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

political pressure to execute this person for this heinous crime she committed that I don't think there would be if she had not been a woman.

I took the time a few weeks ago through the Richmond Law Review to check to see how many cases have been commuted to life imprisonment from death row since the Furman case of 1972. I found that there have been 76 cases. I have not reviewed all of these cases because I have not had the time to do it, but I did look at several of them. I found that there are a lot of circumstances in the Tucker case that were similar to those which caused these other cases to be commuted, 76 of them since 1972. And I will use as an example, in the State of Georgia, William Neil Moore whose sentence was commuted to life imprisonment.

There were several reasons, but the four that kept coming up in his case were, No. 1, an exemplary prison record; No. 2, a strong feeling and expression of remorse for the crime he committed; No. 3, a religious conversion; and, No. 4, pleas from the families of the victims of the crime for clemency. I looked at Karla's case to find that all four of those are there, but it is much more so than it was in the case of William Neil Moore whose sentence was commuted to life imprisonment.

In the Tucker case, it is not just the sister of one of the victims and the brother of the other, but three of the four prosecutors who have made a plea for clemency. The homicide detective, J.C. Moser, the guy who put her away, has quite a passionate story that he tells on how he has never felt any kind of remorse for anyone he has sent up and now he is lined up with several others. Even the prison guards have actually passed a petition around asking for clemency.

I have a letter here I just received this morning from Mr. W.C. Kirkendall, who is from Seguin, Tx. I will read the first and last two sentences of this letter. This is a letter of December 9 to Governor Bush. ''I have been a prosecutor since 1984, favor the death penalty in the appropriate cases and have prosecuted many people who I believe deserved the ultimate penalty that society can inflict.''

The last paragraph says, ''In sum, there is nothing that her execution will accomplish and much that commuting her sentence to life will do to show both the efficacy and justice of the Texas death penalty system. Please spare her life.''

In this letter he goes into all kinds of detail as to how strong he feels about the death penalty and why he would be asking the Governor for an exception in this case.

Having looked at this, I think there can be a case made that if Karla Faye Tucker had been Carl Tucker, there would not have been all of the public and political pressure applied to demand the death penalty.

We went through something very similar in Oklahoma. In Oklahoma 2 years ago we had the most cruel, I guess, mass murder or terrorist act in the history of America when 168 innocent Oklahomans were murdered. And Timothy McVeigh went through the necessary trials, and they found him to be guilty, and they gave him the death sentence. And then Terry Nichols, who was an accomplice in the case, went through the trial, and they did not give him the death penalty.

I never try to second-guess what juries do. I had an experience myself back in the 1970's after the Furman case. I was in the State Senate, and I was the author of the death penalty bill, and I was called for jury duty. There I was. And it was a murder case. And so when they were trying to decide whether or not we should qualify as jurors, they asked me a series of questions. I said, ''Look, I can save you a lot of time. I am a member of the State senate. I am the author of the death penalty bill. I already know this guy is guilty. I have been reading about it, and the guy ought to fry.''

They did not disqualify me, and I ended up being the chairman of the jury that acquitted him. So a long time ago I stopped trying to second-guess the decision. Anyway, in the case of Terry Nichols, they did not do that. I wondered quite a bit since this case came up if Terry Nichols had been a female, would there have been so much pressure applied to everyone who would be listening to make sure that Terry Nichols got the death penalty because we didn't want an exception being made because Terry Nichols might have been a woman.

And so I look at what's happened. Just a few minutes ago, the Texas Pardons and Parole Board made a decision, and I think it was a decision that we all knew they would make, that they would deny any clemency to Karla Faye Tucker. In fact, a guy named Victor Rodriquez—I do not happen to know him, he is the chairman of the Texas Pardons and Parole Board—said way back on the 6th of January on the ''Rivera Live'' show that it did not make any difference what they came up with, that he was not going to be willing to offer commutation to Karla Faye Tucker. And the commutation petition was not even filed until January 22. So that decision has been already made. It was a done deal. And, of course, they came out and said she should not be granted clemency.

I do know Governor Bush. He is a very fair and very compassionate individual. I have looked at the constitution of the State of Texas. It is a little bit different. It gives a lot more power to the Pardons and Parole Board than some of the other States, but in the case of the Texas Pardons and Parole Board, after they have said they would deny clemency, article 4, section 11, of which I will read one sentence that is significant, says:

> The Governor shall have the power to grant one reprieve in any capital case for a period not to exceed 30 days.

All Governor Bush can do right now is to make that recommendation. And during that time he would be able to look at some of these cases. What I think I would do, if I were the Governor of Texas, and knowing what I know so far, is go ahead and grant that 30 days reprieve; nothing would really be lost by that, and then in the meantime during that period of time I would send for—in fact, I would be glad to send them to him—the 76 cases in America where clemency has been offered in the form of commutation of a death sentence into life imprisonment and then look at the standards to see if those standards are not at least met or exceeded by Karla Faye Tucker. I think he would be able to do that.

In the absence of that, of course, tomorrow at 6 o'clock Karla Faye Tucker will be executed. I hate to think that we would wake up on Wednesday morning and go back and start researching and find that those standards were at least met or exceeded. I guess we could call this gender backlash.

The other day I was watching someone on TV—I cannot remember who it was right now, but they said on the 3d of February at 6 o'clock Karla Faye Tucker will be executed in Texas and O.J. Simpson will be playing golf.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

SCHEDULING THE ISTEA BILL

Mr. BAUCUS. Mr. President, I rise, with all due respect, to ask the majority leader to reconsider the schedule which he has set so that we take up the Intermodal Surface Transportation Act, otherwise known as ISTEA, right away rather than deferring it as presently seems to be the case. I say this because our States, contractors, all of our people who depend on highways, very much depend upon the Congress to reauthorize the highway bill. Unfortunately, we have yet to do that.

The current program, as we know, expired last year on September 30. However, despite the fact that the Senate Environment and Public Works Committee favorably reported a six-year reauthorization in October, neither the full Senate or the House considered it. Instead, we were forced to pass a temporary, stopgap, 6-month extension, which expires May 1.

Mr. President, if the current schedule holds, that is, if the highway bill is not brought up until after the budget resolution, there is a strong possibility that Congress may not pass a highway bill until shortly before it adjourns this year, which is in October.

That result would be totally unacceptable. It would be unacceptable to our people, to our contractors, and to our highway workers. And it would be unacceptable to me. Frankly, it would not be a responsible way to conduct our Nation's business. Senators should understand just how long it takes a