

Plainly speaking, Congress is shirking its responsibility!

Meantime, while Congress sits on its hands, Americans who buy gasoline are continuing to pay a 4.3 cents-per-gallon gas tax every time they drive up to the pump. That gas tax previously went to deficit reduction, but it is now being deposited in the highway trust fund, and Congress should pass legislation to authorize that it be spent on our nation's considerable highway needs. The money from these gas taxes is accumulating in the highway trust fund, but Congress has passed no legislation authorizing it to be spent for surface transportation needs. The American people have been told by the Congress that monies in the highway trust fund would be spent for highways and other surface transportation needs.

And as long as Congress fails to live up to its commitment the American people are being misled. As long as Congress fails to live up to its commitment, the American people are being duped into believing that the gas taxes in the highway trust fund will be spent on highway construction and other transportation needs, but Congress, meanwhile, dillydallies, sits on its hands, and lets these tax revenues build up in the highway trust fund. It amounts to an abuse of the trust which the American people have placed in us. Meanwhile, the potholes deepen, the asphalt chasms open wider, and danger stalks our nation's highways.

By the end of this fiscal year, more than seven billion dollars in additional new revenues will have been deposited into the highway trust fund, not one penny of which is, as of this moment, authorized to be spent on highway construction and other surface transportation needs under the committee reported ISTEA bill.

Instead, these funds will continue to sit in the highway trust fund, earning interest, and being used as an offset to the federal deficits—if, indeed, they are not siphoned off, in the meantime, and used for purposes other than highway and other surface transportation needs.

The time to act on the highway bill is now! The first week of the second session has gone with the wind. We are now into the second week. The clock is ticking and the calendar is running. The highway construction seasons will soon be upon us, and yet, as of this moment, there is no indication that Congress will return to the highway bill.

I hope that the Governors, who will soon be meeting in the Nation's Capital, will contact the leadership in both Houses and request that the highway bill be taken up immediately. I hope that the Mayors and the state highway departments will do the same. The first day of spring is only seven weeks away, and Congress must begin promptly to debate the highway bill in both houses if we are even to hope that the bill can be enacted by the time that "the lark's on the wing" and "the snail's on the thorn." It should be done. But it can be done only if the leadership will bring

up the bill. I respectfully urge the Senate leadership to do that promptly.

I thank the Chair. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

MEDICARE BENEFICIARIES FREEDOM TO CONTRACT ACT

Mr. KYL. Mr. President, I want to provide a brief update for my colleagues this morning on the Medicare Beneficiaries Freedom To Contract Act.

This is the bill which has 46 cosponsors in the Senate, 150-some cosponsors in the House, led by the chairman of the House Ways and Means committee, BILL ARCHER, to restore the freedom to America's senior citizens to seek the medical care they desire rather than to be dictated to by the Medicare Program to only receive that care under Medicare that they may desire.

Here is the situation as it evolved. Mr. President, up until January 1st of this year, senior citizens in this country had always had the right under Medicare to go to the doctor of their choice, and if they wanted to be treated outside of Medicare they could do that. Of course, Medicare couldn't pay the bill. But that freedom always existed. As of a couple of years ago, the administration began to threaten physicians saying that they had to submit all bills for senior citizens to Medicare. The rationale was that anybody over 65 was "Medicare eligible" because they were 65, and if they were "Medicare eligible" then a doctor had to submit the bill to Medicare. So physicians began being concerned that they couldn't treat people outside of Medicare even though that had always been the patient's right and the physician's right.

To ensure that situation wouldn't continue, I introduced an amendment last year during the negotiations—during the time we were negotiating the balanced budget amendment—and it passed here under a vote of 64 to 35 to ensure that patients had the right to "privately contract," as it is called, and go to the doctor of their choice; not necessarily to go to Medicare, if they didn't want to. That amendment passed. It became part of the Medicare portion of the balanced budget amendment. But in the middle of the night some negotiators from the House and Senate caved in to the President's demands that if the Kyl amendment stayed in then the entire balanced budget amendment would be vetoed and, therefore, caved into his demands that a special limitation be placed on any physician providing this care; namely, that the physician had to get rid of all of his or her Medicare patients for a 2-year period in advance or you couldn't treat the person outside of Medicare. That is what went into effect January 1st.

This legislation that I just reported on will remove that 2-year requirement

so that the patient has the freedom to go to the doctor of his or her choice. Even though you are over 65 years old, you don't have to be treated under the Medicare system if you do not want to be, and the physician has the right to take care of you without getting rid of his or her other Medicare patients.

When did this situation arise? There are a lot of different situations. Take for example the psychiatric patient who doesn't want the records in Medicare to reveal the kind of treatment that patient has been receiving. Under the current administration plan—Medicare or no care—you either do it under Medicare or you don't get the treatment. No doctor can take care of you. Our bill would say no. You can go outside of Medicare and be treated. Again, you have to pay the bill—not the taxpayer. But you can do it.

Another case: You are in a small town. There are not that many specialists. You need specialty care. You go to a doctor who says, "I am not taking any more Medicare patients. The President and the Congress have cut our payments so much that it don't pay me anymore. In fact, I lose money on every one. I will take care of the ones that I have, but I am not going to see any more new Medicare patients." This enables the patient to say, "Fine. Just bill me. I will pay you. We will save Medicare the money." And that will be the end of it.

Another situation: You want to go to that specialist. Maybe it is a person who is on a university faculty who is not taking Medicare patients, and you want to be treated by that person because it is the one person that can save your life or your spouse's life. You ought to have the right to do that in this country. Under the current law that wouldn't be possible.

So our legislation restores the right of senior citizens—and all the rest of us have this right—to go to the doctor of their choice, and if they want to be treated outside of the Medicare system have the right to do that. It does not enable the doctor to charge more money to Medicare. Whatever the doctor charges they have to pay outside of the Medicare Program.

So this is not going to be used very often, I suspect. But in those situations where people really want to take advantage of their freedom in contract they ought to have the right to so.

Mr. President, in conclusion, this is not something that is just of concern for America's senior citizens, because all of us should be concerned about a fundamental right being taken away from us—the right to provide the health care that we want for ourselves or our families.

As the President is talking about making Medicare available to more and more people at younger and younger ages, I would have to ask them: Is it such a good deal to buy into Medicare when the first thing that happens when you do that is you give up a basic right that you have today—that every one of

us has today—but doesn't exist for somebody who is 65 years old or older because they are Medicare eligible? It is not a good bargain.

So what I am hoping is that the Finance Committee will hold hearings later this month—those hearings have already been set, I understand, by Senator ROTH—and that there will be legislation coming to the floor, and our bill coming to the Senate floor very soon thereafter. And sometime in the early spring we can pass on to the President a bill which will restore the right of all seniors in this country to go to the doctor of their choice without being told by Medicare that they can't do that; that, in effect, it is either Medicare or no care. That is un-American. It is wrong. It denies the basic right of all Americans. And we need to ensure that we can correct that problem through the passage of the Medicare Beneficiaries Freedom Contract Act.

In closing, if any one of my colleagues who have not done so already would like to sponsor the legislation, please see me because we will be moving forward on this very quickly.

Thank you.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President—

The PRESIDING OFFICER. I might say that under the order the Senator from Oklahoma reserved time at 12:30.

Mr. GRAMM. I think I have sufficient time between now and then, Mr. President. Thank you.

ISTEA

Mr. GRAMM. Mr. President, Senator BYRD has already spoken about the highway bill. I want to amplify on what he has said.

When you go to the filling station and you pull up your car or truck and you take out that pump and stick it into your gasoline tank, now most filling stations don't have the little clip on the bottom. So you have to stand out there and pump it. Probably most people have done what I have done. And that is while you are standing there you read what is written on the gasoline pump. What is written on the gasoline pump is sort of bad news and good news. The bad news is that a third of the cost of a gallon of gasoline in this country on average is taxes. The good news is, as it says right on the gasoline pump, that every penny you pay in gasoline taxes is going to build roads.

The problem that Senator BYRD and I are talking about today and the problem which we are trying to fix is that the bad news is true. A third of the cost of a gallon of gasoline is taxes. But the good news—that it is spent on roads—is not true. In fact, today over 25 cents out of every dollar collected in gasoline taxes goes to general Government. It funds programs that have absolutely nothing to do with highways, transportation, or with gasoline taxes.

My colleagues will remember—perhaps some people in the country that follow the debate will remember—that last year I offered an amendment to the tax bill that took the 4.3 cents a gallon tax on gasoline that had been part of the President's 1993 tax increase, and took that money away from general revenue and put it back into the highway trust fund where it belongs.

That became the law of the land last October 1st. It went into effect. It went into the highway trust fund. Senator BYRD and I are trying to take a final step which we view as an honesty-in-Government step, and that is to require that the money that we collect in gasoline taxes be spent on roads. Those who oppose this amendment are trying to delay its consideration to get it commingled with the budget so that it simply can be portrayed as another competition for available money, and perhaps an effort to bust the budget.

I want to remind my colleagues that the amendment which Senator BYRD and I have offered specifically does not bust the spending caps. All we are doing is asking that the money that we collect in gasoline taxes be spent for the purpose that we are telling the American people that the money will be spent. That would require us over the next 5 years to reallocate 1.4 percent of nondefense discretionary spending, and by reallocating it guarantee that the money goes to the purpose that we said that the money would go when we collected it at the gasoline pump.

We have 50 cosponsors. I urge my colleagues to join us in this effort. I urge our leadership to not commingle this with the budget. We have a highway bill to write. The current highway bill will terminate on May 1. Money will not be available for construction after that time unless we act.

I think it is important that we bring the bill up and that we have an up-or-down vote on honesty in Government, and that vote is, do you believe the gasoline tax, which we tell people goes to road construction, should actually go for that purpose? I believe it should. That is why I am a cosponsor with Senator BYRD, Senator BAUCUS, Senator WARNER, and many others in this effort to basically require that gasoline taxes be spent on roads.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. INHOFE. I thank the Chair.

EXECUTION OF KARLA FAYE TUCKER

Mr. INHOFE. Mr. President, I see the Senator from Texas. I would ask him, although it would elicit probably too long a response, if he has ever done anything that is really politically stupid. And I am sure he has either knowingly or not knowingly—as I am about to do—done something that would fall into the category of political stupidity.

Tomorrow an execution is scheduled to take place at 6 p.m. in the State of Texas. The young lady's name is Karla Faye Tucker. It happens we have an individual we know in common, so I became somewhat familiar with this case, and I will just give a thumbnail sketch as to what happened.

Karla Faye Tucker, when she was a very, very small child, went into heroine at age 10. She is the daughter of a prostitute. Karla Faye went into prostitution when she was 13 years old. She never had a childhood, I guess we could say. Fourteen years ago, while living in a drug cult, an individual on a motorcycle came riding into her living room, dripping oil and breaking things and stealing things and rode out. And the next day, Karla and an accomplice broke into the apartment of the motorcycle rider, who was in bed with a girl, and murdered both of them—a brutal murder.

I do not think there is anyone in the Senate who has a stronger record and background in punishment as a deterrent to crime than I have, nor is there anyone here who has been more active in establishing stronger death penalties than I have. The Furman case took place in 1972, and that is what struck down most of the States' capital punishment laws. I was in the State Senate at that time, and for 5 consecutive years I was the author of the capital punishment bill in the State of Oklahoma. I have always felt that punishment should be severe, it should be swift, and it should be equal.

We had a person who became very famous after 15 years on death row, Roger Dale Stafford, who brutally murdered nine Oklahomans. This guy was left on death row for 15 years. No one ever questioned that he was guilty. He never had any remorse. He just sat there and got fat. He gained 100 pounds while he was in there watching color TV. I have often said the longer the length of time between the conviction, the sentence to death and the carrying out of that sentence, the less that punishment serves as a deterrent to crime. So I have always felt that punishment should be carried out immediately.

But as I watched developments unfold with Karla Faye Tucker, I came to the conclusion that I have reached in a very unusual way. It is something I never thought I would do. It occurred to me that if Carla Faye Tucker had been a man, Carl Tucker, already either he would have been executed or would have been commuted to life and we would never have even known about it. Nobody would have cared.

The controversy that has been stirring around this—which I think probably would have gotten a lot more controversial if it had not been for the sex scandal that has dominated the media in recent days—was, I think, primarily because Karla Faye Tucker is a woman. It would not have happened if Karla Faye Tucker had not been a woman. Now there is all the public and