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## Senate

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

King of creation, Your faithfulness reaches to the skies. May every nation on Earth exalt You as King of kings and Lord of lords. Today, remind us of Your strength and grace, for You are mighty to save and gracious to all who seek Your face.

Lord, move in our midst and shower our Senators with wisdom and courage to unite in a common quest to solve the difficult issues of our times. Protect this Nation from dangers seen and unseen, and continue to equip our brave military and civilian protectors with Your full armor.

We pray in Your strong Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 9, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMEN-

THAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

Mr. BLUMENTHAL thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SMALL BUSINESS JOBS AND TAX RELIEF ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 341, S. 2237.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

Motion to proceed to S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

### SCHEDULE

Mr. REID. Mr. President, there will be no rollcall votes today. The first vote of the week will be tomorrow at noon on the confirmation of the Fowlkes nomination.

MEASURE PLACED ON CALENDAR—H.R. 4018

Mr. REID. Mr. President, I understand that H.R. 4018 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The leader is correct. The clerk will report the bill by title for a second time.

The legislative clerk read as follows:

A bill (H.R. 4018) to improve the Public Safety Officers' Benefits Program.

Mr. REID. Mr. President, I object to any further proceedings on this legislation at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the measure will be placed on the calendar.

### FOCUSING ON JOBS

Mr. REID. Mr. President, last month we got a lot done. It was incredibly productive. Congress and President Obama worked together to prevent interest rates from doubling for more than 7 million college students, and we also worked to put 2.8 million Americans back to work or create new jobs and to rebuild our crumbling roads, bridges, and other parts of our transportation system. The Senate passed an FDA bill, which was so necessary to focus on why we have, among other things, shortages of lifesaving drugs. We also passed something that will allow the construction industry to go forward, which is flood insurance for the entire country. We passed a farm bill that will strengthen the agriculture industry and support some 16 million jobs.

We were able to accomplish this much last month because Republicans and Democrats worked together and compromised. Rather than wasting time participating in political theater, we actually legislated.

I hoped to continue that productive process in this work period, characterized by cooperation between lawmakers on both sides of the Capitol and in both Chambers. Unfortunately, we already know that our colleagues in the House are going to waste much of this short work period refighting very old battles.

Republicans had indicated they would support the ruling of the Supreme Court. They, in fact, said the Supreme Court is going to decide this matter regarding affordable health care. Well, they have now changed their tune. Mitt Romney has said he would nominate Supreme Court Justices just like Justice Roberts. I wonder if he is saying that to his rightwing base today.

But now that the Court has upheld this landmark health care reform with the majority decision, written by Justice Roberts, Republicans refuse to admit that the matter is settled. This

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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week the House will vote—and this is almost hard to comprehend—for the 31st time to repeal health care reform. They have already voted 30 times, but Speaker BOEHNER said: Let's do it again—31 times, taking many hours and many days that should have been spent on creating jobs. Congressional Republicans have spent months trying to repeal a law that has already saved lives and made people more safe as they look at health care in this country.

While House Republicans hold a political showboat, the Senate will take a different approach. We are going to continue to try to be constructive and focus on jobs. While Republicans are stuck in the past, we will be addressing the most pressing issues facing this Nation: creating jobs and securing the economy.

Last week's job report underscored the fact that Congress must do more to strengthen the recovery. So the Senate will immediately consider a package of commonsense tax cuts that will lower the cost of doing business for small businesses and pave the way for small businesses to succeed.

Our legislation will cut taxes for small firms that invest in new workers and equipment. The Small Business Jobs and Tax Relief Act will provide a 10-percent income tax credit for companies that add up to \$5 million to their payroll, creating hundreds of thousands of new jobs. Businesses are eligible for a tax break if they hire new workers or if they raise the wages of hard-working employees already on their payroll. And because the credit is capped at \$500,000, it is targeted to benefit small businesses most.

The legislation will also allow companies to write off the entire cost of purchases, such as new equipment, and they will be able to do it in the year the purchases are made instead of writing them off over long periods of time.

More than 2 million companies could get a boost to their bottom lines, creating hundreds of thousands more jobs.

Proposals such as these have garnered Republican support in the past, and I hope they will receive bipartisan support again tomorrow.

After our weekly caucus meetings tomorrow, the Senate will vote to end a Republican filibuster and begin to debate these tax cuts. Democrats can't undertake the work of strengthening the economy alone. We will need Republican support, which is why we have proposed consensus tax cuts that should pass the Senate overwhelmingly.

It was good to see that so many reasonable Republicans were willing to work with us last month to save college students money, rebuild the Nation's infrastructure, and help protect American farmers. Tomorrow, Republicans will have an opportunity to prove they are willing to continue working with us to create jobs.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

Mr. REID. I thank the Chair.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, Senators are permitted to speak for up to 10 minutes each.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask unanimous consent that I may address the Senate as in morning business for 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## FAIRNESS

Mr. KYL. Mr. President, "fairness" has become one of the watch words in this year's political debates, both at home and abroad. The term echoes throughout Europe, where German Chancellor Angela Merkel is under pressure to come up with billions in bailouts for troubled eurozone countries. Her insistence on reasonable reforms is considered unfair by many in those countries, even though Germans have sacrificed to live within their means, for example, by forgoing wage increases to avoid the problems of their neighbors.

In the United States, President Obama and his supporters have used fairness as a justification for various redistributionist policies, including a massive tax hike, a government takeover of health care, complex financial regulations, and new government spending programs.

The President and his supporters believe the Federal Government should pursue policies that will result in economic equality. But forced equality is inherently unfair. It necessarily relies on the wrong incentives that penalize success. More fundamentally, it is based on a shallow, materialistic definition of "fairness."

Aristotle wrote: "The worst form of inequality is to try to make unequal things equal."

Contrary to the goal President Obama pursues, the key determinant of lasting happiness and success is not whether you have as much money as your neighbor, regardless of the differences between you. Rather, it is what American Enterprise Institute president Arthur Brooks calls earned success and meritocratic fairness.

Much research shows people are happiest when they have the opportunity to succeed and earn their rewards. Sometimes we take risks and

succeed. Sometimes we fail. Sometimes we defer gratification by saving our money. Maybe our neighbor does not. Some of us are better at making money than others. Some deliberately earn less to enjoy other pursuits in life. Decisions about families result in very different economic circumstances.

When the government tries to equalize everyone or take all the trouble out of life by taking care of our every need, it makes earned success and meritocratic fairness that much harder to achieve. When government aims to smooth over every rough patch, it eliminates the experiences that make us resourceful and resilient—the experiences that teach us how to work harder or smarter for our rewards.

Those of us who believe in earned success and meritocratic fairness believe the best way to promote these concepts is through the free enterprise system, a system in which opportunity is sacred and excellence is rewarded. We reject the notion that it is fair to impose interventionist and redistributionist policies to guarantee material equality. As Brooks notes: "For the overwhelming majority of Americans, fairness means rewarding merit, not spreading the wealth around."

In his new book, "The Road to Freedom," Brooks asks some fundamental questions related to the future of earned success, the pursuit of happiness, and meritocratic fairness:

First, "Will we see a growing bureaucracy or more entrepreneurship?"

Second, "Will we be a culture of redistribution or a culture of aspiration?"

Third, "Will we be a nation of takers or a nation of makers?"

These are serious questions that will be answered in the long run—not in 1 day or 1 year or in one session of Congress. But for now, I would like to focus on the short term. How do recent government policies help answer these questions about what is fair?

How does government spending, and the staggering debt that comes with it, affect bureaucracy and entrepreneurship? How does a redistributionist tax policy affect the aspirations of job creators and innovators? And how does our burdensome regulatory regime affect the so-called "makers" in American society?

Let's take these Brooks' questions one at a time. First, will we see a growing bureaucracy or more entrepreneurship? We all know entrepreneurship requires opportunity and private investment. But a burdensome Federal Government reduces opportunity and it crowds out private investment. Let's take a look at the growth of government under President Obama. Since his inauguration in January of 2009, the Federal debt has increased by more than \$5 trillion, and it is rapidly approaching \$16 trillion in total.

Meanwhile, the Federal budget deficit has exceeded \$1 trillion 4 years in a row. The highest deficit before President Obama was less than half that

amount. How did our deficit and debt skyrocket so quickly? Well, for starters, President Obama's economic policies have resulted in slower GDP growth, which means less tax revenue flowing to the Treasury and more Americans requiring government assistance. So government income is down.

Second, the President has dramatically increased government spending. Prior to the 2008 fiscal crisis, the 40-year average for Federal outlays was less than 21 percent of our gross domestic product. But under President Obama, spending soared over 25 percent of the GDP in 2009. It has remained above 24 percent since then. This new spending has grown the Federal bureaucracy and it has increased the regulatory burden on families and businesses.

For example, the President's 2,700-page health spending law created or codified at least 159 new boards, bureaucracies, and programs, along with thousands of new pages of government regulations and more than 20 new taxes. A recent Bloomberg News report notes that the President's health care law imposes \$813 billion in taxes on middle-income families and job creators, according to the Congressional Budget Office. In total, it has imposed \$24 billion in new regulatory costs on the private sector and States, as well as almost \$59 billion in annual paperwork hours on the economy.

The 2010 Dodd-Frank law is a similar story. It is still creating countless new rules and its direct compliance costs have already exceeded \$7 billion. Indeed, according to the Financial Services Roundtable, Dodd-Frank will force more than 26,000 employees to comply with the law.

Other Obama initiatives have failed to pass the Congress, but likewise would have expanded the bureaucracy and funneled resources from the private sector to the government. These initiatives include cap and trade, the deceptively named Employee Free Choice Act, and the more recent Paycheck Fairness Act. We need to get back to basics.

As Congressman RYAN has said, we need to make it easier for people to employ their "right to rise." That means leaving more money in the private sector and reducing the size of the Washington bureaucracy. We can start by stopping tax hikes and bills such as ObamaCare that suck needed resources out of the economy and give unaccountable regulators immense power.

Let's consider Brooks' second question. Will we be a culture of redistribution or a culture of aspiration? Public policy has a direct impact on economic aspiration and economic mobility. America has traditionally been an aspirational society with high levels of mobility. Although President Obama has made class warfare a central campaign tactic, we do not have a class system here in America. We do not have an American aristocracy or noble blood-

lines. Because of our meritocratic system, people in America can and do jump from one income level to another throughout their lifetimes, from the one place to another. But with unemployment stuck above 8 percent now for 41 consecutive months, and the Obama administration's preference for redistributionist policies, there is real concern that America's culture of aspiration may gradually be replaced by a culture of redistribution.

Look at the tax issue. President Obama wants to increase the top marginal income tax rates in order to expand the entitlement state and promote what he calls greater "fairness" in society. But what about the economic consequences of taking more money from successful people as the economy continues to struggle? The Joint Committee on Taxation has told us that allowing the top two marginal income tax rates to rise from 33 and 35 percent to 36 and 39.6 percent, respectively, will hit 53 percent of net positive income and just under 1 million business owners overall.

Raising marginal tax rates is no way to encourage aspiration or job creation. It certainly imposes a wet blanket on the kind of risk taking that has helped build America. It is merely redistribution under the guise of social justice. The President's approach to investment is also hostile to aspiration and risk taking. He has endorsed raising the top capital gains rate from 15 to 23.8 percent, and he also wants to raise the top rate on dividends from 15 to 43.4 percent.

The so-called "Buffet tax" is yet another method of hiking taxes on investment. All of these taxes on investment reduce the value of the asset by reducing the aftertax return. Our private economy runs on business investment, which is highly sensitive to tax rates, especially on capital gains and dividends.

Some of those who prefer higher taxes have argued that if taxes do not go up, those in the top brackets will invest and save more, but that will not do much for job creation and economic growth. Well, that is factually incorrect. Saving does not mean throwing your money under a mattress or burying it in your backyard. Anyone who saves money either puts it into the bank, where it is lent to someone, often a business, so they can hire more people, purchase equipment or invest in stocks and bonds, or the money is directly invested in a stock or a bond, which provides capital for the same purpose.

In other words, savings actually puts the money saved to work providing capital for someone to do something with it. And that creates economic growth. If that increment of income is instead taken from those who earned it and spent by the government, the effect on the economy will almost always be a net negative. If we want to encourage aspiration, innovation, and the job creation that comes with those, is it a

good idea to raise the capital gains rate by almost 59 percent and nearly triple taxes on dividends, even though these profits have already been taxed once at the corporate level? The President and some Congressional Democrats think so, but I strongly disagree.

Here is Brooks' third question: Will we be a Nation of takers or a Nation of makers? Many have lamented the decline of the manufacturing base in America. Although the United States is still the largest manufacturing economy in the world, there is no doubt that policies from Washington have made it more difficult for manufacturers—and those are the economy's foremost makers—to compete in global markets. The list of these policies is long. Let me explain a few.

First, the corporate tax rate. At over 39 percent, our combined corporate tax rate is now the highest in the industrialized world. Other countries are cutting their corporate tax rates to encourage economic growth, but we are doing nothing on the tax front to follow their lead and attract more investment to the United States. Is it any wonder jobs are moving overseas? If not, whose fault is it, the company trying to return a profit to its investors or the government which makes it impossible to compete with foreign corporations?

Look at energy. Manufacturers rely on cheap sources of energy to produce products cheaply. Yet President Obama has stood in the way of domestic production of energy such as the Keystone XL Pipeline and worked tirelessly to punitively raise taxes on the oil and gas industries. New regulations on coal-fired powerplants, emissions of greenhouse gases, and industrial boilers will also hurt our economy.

Simply put, domestic makers are being hurt by the President's anti-energy and proregulatory agenda. Is this fair? Why should Americans pay more than the real economic cost of available American energy? And is it fair that a few corporations make billions because the government mandates that we buy ethanol from them, just to cite one example?

Now let's turn to labor. Manufacturers are also being burdened by union-dictated rules including from the National Labor Relations Board such as the "ambush elections rule" and new rules on the establishment of "micro unions" within the workplace.

With anticompetitive tax, energy, and labor policy, it will be increasingly difficult for our country to compete as a Nation of makers. These are precisely the kinds of policies that encourage employers to move jobs overseas, which hurts American workers and the greater economy. And this is required in the name of fairness?

We are also trending toward being a Nation of "taking." The government is the biggest taker. But a majority of Americans now take more than they contribute. In tax year 2009, 51 percent of Americans paid zero Federal income

taxes, according to the Joint Committee on Taxation—over half of Americans. And these citizens take much more than their fellow citizens in government benefits.

Look at food stamps, for example. As my friend Senator SESSIONS has pointed out, “food stamp spending has quadrupled since 2001. It has doubled just since 2008. A program that began as a benefit for 1 in 50 Americans is now received by 1 in 7.” Spending on food stamp welfare has increased 100 percent since President Obama took office. Some 80 percent of all spending in the recently passed farm bill will go toward food stamps.

In total, there are 69 means-tested Federal welfare programs costing taxpayers \$940 billion every year, including both Federal programs and State contributions to those programs. The number of Americans living off the wealth of “makers” keeps growing and growing. There are nearly twice as many government workers today as there are in the manufacturing sector, meaning that there are more government workers than people making products and paying their salaries. Is that fair?

As economist Stephen Moore noted, “This is an almost exact reversal of the situation in 1960 when there were 15 million workers in manufacturing, and 8.7 million collecting a paycheck from the government.”

The growth of taxpayer-funded dependency is directly connected with the growth in the economy. The more we make as a Nation, the more wealth we generate and the less people who rely on welfare to survive. To get there we need aggressive pro-growth policies in place to encourage free enterprise and discourage a Nation of taking. It is neither fair to the makers nor those who must rely on the government for the President to impose policies that reduce economic growth, reduce job creation, reduce savings and investment, and reduce opportunity and freedom.

In conclusion, free enterprise and meritocratic policies are consistent with our founding principles. As Thomas Jefferson declared in his first inaugural address, “A wise and frugal government . . . shall not take from the mouth of labor the bread it has earned.”

Will America remain the country our Founders envisioned or will we become a country where fairness means equal outcomes for all dictated by the government? Will we make it easier or harder for people to earn their success? And will the American people be happier if allowed to pursue their dreams, sometimes failing, sometimes succeeding, or if the government tries to force equal economic outcomes? Which is more moral, which is more fair, which is more American?

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Georgia.

PASSTHROUGH INCOME

Mr. ISAKSON. Mr. President, if the distinguished whip will remain on the

floor for a second, as I was passing through listening to his speech, I wanted to add some meat on the bones of this business of passthrough income and the 940,000 American small businesses that will be affected dramatically by the President’s announcement today.

For 22 years, I ran a subchapter S corporation. A subchapter S corporation passes through its revenues to its investors who pay it at the ordinary income tax rate of an individual. Now, \$250,000 is not an inordinate amount of a number for somebody to have passed through to them in the ownership of a subchapter S corporation.

I passed the money through and paid them back based on the investment they made in the company I ran. When you raise the tax on the individual rate, then for a subchapter S corporation and limited liability corporation, for a limited partnership, you have two decisions to make as the runner of that operation: Do you reduce your retained earning investment in your company to maintain the return to your investors at the same level or do you continue to wind your company down because you cannot distribute at the rate you used to distribute?

It is very important to understand that whichever decision you make has a direct negative impact on future hiring in that company. The Congressional Research Service estimates 940,000 businesses will be affected. But listen to this number. As the leader has said, 53 percent of all passthrough income becomes subjected to the higher tax rate—53 percent, over half. That is American small business. So I want to commend the leader, because he has hit the heart of the story. This is a tax on what we need the most; that is, reinvestment of earnings to hire more people to build more businesses in America. This has the exact opposite effect on the middle class that the President described.

The second thing I will point out is that today America suffers economically from the uncertainty of what is going to happen postelection. With this proposal, the President has now made a recommendation that would extend that uncertainty for another year. The last thing American business needs is to have that uncertainty about when the next shoe is going to drop in terms of taxation on the middle class—or any class.

I commend the assistant leader for coming to the floor and telling the story about American business. We are not here to try to shelter the rich. We are here to empower business, to have more employees in the United States, and to empower our economy. Again, I commend the whip on his remarks on the Senate floor.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO MRS. TONI RYSER

Mr. MCCONNELL. Mr. President, I rise today in recognition of Mrs. Toni Ryser of Laurel County, KY, a businesswoman who is a pillar of her town, East Bernstadt. Mrs. Ryser’s entrepreneurial spirit caused her to open a furniture store in East Bernstadt, KY, in 1969 that continues to thrive and service the people of Kentucky and other States in the region. She is a shining example of a Kentuckian who has established a successful business while maintaining an important role in her community.

The daughter of Chester and Carrie Bales, Mrs. Ryser grew up in East Bernstadt. Despite hard financial times during the Great Depression, she grew up as a happy child. Her father was a truck driver and delivered groceries around Laurel County for Laurel Grocery, and her mother worked in the home. Her mother used to joke with family members that of the four children, Mrs. Ryser was the most difficult child because she always did what she wanted and had a mind of her own.

Mrs. Ryser graduated high school at age 16 and worked for Aetna Oil Company. In a bold move encouraged by her then-boss, Mrs. Ryser asked her would-be husband, R.D. Ryser, out to the movies for their first date. The couple married in June of 1947 and at age 20, Toni had their first child, Kandy. The Ryser family had two more children, Bo and Kim, over the course of the next 5 years.

Though Mrs. Ryser always wanted to be a mother, she decided she wanted to do more than keep the house during the day. Remembering the skill her mother taught her as a child, she began sewing and selling drapes. Soon Mrs. Ryser’s drapery business grew and she could not complete orders as quickly as they arrived. As business increased, she decided to expand and not only sell draperies but also upscale furniture.

In 1969, Mrs. Ryser approached a furniture retailer that was hesitant to do business with her because of the rural nature of East Bernstadt. However, despite the concerns of the retailer, Mrs. Ryser decided she was going to sell furniture and was not dissuaded by the larger company’s misgivings. She never doubted her ability to sell the furniture and make a profit. So in September of 1969, when Toni was 39,