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SENATE BILL 403

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Cynthia Nava

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

AN ACT

RELATING TO PUBLIC SCHOOLS; CREATING THE PUBLIC SCHOOL FACILITY OPPORTUNITY FUND; AUTHORIZING GRANTS FROM THE FUND TO CERTAIN SCHOOL DISTRICTS FOR CERTAIN PURPOSES; PROVIDING THAT UNEXPENDED BALANCES OF CERTAIN CAPITAL PROJECT APPROPRIATIONS SHALL REVERT TO THE FUND; PROVIDING THAT A PORTION OF THE UNENCUMBERED BALANCE OF CERTAIN GENERAL FUND APPROPRIATIONS SHALL REVERT TO THE FUND; PROVIDING THAT A PORTION OF EACH SPECIAL APPROPRIATION FOR A PUBLIC SCHOOL SHALL BE SET ASIDE AND TRANSFERRED TO THE FUND; PROVIDING FOR A DISTRIBUTION TO THE FUND OF A PORTION OF GROSS RECEIPTS TAX REVENUE DERIVED FROM PUBLIC SCHOOL CONSTRUCTION PROJECTS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Public School Capital

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1 Outlay Act, Section 22-24-12 NMSA 1978, is enacted to read:

2 "22-24-12. [NEW MATERIAL] PUBLIC SCHOOL FACILITY
3 OPPORTUNITY FUND--PURPOSE--GRANTS FROM THE FUND.--

4 A. The legislature finds that, even under the
5 current program to bring all public school facilities up to a
6 minimum statewide adequacy standard, because of a continuing
7 shortage in available local resources, some school districts
8 will not be able to exceed that minimum in the foreseeable
9 future and, therefore, will not have the opportunity to provide
10 their students with the same quality of educational facilities
11 as students in school districts that have sufficient local
12 resources to surpass the minimum standards. The purpose of
13 this section is to provide a program of state support to
14 certain school districts so that their school facilities may,
15 in certain circumstances, exceed the minimum statewide adequacy
16 standard.

17 B. The "public school facility opportunity fund" is
18 created in the state treasury. The fund shall consist of
19 transfers, distributions, appropriations, reversions, gifts,
20 grants, donations and bequests made to the fund. Income from
21 the fund shall be credited to the fund, and money in the fund
22 shall not revert or be transferred to any other fund at the end
23 of a fiscal year. Money in the fund is appropriated to the
24 council for the purposes of making grants so that the
25 facilities of qualifying school districts may, pursuant to the

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1 requirements of this section, exceed statewide adequacy
2 standards. Expenditures from the fund shall be made on warrant
3 of the secretary of finance and administration pursuant to
4 vouchers signed by the director of the public school facilities
5 authority.

6 C. A school district may apply for a grant from the
7 public school facility opportunity fund if the council
8 determines that:

9 (1) the school district meets all
10 qualifications to apply for a grant pursuant to Section 22-24-5
11 NMSA 1978;

12 (2) the value calculated for the school
13 district pursuant to Subparagraph (k), (m), (n) or (o) of
14 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 is
15 equal to or greater than seven-tenths;

16 (3) currently and at all times during the
17 previous four years, the school district has a residential
18 property tax rate of at least nine dollars (\$9.00) on each one
19 thousand dollars (\$1,000) of taxable value, as measured by the
20 sum of all rates imposed by resolution of the local school
21 board plus rates set to pay interest and principal on
22 outstanding school district general obligation bonds;

23 (4) at least seventy percent of the students
24 in the school district are eligible for free or reduced-fee
25 lunch; and

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1 (5) for the next four years, any local
2 resources of the school district will be expended for the local
3 match required for public school capital outlay projects and,
4 therefore, the school district will have no available local
5 resources to expend on school district facilities for the
6 purpose of exceeding the statewide adequacy standards.

7 D. Applications for grant assistance from the
8 public school facility opportunity fund shall be made by school
9 districts to the council in accordance with the requirements of
10 the council. Using criteria developed by the council, the
11 council shall evaluate applications and prioritize those
12 applications most in need of a grant from the fund. To the
13 extent that money in the fund is available, the council may
14 award grants for those prioritized applications.

15 E. All provisions of the Public School Capital
16 Outlay Act relating to the expenditure of grants awarded from
17 the public school capital outlay fund, including those relating
18 to reporting, oversight, project access and accountability,
19 apply to the use and expenditure of grants made pursuant to
20 this section. In addition, in awarding grants pursuant to this
21 section, the council may require conditions and procedures
22 necessary to ensure that the money is expended in the most
23 prudent manner."

24 Section 2. A new section of the Tax Administration Act is
25 enacted to read:

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1 "[NEW MATERIAL] DISTRIBUTION--PUBLIC SCHOOL FACILITY
2 OPPORTUNITY FUND.--A distribution pursuant to Section 7-1-6.1
3 NMSA 1978 shall be made to the public school facility
4 opportunity fund in an amount equal to two percent of the
5 taxable gross receipts attributable to the sale of construction
6 services to school districts or to the public school facilities
7 authority, as determined by the department."

8 Section 3. Section 6-5-10 NMSA 1978 (being Laws 1994,
9 Chapter 11, Section 1, as amended) is amended to read:

10 "6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS--
11 COMPLIANCE WITH FEDERAL RULES.--

12 A. Except as provided in Subsections B and C of
13 this section, all unreserved undesignated fund balances in
14 reverting funds and accounts as reflected in the central
15 financial reporting and accounting system as of June 30 shall
16 revert by September 30 to the general fund. The division may
17 adjust the reversion within forty-five days of release of the
18 audit report for that fiscal year.

19 B. The director of the division may modify a
20 reversion required pursuant to Subsection A of this section if
21 the reversion would violate federal law or rules pertaining to
22 supplanting of state funds with federal funds or other
23 applicable federal provisions.

24 C. One-half of all unreserved undesignated balances
25 in reverting funds and accounts as of the end of each fiscal

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1 year from fiscal year 2007 through fiscal year 2011 shall not
2 revert to the general fund but shall be transferred to the
3 public school facility opportunity fund to be used for grants
4 to school districts pursuant to Section 22-24-12 NMSA 1978."

5 Section 4. [NEW MATERIAL] PUBLIC SCHOOL APPROPRIATIONS
6 FOR NONOPERATING PURPOSES--SET ASIDE FOR PUBLIC SCHOOL FACILITY
7 OPPORTUNITY FUND.--Except for appropriations to or from the
8 public school capital outlay fund, two percent of each
9 appropriation made by the legislature on or after July 1, 2007
10 for nonoperating purposes, either directly to a school district
11 or a public school or to another governmental entity for the
12 purpose of passing the money through directly to a school
13 district or a public school, shall be set aside and transferred
14 to the public school facility opportunity fund, provided that
15 the amount set aside and transferred pursuant to this section
16 shall not be included in a reduction in the amount of a state
17 grant calculated pursuant to Paragraph (6) of Subsection B of
18 Section 22-24-5 NMSA 1978. The amount shall be set aside and
19 transferred by the secretary of finance and administration:

20 A. if the appropriation is from severance tax bond
21 proceeds, at the time the severance tax bonds are issued by the
22 state board of finance; or

23 B. if the appropriation is from the general fund,
24 at such time during the first fiscal year that the
25 appropriation may be expended as deemed appropriate by the

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1 secretary.

2 Section 5. Laws 2003, Chapter 385, Section 1 is amended
3 to read:

4 "Section 1. GENERAL FUND APPROPRIATIONS FROM FISCAL YEAR
5 2003--LIMITATIONS--REVERSIONS.--

6 A. The general fund appropriations in this act are
7 from fiscal year 2003 and may be expended through fiscal year
8 2008 except as otherwise provided in this section.

9 B. Unless otherwise provided, the unexpended
10 balance of an appropriation made in this act from the general
11 fund, including changes to prior appropriations, shall revert
12 [~~to the originating fund, as follows~~] according to the
13 following schedule. Unless otherwise provided, the reversion
14 shall be made to the originating fund, except that, on or after
15 July 1, 2007, a reversion of a general fund appropriation that
16 would otherwise revert to the general fund shall not be made to
17 the general fund but shall be made to the public school
18 facility opportunity fund and shall be used for grants to
19 school districts pursuant to Section 22-24-12 NMSA 1978:

20 (1) for projects for which appropriations were
21 made to match federal grants, six months after completion of
22 the project;

23 (2) for projects for which appropriations were
24 made to purchase vehicles, heavy equipment, educational
25 technology or equipment or furniture that is not related to a

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1 more inclusive construction or renovation project, at the end
2 of the fiscal year following the fiscal year in which the
3 appropriation was made for the purchase;

4 (3) for projects for which appropriations were
5 made to purchase emergency vehicles or other vehicles that
6 require special equipment, at the end of the fiscal year two
7 years following the fiscal year in which the [~~severance tax~~
8 ~~bonds were issued~~] appropriation was made for the purchase; and

9 (4) for all other projects for which
10 appropriations were made, within six months of completion of
11 the project, but no later than the end of fiscal year 2008.

12 C. Except for appropriations to the capital program
13 fund, money from appropriations made in this act shall not be
14 used to pay indirect project costs.

15 D. For the purpose of this section, "unexpended
16 balance" means the remainder of an appropriation after
17 reserving for unpaid costs and expenses covered by binding
18 written obligations to third parties."

19 Section 6. Laws 2003, Chapter 429, Section 2 is amended
20 to read:

21 "Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
22 LIMITATIONS--REVERSIONS.--

23 A. The general fund appropriations in this act are
24 from fiscal year 2003 and may be expended through fiscal year
25 2008 except as otherwise provided in this section.

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1 B. Unless otherwise provided, the unexpended
2 balance of an appropriation made in this act from the general
3 fund or other state fund, including changes to prior
4 appropriations, shall revert [~~to the originating fund, as~~
5 ~~follows~~] according to the following schedule. Unless otherwise
6 provided, the reversion shall be made to the originating fund,
7 except that, on or after July 1, 2007, a reversion of a general
8 fund appropriation that would otherwise revert to the general
9 fund shall not be made to the general fund but shall be made to
10 the public school facility opportunity fund and shall be used
11 for grants to school districts pursuant to Section 22-24-12
12 NMSA 1978:

13 (1) for projects for which appropriations were
14 made to match federal grants, six months after completion of
15 the project;

16 (2) for projects for which appropriations were
17 made to purchase vehicles, heavy equipment, educational
18 technology or equipment or furniture that is not related to a
19 more inclusive construction or renovation project, at the end
20 of the fiscal year following the fiscal year in which the
21 appropriation was made for the purchase;

22 (3) for projects for which appropriations were
23 made to purchase emergency vehicles or other vehicles that
24 require special equipment, at the end of the fiscal year two
25 years following the fiscal year in which the [~~severance tax~~

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1 ~~bonds were issued]~~ appropriation was made for the purchase; and

2 (4) for all other projects for which
3 appropriations were made, within six months of completion of
4 the project, but no later than the end of fiscal year 2008.

5 C. Except for appropriations to the capital program
6 fund, money from appropriations made in this act shall not be
7 used to pay indirect project costs.

8 D. For the purpose of this section, "unexpended
9 balance" means the remainder of an appropriation after
10 reserving for unpaid costs and expenses covered by binding
11 written obligations to third parties."

12 Section 7. Laws 2004, Chapter 126, Section 2 is amended
13 to read:

14 "Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
15 LIMITATIONS--REVERSIONS.--

16 A. Except as otherwise provided in this section,
17 [~~or~~] another section of this act or another law, the unexpended
18 balance of an appropriation made in this act from the general
19 fund or other state fund, including changes to prior
20 appropriations, shall revert [~~to the originating fund, as~~
21 ~~follows]~~ according to the following schedule. Unless otherwise
22 provided, the reversion shall be made to the originating fund,
23 except that, on or after July 1, 2007, a reversion of a general
24 fund appropriation that would otherwise revert to the general
25 fund shall not be made to the general fund but shall be made to

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1 the public school facility opportunity fund and shall be used
2 for grants to school districts pursuant to Section 22-24-12
3 NMSA 1978:

4 (1) for projects for which appropriations were
5 made to match federal grants, six months after completion of
6 the project;

7 (2) for projects for which appropriations were
8 made to purchase vehicles, heavy equipment, educational
9 technology or equipment or furniture that is not related to a
10 more inclusive construction or renovation project, at the end
11 of the fiscal year following the fiscal year in which the
12 appropriation was made for the purchase;

13 (3) for projects for which appropriations were
14 made to purchase emergency vehicles or other vehicles that
15 require special equipment, at the end of the fiscal year two
16 years following the fiscal year in which the severance tax
17 bonds were issued for the purchase; and

18 (4) for all other projects for which
19 appropriations were made, within six months of completion of
20 the project, but no later than the end of fiscal year 2009.

21 B. Except for appropriations to the capital program
22 fund, money from appropriations made in this act shall not be
23 used to pay indirect project costs.

24 C. For the purpose of this section, "unexpended
25 balance" means the remainder of an appropriation after

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1 reserving for unpaid costs and expenses covered by binding
2 written obligations to third parties."

3 Section 8. Laws 2005, Chapter 347, Section 2 is amended
4 to read:

5 "Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
6 LIMITATIONS--REVERSIONS.--

7 A. Except as otherwise provided in this section,
8 [~~or~~] another section of this act or another law, the unexpended
9 balance of an appropriation made in this act from the general
10 fund or other state fund, including changes to prior
11 appropriations, shall revert [~~to the originating fund, as~~
12 ~~follows~~] according to the following schedule. Unless otherwise
13 provided, the reversion shall be made to the originating fund,
14 except that, on or after July 1, 2007, a reversion of a general
15 fund appropriation that would otherwise revert to the general
16 fund shall not be made to the general fund but shall be made to
17 the public school facility opportunity fund and shall be used
18 for grants to school districts pursuant to Section 22-24-12

19 NMSA 1978:

20 (1) for projects for which appropriations were
21 made to match federal grants, six months after completion of
22 the project;

23 (2) for projects for which appropriations were
24 made to purchase vehicles, heavy equipment, educational
25 technology or equipment or furniture that is not related to a

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1 more inclusive construction or renovation project, at the end
2 of the fiscal year following the fiscal year in which the
3 appropriation was made for the purchase;

4 (3) for projects for which appropriations were
5 made to purchase emergency vehicles or other vehicles that
6 require special equipment, at the end of the fiscal year two
7 years following the fiscal year in which the severance tax
8 bonds were issued for the purchase; and

9 (4) for all other projects for which
10 appropriations were made, within six months of completion of
11 the project, but no later than the end of fiscal year 2010.

12 B. Except for appropriations to the capital program
13 fund, money from appropriations made in this act shall not be
14 used to pay indirect project costs.

15 C. For the purpose of this section, "unexpended
16 balance" means the remainder of an appropriation after
17 reserving for unpaid costs and expenses covered by binding
18 written obligations to third parties."

19 Section 9. Laws 2006, Chapter 107, Section 2 is amended
20 to read:

21 "Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
22 LIMITATIONS--REVERSIONS.--

23 A. Except as otherwise provided in another section
24 of this act or another law, the unexpended balance of an
25 appropriation from the general fund or other state fund that

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1 has been changed in this act shall revert [~~to the originating~~
2 ~~fund, as follows~~] according to the following schedule. Unless
3 otherwise provided, the reversion shall be made to the
4 originating fund, except that, on or after July 1, 2007, a
5 reversion of a general fund appropriation that would otherwise
6 revert to the general fund shall not be made to the general
7 fund but shall be made to the public school facility
8 opportunity fund and shall be used for grants to school
9 districts pursuant to Section 22-24-12 NMSA 1978:

10 (1) for projects for which appropriations were
11 made to match federal grants, six months after completion of
12 the project;

13 (2) for projects for which appropriations were
14 made to purchase vehicles, including emergency vehicles and
15 other vehicles that require special equipment; heavy equipment;
16 educational technology; or equipment or furniture that is not
17 related to a more inclusive construction or renovation project,
18 at the end of the fiscal year two years following the fiscal
19 year in which the appropriation was made for the purchase; and

20 (3) for all other projects for which
21 appropriations were made, within six months of completion of
22 the project, but no later than the end of fiscal year 2009.

23 B. For the purpose of this section, "unexpended
24 balance" means the remainder of an appropriation after
25 reserving for unpaid costs and expenses covered by binding

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1 written obligations to third parties."

2 Section 10. Laws 2006, Chapter 111, Section 2 is amended
3 to read:

4 "Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
5 LIMITATIONS--REVERSIONS.--

6 A. Except as otherwise provided in this section,
7 [~~or~~] another section of this act or another law, the unexpended
8 balance of an appropriation made in this act from the general
9 fund or other state fund, including changes to prior
10 appropriations, shall revert [~~to the originating fund, as~~
11 ~~follows~~] according to the following schedule. Unless otherwise
12 provided, the reversion shall be made to the originating fund,
13 except that, on or after July 1, 2007, a reversion of a general
14 fund appropriation that would otherwise revert to the general
15 fund shall not be made to the general fund but shall be made to
16 the public school facility opportunity fund and shall be used
17 for grants to school districts pursuant to Section 22-24-12
18 NMSA 1978:

19 (1) for projects for which appropriations were
20 made to match federal grants, six months after completion of
21 the project;

22 (2) for projects for which appropriations were
23 made to purchase vehicles, emergency vehicles or other vehicles
24 that require special equipment, heavy equipment, educational
25 technology or equipment or furniture that is not related to a

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1 more inclusive construction or renovation project, at the end
2 of the fiscal year two years following the fiscal year in which
3 the appropriation was made for the purchase; and

4 (3) for all other projects for which
5 appropriations were made, within six months of completion of
6 the project, but no later than the end of fiscal year 2010.

7 B. Upon certification by an agency that money from
8 the general fund is needed for a purpose specified in this act,
9 the secretary of finance and administration shall disburse
10 [~~such~~] an amount of the appropriation for that project as is
11 necessary to meet that need.

12 C. Except for appropriations to the capital program
13 fund, money from appropriations made in this act shall not be
14 used to pay indirect project costs.

15 D. For the purpose of this section, "unexpended
16 balance" means the remainder of an appropriation after
17 reserving for unpaid costs and expenses covered by binding
18 written obligations to third parties."

19 Section 11. Laws 2006, Chapter 109, Section 3 is amended
20 to read:

21 "Section 3. GENERAL PROVISIONS.--

22 A. Amounts set out under column headings are
23 expressed in thousands of dollars.

24 B. Amounts set out under column headings are
25 appropriated from the source indicated by the column heading.

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1 All amounts set out under the column heading "Internal Service
2 Funds/Interagency Transfers" are intergovernmental transfers
3 and do not represent a portion of total state government
4 appropriations. All information designated as "Total" or
5 "Subtotal" is provided for information and amounts are not
6 appropriations.

7 C. Amounts set out in Section 4 of the General
8 Appropriation Act of 2006, or so much as may be necessary, are
9 appropriated from the indicated source for expenditure in
10 fiscal year 2007 for the objects expressed.

11 D. Unencumbered balances in agency accounts
12 remaining at the end of fiscal year 2006 shall revert to the
13 general fund by October 1, 2006, unless otherwise indicated in
14 the General Appropriation Act of 2006 or otherwise provided by
15 law.

16 E. ~~[Unencumbered balances in agency accounts~~
17 ~~remaining at the end of fiscal year 2007 shall revert to the~~
18 ~~general fund by October 1, 2007]~~ Unless otherwise indicated in
19 the General Appropriation Act of 2006 or otherwise provided by
20 law, by October 1, 2007, fifty percent of the unencumbered
21 balances in agency accounts remaining at the end of fiscal year
22 2007 shall revert to the general fund and the remaining
23 unencumbered balances shall be transferred to the public school
24 facility opportunity fund.

25 F. The state budget division shall monitor revenue

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1 received by agencies from sources other than the general fund
2 and shall reduce the operating budget of any agency whose
3 revenue from such sources is not meeting projections. The
4 state budget division shall notify the legislative finance
5 committee of any operating budget reduced pursuant to this
6 subsection.

7 G. Except as otherwise specifically stated in the
8 General Appropriation Act of 2006, appropriations are made in
9 that act for the expenditures of agencies and for other
10 purposes as required by existing law for fiscal year 2007. If
11 any other act of the second session of the forty-seventh
12 legislature changes existing law with regard to the name or
13 responsibilities of an agency or the name or purpose of a fund
14 or distribution, the appropriation made in the General
15 Appropriation Act of 2006 shall be transferred from the agency,
16 fund or distribution to which an appropriation has been made as
17 required by existing law to the appropriate agency, fund or
18 distribution provided by the new law.

19 H. The department of finance and administration
20 will regularly consult with the legislative finance committee
21 staff to compare fiscal year 2007 revenue collections with the
22 revenue estimate. If the analyses indicate that revenues and
23 transfers to the general fund are not expected to meet
24 appropriations, then the department shall present a plan to the
25 legislative finance committee that outlines the methods by

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1 which the administration proposes to address the deficit.

2 I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA
3 1978, agencies whose revenue from state board of finance loans,
4 from revenue appropriated by other acts of the legislature, or
5 from gifts, grants, donations, bequests, insurance settlements,
6 refunds or payments into revolving funds exceeds specifically
7 appropriated amounts may request budget increases from the
8 state budget division. If approved by the state budget
9 division, such money is appropriated.

10 [~~H.~~] J. Except for gasoline credit cards used
11 solely for operation of official vehicles, telephone credit
12 cards used solely for official business and procurement cards
13 used as authorized by Section 6-5-9.1 NMSA 1978, none of the
14 appropriations contained in the General Appropriation Act of
15 2006 may be expended for payment of agency-issued credit card
16 invoices.

17 [~~M.~~] K. To prevent unnecessary spending,
18 expenditures from the General Appropriation Act of 2006 for
19 gasoline for state-owned vehicles at public gasoline service
20 stations shall be made only for self-service gasoline provided
21 that a state agency head may provide exceptions from the
22 requirement to accommodate disabled persons or for other
23 reasons the public interest may require.

24 [~~N.~~] L. For the purpose of administering the
25 General Appropriation Act of 2006, the state of New Mexico

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