

From: Fred Keeley
Sent: Saturday, July 11, 2009 12:40 PM
To: COTCE Commission; COTCE Staff
Cc: Arianna Van Meurs
Subject: RE: Delivery of Blue Plan

Curt,

Thank you.

First, as it always has been, it is a pleasure serving with you. I enjoyed it we were both in the state Assembly, and I enjoy it now.

Second, the chair has been inviting all commissioners to provide ideas and input from the very beginning of our assignment. Taking that as a serious offer, I provided the commission with a seven-point plan that I thought should be included in our deliberations, at the commission's meeting at UC Berkeley on March 10, 2009. You were at that meeting, and were hand delivered those documents. Additionally, our very able staff posted that material, as is the protocol of the commission, on the commission's website.

Third, at the commission meeting on April 9, 2009 in Davis, the published agenda including an item for commission discussion concerning what notions to advance for more complete consideration. Each an every one of the elements contained in my March 10, 2009 list, were described again by me and others, and, by consensus, were to be included in further deliberations.

Fourth, at the commission meeting on June 19, 2009 at UCLA, without any prior consultation with the commissioners by email, writing, or previous discussion at the commission, virtually the entire meeting was dedicated to a presentation and discussion of a Net Receipts Tax. This notion, which exists in a different manner in Ohio and Michigan, is a dramatic departure from any tax known in California. Prior to that meeting, I had an opportunity to meet with the chair and we agreed that when he advanced a plan in June, I would work with him to seek a consensus product. Certainly, a consensus plan would, by its very nature, include the wide variety of belief systems and points of view on the commission.

Fifth, at our meeting of June 19, 2009, the agenda had two items, 6 and 7, dedicated to commission discussion and deliberation, and two basic concepts were agreed to, and advanced to a more complete analysis. When the chair then sent out what appeared to be one page PowerPoint slides to characterize the two plans, it was clear that some elements of our discussion were not included. I emailed the chair, with copies to the commission, of my concerns about those slides.

Sixth, following our meeting on June 19, 2009, I was asked by my appointing authority, state Senate President pro Tempore Darrell Steinberg, to brief him and his senior staff on the chair's proposal. I did. While many in that meeting were concerned about some of the basic elements of that plan (regressivity, the shift of the tax burden, in part, from upper income to middle and lower

income folks), I told the pro Tem that I believed that it was important to give the chair's plan a chance. I had told both the chair and the Governor's chief of staff that I would work within the general parameters of the chair's plan to seek consensus. The pro Tem was appreciative, and asked that I keep him advised of the work of the commission.

Seventh, in order to keep my word with the Governor's chief of staff, the President pro Tempore of the state Senate, and with the chair of the commission, I asked the pro Tem if his staff would help me organize a meeting in Sacramento to vet the chair's plan, while we, as commissioners, were awaiting the analytical work on the plan from Ernst & Young, the FTB, the BOE, and the Department of Finance. He agreed. A meeting was held on Tuesday, June 30, 2009, from 10:00 a.m. until noon at the FTB offices in Sacramento (agenda, participants, and follow-up comments sent to the chair and posted on the commission's website on July 1, 2009). The chair was provided with notice of the meeting, and the agenda, and was provided with a briefing and minute notes from me following the meeting. The results of that meeting were that, from my point of view, the NRT notion was very complex, largely untested, and needed serious and continued evaluation. Second, the principled disagreement that exists on the commission regarding how to slay the revenue volatility dragon (flattening the Person Income Tax rates vs. dealing with the issue as a spending problem between the governor and the legislature) continued to exist, and magnify.

Eighth, following that meeting on June 30, 2009, I drove to the capitol, and briefed the chief of staff to my appointing authority. It was agreed that, within the context of the chair's plan, I should work to take those items where the commission has some common ground (including much of the chair's plan) and propose a plan that represented other points of view that had been expressed by commissioners, but were not reflected in the chair's plan. Thus, continued my efforts, with the fully understanding and acknowledgement of the chair, to develop that plan.

Ninth, a draft of the plan (and I really do mean "draft") was posted on the commission's website on July 2, 2009. It is that plan to which detail is being added and discussion sought. A second meeting is scheduled of the folks who attended the first meeting on June 30, 2009, for this Monday, at 10:00 a.m. at the FTB offices in Sacramento. You are certainly welcome to attend.

Additionally, a couple of closing comments.

While I have great respect for the chair, I have advised the chair in writing that I think that the time between when commissioners receive critical information from staff, and the dates of commission meetings, is too brief. As an example, the massive analytical product that the staff and consultants have been working on since our last meeting, and which will need considerable individual attention by commissioners and the public, is still not available and our July 16th meeting is a few short days away.

All of my actions on the commission have been taken in good faith. All ideas for both form and substance of the commission's work have been transmitted to the chair and staff, and posted on the commission's website in the timely manner. I will continue to operation in that manner, and know that you, as a long-time public servant would expect no less of me or of yourself.

Lastly, lets all take the time necessary to produce an consensus product that will serve the objectives set forth by the Governor in his Executive Order. You were the Speaker of the state Assembly in 1996, the year before I arrived as a member. You certainly will remember that it was at the end of session that year, when a small group of members, working well outside of the public eye, developed AB 1890, the bill that deregulated the electricity sector of California's

energy economy. Leadership asked members at that time to trust them, and approve what became a state nightmare and a national embarrassment. It fell to me in 2001, as Speaker pro Tempore of the state Assembly to author the bill that stabilized prices and assured supply. That bill, which put the State of California, temporarily in the electricity buying business, was an expensive solution to a massively expensive and failed experiment. Having lived through that experience, I urge caution in developing this commission's work product. One of our colleagues, Richard Pomp of the University of Connecticut (and NYU), served on a commission similar to ours in the state of New York. As he has said repeatedly during commission meetings, that exercise to reshape and modernize New York's state tax system, took nearly six years. We are taking eight months. It is better to have full deliberations, examining alternatives that work within the Governor's EO, and achieve a good outcome, than it is to get something insufficiently vetted due to time constraints.

Again, it is always a pleasure working with you. You are a creative, bright and honorable public servant. I look forward to our continued work together on the commission.

Fred Keeley
Commissioner
Governor's Commission on the 21st Century Economy