unanimous consent to have printed in the RECORD a letter from Gov. Janice K. Brewer of Arizona, dated March 10, 2010, to President Barack Obama.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE,
STATE OF ARIZONA,
Phoenix, AZ, March 10, 2010.

Hon. BARACK OBAMA,
President of the United States, The White House, Washington DC.

DEAR MR. PRESIDENT: We share common ground in that we have both been called to lead during some of the most difficult times our nation has faced. Like you, I hear painful stories on a regular basis from people who are struggling to survive.

Yet in their time of need, our state government is on the brink of insolvency.

During this downturn, Arizona has lost the largest percentage of jobs in the United States. The flagging economy has resulted in a loss of state revenues in excess of 30%, placing tremendous pressure on our state budget. Today, Arizona faces one of the largest deficits of any state.

There is no doubt that this fiscal calamity has been compounded by the enormous spending increases we are facing as a result of our Medicaid program, which has seen population growth of almost 20% in the past 12 months.

It is for that reason I write to you today.

You have repeated on several occasions that the debate on health care reform has consumed the past year and you most recently called on Congress to vote the measure ''up or down''. As the Governor of a state that is bleeding red ink, I am imploring our Congressional delegation to vote against your proposal to expand government health care and to help vote it down.

The reason for my position is simple: we cannot afford it. And based on our state's own experience with government health care expansion, we doubt the rest of America can, either.

Arizona is one of a few states that have pursued health care policies similar to those that you are proposing for the nation. In 2000, Arizonans voted to provide health care coverage up to 100% of the federal poverty limit for all residents, including childless adults, through the expansion of the state's Medicaid program.

While the expansion resulted in a modest reduction in the state's uninsured rate, the voters did not earmark adequate funding for the expansion and, as a result, our expenditures have become unsustainable, exploding from $3.0 billion to $9.5 billion during the past decade. Based on our state's own experience with underfunded government health care programs, Arizona can serve as a case in point for what will happen across our nation if your proposal is enacted.

Even with generous and enhanced federal matches, as well as recognition as one of the country's best Medicaid models, the program today demands nearly one in five state dollars. As a result, we find ourselves even more limited in our ability to invest in other critical state services, such as education and public safety, not to mention job creation and other economic development activities.

Unfortunately, your proposal to further expand government health care does not fix the problem we face in Arizona. In fact, it makes our situation much worse, exacerbating our state's fiscal woes by billions of dollars. Following are some of Arizona's concerns:

Makes Arizonans pay twice to fund other states' expansions—Your proposal continues the inequities established in the Senate bill with regard to early expansion states. While there is some mention of additional funding for states that have already expanded coverage, it is clear it will not fully cover the costs we will experience as a result of the mandated expansion. Therefore, Arizona taxpayers will have the misfortune to pay twice: once for our program and then once more for the higher match for other states.

Makes states responsible for financing national health care—In addition, your proposal, as well as the Senate bill it is based on, effectively terminates the partnership that has existed with the states since the inception of Medicaid. For 28 years, Arizona and the federal government have been partners in administering the Medicaid program. States have been provided with important flexibility to develop and create programs that work for their citizens. However, under your proposal, more power is centralized in Washington, DC, and the states become just another financing mechanism. Not only will states be forced to pay for this massive new entitlement program our ability to control the costs of our existing program will be limited. These policies are simply not sustainable, and will result in a greater burden on state budgets and state taxpayers.

Creates a massive new entitlement program our country cannot afford—Your proposal creates a vast new entitlement program that our country does not have the resources to support. Our nation faces trillion dollar deficits far into our future. Medicare has an unfunded liability of $38 trillion, and physicians are destined to realize a 21 percent decrease in Medicare reimbursement until Congress finally accounts for the $371 billion in additional costs associated with their rates.

Mr. President, I am concerned that Washington does not recognize the fiscal realities states are facing, and likely will continue to face, for several years to come. Our country is living beyond its means and the federal government is leading the way by its example.

As Governor, it has been a painful process to move the State towards fiscal sanity. I have even proposed a temporary revenue increase, something I have never done in my 28 years of public service, to help mitigate impacts to education, public safety, and health services for our most extremely vulnerable citizens. Though Arizona's budget deficit is not of my creation, I am firm in my determination and responsibility to resolve it. I believe we have a moral imperative as leaders to not bankrupt and diminish the capacity of future generations.

I understand that there are tremendous pressures to show some progress on health care given the time and effort that has been spent to date on this important issue. Indeed, improving access to quality health care is a laudable goal. However, the approach being taken by your administration has been proven by states like Arizona to be unsustainable in the long run.

Mr. President, I humbly request that you heed Arizona's experience and reconsider your proposed policies that will further strain already overburdened state budgets.

Thank you for your consideration, and for your tireless efforts on behalf of our citizens.

Yours in service to our great nation.

Sincerely,

JANICE K. BREWER,
Governor.

Mr. KYL. Let me briefly describe the reason for this request.

Arizona is suffering, as are other States, from the economic downturn. We have an unemployment rate now that has more than doubled. In fact, it has gone from 3.6 percent in June of 2007 to 9.2 percent this month. Our State faces a $1.4 billion shortfall in the current fiscal year and a $3.2 billion shortfall for the next fiscal year, despite the fact that the Governor and the State legislature have imposed significant spending reductions.

State revenues are down by 34 percent. Notwithstanding this, over 200,000 Arizonans have enrolled in the State's Medicaid Program, known as AHCCCS—which is our Arizona health Care Cost Containment System—just since the beginning of 2009. That is nearly 20,000 new enrollees every month. The last thing, given these kinds of numbers, Washington should be doing is making the States' economic or fiscal problems even worse. Yet that is exactly what Governor Brewer says the Senate health care bill would do because it would require every State to expand its Medicaid Program.

The Federal Government would foot the bill for 3 years. Then the States would have to help finance the expansion in 2017 and in subsequent years. She estimates the bill would increase the cost in Arizona by nearly $4 billion over the next 10 years. Making matters worse, the early expansion States—States such as Arizona that have already expanded Medicaid to cover the uninsured, as I noted—will actually get fewer Federal dollars than the States that have not yet expanded their Medicaid Programs, in effect punishing those who have tried to do the right things—the exact things Democrats have wanted in the health care bill.

As she observed in her letter:

> Arizona taxpayers will have the misfortune to pay twice: once for [Arizona's] program and then once more for the higher match for other states.

Additionally, States currently retain important flexibility in administering their Medicaid Programs so they are not caught off-guard as the economy changes. But as Governor Brewer notes, that flexibility would be eliminated under the Senate bill. She says:

> Under your proposal, more power is centralized in Washington, DC, and the states just become another financing mechanism. Not only will states be forced to pay for this massive new entitlement program, but our ability to control the costs of our existing program will be limited. These policies are simply not sustainable, and will result in a greater burden on state budgets and state taxpayers.

Mr. President, since I put the letter in the RECORD, I will not reflect further on it but note the fact that this is yet one more reason for Members to oppose the Senate-passed bill in the House.

The PRESIDING OFFICER. The Senator from Iowa.

HIRE ACT

Mr. GRASSLEY. Mr. President, one of the provisions the Democratic leadership decided to put in this HIRE bill is the expansion of Build America Bonds. Build America Bonds is a very rich spending program; however, it is disguised as a tax cut. One Democratic Senator was asked why the Build America Bonds program is viewed differently than appropriations, and she replied: It has a good name.

Ironically, the Finance Committee is returning to its roots of doing appropriations bills. When our committee was established in 1816, the Finance Committee handled the major appropriations bills that came before Congress.

Mr. President, I ask unanimous consent that a portion of the document outlining the history of the Finance Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

This vote of no confidence proved a turning point in jurisdiction over tariff bills. . . . Beginning in 1834, all tariff bills were referred initially to the Finance Committee. The important Tariff Act of 1842 was handle by the Finance Committee, as were a number of minor bills in the decade following the Compromise Tariff of 1833.

In 1846, a bill to reduce tariffs was passed by the House and sent to the Senate on July 6. The Senate leaders wished to take the bill up on the Senate floor immediately; a motion to refer it first to the Finance Committee was narrowly defeated 24 to 22. After 6 weeks of floor debate, it was referred to the Finance Committee on July 27 by a 28 to 27 vote, with detailed specific instructions on what to report. The following day the committee asked to be discharged from further consideration of the bill. A motion to refer the bill to a special committee, with similar detailed instructions, was defeated 27 to 27 (with the Vice President opposing the motion), the bill was then passed with the Vice President voting for the bill, thereby breaking a tie vote of 27 to 27.

For the next decade, there was no serious challenge to the Finance Committee's jurisdiction over tariff measures. The tariff-reducing Tariff Act of 1857 was handled by the Finance Committee; an attempt to prevent referral of the 1861 Tariff Act to the Finance Committee was defeated, 29 to 27 (though subsequent to Finance Committee action, a select committee was appointed to consider the bill further).

Appropriation bills.—Though the Finance Committee was to become the major committee handling appropriations before the Civil War, this role was not established immediately upon the creation of the committee in 1816.

In the earliest years of the committee's existence, there were only three major appropriation bills to be considered each year: for the Army, for the Navy, and for the civil functions of Government. In the first session of the 14th Congress, while the Finance Committee was still a select committee, the Army appropriation bill was handled by the Select Committee on Military Affairs; the Navy appropriation bill was handled by the Select Committee on Naval Affairs; and the general Government appropriation bill was referred to a specially created select committee none of whose members served on the select Committee on Finance and an Uniform National Currency).

The next year, when the standing Committee on Finance was established it took over the responsibility for the Army and general Government appropriation bills. The Navy appropriation bill continued to be handled by the Committee on Naval Affairs until 1827 (with the exception of the 2 years 1821 and 1822), when the Finance Committee was assigned the bill.

One of the appropriation actions in the early years of the Senate Finance Committee related to the Louisiana purchase, which had been made in 1803. Of the $15 million cost of the purchase, $3.75 million was retained by the United States to pay claims of U.S. citizens for damages incurred (mostly at sea at the hands of the French). The remaining $11.25 million was provided in 6-percent bonds payable in four annual installments, from 1818 to 1821. Since Napoleon wanted cash rather than bonds, he sold them to two international bankers for about $10.2 million. The bankers held the bonds until maturity: when they were paid, the Senate Finance Committee had jurisdiction over the appropriation bills. The total cost of the Louisiana purchase to the United States, including interest and American damage claims, was $23.5 million less than 3 cents an acre for the entire territory.

New appropriation bills were not always referred to the Finance Committee. An annual bill appropriating funds for Revolutionary War pensions was first referred to the Committee on Pensions: not until 1830 was Finance Committee jurisdiction over appropriations for this purpose firmly established. Appropriations related to Indian treaties were first handled by the Committee on Indian Affairs; transfer of jurisdiction to the Finance Committee took several years, and it was not until 1834 that all Indian appropriation bills began to be referred to the Finance Committee.

From this time on, jurisdiction over appropriation bills remained virtually unchanged until the Civil War. The Finance Committee was given basic responsibility for appropriations, with the sole exception of public works appropriation bills (which were referred either to the Committee on Commerce or the Committee on Territories, depending on the location of the projects).

Mr. GRASSLEY. Bloomberg News reported that large Wall Street investment banks were charging 37 percent higher underwriting fees on Build America Bond deals than on other tax-exempt bond deals. Therefore, American taxpayers appear to be funding huge underwriting fees for large Wall Street investment banks as part of the Build America Bonds.

The Wall Street Journal article, dated March 10, 2010, stated, Wall Street investment banks have made over $1 billion in underwriting fees on Build America Bonds in less than 1 year.

The Wall Street Journal article, based on data from Thomson Reuters, stated underwriting fees on Build America Bond deals are higher than those for tax-exempt bond deals. That sounds like a great deal for the high rollers on Wall Street. But how about the taxpayers back on Main Street America who have to pick up this tab?

The Democratic leadership has said the Build America Bonds program is about creating jobs. But I wish to know whether it is about lining the pockets of Wall Street executives.

Recently, I asked the CEO of a large Wall Street investment bank a number of questions about these larger underwriting fees that are subsidized by the American taxpayers. He confirmed that the underwriting fees for Build America Bond deals are larger than those of tax-exempt bond deals.

The Senate and House have recently passed different versions of the bill we are currently debating which includes a provision that expands the Build America Bonds program created in the stimulus bill. One would assume it was just a temporary provision and extend that to four types of tax credit bonds. I will give those four types. Before I do, I remind my colleagues that this is another example that the word ''temporary'' does not apply to very many things in Washington, DC, because it does not take long for a temporary program to become a permanent program.

I talked about four types of tax credit bonds. They are the qualified school construction bonds, qualified zone academy bonds, clean renewable energy bonds, and qualified energy conservation bonds.

The Build America Bonds program contains an option for the issuer of bonds which is a nontaxpaying entity to receive a check from the Treasury Department based on a percentage of the interest cost incurred by the issuer. Some refer to this option as the direct pay option.

The percentage of the interest costs on the four tax credit bonds subsidized by the American taxpayers under the direct pay option in the Senate bill is a whopping 45 percent and is increased to 65 percent for small issuers. ''Small issuers'' are defined as those issuing less than $30 million in bonds per year.

The House version increased the direct payment subsidy to 100 percent for qualified school construction bonds and qualified zone academy bonds, and increased the subsidy to 70 percent for clean renewable energy bonds and the qualified energy conservation bonds.

Let me put this in context.

The Build America Bonds program created in the stimulus bill contains a 35-percent direct pay subsidy, and the President has proposed in his fiscal year 2011 budget that it be lowered to 28 percent.

It was reported in the March 11, 2010, Bond Buyer article that a senior House staffer asserted that no issuers would opt to issue direct pay bonds under the lower Senate rates of 45 and 65 percent.

When I read that assertion, I asked the Finance Committee Republican staff to reconcile that assertion with the scoring of the Build America Bonds proposal in the Senate-passed bill.

The Republican staff of the Finance Committee reviewed the Joint Committee on Taxation's final estimate of the Senate-passed bill and found that the senior House staffer's assertion was directly contradicted by the estimate provided by the Joint Committee on Taxation, which everybody knows is the nonpartisan official scorekeeper for Congress on any tax matters. In fact, footnote 2 of the estimate of the Senate Build America Bonds provision states that the Joint Tax Committee's estimate of the Senate direct pay bonds option includes an increase in outlays of—let's say $8 billion. This means the Joint Committee on Taxation estimates assumed that a large number of issuers would elect to use the direct pay option, contrary to that House staffer's assertion.

The Bond Buyer—that is a publication—the Bond Buyer also reported that the senior House staffer stated:

There is nobody that I know who does not view the Build America Bonds program as an enormous success, with the possible exception of one person.

I assume that staffer was referring to me. There are many Federal taxpayers who do not view the Build America Bonds program as an enormous success. To understand why, let's see which States benefit the most from the Build America Bonds.

In looking at data from Thomson Reuters on the 10 largest Build America Bonds deals, California alone issues 73 percent of those bonds. Between California and New York, those two States alone issue 92 percent of the bonds from the 10 largest Build America Bonds deals. California and New York are the biggest winners under the Build America Bonds, while American taxpayers from the remaining 48 States subsidize these States.

As Senator KYL pointed out in his ''Dear Colleague'' letter on Build America Bonds circulated on March 15, the Build America Bonds program actually rewards States for having a riskier credit rating by giving them more money. Build America Bonds creates a perverse incentive that causes State and local governments to borrow more than they otherwise would borrow. This is especially true regarding the school tax credit bonds.

This bill creates incentives where States and local governments should not even care what the interest rate is. The American taxpayers are picking up 100 percent of the interest cost. Actually, the cost borne by the American taxpayers is, in fact, more than 100 percent. At least with tax credit bonds, the taxpayers include the amount of the tax credit in income and the Federal Government collects taxes on that income. The only purchasers of tax credit bonds are those who have tax liabilities; otherwise, it makes no sense to buy tax credit bonds. However, Build America bonds are technically taxable bonds. But most of the investors do not pay tax on these bonds.

For example, under our tax rules, if a foreign person or a pension fund or a tax-exempt entity buys a Build America Bond, they do not pay tax on the interest they receive. Thus, the Federal Government not only cuts a check for 100 percent of the bond's interest cost, but it also loses most of the revenue it would have collected from the tax credit bonds.

State and local governments can view this Federal money as what it really is—free money—because they do not have to collect it from their residents. Therefore, of course, State and local governments turn out to be very big fans of the Build America Bonds program. They get Federal money that they do not have to pay back. The large Wall Street investment banks love Build America Bonds. Why? Because they are getting richer off those bonds.

However, we all know there is no such thing as a free lunch. Washington is an island surrounded by reality. Consequently, everybody in this town thinks there are free lunches, and the common sense of the rest of the country has difficulty getting inside this island. It is our responsibility to point out that in this city, this District—the only real industry is government—you cannot have everybody in the wagon. In this town, everybody is in the wagon. Everybody outside the District is pulling the wagon. That cannot go on very long.

There is no such thing as a free lunch. Federal taxpayers are footing the bill for this big spending program, which only gets bigger every time Congress touches it. This legislation before us is just an example. As this program that started out as a little program in the stimulus bill—and presumably the word ''stimulus'' means temporary, doesn't it? But this is not turning out to be temporary and it is not turning out to be small because it has just been enhanced greatly in the other body. The American taxpayers are the ones we ought to be looking out for, and a temporary program ought to be temporary and a stimulus program ought to be stimulus and nothing else. And here we are expanding it.

The American taxpayers are the ones who, in the words of the senior House staffer, do ''not view the Build America Bonds program as an enormous success.''

I urge my colleagues to look beyond the fancy, well-funded lobbying campaign for this rich subsidy. Take a look at who wins. The winners are big Wall Street banks. Maybe a small number of governments will issue bonds they otherwise would not. Main Street is not helped very much by this program. The only certainty is that the Federal taxpayers are on the hook for the interest costs.

With record budget deficits under this Congress and administration, we cannot casually look away as new, open-ended subsidies are proposed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

YUCCA MOUNTAIN

Ms. MURKOWSKI. Mr. President, last Wednesday, the Department of Energy submitted a motion to the Nuclear Regulatory Commission to withdraw its license application to construct a spent nuclear fuel and high-level radioactive waste repository at Yucca Mountain. What was the latest rationale for this? Simply because we need it too much.

That might seem like creative interpretation on my part, but just last week, Secretary of Energy Steven Chu noted that due to the revival of the nuclear industry, Yucca Mountain's repository would hit its statutory capacity limit in the next several decades and would not meet future industry needs. Instead of moving forward with a permanent repository that billions of dollars have already been spent on and simply expanding the arbitrary limit the law puts on the size of the repository, spent nuclear fuel from commercial nuclear reactors will be stored onsite at over 100 locations across the country for at least the next several decades.

If we do have the nuclear revival that many of us believe is needed to reduce greenhouse gas emissions and meet our energy needs, the number of onsite storage locations across the country will only increase.

Not only is the Department of Energy seeking to withdraw its license application—and I am not absolutely convinced they have the authority to do so—they are seeking to withdraw it ''with prejudice,'' making it very difficult, if not impossible, to resurrect Yucca Mountain as a possible option for spent nuclear fuel and high-level radioactive waste, regardless of what future scientific and engineering advances may offer and regardless of what the administration's blue ribbon panel that is directed to consider all of the options may conclude.

In fact, the Department of Energy argues in its motion that ''scientific and engineering knowledge on issues relevant to disposition of high-level waste and spent nuclear fuel has advanced dramatically over the 20 years since the Yucca Mountain project was initiated.''

Apparently, the Department is also arguing that scientific and engineering knowledge on the same issues will not advance any further over the next several decades to address issues with the Yucca Mountain site.

Setting the legal issues aside surrounding the Department's motion to withdraw, I wish to focus for a moment on what stopping work on the Yucca Mountain site will actually cost the American taxpayers.

Under the Nuclear Waste Policy Act of 1982, the Federal Government has a contractual obligation to collect spent nuclear fuel from individual nuclear powerplants starting in 1998. The government has clearly missed on that deadline.

According to the Department of Justice, the Federal Government has so far paid $565 million in settlement costs for breaching this contract with the utilities. I say ''so far'' because the ultimate cost to the American taxpayer we know is going to be much higher.

Utility companies have filed 71 cases in Federal court alleging the Department of Energy's delay in taking title to spent nuclear fuel is a breach of contract. Of those 71 lawsuits, 10 have now been settled, 6 were withdrawn, and 4 were fully litigated, resulting in the $565 million in payments. Of the 51 cases that are outstanding, then, the