One Hundred and Twenty-Eighth Legislature
Second Special Session

Advance Journal and Calendar

6th Legislative Day

In Senate Chamber, Monday, July 9, 2018.

Senate called to Order by President Michael D. Thibodeau of Waldo County.

Prayer by Senator Paul T. Davis, Sr. of Piscataquis County.

Pledge of Allegiance led by Senator Dawn Hill of York County.

Reading of the Journal of Tuesday, June 26, 2018.

Michael D. Thibodeau
Senate President

Heather J.R. Priest
Secretary of the Senate

http://legislature.maine.gov/senate

Printed on recycled paper
Non-Concurrent Matter

(1-1) Bill "An Act To Repeal the Legalization of Recreational Marijuana"
    S.P. 229  L.D. 667

In Senate, June 26, 2018, Motion by Senator Katz of Kennebec that this bill Ought Not To Pass was Accepted.

Comes from the House, Bill and accompanying papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

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House Paper

(1-2) Bill "An Act To Prohibit Campaign Fund-raising at the Voting Place"
    H.P. 1354  L.D. 1912

Committee on VETERANS AND LEGAL AFFAIRS suggested and ordered printed.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT “A” (H-804), without reference to a Committee.

_________________________________
COMMUNICATIONS

(2-1) The Following Communication:

S.C. 1061

STATE OF MAINE
128TH LEGISLATURE
PRESIDENT OF THE SENATE
AND SPEAKER OF THE HOUSE

July 5, 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME 04333

Dear Senate and House Members of the 128th Legislature:

Pursuant to the Joint Order (S.P. 751) passed on June 26, 2018, the Senate and House of Representatives will convene on Monday, July 9, 2018, at 10:00 a.m.

Sincerely,

S/Michael D. Thibodeau      S/Sara Gideon
President of the Senate      Speaker of the House
TO:    Senator Michael D. Thibodeau, President of the Senate
      Representative Sara Gideon, Speaker of the House
      And Democratic and Republican Leaders

FROM:  S/Beth L. Ashcroft, Director

DATE:  June 28, 2018

RE:    Temporary Assistance for Needy Families Program

Enclosed please find the final report from the Office of Program Evaluation and Government Accountability on Temporary Assistance for Needy Families Program. The report is also available on our website at http://legislature.maine.gov/opega/opega-reports/9149. As noted in my memo dated June 18th the public comment period on this Report has been scheduled for Thursday, July 26, 2018 at 9:00 a.m. in Room 220 Cross Building.

If you have questions, please do not hesitate to give me a call.
2 July 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 40, "An Act To Strengthen Requirements for Water Testing for Schools."

Limiting exposure to lead is important to public health, and while the aim of the legislation was to ensure that students are not exposed to lead in drinking water in the schools, the final product does not give clear direction on the initiative. This bill seeks to tie a public health-related issue properly overseen by DHHS with financial funding overseen by the Department of Education.

Schools on private wells are currently tested for lead. Schools that feed off a public water system are not. DHHS’s responsibility is only to the public system and not the fixtures inside buildings that feed off that system.

The testing of schools on these public water systems is the responsibility of local school districts. DHHS currently offers testing for free to schools that find themselves in this position, and it is up to the school districts to ensure this testing is done.

If testing reveals there is a lead issue, DOE has a revolving renovation fund to provide loans to school districts to remediate the problem.

LD 40 is unnecessary and makes complicated what is a straightforward method already in place for addressing this issue. If schools are unwilling to take advantage of free testing and the remediation funding now available to ensure proper public health, another statute is not going to make them do it.

For these reasons, I return LD 40 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor
2 July 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1109, “An Act To Establish Homelessness as an Emergency in the General Assistance Laws.”

The current definition of “emergency,” as it pertains to General Assistance, is:

“Any life-threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person; or at the municipality’s option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the municipality if not resolved immediately.”

By automatically including broadly defined homelessness as an emergency, this legislation removes municipal discretion in determining an emergency on a case-by-case basis. It would instead require municipalities to provide benefits exceeding maximum allotments for an indefinite period of time. Significantly expanding the scope of what constitutes an “emergency” to include any time a person is living in a temporary housing situation is contrary to common sense and represents a significant shift in General Assistance policy.

Furthermore, as the current definition stands, a municipality has flexibility to deem individual instances of homelessness as emergencies on a case-by-case basis where the circumstances threaten life, health, or safety. There is no need for a statutory change.

For this reason, I return LD 1109 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor


S.P. 363  L.D. 1109
Monday, July 9, 2018

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE

2 July 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1744, “An Act To Create a Credit under the Commercial Forestry Excise Tax for Landowners Using Businesses Based in the United States.”

LD 1744 would establish a new, 100-percent credit against the commercial forestry excise tax (CFET) for landowners who hire harvesting businesses based in the United States. Although I share the goals of this bill, it is flawed in operation.

The CFET exists to partially offset the costs of forest-fire protection incurred by the Department of Agriculture, Conservation and Forestry. Currently, Maine Revenue Services collects more than $2 million a year from this tax. With approximately 750 taxpayers and 9 million acres of taxable forest land subject to the CFET, I remain concerned that LD 1744 would needlessly endanger the ability of the Maine Forest Service to combat wildfires in our state.

If the drought that plagued Maine for much of last summer is any indication, now is not the time to diminish such a critical funding source.

In addition to these more pressing concerns, our state’s tax administrators report that this bill would be nearly impossible to implement. For example, LD 1744 requires that all hired harvesters be current on state and local taxes. Such a provision is difficult, if not impossible, for landowners to prove, especially since most tax information is confidential and a contractor or other business is not legally obligated to provide this information to a third party. Further, the bill does not specify the timing and duration of the proposed credit or adequately identify the requirements necessary to be fulfilled in order for a landowner to qualify.

Finally, LD 1744 may jeopardize the legality of the independent contractor relationship between commercial forest landowners and the businesses they use for harvesting and transport. This would lead to numerous issues, including increased costs, for the parties involved and negate any potential benefit of this bill.

For these reasons, I return LD 1744 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-8) The accompanying Bill “An Act To Create a Credit under the Commercial Forestry Excise Tax for Landowners Using Businesses Based in the United States.”

S.P. 643  L.D. 1744
2 July 2018

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1884, “An Act To Specify the Procedures Regarding the Court-ordered Surrender of Dangerous Weapons.”

This bill provides that a person’s firearms possession rights may be stripped when a court has ordered that person to take part in a mental-health progressive treatment program. Although this bill provides a procedure that affords the person some due process protections, ultimately the patient could be denied their firearm possession rights for up to two years based on minimal evidence.

Unlike the statute for involuntary commitment, which requires evidence of the person’s mental illness and dangerousness to be proved by clear and convincing evidence, this statute does not specify the same high evidentiary standard. Once made, these factual determinations are not reviewable on appeal. Ultimately, the statement of a single doctor that the person is probably mentally ill and dangerous is all that is needed to deprive the individual of a constitutionally protected right.

The protections this bill affords the individual are simply insufficient. The evidentiary burden is low, there is no opportunity for a second opinion, and the duration of the order is long.

For these reasons, I return LD 1884 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor
Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 812, “Resolve, To Establish a Pilot Project To Save Lives and Support People with Substance Use Disorder in Washington County.”

The Department of Health and Human Services spent significant time working with community health care providers in Washington County between the first and second regular sessions of the 128th Legislature. They provided technical assistance and expert guidance on how to connect local health care providers and coordinate with both local and statewide resources to fight the opioid epidemic.

The department remains both willing and able to continue serving as a resource for Downeast Maine, but passing a law to require them to develop and implement a pilot project replaces the role of the community with the state government. And in my experience, more government does not necessarily equal better results. The tasks outlined in the bill can and should be undertaken by members of the Washington/Hancock community, and they should not be a mandate on state government.

For this reason, I return LD 812 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor
3 July 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:


Prescription drug step therapy is the practice of beginning drug therapy for a medical condition with the most cost-effective and efficacious drug and progressing to other more costly or risky drug therapies, only if necessary, with the goal of controlling costs and minimizing risks.

This bill outlines a purportedly new mechanism by which patients and their physicians may challenge a health insurance carrier’s determination to use a cost-effective medication as a first step in addressing a patient’s medical condition.

Drug step therapy is not new. Several years ago, the Legislature amended the Maine Insurance Code Bureau of Insurance to allow health insurers to engage in drug step therapy. At the same time, the Legislature included a requirement that carriers comply with a straightforward statutory exception process that allows patients and their physicians to challenge a carrier’s determination to start treatment with a cost-effective medication.

The process outlined in LD 1407 is unnecessarily complicated and is simply not necessary given existing Insurance Code provisions.

For these reasons, I return LD 1407 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor
The 128th Legislature of the State of Maine  
State House  
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1729, “An Act To Restore Confidence in Utility Billing Systems.”

This bill was created after many members of the public and media questioned Central Maine Power’s new billing system. The bill requires the PUC to apportion of the cost of CMP’s management audit to ratepayers and to shareholders in the event of a finding of imprudence. Prior to this bill’s introduction, the cost of the management audit was paid for by ratepayers.

While the language of the bill does not specifically single out CMP, the intent to single out CMP is clear, and was clear during committee hearings. I find a law that intends to single out a specific company unfair and unconstitutional. Introducing a bill to create a fine for an action after the fact, *ex post facto*, is unfair as well.

This bill also directs the PUC to take actions that are largely already in process. In that respect the bill is unnecessary, and the actions contemplated in the bill can already be achieved through the PUC, the Public Advocate’s Office, and the Governor’s Energy Office.

This bill is an example of the Legislature unfairly and callously appropriating a process they know is underway in the misguided attempt to look good in an election year. For these reasons, I return LD 1729 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage  
Governor

The accompanying Bill “An Act To Restore Confidence in Utility Billing Systems.”  
(EMERGENCY)  
S.P. 628  L.D. 1729
3 July 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1770, “An Act To Revise Laws Regarding Unemployment That Were Amended or Affected by Recently Enacted Legislation.”

This bill originally sought to correct language errors in the biennial budget that affected employer chargeability and brought the Department into compliance with federal unemployment requirements by providing that initial tax appeals are handled by the Department of Labor’s Division of Administrative Hearings, rather than by the Maine Unemployment Insurance Commission.

Instead of moving this maintenance bill forward, the committee held it hostage, adding language that did not pertain to employer chargeability without seeking the advice of or consulting with any subject matter expert from the Bureau of Unemployment Compensation. Instead, they adopted language drafted by first- and second-term legislators who believe, erroneously, that employees pay into the unemployment system.

The Maine Department of Labor is responsible for the financial administration of the Unemployment Insurance Program under a state-federal partnership. The federal government’s fiscal model determines the funding each state receives to support all administrative and staffing costs of the Unemployment Insurance Program, with efficiency being a critical factor.

The Legislature’s politically motivated, ignorant intervention on this bill will result in reduced funding to the unemployment system. The bill amendment mandates that certain positions be filled without regard to claims volume. If the Bureau’s number of employees does not correlate to workload, the federal fiscal model’s efficiency measures will penalize the state for having too high a cost per claim. This will actually decrease funding.

For these reasons, I return LD 1770 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-18) The accompanying Bill "An Act To Revise Laws Regarding Unemployment That Were Amended or Affected by Recently Enacted Legislation" (EMERGENCY)

S.P. 657  L.D. 1770
Monday, July 9, 2018

3 July 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1809, “An Act to Amend the Laws Governing the Issuance of Burn Permits.”

LD 1809 deals with outdoor burning permits, which are a wildfire prevention tool that protect homes, property, public safety and the forest economy. Title 12, Chapter 807 authorizes the Director of the Maine Forest Service to issue outdoor burning permits statewide. The original bill was opposed by the Department of Agriculture, Conservation, and Forestry (DACF) and Maine Forest Service (MFS) because the department believes, as do I, that the best way to control fires is to have a single, statewide system for burn permit issuance under the management or oversight of the MFS Forest Rangers. The MFS also opposed LD 1809 because the original bill did not provide the same benefit of free permits to citizens and business in all areas of the state.

During the legislative process, an agreement was made for the committee to amend LD 1809 to address concerns raised by the department. The fee for the state’s online permit system was dropped, making permits available to everyone without charge. In addition, the amendment allowed the Director of the Forest Service to approve up to two private systems for statewide use, with an appeal process given to the courts in the event of a denial by the Director.

However, since being voted out of committee, a final-hour amendment inexplicably reinstated the $7 fee for the state system while preserving the free, third-party permitting system for up to two providers. This creates a dual-tiered system where people and businesses in only a few towns, mostly in southern Maine, will have online access to free permits. This change negatively discriminates against residents and businesses operating in Maine’s unorganized territories and rural towns, which lack the capacity or resources to contract with an online service.

This last-minute amendment, which appears to be either for the benefit of the outside permit-service providers or to avoid a fiscal note, received little or no scrutiny by either of the legislative bodies. This is exactly the type of backroom wrangling that citizens have come to loathe about the legislative process. I am particularly concerned that the Legislature is willing to pass a measure that puts citizens and businesses in Maine on an unequal footing simply because of where they are located.

For these reasons, I return LD 1809 unsigned and vetoed. I strongly urge the Legislature to sustain this veto.

Sincerely,
S/Paul R. LePage
Governor

(2-19) The Following Communication: S.C. 1059

3 July 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

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For these reasons, I return LD 1809 unsigned and vetoed. I strongly urge the Legislature to sustain this veto.

Sincerely,
S/Paul R. LePage
Governor
ORDERS

Joint Orders

Expressions of Legislative Sentiment recognizing:

(4-1) the Donald Fitzpatrick family, of Houlton, which has been named the Maine Potato Board 2018 Farm Family of the Year. We extend to the Fitzpatrick family our congratulations and best wishes;

Sponsored by Senator CARPENTER of Aroostook.
Cosponsored by Representative: SHERMAN of Hodgdon.

(4-2) Venetia's Restaurant, of Old Orchard Beach, which is celebrating its 48th anniversary of doing business. We extend to owner Venetia Kouzounas and her family and staff our congratulations and best wishes;

Sponsored by Senator CHENETTE of York.
Cosponsored by Representative: HOGAN of Old Orchard Beach.

(4-3) Grace Roberts, of Cape Elizabeth, who has been named a 2018 United States Presidential Scholar, one of the Nation's highest honors for high school students. The United States Presidential Scholars Program was established in 1964 by executive order of the President to recognize and honor some of the Nation's most distinguished graduating high school seniors. Each year, up to 161 students are named as Presidential Scholars. We extend to Grace our congratulations and best wishes;

Sponsored by Senator MILLETT of Cumberland.
Cosponsored by Representatives: HAMANN of South Portland, MONAGHAN of Cape Elizabeth.

(4-4) Blue Marble Geographics, of Hallowell, which is celebrating its 25th anniversary of doing business. We extend to everyone at Blue Marble Geographics our congratulations and best wishes;

Sponsored by Senator BELLOWS of Kennebec.
Cosponsored by Representative: WARREN of Hallowell.
(4-5) the Honorable Roy I. Nickerson, of Turner, who has received the Boston Post Cane, an honor given to the oldest citizen of a municipality. Mr. Nickerson served as a member of the State House of Representatives from 1985 to 1986 and from 1993 to 1998. We extend our congratulations and best wishes to Mr. Nickerson on this occasion;  
Sponsored by Senator MASON of Androscoggin.  
Cosponsored by Representative: TIMBERLAKE of Turner.

(4-6) Christine Del Rossi, of Topsham, a teacher at Mt. Ararat High School, who has been named Sagadahoc County Teacher of the Year. We extend to Ms. Del Rossi our congratulations and best wishes;  
Sponsored by Senator VITELLI of Sagadahoc.  
Cosponsored by Representative: TEPLER of Topsham.

(4-7) Frances Morrison Raye, of Perry, who celebrated her 90th Birthday on June 25, 2018. Mrs. Raye possesses the Boston Post Cane, an honor given to the oldest citizen of a municipality. We extend to Mrs. Raye our congratulations on her birthday and offer her our best wishes;  
Sponsored by Senator MAKER of Washington.  
Cosponsored by Representative: PERRY of Calais.

HELD MATTER

Bill "An Act To Ensure the Successful Implementation of Proficiency-based Diplomas by Extending the Timeline for Phasing in Their Implementation"  
H.P. 1152  L.D. 1666  

(In Senate, June 26, 2018, PASSED TO BE ENACTED in concurrence.)

(In House, PASSED TO BE ENACTED.)
ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 516.

1.

Tabled and Later Assigned

SENATE REPORTS - from the Committee on ENERGY, UTILITIES AND TECHNOLOGY on Bill "An Act To Control Electricity Transmission Costs through the Development of Nontransmission Alternatives"

S.P. 516  L.D. 1487
(C "A" S-435)

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-435) (7 members)

Minority - Ought Not to Pass (3 members)

Tabled - April 4, 2018 by Senator WOODSOME of York

Pending - ACCEPTANCE OF EITHER REPORT

2.

Tabled and Later Assigned

Bill "An Act To Provide the State the Right of First Refusal for the Purchase of Certain Land on Which a Subsidy Has Been Paid"

S.P. 698  L.D. 1844
(C "A" S-447)

Tabled - April 17, 2018 by Senator MASON of Androscoggin

Pending - FURTHER CONSIDERATION

(In Senate, April 12, 2018, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-447).)

(In House, Report "B", OUGHT NOT TO PASS, READ and ACCEPTED in NON-CONCURRENCE.)
3.  
Tabled and Later Assigned

HOUSE REPORT - from the Committee on ENERGY, UTILITIES AND TECHNOLOGY on Bill "An Act To Create the Maine Energy Office"

H.P. 193  L.D. 260

Report - Ought to Pass as Amended by Committee Amendment "A" (H-768)

Tabled - June 19, 2018 by Senator MASON of Androscoggin

Pending - ACCEPTANCE OF REPORT

(In House, Report READ and ACCEPTED and Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-768).)

4.  
Tabled and Later Assigned

HOUSE REPORTS - from the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act To Remove the Age Penalty for State Retirees Working at State Correctional Institutions That Are Closing"

H.P. 133  L.D. 177

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-764) (7 members)

Minority - Ought Not to Pass (6 members)

Tabled - June 19, 2018 by Senator MASON of Androscoggin

Pending - ACCEPTANCE OF EITHER REPORT

(In House, Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-764).)
5.

Tabled and Later Assigned

HOUSE REPORT - from the Committee on TAXATION on Bill "An Act To Protect the Elderly from Tax Lien Foreclosures"

H.P. 1124  L.D. 1629

Report - Ought to Pass as Amended by Committee Amendment "A" (H-771)

Tabled - June 25, 2018 by Senator MASON of Androscoggin

Pending - ACCEPTANCE OF REPORT

(In House, Report READ and ACCEPTED and Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-771).)

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SPECIAL STUDY TABLE

1.

Emergency

Resolve, To Establish the Study Committee To Develop a Disposition Plan for Future Surplus State Property in York County

H.P. 723  L.D. 1021
(C "A" H-67)

Tabled - May 9, 2017 by Senator CUSHING of Penobscot

Pending - FINAL PASSAGE

_________________________________
2. JOINT ORDER - Establishing the Task Force To Study Rising Transmission and Distribution Costs
   H.P. 1320
   Tabled - March 29, 2018 by Senator JACKSON of Aroostook
   Pending - PASSAGE

3. Resolve, Establishing the Commission To Study the Economic, Environmental and Energy Benefits of Energy Storage to the Maine Electricity Industry
   S.P. 640  L.D. 1741
   (C "A" S-373; S "A" S-402)
   Tabled - March 29, 2018 by Senator VOLK of Cumberland
   Pending - FINAL PASSAGE

4. Bill "An Act To Establish Alternative Pathways to the Completion of Secondary School Mathematics Requirements"
   H.P. 1177  L.D. 1697
   (C "A" H-731)
   Tabled - April 11, 2018 by Senator VOLK of Cumberland
   Pending - FINAL PASSAGE

5. Emergency
   Resolve, To Establish the Blue Ribbon Commission on Community Safety
   H.P. 1321  L.D. 1889
   (C "A" H-776)
   Tabled - June 20, 2018 by Senator VOLK of Cumberland
   Pending - FINAL PASSAGE
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