

The Honorable Josh Penry
Colorado Senate Minority Leader
2010 Opening Day Speech

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As Prepared for Delivery

Mr. President, Mr. Majority Leader, distinguished Members of the Senate, Honored Guests, Friends...

It's an honor to stand before you on this the first day of this important session.

So not much new around here these days, huh?

Senator Shaffer became President Shaffer, and Senator Morse our Majority Leader. To both of you, we extend our warmest congratulations on this high honor and we look forward to working with you in your new leadership positions.

Of course, our friends on the Budget Committee spent their summer and fall anguishing over the budget outlook.

I know others of you traveled the mountains, traveled the world and just plain spent time with your kids and grandkids.

Me? I ran for Governor, but fortunately I got that out of my system before the New Year.

Many of you offered words of encouragement when I made the difficult decision to get out of the race. But I'm not going to lie: getting out of the race hurt my pride and bruised my ego...which might explain why Senator Romer has been trying so hard to get me to join him on a marijuana dispensary tour.

Speaking of medical marijuana, I read somewhere that the Public Health Department is approving around 300 permits for medical marijuana every day! Which brings me to the Republicans' first economic development proposal of the day: we propose transferring the person in charge of processing marijuana permits to the Colorado oil and gas commission. With this small change, my friends we will create jobs and grow economic opportunity as natural gas dispensaries crop up around the western slope and eastern plains.

If "weed" jokes were a taxable event, we'd have a budget surplus before the Ides of March.

Well the Good Book says that laughter is like a medicine, and when you're in the line of work we are, a sense of humor is an important thing to keep. And let's be honest: it's not always easy these days.

This is a time of change and challenge.

America is mired in the throes of great economic and social uncertainty. Today, for the first time in generations, Americans are wondering if tomorrow will be better than their yesterday.

Meanwhile, the citizenry has grown tired – even disgusted – with government and both political parties, and their habitual instinct to tax too much, borrow too much, spend too much – and make tough choices too little.

In Washington, that means unthinkable budget deficits and expensive entitlement programs that are within an economic stone's throw of insolvency.

In Colorado, that means a government that was inexplicably unprepared for a downturn in the business cycle – no rainy day fund, no savings strategy, no plan – and a public pension fund with an unfunded liability bigger than all the income, sales and corporate taxes State government collects in 4 full years.

Like an aged highway or a structurally deficient bridge, government institutions at the federal and state level are cracking, decaying – they're in desperate need of an overhaul.

Fellow Coloradans, government needs a shakeup – reform – because business as usual is no way to run the people's business anymore.

Now that brings us to the unexpected political circumstances in which we find ourselves today. Governor Ritter obviously surprised the state when he decided not to seek re-election.

And let me say this as one of the strongest critics of this Governor's policies over the last 3 years: he is an honorable man, he cares deeply about this State, and we wish him and his family well.

But his decision to leave the race – combined with the fact that a number of leaders in both chambers won't be on the ballot this fall -- creates a unique opportunity for government to be bold in an election environment that might otherwise invite caution – timidity.

Colleagues, let's not be timid. Let's be bold. Let's lead.

Because in politics, at the intersection of uncertainty and turmoil, rests opportunity.

And I believe there are at least 4 important reform opportunities where our common values and our common commitment to a better Colorado can bring the parties together, and move our state forward.

First, let's reform the State's public pension system – PERA. This one ain't going to be fun, but in this case, real reform is what real leadership requires.

PERA faces an unfunded liability of nearly \$30 billion – that makes our General Fund shortfall look like a cup of non-fat latte.

And bear in mind, PERA isn't unique or alone as pension funds go. The American public has become all too familiar with the story of once-dominant American institutions being brought to their economic knees under the weight of a pension fund gone bad.

For years, a growing economy and a booming stock market masked the unsustainability of these systems. Today, that is no more.

General Motors, once the epitome of American manufacturing might, is now the epitome of something else: a corporate behemoth brought-down by its unrealistically generous retirement payments.

Which brings us to PERA, the political realities of this debate, and why bipartisan reform is a must.

I know some of my Republican friends do not like this reform because they don't care for defined benefit systems, and believe all future retirees should be directed into a 401k style plan. I'm not unsympathetic to this proposal, but there's no way to pay for the transition costs to such a program in the short term, and besides, I'm fairly certain such a reform wouldn't happen this year.

And I know that my friends on the other side of the aisle feel great consternation about reducing cost of living increases to current retirees. But if we don't reign in these automatic benefit increases, there is simply no way to save the PERA fund without a massive General Fund – i.e. taxpayer – bailout.

Given these strange bedfellow dynamics, you don't have to be a statistician to understand that PERA reform could fail in this General Assembly with Republicans voting against it for one reason, and Democrats for another.

Colleagues, we cannot let that happen. The stakes to the taxpayers and the 400 thousand members are too high.

That's why I'm truly honored by the good faith and determined efforts of the President and his very able staff who have been working with me and our team to craft a meaningful reform of this system.

To my Republican friends, I say this: these reforms are the real deal. For years our party has asked for an increase in the retirement age, a reduction in automatic benefit increases, and closing off the loopholes that look too much like a sweetheart deal for government employees. Our plan finally – finally – brings these changes about.

And remember, if these reforms fail this year, the actuarial emergency that makes them possible may pass, and these meaningful reforms would be impossible until the next inevitable crash.

To my Democratic friends, I would say this: these reforms wouldn't reduce by a dollar any retirees' current payment, and this pension system is still by far – and I mean by far – more generous than anything like it in the private sector.

To both sides of the aisle, I would say: let's not allow a legacy of this General Assembly to be that we pushed off a \$30 billion train wreck to another time, to another year.

President Shaffer and I are committed to getting these reforms passed quickly – deliberately, but quickly. And let's do it together.

The second area where Republicans and Democrats can come together to solve a major challenge confronting this State is in the area of higher education funding.

Everyone here today understands that something needs to be done to put our higher education system on a path towards financial sustainability and success.

A few in both parties have suggested that it may be time to defund our public institutions entirely, and let them go private.

Others have suggested that we should do nothing and hope for the best.

I reject both of these approaches and propose that now is the time for us to not study the problem endlessly – but to develop bold solutions that empower colleges and universities in our state.

At many of our State's colleges and universities, we have extremely engaged, thoughtful and serious governing boards that are eager to lead – if we let them. Right now our bureaucracy requires duplicative accounting and reporting, we micromanage purchasing decisions and we refuse to allow those dedicated public servants who are appointed by the governor and confirmed by this body to make smart, informed decisions that benefit their institutions and the State of Colorado.

These measures cost real money and they stifle creativity and leadership. It is high time to leave this archaic, top-down approach to higher education governance behind. It is time for us to empower our local governing boards to govern.

The thorny part of this conversation will inevitably be tuition control, and whether and how the General Assembly should share that responsibility with the governing boards. Given the General Fund cliff that awaits our colleges and universities, I believe it is time for this conversation – and balanced action. We should search for a mechanism that gives our schools greater authority over tuition policies when General Fund is not in abundance, even as we ask that these dollars be spent efficiently.

Of course, none of us would support a system that would clear the way for runaway tuition increases. But I do believe there is a way to find a middle course, creating a competitive cost environment where colleges and universities compete and students vote with their feet.

Let's work together on this one. Senator Morse is already leading this dialogue and is preparing legislation, and I believe that this is the year we should join him.

The third area that I believe is ripe for bipartisan agreement is ballot reform – and specifically, rallying around a plan that would make it more difficult to amend Colorado's Constitution.

The founding fathers of this nation, whom we revere for their wisdom and foresight, believed it should be more difficult to alter the governing document – our constitution – than our statutes.

Yet, here in Colorado, we have a system in which it is too easy to place public policies directly into the constitution. Political priorities are like water – they will run to the path of least resistance. So all things being equal, why not amend the constitution? And the results have been plain.

The Colorado Constitution is over 45,000 words--ten times as long as the U.S. Constitution.

As we all remember, a proposal to raise the bar on amending the state constitution narrowly failed in 2008 – but the public education effort was incomplete. This year, let's refine that proposal – make it more meaningful, understandable – and take a bipartisan front to the voters and make the case that our Founding Fathers embraced – that Constitutional change should require a higher bar.

The fourth area where this General Assembly can and should act is in creating the machinery for a meaningful rainy day fund. If we had taken that step and created a rainy day fund in 2006 when it was proposed, that fund would now contain more than \$2 billion.

When the economy recovers, and revenues return to the State's coffers, we'll have a choice: repeat the mistakes made by Republicans before the 9-11 recession, and repeated by the Democrats before this most recent Great Recession, or we can prepare for the next inevitable downturn.

Some will say there is no urgency to enact such a policy. I say, now seems like exactly the time for the General Assembly to show some foresight – to prove that elected leaders are capable of looking beyond the next fiscal year, beyond the next recession, and beyond the next election.

While economic and political uncertainty creates a real window of opportunity for bipartisan reform, it will also expose familiar fault lines between the two political parties on the central question before the General Assembly this year: do we balance the budget through a combination of taxes, fees, borrowed federal dollars and one time fixes, or do we reduce spending?

During the course of this session, you will hear proponents of higher taxes talk about their desire to “close loopholes”, but the tax exemptions and credits they seek to eliminate are not “loopholes” or “accidents” or historical anomalies.

These exemptions and tax credits frequently represent a strategic effort on the part of our predecessors to tear down barriers to investment in manufacturing, technology, finance, and conservation.

They have served our economy well, in some cases, for decades.

The sales tax exemption for energy used for industrial or manufacturing purposes, for example, has been in place since 1937.

To put that in context for you, in 1937:

- America had just 48 states
- A new home cost about \$4,000
- The average annual salary was less than \$2k per year
- A new car cost around \$800
- Snow White and the Seven Dwarves hit box offices
- And Senator Kester was one year old.

Should this exemption be eliminated, it will be the first time that manufacturers' energy input costs are subjected to sales taxes – ever, in the history of this State. The net effect is a tax hike on business of some \$50 million in the worst Colorado economy in decades.

Does anyone in this room really believe that increasing costs for businesses in this climate is a prescription for job creation?

Another tax program targeted for increase has helped businesses create thousands of jobs in some unlikely places. These businesses are located in enterprise zones, which are established with the express purpose of promoting economic activity in economically distressed areas that suffered from higher-than-average unemployment and lower-than-average per capita income – even during good times.

In 2008 alone these businesses created or retained more than 150,000 jobs and invested more than \$2 billion in new equipment. Yet the tax credit that helped contribute to this economic growth is now being targeted for elimination.

Does anyone believe a new tax on “enterprise” is a recipe to bring us back?

These are just two examples, but there are many more.

There's been talk in this building of hiking taxes on everything from food, to pharmaceuticals, to farm land, and even the Internet.

Choosing to raise these taxes may bring in a few extra dollars to the state treasury, but these actions come with consequences.

Think about the owner of that struggling small business poring over his books to figure out how to make payroll in the face of higher taxes.

Think about the worker whose salary will be reduced, whose benefits will be cut, or whose job will be eliminated to pay that new tax imposed from Denver.

Think about that laid-off worker driving home – wondering how to tell his son that there isn't

going to be enough money to pay his tuition this year.

This debate is about a lot more than numbers on a spreadsheet. It is about people's lives and people's livelihoods.

This money doesn't come out of thin air and it isn't printed in the basement. It comes out of the pockets of families, business owners, and workers, and frankly they don't have a whole lot extra to spare these days.

And of course, the alternative isn't an easy one – reducing spending, cutting programs, making tough choices.

But if the Democratic Governor of Montana can swear off hiking taxes this year – he's proposed a 5 percent across the board budget cut instead – my friends we can do the same.

If you don't like the across-the-board approach, Republicans will once again offer numerous specific proposals to reduce spending and reform government. I will be introducing a bill to implement a meaningful hiring freeze, consolidate boards and commissions, administrative functions, agencies and departments, shrink the size of the states payroll, and scale back on excessive public sector salaries.

Senator Kopp plans to introduce legislation that would take a slightly different approach by creating two BRAC-like commissions that would identify and eliminate waste, fraud and abuse, and look for ways to spin off government functions that could be better handled by the private sector.

To be sure, defenders of the status quo in government will dismiss our proposals as not enough. They will tell us it can't be done. They will criticize our ideas as \$1 million solutions to \$1 billion problems. To them, I would respond by paraphrasing former Illinois Senator Everett Dirksen, who famously opined, "A million here, a million there, and pretty soon you're talking about real money."

I sincerely hope the Majority will consider these and other Republican proposals to reduce the size, scope and cost of government -- and resist the temptation to be the "party of no" when it comes to cutting budgets and reforming government.

But Mr. President, as you and I have privately discussed, let's not allow legitimate policy differences on the budget and other critical issues to undermine our willingness to work together on other important issues where our values are shared, like reforming the state's pension system, solving the higher ed funding conundrum, rallying around constitutional reform, and establishing the framework

for a rainy day savings fund.

I'm reminded of comments I made about the first female President of the Senate, Joan FitzGerald upon her retirement from the Senate. I told a reporter that the thing I liked most about Joan was that you could have a spirited – even heated – argument with her about one issue in the morning, only to be in her office cutting a deal and making important compromise by the noon hour.

And so it should be with us. We have important opportunities to reform our system of government, make it work better, leave it in better shape than we found it.

That's what brought most of us here in the first place. Let's seize this moment and make those opportunities a Colorado reality.

Thank you Mr. President and Members of the Senate.