California Association of Highway Patrolmen

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Dear Members of the Little Hoover Commission:

I begin this paper with a few caveats. First, I have enjoyed a relatively long career by mostly avoiding interviews or public forums where my own comments will only be used against me in the future.

Also, I subscribe to the axiom that goes as follows, "Everyone has a right to their own opinion; they just don't have a right to be taken seriously." These days, we are not short on opinions, just short on facts. I am not resistant to having civil, factual and solution-centered discussions, but the pension debate has strayed far beyond this approach.

In addition to my reluctance to insert myself in a largely propaganda-driven discourse — which I will freely admit comes from both sides of the fight — I am concerned about how to address such a complicated subject with the depth and clarity it deserves rather than skimming the surface.

With this understanding, I submit the following:

First, I will <u>attempt</u> to succinctly respond to questions posed to me by Stuart Drown, Executive Director, Little Hoover Commission.

1) **Was the "3 percent at 50" formula more trouble than it was worth?**

   The only way I am able to address this question is by reviewing how the 3% @ 50 formula came to be. First, please understand the CAHP exists to represent CHP officers, of which 99% voluntarily join this association. We do not mandate membership or have fair-share fees. As a labor organization, we rely on the dictate of our members for directing and prioritizing where we place our energy and efforts. Contrary to popular belief, the retirement enhancements of 1999 were both negotiated and legislated (SB 400).

Through the processes of education, training and surveying, we prepared our members for the reality that retirement enhancements would have to be considered in a total compensation package. In other words, pension increases would mean less salary increases. Our members prioritized pensions over salary. This directed our negotiations and in short we negotiated 3% @ 50 with the member (employee) agreeing to pay or "pick up" half of the estimated cost increase to the employer of 3 percent. Hence, the employee share resulted in a 1.5 percent contribution. I would note that the estimated 3 percent cost associated with the Patrol formula pension enhancement was cheaper than any of the other pension enhancements proposed. This was a reflection that the enhancement for the Patrol formula on a relative basis was the cheapest enhancement.

The point I am making is that collective bargaining is the product of priorities and trade-offs and the role of any labor organization is to represent their members' interests within the confines of the collective bargaining law.

The second influence on negotiating pay and benefits relates to supply and demand, or, put another way, the current condition of the economy and the employer's ability to recruit and retain qualified employees. For the decade preceding the 2008 economic recession, which included the 3% @ 5 period, the California Highway Patrol (CHP) experienced significant difficulties filling cadet positions. In fact, the CHP lowered their hiring standards to fill cadet positions, despite CAHP objections. For the first time in its history, the CHP experienced a serious recruitment problem in the late 1990s, continuing until this current recession.

So, was "3 percent at 50" formula more trouble than it was worth? Not in light of the parameters in which we negotiate.

2) What steps has the CAHP taken to support the re-alignment of retirement benefits and costs?

The CAHP negotiated pension reform, which was signed into law last month. The CAHP seriously considered and ultimately accepted the pension reform proposed by Governor Arnold Schwarzenegger. We also encouraged three other state unions to join us in an effort to negotiate with the Governor. All four unions settled, followed by two other unions shortly after.

In 2009, the CAHP was the first to negotiate a jointly funded Optional Post Employment Benefits (OPEB) account, also known as pre-funding retiree health care. In the past, the CAHP took a leadership role and worked with the Department of Personnel Administration in increasing co-pays to help control rising medical premiums. There are three major ways to address unfunded liabilities: reduce benefits, increase the employer's contributions and increase the employees' contributions. The CAHP has control over what our members might be willing to accept. Benefit reductions and shifting new costs to employees is not a simple process nor is it the way you keep your job (or get re-elected) if you are a "union boss."

What the CAHP has discovered is that we need to educate our members early on when issues first begin to surface. We need to be honest with them and keep them informed of the options we are considering. I believe the CAHP's success in receiving our members' support and being allowed to negotiate such difficult items as pension reform, pre-funding healthcare and increasing co-pays is the result of both our education effort and the parties to negotiations being reasonable, creative and flexible. That has happened in this case, thanks in large part to the Department of Personnel Administration's commitment to taking a problem-solving approach.

3) **What structural or policy changes should be considered to contain the impulse of employees to push for benefit increases when the market recovers?**

It is possible that this question answers itself. Let me explain, I believe we are going to see substantially different environments going forward. The influence of our future "economic challenges" might not only restrain pressure for benefit increases, but ultimately elevate the discussion over funding future obligations. I realize this may not be a popular position to advance among my peers, but I would respectfully submit that the role of labor needs to evolve.

I think I might best expand on this notion by relaying a discussion I had with a Stanford professor several years ago and share how my own views have changed over the years. My professor friend sat on the board of a major U.S. airline carrier that was struggling to stay in business. He argued that it was his observation that the airline unions were to blame for the company's fiscal problems, for which he was a board member, because the unions had asked for too much.

I obviously did not agree with this logic and argued at the time that it was management's responsibility to manage the company, which included watching after the long-term fiscal health of their business. With respect to the fiscal health of the company, management's responsibility would include the role of telling the unions that their demands might bankrupt their employer. Of course, management would have to lead by example when it comes to pay and benefits. If you don't practice what you preach you lose credibility and that has happened enough times that unions often cannot trust what they are being told about a company's financial condition.

This brings me to what I would consider the core of my presentation. Since the time of my discussion with my professor friend, I have changed my views. The buck still stops with management, but for labor to be effective on behalf of their members, we must be vested in the employer's long-term health. If "austerity" is the word of the day, then it needs to also apply to management. Employers and employees must consider what is in the long-term best interest of their company's customers, and this applies as well to public entities and nonprofit organizations. If austerity is only going to apply to the workers, then the type of partnership I'm suggesting will never fly.

In addition to answering the specific questions above, I would like to address a few other items in bullet form. I will leave it at the discretion of the Commissioners if they would like to expand on any of these points at the hearing on September 23, 2010:

- Pension reform is <u>not</u> a one-size-fits-all solution. There are numerous nuances to addressing pensions, but most notably the employer must consider the objective of their entire compensation program. For example, the employer should consider recruitment, retention and — specific to law enforcement — age limitations, training costs and whether employees have expressed a desire to prioritize certain benefits over other benefits.

- Considering the historical fact that nearly 70 percent of the cost of CalPERS-provided benefits has come from investment returns, there has been surprisingly little attention given to this aspect. I do not pretend to be an investment expert and recognize that CalPERS falls under certain parameters, such as the "prudent man" rule, but I strongly feel there should be some consideration given to the impact of macro economics on long term investments. Specifically, the CalPERS board should be presented contrarian opinions that view investing in various economic scenarios. As an example, I believe the economic bubbles we experienced over the past decade should have been identified as at least a possibility and then analyzed regarding the potential impact on the investing environment. Even today I believe the risk going forward for investing — or, I should say, the risk to protecting current assets — remains abnormally high and therefore should necessitate extraordinary caution and extra analysis.

- The single greatest issue the Little Hoover Commission can help with in my opinion is to present the pension debate based on facts. The pension rhetoric has been nothing short of theatrical and counterproductive to honest debates and reasonable solutions.

- Continuing the hyperbole around pensions is poor public policy. As an organization we have "waved the white flag," accepted the pension reforms as proposed by the Governor, and asked the focus be redirected where necessary — the finances and budget of a state in serious trouble. We need permanent,

> fundamental, long-term solutions for our state's financial problems. A top priority for the CAHP is to have its members employed by a fiscally sound employer. Should we have a "rainy day reserve?" Absolutely. We agree that we must consider what the citizens of this state deserve. We understand that times are tough and spending needs to be prioritized, but the people deserve better than having union leaders and elected officials pointing fingers at each other. It has been a disservice to our members as well as the citizens of this state.

Only history can brag of a perfect track record. How interesting it would be to look at our present age from a historical perspective. I do not contend that the pension discussion is irrelevant; I believe the CAHP has accepted responsibility by negotiating pension reform.

However, in return I would ask that our members' employer learn to be fiscally responsible. In the past when I was asked about my occupation, I would explain what my responsibilities entailed at the CAHP. Now I find myself saying that I try to make sure the employees I represent do not work for ENRON. We have been and continue to be on the railroad tracks headed for a fiscal train wreck. We are in the midst of the worst fiscal and monetary policy disaster in our nation's history. We have spent years — maybe decades — failing to deal with fundamental issues. It is as if 10 years ago we began picking daisies on the railroad tracks and ignored the train that was a mile away moving in our direction at 50 mph. Three years ago we should have been alarmed that this train was now two blocks away moving at 70 mph. Today it is 20 feet away bearing down on us at 90 mph and we are still picking daisies. I am not attempting to be overly dramatic about the financial situation of public entities. In my official capacity there is nothing that concerns me more and it has been my expressed concern for over a decade. I desire more than anything that CHP officers work for a fiscally responsible employer and are members of a fiscally sound pension system.

Before you put this paper down and decide that I have moved beyond the purview of pension reform, I hope you understand why I am concerned about the future of my members' employer. In fact, I believe these concerns are what make us a good partner moving forward — we are interested in our employer's long-term viability. And I believe this is all interconnected. The argument by those opposing government pensions is that the government has made promises to its employees it can't keep. This is the fundamental problem of government to its general populace; it has made promises to the public that can't be kept. Our government has increased benefits and increased services all while promising tax cuts. We have become addicted to this method of operating. It is unbelievably short-sighted and irresponsible, but we seem to continue to pick daisies on the railroad tracks.

Less than a month ago a newspaper ran a story about a state-of-the-art public school that was just built at a cost in excess of a half billion dollars. When the question was asked as to whether this was a good time to spend such a large sum of money, the school district representative essentially said, "Oh, don't worry, these funds were part of a bond measure."

The City of Bell has become the poster child for just how out of touch public officials can become. When the City Manager was asked whether his nearly $800,000 per year salary might be excessive, he responded, "If what I make is going to make people choke, then maybe I should go to the private sector and make more."

So what will history reveal about our current times? It might be tagged as the era of fiscal irresponsibility and greed. Maybe it will be known as the era of living beyond our means; or the era of massive debt accumulation? How about the era of failed fiscal and monetary policy experiments? I do not disagree with those who claim we are passing the bill off to our children, but it is substantially more than a pension bill; it is an unprecedented debt resulting from failed government budgeting and unbridled promises across the board.

More specifically, what will history say in relation to pensions and retirement? Will history show that the evolution of defined contribution plans replacing defined benefit plans resulted in an entire generation of baby-boomers not being able to retire? Might this large population of aging Americans become even a larger burden on society as we struggle with how we are going to deal with increased expenses associated with an older population? Might we ask ourselves in 10 to 20 years why we did not plan better for our future?

True leadership means we must each stop accusing someone else for all the problems and determine if we will do what is right regardless of what others are doing or not doing. For the CAHP, we must view the public as our customers, which means we must remember what it means to be public servants. We can only hope that everyone with skin in this game will determine their own roles in restoring the public's confidence in <u>their</u> government.

Respectfully,

Jon H. Hamm
Chief Executive Officer