

which has caused many doctors to move to Texas who otherwise might not have gone there, providing greater access to health care.

As I have said, we also need to allow the interstate sale of health insurance policies. There is no reason why I shouldn't be able to buy a health insurance policy in Virginia if it suits my needs better than one available in Texas. Why would we not allow that? Again, why would we not want the benefit of that competition and the benefits to the consumer in terms of service and price?

We also need to boost support for State high-risk pools to protect Americans with preexisting conditions. This is one of the reasons why the President and other proponents of ObamaCare said we have to have ObamaCare, because we need to deal with preexisting conditions, and we do. But we can do it a lot cheaper and a lot more efficiently by using Federal support for existing State preexisting condition high-risk pools. We don't have to take the whole 2,700-page piece of legislation that cost us several trillion dollars. We can do it much cheaper and more efficiently.

Finally, we need to save Medicare by expanding patient choice and provider competition. These policies would allow us to expand quality insurance coverage and improve access to quality health care without disrupting people's existing health care arrangements, without discouraging work and job creation, without raising taxes on medical innovation, and without weakening Medicaid and Medicare.

The chairman of the Senate Finance Committee, one of the principal Senate architects for the Affordable Care Act, famously described the implementation of ObamaCare as a train wreck. These three leaders of American labor would agree, and they have also warned us that unless we fix it, it could destroy the very health and well-being of millions of hard-working Americans.

It is time for us to acknowledge the reality that whether you were a proponent and voted for ObamaCare or whether you were an opponent and a skeptic that it would actually work, we need to deal with the harsh reality and the facts that exist. It is time for Democrats, including the President, to work with us to replace ObamaCare with better alternatives.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. REID. Mr. President, if my friend from Virginia will yield to me for the purpose of doing a unanimous consent request, we have an agreement as to how we will proceed with votes.

Mr. Kaine. I have no objection.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the vote on the confirmation of the Perez nomination as Secretary of Labor occur at 12:15 p.m. today; that if the nomination is confirmed, the motion to reconsider be

considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; and the President be immediately notified of the Senate's action; further, that following disposition of the Perez nomination, the time until 2:30 p.m. be equally divided in the usual form prior to the cloture vote on the McCarthy nomination.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, while I have the floor, I want the RECORD to reflect how fortunate the State of Virginia is for the work done by this good man. We have a good situation with our delegation from Virginia—two former Governors, and they are both such outstanding human beings and wonderful Senators.

As I have told my friend personally, the person whom I just interrupted—and I spread this in the RECORD here—there is no one I know in the Senate who is able to deliver the substance of what he says as well as the Senator from Virginia. He does such a good job of explaining things. We all have an idea of what we want to say, but sometimes we don't explain it very well. He does an excellent job.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. KAINE. I thank the majority leader for his kind words.

WAR POWERS RESOLUTION OF 1973

Mr. President, I rise in order to note an important anniversary. Forty years ago this week the Senate passed the War Powers Resolution of 1973. The resolution was passed in a time of great controversy—during the waning days of the Vietnam war. The purpose of the resolution was to formalize a regular consultative process between Congress and the President on the most momentous decision made by our Nation's Government—whether to engage in military action.

The question of executive and legislative powers regarding war dates back to the Constitution of 1787. Article I, section 8 of the Constitution provides that "Congress shall have the power . . . to declare war." Article II, section 2 of the Constitution provides that the President is the "Commander in Chief" of the Nation's Armed Forces. In the 226 years since the Constitution was adopted, the powers of the respective branches in matters of war have been hotly debated. In a letter between two Virginians in 1798, James Madison explained the following to Thomas Jefferson:

The Constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch most interested in war, and most prone to it. It has accordingly, with studied care, vested the question of war in the legislature.

Madison's definitive statement notwithstanding, the intervening history has been anything but definitive. Aca-

demics and public officials have advanced differing interpretations of the constitutional division of power. There is no clear historical precedent in which all agree the legislative and executive branches have exercised those powers in a consistent and accepted way. And the courts have not provided clear guidance to settle war powers questions.

Some facts, however, are very clear. The Congress has only formally declared war five times. In many other instances, Congress has taken steps to authorize, fund, or support military action. In well over 100 cases, Presidents have initiated military action without prior approval from Congress.

Congress supposed 40 years ago that the War Powers Resolution of 1973 would resolve many of these questions and establish a formal process of consultation on the decision to initiate military action. But this was not the case. President Nixon vetoed the resolution, and while Congress overrode the veto, no administration since has accepted the constitutionality of the resolution. Most recently, President Obama initiated American involvement in a civil war in Libya without congressional approval. The House of Representatives rebuked the President for that action in 2011. But the censure rang somewhat hollow because most legal scholars today accept the 1973 resolution is an unconstitutional violation of the separation of powers doctrine.

So why does this matter? We are in the 12th year of war. The attack on our country by terrorists on September 11, 2001, was followed 1 week later by the passage of an authorization for use of military force that is still in force today. The authorization is broadly worded and both the Bush and Obama administrations have given it an even broader interpretation.

In recent hearings before the Senate Armed Services Committee, administration officials expressed the opinion the authorization of September 18, 2001, might justify military action for another 25 to 30 years in regions spread across the globe against individuals not yet born or organizations not yet formed on 9/11. This was likely not contemplated by Congress or the American public in 2001.

Congress is currently grappling with the status of the authorization and whether it should be continued, repealed, or revised. We face immediate decisions about the reduction of American troops in Afghanistan and the size of a residual presence we will leave in that country to support the Afghan National Security Forces. We are wrestling with the scope of national security programs that were adopted in furtherance of the authorization, and we are engaged in serious discussion about new challenges—from the rebellion in Syria to growing nuclear threats in Iran and North Korea.

All of these issues are very hard. I recently returned from a trip to the Middle East—a codel sponsored by Senator

CORNYN. Accompanying us were Senators COCHRAN, SESSIONS, BOZEMAN, FISCHER, and in Afghanistan, Senators MCCAIN and GRAHAM.

In Turkey and Jordan we heard about the atrocities committed by the Asad regime in Syria and the flood of refugees pouring into those neighboring countries. In Afghanistan we met with our troops and heard about the slow transition from NATO forces to Afghan security. In the United Arab Emirates we discussed the growing threat of Iran throughout the region, and we made a meaningful stop at Landstuhl Regional Medical Center in Germany to visit recently wounded Americans—and NATO partners—who have sacrificed so much in this long war against terrorism. In the voices of our troops, our diplomats, our allies, and our wounded warriors, we heard over and over again a basic question: What will America do?

Answering this question isn't easy, but I believe finding answers is made more difficult because we do not have any agreed-upon consultative process between the President and Congress. The American public needs to hear a clear dialogue between the two branches justifying decisions about the war. When Congress and the President communicate openly and reach consensus, the American public is informed and more likely to support decisions about military action. But when there is no clear process for reaching decision, public opinion with respect to military action may be divided, to the detriment of the troops who fight and making it less likely that government will responsibly budget for the cost of war.

I believe many more lawmakers, for example, would have thought twice about letting sequestration cuts take effect if there had been a clear consensus between the President and Congress about our current military posture and mission.

So at this 40th anniversary, I think it is time to admit that the 1973 resolution is a failure, and we need to begin work to create a practical process for consultation between the President and Congress regarding military action.

In 2007 the Miller Center at the University of Virginia impaneled the bipartisan National War Powers Commission under the leadership of former Secretaries of State James Baker and Warren Christopher. The Commission included legislative, administrative, diplomatic, military, and academic leadership. The Commission issued a unanimous report to the President and Congress urging the repeal of the War Powers Resolution and its replacement by a new provision designed to promote transparent dialog and decision-making. The Commission even proposed a draft statute, preserving the constitutional powers of each branch while establishing a straightforward consultative process to reach decision in a way that would gain support from the American public. The House and

Senate Foreign Relations Committees held hearings on the report in 2008, but the time was not yet right for change.

I believe the time for change is upon us. We struggle today with urgent military decisions that demand better communication between the President, Congress, and our citizens. President Obama has discussed this very need during his 2013 State of the Union Address and also during his recent speech at the National Defense University.

As we reach the 40th anniversary of the failed War Powers Resolution, Senator JOHN MCCAIN has agreed to work with me to form a group of Senators committed to finding a better way. Senator MCCAIN and I serve together on both the Armed Services and Foreign Relations Committees. I have profound admiration for his service to this country, both as a military veteran and a veteran Senator. I am a newcomer, but veterans and newcomers alike have an interest in finding a more effective process for making the most important decision that our government ever makes—whether to initiate military action. We can craft a process that is practical, constitutional, and effective in protecting our Nation. We owe this to those who fight, and we owe this to the American public.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. RUBIO. Mr. President, I ask unanimous consent that I be recognized to speak for up to 12 minutes as in morning business.

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

OBAMACARE

Mr. RUBIO. Mr. President, just a few moments ago I heard the President speaking from the White House regarding ObamaCare. He was lamenting, saying: Why are we still litigating old news around here? Let's move on to other things. This issue has been finished.

The reason this issue is still being talked about is because ObamaCare is a disaster. I think it is important to remember when we talk about health insurance that most Americans do have health insurance they are happy with. But no one would dispute that we have a health insurance problem in this country.

For many who have insurance the cost of their insurance is getting unaffordable, and many others have no access to insurance at all. They have a job, perhaps, that doesn't provide it or they are chronically ill so insurance is impossible for them to find or they are

young and healthy and they never go to a doctor, so they figure, why do they need it? Yes, for millions of people the cost and availability of insurance is a real problem, and we should do something about that.

The problem is ObamaCare, as a solution, is a massive government takeover of health insurance in America, and it does not fix the problem. It only makes it worse, and that is why we are still talking about it. It makes it worse for a number of reasons.

Tomorrow I am going to visit a business in Florida where the reality is growing every single day. Tomorrow I will visit Gatorland. Gatorland is in central Florida. It is a tourist destination where many Floridians and tourists have taken their kids to see alligators and to enjoy Florida's unique wildlife.

For 135 Orlando area residents, however, Gatorland is their workplace. It is their livelihood. It is how they feed their families. It is how they pay their mortgages. It is how they get ahead in life. The reason we are still litigating this, Mr. President, is because like hundreds of thousands of other businesses around the country, ObamaCare is threatening to unravel it all. It is threatening to unravel the livelihood of 135 Floridians who work at Gatorland, to shatter their financial security for them and their families.

Let me describe the problem. Gatorland has 135 full-time employees. Gatorland is currently paying 80 percent of the insurance cost for these employees. But now, under ObamaCare, evidently what they are doing is not going to be enough. ObamaCare, first of all, requires them not to just provide insurance but to provide for them a certain type of insurance, a type of insurance the government decided is enough.

Second, because of ObamaCare, the cost of the insurance that Gatorland wants to provide for its employees is going to go up; that is, if they want to continue to pay 80 percent of the insurance costs for the 135 Floridians who work there, it is going to cost them a lot more money. Those are the two problems.

No. 1 is they have to offer a certain type of insurance; the one they have potentially may not be enough according to the government. No. 2, because of all these changes, it is going to cost Gatorland more money to provide 80 percent of the cost of the insurance.

What does this mean in the real world? Here is what it means. It means that as Gatorland looks to next year and into the future, they now have a new cost on their books. As they look at their business plan for the coming year, all of a sudden they see on the cost side it has gotten more expensive. So if they want to stay in business, they are going to have to figure out a way to come up with that extra money.

What are their options to come up with this extra money? Option No. 1 is they can raise their prices. Option No.