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February 16, 2012

The Honorable Ruth Teichman, Chair The Honorable Ty Masterson, Vice Chair Senate Financial Institutions and Insurance Committee

Reference: Senate Bill 373 - Interstate Health Care Compact legislation

Good morning Chairperson Teichman, Vice Chairperson Masterson and members of the Senate Financial Institutions and Insurance Committee. My name is David Wilson and I am currently a volunteer and the past state president for AARP Kansas. We represent more than 340,000 members in Kansas. Thank you for this opportunity to express our comments on SB 373. AARP opposes SB 373 because it is a frivolous measure that does nothing at best, and at worst puts seniors, Kansans with disabilities, and children at risk. The proposal has been vetoed in Arizona, New Mexico and Montana.

When I took the post of AARP Kansas State President over six years ago, our members told me, "Don't let the politicians hurt Medicare or Social Security." That is why I am here today to testify in opposition to Senate Bill 373 which would make Kansas part of an Interstate Health Care Compact.

This bill would give the state all of the federal health care funding for Medicare, Medicaid, and the federal Children's Health Insurance Program and other health care programs and allow the state to determine how those funds would be spent and how those programs would operate.

Tucked into this is the caveat that the bill is not effective until Congress consents to the right of states to enter the compact and suspend the operation of any conflicting federal law. Congress will never give that consent.

> Senate Financial Institutions and Insurance Committee Attachment#

Medicare is one of the most popular federal programs in the country. A Harris Poll released earlier this year found that 88 percent of those polled support the health care program for seniors. In fact Medicare ranked as the most popular program with 57 percent supporting it a great deal and 31 percent supporting it somewhat.

It would be a serious mistake to turn this program over to the state. Since 1965, Medicare beneficiaries have received guaranteed benefits, protections, and have never once had to worry about their Medicare. In fact, over the years, their Medicare has been improved. By joining a health care compact seniors could find themselves thrown into a whole new health care system with different benefits, fewer choices, and less access to care. Why risk the health care and security of the nearly 430,000 Medicare beneficiaries in Kansas.

There is a national conversation now underway on how to ensure the future of Medicare for the country. Republicans and Democrats are looking at ways to protect this program so it can continue to provide health care coverage for seniors and those who are disabled and for future generations. As the Trustees Report showed, Medicare will be solvent for the next 13 years. There is time to address the needs of the program and put it on a firmer financial foundation for the future. What is not needed is a plan to dismantle the program and dole out its funds to states to operate a fractured and fragmented program.

So many questions come to mind about how a compact would work and there are so few answers. Who would be responsible for the state's Medicare funds? Won't this make it more difficult to recruit doctors? Will the state cut benefits below what the federal government now provides? What will happen if more funding is needed for Medicaid? Will those dollars come from Medicare? What you are doing is asking the people of Kansas to buy a pig in a poke with the promise that IF Congress agrees to provide the funding then Kansas can recreate a system that is already in place and working. While I believe there are many things that we in Kansas do better than other states and other governments, I am not sure we should create a whole new level of

bureaucracy just to see if we can do better with Medicare.

This bill will jeopardize security, choice and benefits for seniors and people with disabilities in Kansas who rely on the Medicare program for their health care coverage. This bill is scary because it carries with it impacts and consequences for all Kansans who rely on federal laws to protect their health care. This is just the tip of the iceberg. Under the Compact bill, Kansas citizens could lose many rights and protections they

Thank you for the opportunity to offer our opposition to SB 373. We respectfully request that you oppose this bill.

David Wilson

don't even realize are in danger.

Attachments: Montana and Arizona governor's veto message.

# OFFICE OF THE GOVERNOR STATE OF MONTANA

BRIAN SCHWEITZER GOVERNOR

John Bohlinger Lt. Governor

May 12, 2011

The Honorable Linda McCulloch Secretary of State State Capitol Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill No. 526 (HB 526), "AN ACT AUTHORIZING AN INTERSTATE HEALTH CARE COMPACT; AND DIRECTING THE GOVERNOR TO JOIN THE COMPACT."

Under HB 526, Montana would join an interstate compact with other states to suspend the operation of all federal health care laws (except the military, veterans, and Indian Health Services) that are inconsistent with the state's health care laws, including laws as farranging as Medicaid, Medicare, the federal Children's Health Insurance Program, and laws governing Federally Qualified Health Centers, the Food and Drug Administration, and the Centers for Disease Control as related to disease outbreak. Instead, under HB 526, Montana would receive federal funding for health care according to a formula applicable to member states to the compact, based on federal spending on health care in the state in baseline fiscal year 2010 as adjusted annually for population and inflation.

Under the compact, Montana seniors, people with disabilities, and children are among the populations that the state would serve in potential disregard of the above-listed federal laws, including, as stated, Medicare and Medicaid. Benefits Montanans receive under those federal laws would be in danger of elimination at the whim of the Montana Legislature, which could change Montana's health care laws biennially, leaving no federal protections in place.

Tucked into HB 526 is the caveat that the bill is not effective until Congress consents to the right of states to enter the compact and suspend the operation of any conflicting federal law. We will put a person on Neptune before Congress gives this consent. HB 526 is a frivolous measure that does nothing at best, and at worst puts seniors, Montanans with disabilities, and children at risk.

Sincerely,

BRIAN SCHWEITZER

GOVERNOR

cc: Legislative Services Division



# STATE OF ARIZONA

JANICE K. BREWER GOVERNOR

EXECUTIVE OFFICE

April 18, 2011

The Honorable Russell Pearce Senate President 1700 W. Washington Street Phoenix, AZ 85007

RE: Senate Bill 1592 (health care compact; funding)

Dear Senator Pearce:

Today I have vetoed Senate Bill 1592. This bill directs the Governor to enter into a specific compact with other states on behalf of the State of Arizona. By *directing* the Governor to sign a compact, Senate Bill 1592 violates the separation of powers requirement established by Article 3 of the Arizona Constitution.

I am also concerned with the structure of the compact, which would result in additional fiscal challenges for our health care system. I share your goals of state autonomy and control over personal health care decisions. As you know, I have been working closely with Secretary Sebelius on my Medicaid reform plan, which will allow Arizona greater flexibility and control over the state-federal Medicaid partnership. However, I believe it is important to ensure our citizens, especially our seniors, are not penalized simply by the state assuming that control.

I continue to support efforts toward a better partnership with the federal government, and state authority over important health care programs, and I look forward to working with you on reforms to that end that protect our citizens and improve our health care system.

X. Brewer

Sincerely,

Janice K. Brewer

Governor

cc:

The Honorable Kirk Adams
The Honorable Nancy Barto

State of Arizona Senate Fiftieth Legislature First Regular Session 2011

# **SENATE BILL 1592**

AN ACT

AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 38; RELATING TO A HEALTH CARE COMPACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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Be it enacted by the Legislature of the State of Arizona: Section 1. Title 36, Arizona Revised Statutes, is amended by adding chapter 38, to read: CHAPTER 38

HEALTH CARE COMPACT

ARTICLE 1. HEALTH CARE COMPACT

36-3801. Adoption of compact: text of compact

THE GOVERNOR IS AUTHORIZED AND DIRECTED TO ENTER INTO A COMPACT ON BEHALF OF THIS STATE WITH ANY OF THE UNITED STATES LAWFULLY JOINED IN THE COMPACT IN A FORM SUBSTANTIALLY AS FOLLOWS:

#### ARTICLE I

## FINDINGS AND DECLARATION OF POLICY

- A. THE SEPARATION OF POWERS BETWEEN THE BRANCHES OF THE FEDERAL GOVERNMENT AND BETWEEN FEDERAL AND STATE AUTHORITY IS ESSENTIAL TO THE PRESERVATION OF INDIVIDUAL LIBERTY.
- B. THE CONSTITUTION CREATES A FEDERAL GOVERNMENT OF LIMITED AND ENUMERATED POWERS AND RESERVES TO THE STATES OR TO THE PEOPLE THOSE POWERS NOT GRANTED TO THE FEDERAL GOVERNMENT.
- C. THE FEDERAL GOVERNMENT HAS ENACTED MANY LAWS THAT HAVE PREEMPTED STATE LAWS WITH RESPECT TO HEALTH CARE AND PLACED INCREASING STRAIN ON STATE BUDGETS, IMPAIRING OTHER RESPONSIBILITIES SUCH AS EDUCATION, INFRASTRUCTURE AND PUBLIC SAFETY.
- D. THE MEMBER STATES SEEK TO PROTECT INDIVIDUAL LIBERTY AND CONTROL OVER PERSONAL HEALTH CARE DECISIONS AND BELIEVE THE BEST METHOD TO SECURE THAT CONTROL IS BY VESTING REGULATORY AUTHORITY OVER HEALTH CARE IN THE
- E. BY ACTING IN CONCERT, THE MEMBER STATES MAY EXPRESS AND INSPIRE CONFIDENCE IN THE ABILITY OF EACH MEMBER STATE TO EFFECTIVELY GOVERN HEALTH
- F. THE MEMBER STATES RECOGNIZE THAT CONSENT OF THE UNITED STATES CONGRESS MAY BE MORE EASILY SECURED IF MEMBER STATES COLLECTIVELY SEEK CONSENT THROUGH AN INTERSTATE COMPACT.

## ARTICLE II **DEFINITIONS**

AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

- 1. "COMMISSION" MEANS THE INTERSTATE ADVISORY HEALTH CARE COMMISSION.
- "CURRENT YEAR INFLATION ADJUSTMENT FACTOR" MEANS THE TOTAL GROSS DOMESTIC PRODUCT DEFLATOR IN THE CURRENT YEAR DIVIDED BY THE TOTAL GROSS DOMESTIC PRODUCT DEFLATOR IN FEDERAL FISCAL YEAR 2010. TOTAL GROSS DOMESTIC PRODUCT DEFLATOR SHALL BE DETERMINED BY THE UNITED STATES DEPARTMENT OF COMMERCE, BUREAU OF ECONOMIC ANALYSIS.

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- 3. "EFFECTIVE DATE" MEANS THE DATE ON WHICH THIS COMPACT BECOMES EFFECTIVE FOR PURPOSES OF THE OPERATION OF STATE AND FEDERAL LAW IN A MEMBER STATE, WHICH SHALL BE THE LATER OF EITHER:
- (a) THE DATE ON WHICH THIS COMPACT IS ADOPTED UNDER THE LAWS OF THE MEMBER STATE.
- (b) THE DATE ON WHICH THIS COMPACT RECEIVES THE CONSENT OF CONGRESS PURSUANT TO ARTICLE I, SECTION 10. CONSTITUTION OF THE UNITED STATES, AFTER AT LEAST TWO MEMBER STATES ADOPT THIS COMPACT.
- 4. "HEALTH CARE" MEANS CARE, SERVICES, SUPPLIES OR PLANS RELATED TO THE HEALTH OF AN INDIVIDUAL, EXCEPT ANY CARE, SERVICES, SUPPLIES OR PLANS PROVIDED BY THE UNITED STATES DEPARTMENT OF DEFENSE AND THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, OR PROVIDED TO NATIVE AMERICANS, AND INCLUDES, BUT IS NOT LIMITED TO:
- (a) PREVENTIVE, DIAGNOSTIC, THERAPEUTIC, REHABILITATIVE, MAINTENANCE OR PALLIATIVE CARE AND COUNSELING, SERVICE, ASSESSMENT OR PROCEDURE WITH RESPECT TO THE PHYSICAL OR MENTAL CONDITION OR FUNCTIONAL STATUS OF AN INDIVIDUAL OR THAT AFFECTS THE STRUCTURE OR FUNCTION OF THE BODY.
- (b) SALE OR DISPENSING OF A DRUG, DEVICE, EQUIPMENT OR OTHER ITEM PURSUANT TO A PRESCRIPTION.
- (c) AN INDIVIDUAL OR GROUP PLAN THAT PROVIDES, OR PAYS THE COST OF, CARE, SERVICES OR SUPPLIES RELATED TO THE HEALTH OF AN INDIVIDUAL.
- 5. "MEMBER STATE" MEANS A STATE THAT IS SIGNATORY TO THIS COMPACT AND HAS ADOPTED IT UNDER THE LAWS OF THAT STATE.
- 6. "MEMBER STATE BASE FUNDING LEVEL" MEANS A NUMBER EQUAL TO THE TOTAL FEDERAL SPENDING ON HEALTH CARE IN THE MEMBER STATE DURING FEDERAL FISCAL YEAR 2010. ON OR BEFORE THE EFFECTIVE DATE, EACH MEMBER STATE SHALL DETERMINE THE MEMBER STATE BASE FUNDING LEVEL FOR ITS STATE, AND THAT NUMBER SHALL BE BINDING ON THAT MEMBER STATE. THE PRELIMINARY ESTIMATE OF MEMBER STATE BASE FUNDING LEVEL FOR THIS STATE IS SIXTEEN BILLION TWO HUNDRED SIXTY-SIX MILLION DOLLARS.
- 7. "MEMBER STATE CURRENT YEAR FUNDING LEVEL" MEANS THE MEMBER STATE BASE FUNDING LEVEL MULTIPLIED BY THE MEMBER STATE CURRENT YEAR POPULATION ADJUSTMENT FACTOR MULTIPLIED BY THE CURRENT YEAR INFLATION ADJUSTMENT FACTOR.
- 8. "MEMBER STATE CURRENT YEAR POPULATION ADJUSTMENT FACTOR" MEANS THE AVERAGE POPULATION OF THE MEMBER STATE IN THE CURRENT YEAR LESS THE AVERAGE POPULATION OF THE MEMBER STATE IN FEDERAL FISCAL YEAR 2010, DIVIDED BY THE AVERAGE POPULATION OF THE MEMBER STATE IN FEDERAL FISCAL YEAR 2010, PLUS 1. AVERAGE POPULATION IN A MEMBER STATE SHALL BE DETERMINED BY THE UNITED STATES CENSUS BUREAU.

# ARTICLE III

#### PLEDGE

THE MEMBER STATES SHALL TAKE JOINT AND SEPARATE ACTION TO SECURE THE CONSENT OF THE UNITED STATES CONGRESS TO THIS COMPACT IN ORDER TO RETURN THE AUTHORITY TO REGULATE HEALTH CARE TO THE MEMBER STATES CONSISTENT WITH THE GOALS AND PRINCIPLES ARTICULATED IN THIS COMPACT. THE MEMBER STATES SHALL

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 IMPROVE HEALTH CARE POLICY WITHIN THEIR RESPECTIVE JURISDICTIONS AND ACCORDING TO THE JUDGMENT AND DISCRETION OF EACH MEMBER STATE.

ARTICLE IV

#### LEGISLATIVE POWER

THE LEGISLATURES OF THE MEMBER STATES HAVE THE PRIMARY RESPONSIBILITY TO REGULATE HEALTH CARE IN THEIR RESPECTIVE STATES.

ARTICLE V

#### STATE CONTROL

EACH MEMBER STATE, WITHIN ITS STATE, MAY SUSPEND BY LEGISLATION THE OPERATION OF ALL FEDERAL LAWS, RULES, REGULATIONS AND ORDERS REGARDING HEALTH CARE THAT ARE INCONSISTENT WITH THE LAWS AND RULES ADOPTED BY THE MEMBER STATE PURSUANT TO THIS COMPACT. FEDERAL AND STATE LAWS, RULES, REGULATIONS AND ORDERS REGARDING HEALTH CARE REMAIN IN EFFECT UNLESS A MEMBER STATE EXPRESSLY SUSPENDS THEM PURSUANT TO ITS AUTHORITY UNDER THIS COMPACT. FOR ANY FEDERAL LAW, RULE, REGULATION OR ORDER THAT REMAINS IN EFFECT IN A MEMBER STATE AFTER THE EFFECTIVE DATE, THAT MEMBER STATE SHALL BE RESPONSIBLE FOR THE ASSOCIATED FUNDING OBLIGATIONS IN ITS STATE.

#### 'ARTICLE VI

#### FUNDING

- A. EACH FEDERAL FISCAL YEAR, EACH MEMBER STATE SHALL HAVE THE RIGHT TO FEDERAL MONIES UP TO AN AMOUNT EQUAL TO ITS MEMBER STATE CURRENT YEAR FUNDING LEVEL FOR THAT FEDERAL FISCAL YEAR, FUNDED BY CONGRESS AS MANDATORY SPENDING AND NOT SUBJECT TO ANNUAL APPROPRIATION, TO SUPPORT THE EXERCISE OF MEMBER STATE AUTHORITY UNDER THIS COMPACT. THIS FUNDING SHALL NOT BE CONDITIONAL ON ANY ACTION OF OR REGULATION, POLICY, LAW OR RULE BEING ADOPTED BY THE MEMBER STATE.
- B. BY THE START OF EACH FEDERAL FISCAL YEAR, CONGRESS SHALL ESTABLISH AN INITIAL MEMBER STATE CURRENT YEAR FUNDING LEVEL FOR EACH MEMBER STATE, BASED ON REASONABLE ESTIMATES. THE FINAL MEMBER STATE CURRENT YEAR FUNDING LEVEL SHALL BE CALCULATED, AND FUNDING SHALL BE RECONCILED BY THE UNITED STATES CONGRESS BASED ON INFORMATION PROVIDED BY EACH MEMBER STATE AND AUDITED BY THE UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE.

#### ARTICLE VII

## INTERSTATE ADVISORY HEALTH CARE COMMISSION

A. THE INTERSTATE ADVISORY HEALTH CARE COMMISSION IS ESTABLISHED. THE COMMISSION CONSISTS OF MEMBERS APPOINTED BY EACH MEMBER STATE THROUGH A PROCESS TO BE DETERMINED BY EACH MEMBER STATE. A MEMBER STATE MAY NOT APPOINT MORE THAN TWO MEMBERS TO THE COMMISSION AND MAY WITHDRAW MEMBERSHIP FROM THE COMMISSION AT ANY TIME. EACH COMMISSION MEMBER IS ENTITLED TO ONE VOTE. THE COMMISSION SHALL NOT ACT UNLESS A MAJORITY OF THE MEMBERS ARE PRESENT AND NO ACTION SHALL BE BINDING UNLESS APPROVED BY A MAJORITY OF THE COMMISSION'S TOTAL MEMBERSHIP.

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- B. THE COMMISSION MAY ELECT FROM AMONG ITS MEMBERSHIP A CHAIRPERSON. THE COMMISSION MAY ADOPT AND PUBLISH BYLAWS AND POLICIES THAT ARE NOT INCONSISTENT WITH THIS COMPACT. THE COMMISSION SHALL MEET AT LEAST ONCE A YEAR AND MAY MEET MORE FREQUENTLY.
- C. THE COMMISSION MAY STUDY ISSUES OF HEALTH CARE REGULATION THAT ARE OF PARTICULAR CONCERN TO THE MEMBER STATES. THE COMMISSION MAY MAKE NONBINDING RECOMMENDATIONS TO THE MEMBER STATES. THE LEGISLATURES OF THE MEMBER STATES MAY CONSIDER THESE RECOMMENDATIONS IN DETERMINING THE APPROPRIATE HEALTH CARE POLICIES IN THEIR RESPECTIVE STATES.
- D. THE COMMISSION SHALL COLLECT INFORMATION AND DATA TO ASSIST THE MEMBER STATES IN THEIR REGULATION OF HEALTH CARE INCLUDING ASSESSING THE PERFORMANCE OF VARIOUS STATE HEALTH CARE PROGRAMS AND COMPILING INFORMATION ON THE COST OF HEALTH CARE. THE COMMISSION SHALL MAKE THIS INFORMATION AND DATA AVAILABLE TO THE LEGISLATURES OF THE MEMBER STATES. NOTWITHSTANDING ANY OTHER PROVISION OF THIS COMPACT, NO MEMBER STATE SHALL DISCLOSE TO THE COMMISSION THE HEALTH INFORMATION OF ANY INDIVIDUAL, NOR SHALL THE COMMISSION DISCLOSE THE HEALTH INFORMATION OF ANY INDIVIDUAL.
- E. THE COMMISSION SHALL BE FUNDED BY THE MEMBER STATES AS AGREED TO BY THE MEMBER STATES. THE COMMISSION SHALL HAVE THE RESPONSIBILITIES AND DUTIES AS MAY BE CONFERRED ON IT BY SUBSEQUENT ACTION OF THE LEGISLATURES OF THE MEMBER STATES CONSISTENT WITH THE TERMS OF THIS COMPACT.
- F. THE COMMISSION SHALL NOT TAKE ANY ACTION WITHIN A MEMBER STATE THAT CONTRAVENES ANY STATE LAW OF THAT MEMBER STATE.

#### ARTICLE VIII

#### CONGRESSIONAL CONSENT

THIS COMPACT SHALL BE EFFECTIVE ON ITS ADOPTION BY AT LEAST TWO MEMBER STATES AND CONSENT OF THE UNITED STATES CONGRESS. THIS COMPACT SHALL BE EFFECTIVE UNLESS THE UNITED STATES CONGRESS, IN CONSENTING TO THIS COMPACT, ALTERS THE FUNDAMENTAL PURPOSES OF THIS COMPACT. WHICH ARE:

- 1. TO SECURE THE RIGHT OF THE MEMBER STATES TO REGULATE HEALTH CARE IN THEIR RESPECTIVE STATES PURSUANT TO THIS COMPACT AND TO SUSPEND THE OPERATION OF ANY CONFLICTING FEDERAL LAWS, RULES, REGULATIONS AND ORDERS WITHIN THEIR STATES.
- 2. TO SECURE FEDERAL FUNDING FOR MEMBER STATES THAT CHOOSE TO INVOKE THEIR AUTHORITY UNDER THIS COMPACT PURSUANT TO THE MANDATORY SPENDING FORMULA PRESCRIBED BY ARTICLE VI.

# ARTICLE IX AMENDMENTS

# THE MEMBER STATES, BY UNANIMOUS AGREEMENT, MAY AMEND THIS COMPACT FROM TIME TO TIME WITHOUT THE PRIOR CONSENT OR APPROVAL OF CONGRESS AND ANY AMENDMENT SHALL BE EFFECTIVE UNLESS. WITHIN ONE YEAR. THE CONGRESS

DISAPPROVES THAT AMENDMENT. ANY STATE MAY JOIN THIS COMPACT AFTER THE DATE ON WHICH CONGRESS CONSENTS TO THE COMPACT BY ADOPTION INTO LAW UNDER ITS

STATE CONSTITUTION.

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#### ARTICLE X

## WITHDRAWAL AND DISSOLUTION

A MEMBER STATE MAY WITHDRAW FROM THIS COMPACT BY ADOPTING A LAW TO THAT EFFECT, BUT NO SUCH WITHDRAWAL SHALL TAKE EFFECT UNTIL SIX MONTHS AFTER THE GOVERNOR OF THE WITHDRAWING MEMBER STATE HAS GIVEN NOTICE OF THE WITHDRAWAL TO THE OTHER MEMBER STATES. A WITHDRAWING STATE SHALL BE LIABLE FOR ANY OBLIGATIONS THAT IT MAY HAVE INCURRED BEFORE THE DATE ON WHICH ITS WITHDRAWAL BECOMES EFFECTIVE. THIS COMPACT IS DISSOLVED ON THE WITHDRAWAL OF ALL BUT ONE OF THE MEMBER STATES.

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Passed the House	enate	Jaroh 3	20_//,
by the following vote: Ayes, by the follow	ving vote:	21	Ayes,
Nays, Not Voting	Nay	Euro .	Not Voting
Speaker of the House  Pro Tempore  Chiral Laube  Chief Clerk of the House	augu	Bille	at of the Senate
EXECUTIVE DEPARTMENT OF A  OFFICE OF GOVERNOR  This Bill was received by the Governor  day of			
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Governor of Arizona	OFI	TIVE DEPARTME FICE OF SECRETA was received by the	RY OF STATE
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