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Revenue and Transportation Interim Committee

64th Montana Legislature

SENATE MEMBERS

FRED THOMAS--Chair
DICK BARRETT
MARK BLASDEL
BRIAN HOVEN
CHRISTINE KAUFMANN
SUE MALEK

HOUSE MEMBERS

TOM JACOBSON--Vice Chair
JEFF ESSMANN
GREG HERTZ
RAE PEPPERS
ALAN REDFIELD
BRIDGET SMITH

COMMITTEE STAFF

MEGAN MOORE, Lead Staff
JARET COLES, Staff Attorney
FONG HOM, Secretary

MINUTES LOG

June 9-10, 2016
Room 137, Capitol Building
Helena, Montana

June 9, 2016

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. FRED THOMAS, Chair
REP. TOM JACOBSON, Vice Chair

SEN. DICK BARRETT
SEN. MARK BLASDEL
SEN. BRIAN HOVEN
SEN. CHRISTINE KAUFMANN
SEN. SUE MALEK

REP. JEFF ESSMANN
REP. GREG HERTZ
REP. RAE PEPPERS
REP. ALAN REDFIELD
REP. BRIDGET SMITH

STAFF PRESENT

MEGAN MOORE, Lead Staff
JARET COLES, Staff Attorney
FONG HOM, Secretary

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

COMMITTEE ACTIONS

The Revenue and Transportation Interim Committee took the following actions related to committee studies:

Tax Lien and Tax Deed Study

- Requested a draft bill with the recommendations provided by the Montana Treasurers' Association and Montana Association of Counties Working Group
- Asked for a Working Group proposal on how to assign a tax lien when more than one purchaser seeks the assignment

Highway State Special Revenue Account Study

- Requested a draft bill to prohibit the use of Highway State Special Revenue Account funds for the Department of Justice's Centralized Services and Motor Vehicles Divisions and for the state crime lab
- Requested research to determine whether legislation is necessary to address dyed diesel fraud and, if so, that such legislation be drafted

Treatment of Intangible Property Study

- Requested that stakeholders interested in the study of the valuation of intangible personal property discuss a proposal and bring it to the committee's September meeting

Tax Increment Financing Study

- Requested draft legislation to include the following:
 - ▶ provide for school district approval when creating a district that uses tax increment financing
 - ▶ exclude the 95 mills for school equalization from tax increment financing provisions provided that the funds are not currently used for bond payments
 - ▶ disallow the collection of increment by districts using tax increment financing on permissive levies adopted after creation of the district and on levies not subject to 15-10-420
 - ▶ prohibit TIF grants for private projects
 - ▶ better define the ending date of a district using tax increment financing
 - ▶ require re-approval to renew a district using tax increment financing
 - ▶ amend the definition of "blight"
 - ▶ require an annual audit of districts using tax increment financing
 - ▶ require remittances to be distributed proportionally to all taxing jurisdictions

Elderly Homeowner and Renter Credit Study

- Requested a draft bill similar to Senate Bill No. 194 (2015) to allow a credit to be claimed on property not subject to property taxes

Property Taxable Value Neutrality Study

- Requested a draft bill including the following provisions:

- ▶ One acre of land under an improvement is valued as class four residential property thus eliminating valuation at highest productive value for land under agricultural improvements
- ▶ Allow classification of a parcel to be split with a portion classified as agricultural property and a portion classified as residential property
- ▶ Eliminate non-qualified agricultural property classification
- ▶ Remove automatic agricultural classification for parcels of property of 160 acres or more
- ▶ Revise the gross income threshold required for agricultural classification for parcels of less than 160 acres

The committee also took the following actions related to its general agency monitoring and revenue estimating functions:

- Approved draft rules prohibiting the rereferral of revenue bills originating in the House/Senate Taxation Committees to the House Appropriations/Senate Finance and Claims Committees and asked that the draft rules be sent to the Legislative Council's Rules Subcommittee and the House and Senate Rules Committees
- Requested a draft bill to repeal the refundable income tax credit relief multiple
- Approved the requests of the Montana Departments of Revenue and Transportation that the agencies' legislation be submitted for drafting
- Requested a draft bill to provide for primary enforcement of the seat belt law
- Requested a draft bill to cleanup errors contained in the two-year property reappraisal bill that became law in 2015 (Senate Bill No. 157)
- Requested that a bill to revise local government funding of firefighters' retirement be sent to the State Administration and Veteran's Affairs Interim Committee for its consideration
- Requested that the subcommittee recommendation on a revenue estimating subcommittee be sent to leadership and the presiding officers of the House Taxation Committee and Senate Taxation Committee, once appointed for the 2017 legislative session

CALL TO ORDER AND ROLL CALL -- Sen. Fred Thomas, Presiding Officer

00:00:01 Sen. Thomas called the meeting to order at 8:03 a.m. The secretary called roll. Rep. Peppers, Rep. Hertz, and Sen. Blasdel were excused. [\(Attachment 3\)](#)

REVENUE ESTIMATING AND MONITORING

General Fund Outlook for 2019 Biennium

00:01:25 Amy Carlson, Legislative Fiscal Analyst [\(Exhibit 1\)](#)

Committee Questions of Ms. Carlson

00:08:30 Rep. Essmann asked about rainy day funds.
 00:10:25 Sen. Barrett asked for clarification between an ending fund balance and a "rainy day" fund.
 00:11:39 *Sen. Blasdel arrived at 8:15 a.m.*
 00:23:55 Rep. Essmann asked about a payment or a transfer of excess oil and gas money.
 00:25:48 Sen. Barrett asked about Ms. Carlson's projection of a \$55 to \$105 million

surplus.
00:29:08 Sen. Essmann asked about the 6.7% bounce back.
00:43:51 Sen. Malek asked about the supplementals that Ms. Carlson had in her report.
00:53:37 Sen. Essmann asked about the volatility analysis on the oil and gas tax.

FY2016 General Fund Revenue Collection Update

00:55:36 Stephanie Morrison, Fiscal Analyst, gave an update on the year-to-date revenue collections. **(Exhibit 2)**

Committee Questions of Ms. Morrison

01:03:04 Sen. Thomas asked about the \$100 million less revenue coming into the state and the anticipation of a \$60 million reduction next year.
01:11:31 Sen. Barrett discussed the year-to-date change on the individual income tax of 2.3%.

Corporate Income Tax Revenues

01:18:20 Sam Schaefer, Fiscal Analyst **(Exhibit 1) (Exhibit 2)**

Committee Questions

01:20:53 Rep. Essmann asked for information on the amounts of the refunds to be presented at the next meeting.
01:21:58 Sen. Hoven asked the Department of Revenue to provide revenue information from the industry sector.

Vehicle Fees and Oil & Natural Gas Production Tax

01:23:10 Mr. Schaefer **(Exhibit 2)**

01:23:19 *Rep. Hertz arrived at 9:28 a.m.*

Committee Questions of Mr. Schaefer

01:26:08 Rep. Jacobson asked about new oil wells.

Health Insurance Tax Revenue

01:29:00 Alice Hecht, Fiscal Analyst **(Exhibit 2)**

Property Tax Revenue

01:31:00 Nick vanBrown, Fiscal Analyst **(Exhibit 2)**

Year-to-Date update

01:32:42 Ms. Morrison gave a presentation on the General Fund Revenue Comparison by Fiscal Year. **(Exhibit 3)**

Committee Questions

01:36:10 Sen. Hoven asked if the difference between the Outlook and House Joint Resolution No. 2 is cumulative.
01:36:41 Rep. Essmann asked about the orange line on the chart.
01:37:45 Sen. Barrett asked about the optimistic baseline projection in the report.
01:38:33 Sen. Hoven asked about the basis for the 6.7% baseline increase.

01:40:08 Rep. Essmann said that he would like a discussion regarding the 6.7% baseline increase at the September meeting.

Health insurance premiums tax update - Alice Hecht

01:42:22 Ms. Hecht ([Exhibit 4](#))

BREAK (reconvened at 10:05 a.m.)

Overview of committee's duties and past process -- Megan Moore, committee staff

02:00:00 Ms. Moore ([Exhibit 5](#))

Committee Questions

02:02:37 Sen. Essmann suggested hearing from people with expertise in forecasting future withholding income.

Report from Subcommittee on Joint Revenue Estimating Subcommittee -- Megan Moore

02:04:12 Ms. Moore ([Exhibit 6](#))

Public comment on revenue estimating topics

02:06:02 Bob Story, Montana Taxpayers Association

02:06:28 *Rep. Peppers arrived at 10:11 a.m.*

Committee Discussion

02:12:08 Rep. Essmann asked Mr. Story about the constitutional prohibition on special appropriations.

02:16:16 Sen. Hoven asked to hear from various industry groups, such as the oil and gas, retail, tourism, coal, mining about their industry and what they see happening over the next two years.

02:18:01 Sen. Barrett said that the committee should concentrate its efforts on the items that are responsible for variance.

02:22:51 Sen. Barrett discussed looking at the volatility of the corporate income tax.

TAX LIENS AND TAX DEEDS STUDY

Tax lien and tax deed process graphic -- Megan Moore

02:28:40 Ms. Moore ([Exhibit 7](#))

Overview of working group recommendations -- Kim Buchanan, Gallatin County

Treasurer

02:34:08 Ms. Buchanan ([Exhibit 8](#))

Committee Questions of Ms. Buchanan

02:38:16 Rep. Essmann asked about the difference between an investor getting a lien versus an investor getting an assignment.

02:45:41 Sen. Hoven asked for a historical perspective on how this process came about.

02:47:53 Sen. Malek and Rep. Redfield asked about proposal #1.

02:56:17 Rep. Jacobson discussed a process in which the property owner retains equity in the property after an investor receives a tax deed.

03:04:10 Rep. Essmann asked Ms. Buchanan to propose a process for deciding who is awarded the assignment if there are two people wanting the assignment.

Public comment on tax liens and tax deeds study

03:08:18 Ronda Wiggers, Montana Treasurers' Association

03:11:52 Harold Blattie, Executive Director, Montana Association of Counties

Motion

03:14:33 Rep. Jacobson moved to direct staff to draft a bill that incorporates the 11 proposals as presented by the Tax Deed/Lien Study Committee for review at the next meeting.

Discussion on the motion

03:15:25 Rep. Essmann discussed the counties auctioning off the interest rate as one way to resolve the tie.

Vote

03:16:28 The motion carried unanimously by voice vote.

LEGISLATIVE SESSION PROCEDURES FOR REVENUE BILLS

Summary of discussion at last meeting and additional analysis of revenue bills heard in taxation committees -- Megan Moore

03:17:33 Ms. Moore gave a presentation on the memo "Request for Reconsideration of Rereferral of Revenue Bills Originating in Taxation Committee" ([Exhibit 9](#)) and "Additional Analysis of Revenue Bill Rereferral" ([Exhibit 10](#)).

Committee Discussion

03:28:57 Rep. Essmann suggested making a request to the Legislative Council to get rid of the rereferral process.

03:29:56 Sen. Barrett said that there is a need for an additional rule that at some point allows the legislature to balance out revenue and expenditure bills.

03:31:35 Rep. Jacobson suggested possible remedies such as changing revenue transmittal dates and disallowing a rereferral without objection, or needing a three-quarters vote to be rereferred.

03:34:18 Rep. Essmann suggested removing the requirement that a bill go on third reading the next day.

Motion

03:36:39 Rep. Redfield moved to change the rule.

Discussion on the motion

03:37:05 Ms. Moore asked if the committee wanted this change for all revenue bills or only those that are going to the taxation committees, and how to write the rule to reflect the change.

03:40:06 Rep. Hertz suggested changing the rereferral to three-fifths instead of a simple majority.

03:40:44 Sen. Barrett suggested that all bills coming through the tax committee be revenue neutral, have a zero fiscal note, so that they concentrate exclusively on issues of policy and not on revenue.

Vote

03:41:19 The motion passed unanimously by voice vote.

INCOME RELIEF MULTIPLE

Overview of committee role -- Megan Moore

03:41:56 Ms. Moore ([Exhibit 11](#))

Committee Questions

03:43:40 Sen. Barrett asked about the revenue impact of changing the multiple and what the cost might be.

Motion

03:44:56 Rep. Essmann moved to have a committee bill to remove the refundable income tax credit relief multiple.

Vote

03:45:22 The motion passed unanimously by voice vote.

Public comment on procedures for revenue bills and for income relief multiple - none

LUNCH (reconvened at 1:06 p.m.)

ADEQUACY OF LOCAL GOVERNMENT REVENUE GENERATING CAPACITY STUDY

Analysis of sources of local government revenue -- Megan Moore

05:01:38 Ms. Moore ([Exhibit 12](#))

Overview of House Bill No. 471 -- Megan Moore

05:16:43 Ms. Moore ([Exhibit 13](#))

Entitlement share analysis -- Emily Klungvedt, Department of Revenue

05:17:54 Ms. Klungvedt ([Exhibit 14](#))

Public comment on adequacy of local government revenue generating capacity study - none

Discussion of possible recommendations or requests for legislation -- Sen. Barrett and Rep. Essmann

05:22:39 Rep. Essmann and Sen. Barrett said that they discussed several possibilities; i.e., changing the inflation rate calculation in 15-10-420, or instituting a local option sales tax, but no solutions have emerged on which they were prepared to make a recommendation.

05:24:03 Rep. Hertz commented that a lot of communities and voters are experiencing property tax fatigue.

BREAK (reconvened at 1:43 p.m.)

**AGENCY OVERSIGHT: DEPARTMENT OF TRANSPORTATION -- Mike Tooley, Director
Update on public transportation - David Jacobs, Transit Section Supervisor**

05:39:51 Mr. Jacobs ([Exhibit 15](#))

Committee Questions of Mr. Jacobs

05:56:33 Rep. Smith asked about the vehicles that are grounded by the Department of Transportation for maintenance service.

05:59:07 Sen. Barrett asked if the transportation programs reduce private automobile use.

Administrative rule changes on advertisements in bus shelters update

06:02:10 Director Tooley ([Exhibit 16](#))

Demographic analysis of engineering staff

06:05:23 Director Tooley ([Exhibit 17](#))

Committee Questions

06:06:21 Rep. Essmann asked about the Department of Transportation's flexibility with the new design build statutes.

Agency-requested legislation

06:08:03 Director Tooley ([Exhibit 18](#))

Committee Questions

06:09:10 Sen. Hoven asked about the projects sizes.

06:12:39 Sen. Hoven asked about speed limit signs in construction zones.

06:13:15 Sen. Barrett discussed Rep. Garner's bill that addressed the issue of construction work zones.

06:15:06 Dave Ohler, Chief Legal Counsel, Department of Transportation, said the bill was amended in Senate Transportation but he is not sure if that got out of committee.

06:17:23 Rep. Essmann discussed a constituent's concern regarding a situation where a project involved damage to wetlands.

06:20:19 Sen. Hoven discussed a constituent who was reapplying for his commercial driver's license.

Public comment on agency update - none

Committee action on agency-requested legislation

06:22:57 Ms. Moore

Motion

06:23:30 Sen. Kaufmann moved to forward all Department of Transportation's proposed legislation for drafting purposes.

Vote

06:23:58 The motion passed unanimously by voice vote.

HIGHWAY STATE SPECIAL REVENUE ACCOUNT STUDY

Implementation of gas tax increase based on gas prices -- Megan Moore

06:26:04 Ms. Moore ([Exhibit 19](#))

Committee Questions

- 06:28:27 Sen. Barrett asked about volatility in the case where the ad valorem tax went up and down with the price of gas.
- 06:29:50 Rep. Essmann asked if there are any states that tax the production of the fuel at the refinery point rather than at the wholesale or retail point.

Overview of Construction Manager/General Contractor method of construction and which states use the method

Dwane Kailey, Highway and Engineer Administrator, Department of Transportation
Cary Hegreberg, Executive Director, Montana Contractors Association

- 06:33:24 Mr. Kailey
- 06:35:34 Mr. Hegreberg ([Exhibit 20](#))
- 06:45:16 Mr. Kailey ([Exhibit 21](#))

Distribution of motor vehicle registration fees -- Sarah Garcia, Motor Vehicle Administrator, Department of Justice

- 06:47:11 Ms. Garcia ([Exhibit 22](#))

Committee Questions of Ms. Garcia

- 06:53:58 Rep. Redfield asked about the vendor that prints the renewal cards.
- 06:55:07 Sen. Hoven asked about the county convenience fee.
- 06:55:59 Ms. Garcia answered Sen. Hoven's question about the medical certification requirement for a commercial driver's license.
- 06:56:41 Rep. Hertz asked about the number of dollars lost because people opt out of the state parks fee.
- 06:57:02 Rep. Smith asked about the gross vehicle weight fee for trailers.

Highway Patrol data on crashes and citations -- Col. Tom Butler, Highway Patrol

- 06:58:15 Col. Butler distributed information on Speed Violation Revenue ([Exhibit 23](#)); Comparison of Interstate Citations ([Exhibit 24](#)); and Activity Statistics ([Exhibit 25](#)).

Committee Questions of Col. Butler

- 07:08:17 Sen. Malek asked about the speed violation report, a comparison between the 2015 and 2016 speed violation numbers, and if there are any numbers that would support states that have lower speed limits resulting in fewer fatalities and crashes.
- 07:15:44 Sen. Barrett asked how Montana compares with other states in terms of seatbelt or non-seatbelt use.
- 07:17:39 Rep. Essmann asked about tracking fatalities within the urban boundary.
- 07:19:21 Sen. Thomas asked Col. Butler to present this data at the September meeting.
- 07:19:53 Rep. Jacobson asked how much of a trooper's time is spent on non-enforcement related activities, such as vehicle identification number inspections.
- 07:20:52 Rep. Redfield asked how much time troopers spend in the courtrooms and how much overtime the troopers receive.
- 07:22:41 Sen. Hoven asked if highway deaths were caused by alcohol-related crashes or distracted driving.

- 07:24:05 Sen. Thomas asked about deaths due to nonuse of seatbelts and if those deaths are quantified to alcohol.
- 07:25:30 Rep. Jacobson commended the work on the highway signs regarding the use of seatbelts on the highway and thanked Col. Butler for the offer of ride-alongs with troopers.

Revenue effect of depositing fines in HSRA - Sam Schaefer, Legislative Fiscal Division

07:28:41 Mr. Schaefer ([Exhibit 26](#))

Agency recommendations

Mike Tooley, Director, Department of Transportation
Col. Tom Butler, Highway Patrol

07:30:23 Director Tooley discussed the Highway State Special Revenue Account.

Committee Questions

- 07:35:16 Rep. Redfield asked if the increase in the fine of red diesel fuel made a difference.
- 07:38:33 Rep. Hertz asked about the amount of dyed diesel sold at pumps.
- 07:39:06 Rep. Jacobson asked about regulating the sale of dyed diesel.
- 07:39:51 Larry Flynn, Chief Financial Officer, Department of Transportation, explained the two kinds of dyed fuel users.
- 07:41:42 Rep. Essmann asked Mr. Flynn about limiting the discount to both fuel sales and eliminating the red hoses at the pumps.
- 07:43:37 Rep. Peppers asked Mr. Flynn if he has any idea how much it would cost to implement the card system.
- 07:44:08 Sen. Kaufmann asked about additional savings in terms of enforcement if a card system was implemented.
- 07:45:58 Sen. Malek asked Director Tooley about the cuts to the Department of Justice in order to comply with the constitutional provisions related to the gas tax.
- 07:47:12 Col. Butler discussed his recommendations and the historic perspective of funding and what the Highway Patrol is doing today regarding spending.

Committee Questions of Col. Butler

07:54:35 Rep. Redfield asked about the permanent license plates fee.

Public comment on Highway State Special Revenue Account study - none

Committee Questions of Ms. Garcia

- 07:57:24 Rep. Essmann asked Ms. Garcia about the permanent license plate issue.
- 07:59:26 Sen. Hoven asked about transferring a title.

Discussion of possible recommendations or requests for legislation - Sen. Kaufmann, Rep. Redfield, Rep. Smith

08:01:28 Rep. Redfield discussed fees for electric vehicles and hybrid vehicles. ([Exhibit 27](#))

Motion

08:03:46 Rep. Redfield moved that staff work on draft legislation to align the Highway State Special Revenue Fund with the constitution.

Discussion on the motion

08:05:04 Sen. Thomas asked if the hybrid fee should be included in the bill.
08:05:09 Sen. Kaufmann is opposed to that idea.
08:07:35 Director Tooley discussed highway construction, maintenance, and enforcement of highway safety laws.
08:08:02 Sen. Barrett asked about the money going to the Department of Justice and the Montana Highway Patrol.

08:09:40 Cathy Duncan, Legislative Fiscal Analyst

08:10:39 Sen. Thomas asked Ms. Duncan about the revenue source in House Bill 2.
08:12:38 Rep. Jacobson asked Director Tooley about his methodology on implementing his recommendations.
08:13:30 Rep. Jacobson asked Mr. Coles or Ms. Moore about how to draft Director Tooley's recommendations.
08:13:46 Jaret Coles, staff attorney, discussed Article VIII, Section 6(1)(a)(b)(c).
08:14:39 Rep. Essmann discussed language authorizing the establishment of a special account to transfer money to the Highway Special Revenue Account.

Vote

08:17:25 The motion passed unanimously by voice vote.

Motion

08:17:37 Sen. Kaufmann moved for a bill draft that would implement the dyed diesel fraud reduction program as outlined by the Department of Transportation.

Discussion on the motion

08:19:05 Rep. Essmann suggested that staff sit down with the Department and look at their existing authority to see if legislation is needed.
08:19:24 Rep. Hertz said he is concerned about the dyed diesel pumps.

Vote

08:23:27 The motion passed on a voice vote with Rep. Redfield voting no.

Motion

08:23:55 Sen. Barrett moved that staff draft a primary seatbelt law.

Discussion on the motion

08:25:39 Rep. Redfield commented that lack of wearing a seatbelt is not the cause of a crash.
08:27:23 Rep. Hertz asked Col. Butler about citations that are reported to insurance companies.
08:30:00 Rep. Essmann commented about whether the Revenue and Transportation Interim Committee is the appropriate committee to request seat belt legislation.

- 08:31:03 Mr. Coles discussed oversight duties of the Revenue and Transportation Interim Committee and the Law and Justice Interim Committee.
- 08:31:49 Sen. Kaufmann commented on hearing testimony about the seatbelt issue and her belief that the committee should respond to that.
- 08:32:49 Sen. Thomas ruled that he will not preclude the motion from being brought forward.
- 08:34:59 Director Tooley talked about a recent visit to St. Vincent's where six people were injured by non-use of seatbelts and the costs of treating those injuries.

Vote

- 08:36:28 The motion passed on roll call vote, 7-5. ([Attachment 4](#))

STAFF SUGGESTED CLARIFICATION LEGISLATION

Overview - Megan Moore

- 08:39:11 Ms. Moore discussed errors that were made to 15-7-102 and 15-6-301. ([Exhibit 28](#))

Motion

- 08:41:17 Sen. Kaufmann moved for a bill draft to correct 15-7-102 and 15-6-301 as needed.

Discussion on the motion

- 08:41:30 Rep. Essmann asked if these cut and paste errors go into the Code Commissioner's bill.
- 08:41:47 Mr. Coles said that they try to put non-controversial issues into the Code Commissioner's bill.

Vote

- 08:42:22 The motion passed unanimously by voice vote.

Public Comment on any other topic within the committee's jurisdiction - none

Discussion on meeting date in November

- 08:43:25 The committee members discussed moving the November meeting date from the 18th to the 17th.

RECESS

- 08:49:21 Rep. Jacobson recessed the meeting at 4:54 p.m., to reconvene at 8:00 a.m. on June 10, 2016.

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