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2009 Children's Legislative Report Card

Children's Advocacy Institute, University of San Diego School of Law

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CHILDREN'S LEGISLATIVE REPORT CARD

LEGISLATIVE SESSION: 2009–10

REPORT CARD TERM: 2009

2009: THE YEAR IN REVIEW

For the first time in CAI's history, we are unable to grade members of the Legislature.

A grade implies a comparative measure of performance. But how does one grade the relative contribution of individual members of a democratic institution when the institution's collective performance lacks even minimal merit?

The Legislature's current paralysis when it comes to significantly improving the lives of California's children undermines the implicit promise each generation makes to its successors. It is a promise well kept by the Greatest Generation in California, which gave us transportation infrastructure, state parks, water facilities, a safety net for children, an envied K–12 public education system and higher education opportunities unrivaled in the nation — all serving as proud beacons nationally of the right way to legislate for a better future for our children.

Now, that promise is being broken as never before. The Boomer Generation's selfish refusal to commit themselves through mutual financial self-sacrifice and compromise to a better future jeopardizes our children's and grandchildren's prosperity and well-being — and the until now unbroken American tradition of “passing it down the line.”

Such a profoundly regressive and regrettable broken promise is the result of structural infirmities, including:

- Overly limited maximum terms in legislative office, reflecting public concern over professional politicians out-of-step with the citizenry, instead unintentionally facilitate the additional empowerment of private lobbies, which provide future employment. And restrictions on the legislative budget (for its own independent staff resources) further strengthens the hand of the 1,200 lobbyists who essentially serve as legislative staff, formally “sponsor” virtually all legislation and who are dominated by profit-stake interests — business and labor — focused on proprietary, short-term advantage.

- A two-thirds vote requirement for budget passage (California is the only state in the nation that requires a vote of two-thirds or more of the Legislature to pass a budget and to raise taxes).
- A Republican formula that, contradicting notions of “individualism” and “personal responsibility,” binds all party members to a majority caucus vote. Hence, a 17% share of the most radical members of the total Legislature then binds one-third and dictates fiscal policy for the world’s eighth largest economy. The U.S. Senate’s filibuster giving 40% of the Senate the power to block the will of the majority looks like a New England Town Hall in contrast.
- A gerrymandering of legislative districts to enhance Democratic party seat numbers, placing large numbers of the most reactionary right-leaning voters in about 20% of the districts — where that number can, because of the two-thirds voting requirement, exercise the determinative “no” to child investment.
- A system of tax exclusions, reductions, credits and deductions that total almost \$50 billion per year, which once enacted with a majority vote are rarely examined and can only be amended or repealed with a two-thirds supermajority vote.
- Adding to this is a campaign finance system dominated by lobbyist employers, organized unions and the elderly. Term limits (and the need to seek different office within six to eight years) combine with the ever-escalating cost of campaigns to further amplify the power of vested interests, who show up at a fundraiser and chat up the legislator on a Monday night, and then show up in the office of the same legislator on Tuesday, seeking votes. The U.S. Supreme Court’s recent *Citizens United* holding, empowering unlimited corporate and union political “independent” campaigns nationally for candidates (from local to judicial to statewide elections), will further exacerbate this imbalance, twisting governance away from the public interest and embedding it even more deeply into private interests.

These structural deformities cannot entirely be laid at the door of current legislators, but are exacerbated by the lack of risk-taking legislative leadership that inexplicably fails, every year, ambitiously and in a concerted fashion to use the financial resources and campaign expertise at their disposal to make California governance more democratic and hence more child-oriented.

Regrettably, there is no prospect for sweeping reform anytime soon. Indeed, much of the state's dysfunction is based upon its dependence on the willingness of the rich and organized profit-stake interests to fund the very reforms that might dampen their influence. This Catch-22 that led Ralph Nader to write "Only the Superrich Can Save Us" may forlornly apply more to California than the rest of the nation. Foundation-funded think tank proposals, an effort to call a constitutional convention, and other efforts have fizzled, failing to raise the vast sums needed simply to place reform questions before the voters for their consideration.

This is the depressing path that leads us here. In viewing the list of child-friendly bills introduced and enacted in 2009, it is impossible for us fairly to grade each member.

We tried. We ran sample grades based on the meager list of child-supportive bills we tracked and we simply could not come up with grades that reflected a comparative contribution to a meaningful result that helped California's children. The paucity of such bills meant that missing a single vote had disproportionate effects on a grade. While sometimes members will intentionally not vote on a measure (which has the parliamentary effect of a negative vote), sometimes they miss a vote because they are legitimately and temporarily indisposed, and may well know the margin does not require their vote. This is especially true late in the session, when the votes come fast and furiously. In most times, this is statistically smoothed over by a large cluster of votes on a large number of child supportive bills. But not this year.

We were tempted to issue an institutional "F." However, one key to our decision to instead offer no grade was sympathy — perhaps misplaced — for members who did not introduce more ambitious bills in a year when devastating and historically record-setting cuts to the social safety net were the order of the day. It is hard to fault an individual member for failing to introduce bills he or she knows cannot get enacted.

Policymakers of the past, when faced with declining budgets due to an economic downturn, increased revenues to make up for part of that decline in order to protect children. Not today. A Vehicle License Fee (VLF) at 2% of value that endured without controversy for 30 years will not be restored to plug a \$5 billion a year annual loss in revenues because a Governor imprudently ran a misleading campaign characterizing its restoration as a "tax increase." The billions in tax expenditures noted above are not questioned seriously, and many of the 1,200 lobbyists at the Capitol treasure their expansion as a permanent emolument for their employers. All taxes are dubbed anti-growth and anti-consumption, as if taking a dollar from a billionaire would dissuade the billionaire from buying anything he wanted.

The judicious historical pattern of previous state budgets signed by Reagan, Deukmejian and Wilson beset with revenue decline — budgets that included a balance between spending cuts and revenue increases — is categorically and irresponsibly rejected. Prior Republican administrations (Reagan's and Wilson's) faced economic downturn and sponsored roughly 50/50 allocation of deficit reduction between the two.

This Legislature — partially held captive by an anti-democratic structure — now by default decides that cuts will be the sole means by which record budget deficits will be addressed, tragically reinforced by pandering gubernatorial campaigns that rule out increasing income as a way to address a drop in income.

The result has been disinvestment in our children and an historic — epic — breach of the compact that each generation makes to its children.

What is and remains within each individual legislator's control is the duty to prioritize rigidly the expenditures that we *can* make. Even in a world of cuts, the Legislature properly must engage in visible, sustained and self-conscious priority setting. It should have clearly identified populations that deserve our protection first and then cut according to this template. And the Legislature should do this mindful that certain segments of our population have disproportionately benefited from government largesse, whether it be slashing of tax rates for the very wealthy or the decades-old enactment of single-payer, Canadian-style health insurance for the elderly.

We do this in our personal lives all the time. We do it most self-consciously in life-or-death emergencies.

When you can only rescue a few, who gets the effort first?

We believe that all over the world the answer to this is simple and obvious: children.

Is it tragic that legislators should have to ask such questions. *They should not have to.* The question is forced not by a true emergency but by our collective dysfunction — man-made, man-curable.

Even so, in the current context, two moral choices remain for members: either ask the question and budget accordingly or work tirelessly toward ending the dysfunction. Neither the Assembly nor the Senate as institutions truly did either in 2009. Like the captain of a ship that is inevitably sinking but who will neither order all hands to attempt repairs nor order women and children to the life boats, legislators continued simply to manage the sinking of the state they steward. In this they may not have

fully realized that, since adults can fare for themselves better than children in emergencies, this non-decision decision has the same impact as consciously deciding to place grown-ups in the life boats ahead of toddlers.

This is perhaps one reason why the broader public holds the Legislature in such low esteem. In times of crisis, leadership equates to moral clarity plus single-purpose action —and that is what we have yet to see in this crisis from the branch of government that spends our tax money and writes the rules we live by. Instead, it looks and feels like business-as-usual, but with avoidance, abandonment and disinvestment the final consequence. Instead of clearly and loudly prioritizing within the status quo or devoting their considerable ambition and daring to a campaign designed to end the dysfunction, too many legislators would rather chant slogans about which party is to blame than to emulate the ten prior generations of Americans who created what we have now —and are seeing it erode. Those generations passed it down the line to this group of “representatives”, who enjoy personal wealth and convenience at the zenith of our national and state histories, and, despite the relatively trivial sacrifice demanded of them, will nevertheless be the first generation to most decidedly betray the seminal American promise — protection, sustenance and opportunity for our children better than in the past.

2009 Children's Legislative Report Card

SUBJECTS GRADED

CHILD POVERTY

Excellent

Satisfactory

Needs Improvement

Over 40% of California's children live in poor or low-income families (families with income that fails to meet their most basic needs).¹

NUTRITION

Excellent

Satisfactory

Needs Improvement

California is the only state in the nation that has not adopted simplified reporting for its Food Stamp program, instead requiring participants to report their income and household status every three months to maintain benefits. Switching to simplified six-month reporting would increase Food Stamp participation among eligible households and improve administrative efficiency.²

HEALTH

Excellent

Satisfactory

Needs Improvement

Over one million California children are uninsured, ranking California 36th in the nation in the percentage of children with health insurance.³

SPECIAL NEEDS

Excellent

Satisfactory

Needs Improvement

All but one California county failed to use the first wave of funding generated by Proposition 63, the Mental Health Services Act passed by voters in 2004, to create new and innovative programs that address the unique mental health needs of the state's own children — youth aging out of California's dysfunctional foster care system.⁴

¹In California, 20.2% of children live in families with incomes below the poverty line. California Budget Project, "More Californians Living in Poverty, Losing Job-Based Health Coverage" (Sept. 10, 2009), available at www.cbpp.org/pdfs/2009/090910_censusdata_pressrelease.pdf. An additional 23% of children live in families defined as low income (100–200% of the federal poverty line). National Center for Children in Poverty, "Demographics of Low-Income Children", available at www.nccp.org/profiles/CA_profile_6.html.

²California Food Policy Advocates, "Lost Dollars, Empty Plates" (Nov. 2009), available at www.cfpa.net/ldcp/ldcp2009.pdf.

³Children Now, "California Report Card 2010", accessible at www.childrennow.org/uploads/documents/reportcard_2010.pdf.

⁴Children's Advocacy Institute, "Proposition 63: Is the Mental Health Services Act Reaching California's Transition Age Foster Youth?" (Jan. 2010), available at www.cachildlaw.org/Prop63.htm.

CHILD CARE / CHILD DEVELOPMENT

Excellent

Satisfactory

Needs Improvement

Licensed child care in California is available for only 27% of children with parents in the labor force.⁵

EDUCATION

Excellent

Satisfactory

Needs Improvement

California's K–12 education spending dropped by more than \$1,000 per student (10.6%) between 2007–08 and 2009–10.⁶ California ranks last in the nation with respect to the number of K–12 students per teacher.⁷ Today's college students face crowded classrooms, less access to faculty and counselors, fewer campus services and more difficulty getting classes they need to graduate—all while paying higher fees.⁸

CHILD PROTECTION / FOSTER CARE

Excellent

Satisfactory

Needs Improvement

California currently reimburses foster parents an average of about \$505 per month, less than the monthly average cost of kenneling a dog; these rates are 29–40% or more below the cost of providing even the basic necessities for children.⁹ Attorneys appointed to represent children in Dependency Court — proceedings that will impact every facet of these children's lives and futures — typically carry caseloads of 300, 400, or even more, despite the California Judicial Council's own recommended maximum of 188 children per attorney.¹⁰ Each year, 4,000 youth age out of the foster care system with no place to live, no means of supporting themselves, no safety net — and for many, with no hope for their future.¹¹

JUVENILE JUSTICE

Excellent

Satisfactory

Needs Improvement

In most counties, minors who engage in sexual acts for money are treated as criminals and prosecuted as such, instead of recognizing them as victims of sexual exploitation and providing appropriate treatment and resources.

⁵California Child Care Resource & Referral Network, *2009 California Child Care Portfolio* (Dec. 2009), available at <http://www.rnetwork.org/our-research/2009-portfolio.html>.

⁶California Budget Project, "*Settling the Debate: California Spends Less on Each Student—By Any Measure*" (Feb. 2010), available at <http://californiabudgetbites.org/2010/02/24/settling-the-debate-california-spends-less-on-each-student-%E2%80%933-by-any-measure/>.

⁷California Budget Project, "*Race to the Bottom? California's Support for Schools Lags the Nation*" (June 2010), available at www.cbpp.org/pdfs/2010/1006_SFF_how_does_ca_compare.pdf.

⁸KBPS, "*Budget Cuts Devastate California Higher Education*" (Aug. 5, 2009), available at www.kpbs.org/news/2009/aug/05/budget-cuts-devastate-california-higher-education/.

⁹Children's Advocacy Institute, "Complaint for Declaratory Judgment and Permanent Injunctive Relief", filed in *California State Foster Parent Association, et al. v. Wagner*, U.S. District Court for the Northern District of California, Case No. C 07-05086 WHA (filed Oct. 3, 2007).

¹⁰Children's Advocacy Institute, "Complaint for Declaratory Judgment and Permanent Injunctive Relief", filed in *E.T., et al. v. George, et al.*, U.S. District Court for the Eastern District of California, Case No. 2:09-cv-01950-FCD-DAD (filed July 16, 2009).

¹¹Children's Advocacy Institute, "*Expanding Transitional Services for Emancipated Foster Youth: An Investment in California's Tomorrow*" (Jan. 2007), available at www.cachildlaw.org/TransitionalServices.htm.

THE GRADES

Senators	2009 GR ADE
Aanestad	INCOMPLETE
Alquist	INCOMPLETE
Ashburn	INCOMPLETE
Benoit	INCOMPLETE
Calderon	INCOMPLETE
Cedillo	INCOMPLETE
Cogdill	INCOMPLETE
Corbett	INCOMPLETE
Correa	INCOMPLETE
Cox	INCOMPLETE
Denham	INCOMPLETE
DeSaulnier	INCOMPLETE
Ducheny	INCOMPLETE
Dutton	INCOMPLETE
Florez	INCOMPLETE
Hancock	INCOMPLETE
Harman	INCOMPLETE
Hollingsworth	INCOMPLETE
Huff	INCOMPLETE
Kehoe	INCOMPLETE
Leno	INCOMPLETE
Liu	INCOMPLETE
Lowenthal	INCOMPLETE
Maldonado	INCOMPLETE
Negrete Mcleod	INCOMPLETE
Oropeza	INCOMPLETE
Padilla	INCOMPLETE
Pavley	INCOMPLETE
Price	INCOMPLETE
Romero	INCOMPLETE
Runner	INCOMPLETE
Simitian	INCOMPLETE
Steinberg	INCOMPLETE
Strickland	INCOMPLETE
Walters	INCOMPLETE
Wiggins	INCOMPLETE
Wolk	INCOMPLETE
Wright	INCOMPLETE
Wyland	INCOMPLETE
Yee	INCOMPLETE

Assemblymembers	2009 GRADE
Adams	INCOMPLETE
Ammiano	INCOMPLETE
Anderson	INCOMPLETE
Arambula	INCOMPLETE
Bass	INCOMPLETE
Beall	INCOMPLETE
Berryhill, B.	INCOMPLETE
Berryhill, T.	INCOMPLETE
Blakeslee	INCOMPLETE
Block	INCOMPLETE
Blumenfield	INCOMPLETE
Bradford	INCOMPLETE
Brownley	INCOMPLETE
Buchanan	INCOMPLETE
Caballero	INCOMPLETE
Calderon	INCOMPLETE
Carter	INCOMPLETE
Chesbro	INCOMPLETE
Conway	INCOMPLETE
Cook	INCOMPLETE
Coto	INCOMPLETE
Davis	INCOMPLETE
De La Torre	INCOMPLETE
De Leon	INCOMPLETE
DeVore	INCOMPLETE
Duvall	INCOMPLETE
Emmerson	INCOMPLETE
Eng	INCOMPLETE
Evans	INCOMPLETE
Feuer	INCOMPLETE
Fletcher	INCOMPLETE
Fong	INCOMPLETE
Fuentes	INCOMPLETE
Fuller	INCOMPLETE
Furutani	INCOMPLETE
Gaines	INCOMPLETE
Galgiani	INCOMPLETE
Garrick	INCOMPLETE
Gilmore	INCOMPLETE
Hagman	INCOMPLETE

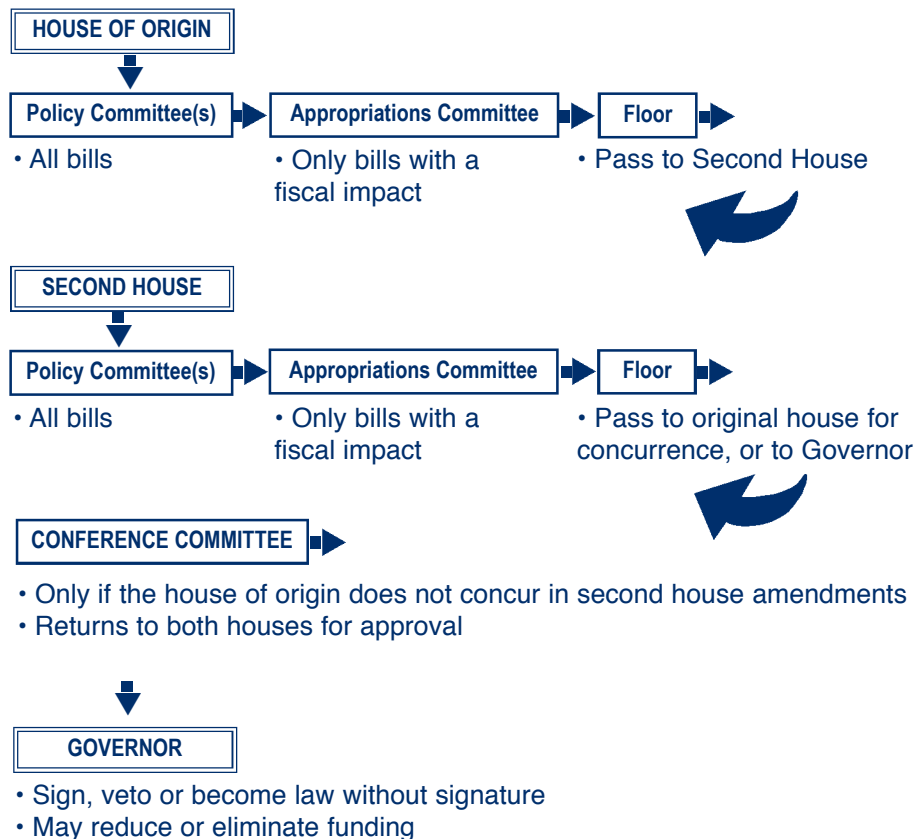
Assemblymembers	2009 GRADE
Hall	INCOMPLETE
Harkey	INCOMPLETE
Hayashi	INCOMPLETE
Hernandez	INCOMPLETE
Hill	INCOMPLETE
Huber	INCOMPLETE
Huffman	INCOMPLETE
Jeffries	INCOMPLETE
Jones	INCOMPLETE
Knight	INCOMPLETE
Krekorian	INCOMPLETE
Lieu	INCOMPLETE
Logue	INCOMPLETE
Lowenthal	INCOMPLETE
Ma	INCOMPLETE
Mendoza	INCOMPLETE
Miller	INCOMPLETE
Monning	INCOMPLETE
Nava	INCOMPLETE
Nestande	INCOMPLETE
Niello	INCOMPLETE
Nielsen	INCOMPLETE
Perez, J.	INCOMPLETE
Perez, V.	INCOMPLETE
Portantino	INCOMPLETE
Ruskin	INCOMPLETE
Salas	INCOMPLETE
Saldana	INCOMPLETE
Silva	INCOMPLETE
Skinner	INCOMPLETE
Smyth	INCOMPLETE
Solorio	INCOMPLETE
Strickland	INCOMPLETE
Swanson	INCOMPLETE
Torlakson	INCOMPLETE
Torres	INCOMPLETE
Torrice	INCOMPLETE
Tran	INCOMPLETE
Villines	INCOMPLETE
Yamada	INCOMPLETE

A Primer

THE LEGISLATIVE PROCESS

After introduction by a legislator, a bill is heard in the appropriate policy committee(s), and if it has a fiscal impact is then heard in the Appropriations Committee in the house of origin (either Assembly or Senate). If a bill passes those committees, it is next voted upon by all members of that house (the “floor vote”). If the bill passes a floor vote in the house of origin, it then goes to the other house and begins the process all over again (policy committee(s), Appropriations Committee, and floor vote). At any of these points, the bill may be changed or “amended.” If the bill is amended in the second house, it must return for a second vote on the floor of the house of origin (the “concurrence vote”).

Once a bill passes both houses of the Legislature (and, if necessary, passes a concurrence vote in the house of origin), the Governor may sign it into law, veto it, or take no action within the constitutionally-prescribed time limit, thereby allowing it to become law without his/her signature. The only change a Governor may make in a bill, without sending it back to the Legislature, is to reduce or eliminate the money allocated in the bill.





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The Children's Advocacy Institute is part of the
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