
- Secured a congressional letter to the Office of Federal Student Aid signed by three moderate Senate Democrats in the week leading up to the 2022 mid-term elections regarding student loan policy.
- Secured bipartisan and bicameral letters of support to advance the grant applications of numerous clients.
- Report language to support increased research funding for brain aneurysms and directing the Secretary of Health and Human Services to develop best practices for first responders in detecting and treating ruptured aneurysms.

## Financial Services and Tax

- For several clients, guided client engagement with the Department of the Treasury regarding the agency's implementation of the Inflation Reduction Act, including drafting proposed guidance and securing meetings with senior Treasury officials.
- Successfully advocated for Treasury to seek favorable treatment for certain tax credits under the OECD Pillar II regime.
- Secured favorable tax treatment for clean energy investments related to co-located energy investment and storage property.
- Led advocacy effort before the Joint Committee on Tax to secure favorable regulatory interpretation of tax incentives provided under the Inflation Reduction Act.
- On behalf of a large foreign multinational company, drafted and submitted comments to Treasury regarding the tax incentives for hydrogen production.
- Provided financial service clients with real time analysis and updates of congressional and regulatory actions as well as potential future actions that could impact their industry.
- Secured agreement from Ways and Means member office to draft legislation strengthening research and development tax incentives; interfaced with House of Representatives Legislative Counsel's office to revise and perfect the draft legislation.
- Led advocacy among Ways and Means and Finance Committee offices to resist inclusion of provisions related to limiting individual retirement account investment opportunities in the Inflation Reduction Act.

- Secured high-level engagement and cooperation with Treasury officials relating to the implementation of Russia sanctions.

## Healthcare

- \$3 million in increased funding for the Geriatrics Workforce Enhancement Program (GWEP) to provide training to integrate geriatrics into primary care delivery and develop academic primary care-community based partnerships to address gaps in health care for older adults.
- Funding for additional slots for new graduate medical education (GME) eligible for Medicare payment and report language directing CMS to prioritize applications in FY 2023 from any hospitals seeking to establish or expand residency training in certain needed specialties, specifically including geriatrics.
- \$1 million for a major urban public hospital's foundation to finance behavioral health programs and services.
- \$1 million for mental health services and treatment, including outreach and programming, at a children's hospital.
- \$1 million for facilities and equipment at a children's hospital.
- \$915,000 for training, education, and pediatric mental health services at a children's hospital.
- \$500,000 for youth behavioral health services and equipment at a children's hospital.
- Helped avert a 10 percent rate cut for physicians participating in the Medicare program through offsetting increases in reimbursement rates to avoid significant reductions that the Medicare program would otherwise have imposed under its annual payment rule, and a waiver of otherwise applicable statutory budget control provisions.
- Extended incentive payments for physician participation in advanced alternative payment models (APMs) through 2025, with a 3.5 percent bonus included for services covered in 2025.
- Secured an extension of Medicare telehealth flexibilities through the end of 2024 independent of the conclusion of the COVID-19 public health emergency (PHE). The provision also delays the in-person requirements under Medicare for mental health services furnished through telehealth or other telecommunications technology and allows coverage and payment for certain telehealth services furnished via an audio-only communication system.
- Partnered with a coalition to increase NIH research on Alzheimer's and Dementia by \$226 million, including a \$151 million increase for research at the National Institute on Aging and long-term studies that seek to identify structural drivers of health inequities across the life span and identify factors to foster healthy longevity.
- Included the Medicare Mental Health Access Improvement Act in the omnibus, which would add services furnished by Mental Health Counselors (MHCs) and Marriage and Family Therapists (MFTs) to Medicare's mental health services provisions under Part B. This would enable 40 percent of the mental health workforce to provide counseling services to Medicare beneficiaries in various settings, including in office settings, skilled nursing facilities, rural health clinics, federally qualified health centers, and as members of hospice interdisciplinary teams.
- Averted a 10 percent rate cut for physicians participating in the Medicare program through offsetting increases in reimbursement rates to avoid significant reductions that the Medicare program would otherwise have imposed under its annual payment rule, and a waiver of otherwise applicable statutory budget control provisions.
- Helped secure relief for pending Physician Fee Schedule (PFS) pay cuts.
- Inserted favorable language regarding a provision addressing FDA regulation of certain products as drugs. Language originally included in earlier Senate HELP Committee-reported text would have had a negative impact on one of the client's top-selling products, but through our education and advocacy efforts, the final text in the omnibus omitted the problematic language.
- Coordinated a rapid response effort to a Centers for Medicare & Medicaid Services (CMS) coding and reimbursement issue that arose from the CY 2023 Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Proposed Rule.

- Assisted an independent, nonprofit healthcare accreditation organization in its very first congressional relationship building efforts.
- Submitted comments and insight to the sponsors of diagnostic testing reform legislation, the Verifying Accurate Leading-edge IVCT Development (VALID) Act of 2021 (S. 2209 / H.R. 4128), highlighting the unique role that a client company plays as both a diagnostic test manufacturer and a clinical laboratory. Secured the inclusion of new language pertaining to Food and Drug Administration (FDA) guidance on diagnostic innovation, including in vitro clinical tests intended to address an unmet medical need, in a revised version of the VALID Act included in the Food and Drug Administration Safety and Landmark Advancements (FDASLA) Act of 2022 (S. 4348).
- Met with key Member offices and committee offices on issues related to R&D incentives, both in the tax space and the Medicare Part D space. Assisted the client company in strengthening its relationships with relevant congressional leaders.
- Aided a major manufacturer of healthcare products through a major acquisition, building support for the deal within both the Biden Administration and Congress, mitigating competition concerns, and preventing scrutiny that would otherwise undermine the deal.

## **Congressional Investigations**

- Led Fortune 20 company through antitrust scrutiny of merger by the Senate Judiciary Committee, including preparing the CEO to testify.
- Guided a rental home company and home leasing company through scrutiny by four committees.
- Led a clearing business through a congressional investigation involving the GameStop meltdown resulting in de minimis media coverage of the company.
- Developed strategies to frame clients as thought leaders and as expert resources to provide measured nonpartisan guidance to Congress and federal agencies.
- Helped a client proactively engage Congress ahead of a politically-sensitive acquisition.

## **National Defense Authorization Act (NDAA)**

- Created a carve out in the CHIPS Act of 2022, which guardrails the provision for legacy chips.
- Secured language in the Fiscal Year 2023 NDAA that will provide a sovereign client representation on a novel Veterans Affairs Advisory Board to further advocate for its priorities.
- Drafted and secured favorable language on behalf of a military civilian sexual assault prevention nonprofit in the Fiscal Year 2023 NDAA that will require the Department of Defense to consider policy changes.
- Obtained revised language that makes important incremental steps towards creating a position within the Department of Defense to make legal resources more readily available to civilian sexual assault victims.

## **Technology and Communications**

- Advanced a modification of a key provision in CHIPS on behalf of a nonprofit investment fund.
- Modified a key provision of the CHIPS and Sciences Act.
- Secured an opportunity for the CEO of a technology-focused non-profit to serve as a witness at a hearing before the Senate Finance Subcommittee on International Trade, Customs, and Global Competitiveness on supply chain resiliency.
- Prevented legislation to create an outbound investment screening mechanism from being included in the CHIPS and Science Act.
- Created a carve out in the CHIPS Act of 2022, which guardrails provision for legacy chips.

- Helped a client meet with Commerce Department officials tasked with setting up the CHIPS Program Office during the planning stages of the office, which provided our clients with the opportunity to provide feedback on how the program should be structured.
- Helped a client build relationships with key CHIPS Program officials.
- Provided clients with an implementation timeline for the CHIPS Program weeks before the Commerce Department announced its timeline.
- Hosted Senate Majority Leader Chuck Schumer (D-NY), one of the lead architects of the CHIPS Act, at a client site as part of his CHIPS Act tour.
- Built congressional interest in conducting oversight on how the ITC conducts its Section 337 docket.

## Trade

- Advised multiple sovereign nations in bilateral engagements with members of Congress and committee staffers to build and strengthen relationships to support their trade priorities with the United States.
- Engaged members of Congress to weigh in with the Department of Commerce to ensure it fairly applied the anti-dumping laws in client proceedings, leading to de minimis and near de minimis antidumping rates for our clients in the preliminary and final results.
- Thwarted the inclusion of legislative language in multiple legislative vehicles that would have a detrimental impact on clients engaged in AD/CVD investigations.
- Advised stakeholders in drafting comment letters to the Office of the United States Trade Representative (USTR) to support an open, fair, and transparent exclusion process.
- Secured consideration of client positions by members of Senate Finance and House Ways and Means Committees leading to adjustment of regulatory policies.

## Foreign Sovereigns

- Built a robust congressional network to advocate for client priorities as it negotiates the renewal of its financial assistance commitment with the United States.
- Gained key attendance from members of Congress and staff at an embassy event to maintain and further develop relationships.

## State of California

- Secured regulatory approval from the California Department of Insurance and the California Department of Financial Protection and Innovation for a client's acquisition of multiple lines of business as a consequence of a merger.
- Advised, prepared, and facilitated briefings and meetings with the state legislature for a client to secure needed amendments in a pending consumer products law.
- Advised a client on liability framework and potential for changing it related to wildfire.
- Secured bill language for client on exclusions for manufacturing products with PFAS.
- Organized multiple meetings with the Governor's Office for a client on its manufacturing process.
- Advised, prepared, and arranged multiple briefings for a client on a large construction project in Central Valley.
- Procured \$8.5 million in state funding for a large construction project in Central Valley.
- Advocated for a pro-bono client on animal welfare in government shelters.
- Helped defeat legislation for a client that was attempting to create an unworkable scheme for online PFAS reporting.

- Provided legislative research for a number of clients to inform the interpretation of compliance with existing law.
- Arranged briefings with legislative and committee staff on policy considerations for the state's use of opioid funds.
- Helped a major urban public healthcare system secure funding for a new building to support a variety of services ranging from support services for mothers to improved pediatric care for children.

## Our Team

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