

AN ACT

RELATING TO TAXATION; REDUCING INCOME TAX RATES OVER TWO YEARS; PROVIDING A ONE-TIME INCOME TAX REBATE FOR LOW- AND MIDDLE-INCOME FILERS; INCREASING THE LOW-INCOME COMPREHENSIVE TAX REBATE; CHANGING THE JOB MENTORSHIP TAX CREDIT FROM A PILOT PROGRAM TO A PERMANENT TAX CREDIT; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS OF A FRANCHISOR FOR CERTAIN SHARED EXPENSES AND FOR CERTAIN RECEIPTS OF A RESERVATION FUND OR AN ADVERTISING COOPERATIVE FROM FRANCHISORS OR FRANCHISEES; EXPANDING THE GROSS RECEIPTS TAX DEDUCTION FOR MEDICAL AND OTHER HEALTH SERVICES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of the Income Tax Act is enacted to read:

"TAX REBATE. --

A. A resident who files an individual New Mexico income tax return for the taxable year beginning in 2001, who is not a dependent of another taxpayer and whose taxable income qualifies, may claim a rebate for a portion of gross receipts taxes paid in the following amount per return:

(1) for married individuals filing separate returns with taxable income that does not exceed thirty-two

thousand dollars (\$32,000), a rebate per return of thirty dollars (\$30.00);

(2) for married individuals and surviving spouses filing joint returns with taxable income that does not exceed sixty-four thousand dollars (\$64,000), a rebate per return of sixty dollars (\$60.00);

(3) for single individuals with taxable income that does not exceed forty-two thousand dollars (\$42,000), a rebate per return of thirty dollars (\$30.00); and

(4) for individuals filing a head of household return with taxable income that does not exceed fifty-three thousand dollars (\$53,000), a rebate per return of forty-five dollars (\$45.00).

B. The tax rebate provided in Subsection A of this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

C. As used in this section, "dependent" means "dependent" as defined in Section 152 of the Internal Revenue Code. "

Section 2. Section 7-2-7 NMSA 1978 (being Laws 1994, Chapter 5, Section 20, as amended) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES. -- The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates

for any taxable year beginning in 2001:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000 but not over \$ 20,000	\$ 384 plus 6.0% of excess over \$ 12,000
Over \$ 20,000 but not over \$ 40,000	\$ 864 plus 7.1% of excess over \$ 20,000
Over \$ 40,000	\$ 2,284 plus 7.8% of excess over \$ 40,000.

B. For surviving spouses and married individuals filing joint returns:

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of excess over \$ 24,000
Over \$ 40,000 but not over \$ 80,000	\$ 1,728 plus 7.1% of

	excess over \$ 40,000
Over \$ 80,000	\$ 4,568 plus 7.8% of excess over \$ 80,000.

C. For single individuals and for estates and trusts:

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000
Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of excess over \$ 16,000
Over \$ 26,000 but not over \$ 52,000	\$ 1,104.50 plus 7.1% of excess over \$ 26,000
Over \$ 52,000	\$ 2,950.50 plus 7.8% of excess over \$52,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of excess over \$ 14,000
Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0% of excess over \$ 20,000

Over \$ 33,000 but not over \$ 65,000	\$1,405 plus 7.1% of excess over \$ 33,000
Over \$ 65,000	\$3,677 plus 7.8% of excess over \$ 65,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income. "

Section 3. Section 7-2-7 NMSA 1978 (being Laws 1994, Chapter 5, Section 20, as amended and as further amended by Section 2 of this act) is repealed and a new Section 7-2-7 NMSA 1978 is enacted to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, 2002:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000

Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000 but not over \$ 20,000	\$ 384 plus 6.0% of excess over \$ 12,000
Over \$ 20,000 but not over \$ 50,000	\$ 864 plus 7.1% of excess over \$ 20,000
Over \$ 50,000	\$ 2,994 plus 7.7% of excess over \$ 50,000.

**B. For surviving spouses and married individuals filing joint returns:**

<b>If the taxable income is:</b>	<b>The tax shall be:</b>
Not over \$8,000	1.7% of taxable income
Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of excess over \$ 8,000
Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of excess over \$ 16,000
Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of excess over \$ 24,000
Over \$ 40,000 but not over \$100,000	\$ 1,728 plus 7.1% of excess over \$ 40,000
Over \$100,000	\$ 5,988 plus 7.7% of excess over \$100,000.

**C. For single individuals and for estates and trusts:**

<b>If the taxable income is:</b>	<b>The tax shall be:</b>
Not over \$5,500	1.7% of taxable income

Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of excess over \$ 5,500
Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of excess over \$ 11,000
Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of excess over \$ 16,000
Over \$ 26,000 but not over \$ 65,000	\$1,104.50 plus 7.1% of excess over \$ 26,000
Over \$ 65,000	\$3,873.50 plus 7.7% of excess over \$ 65,000.

D. For heads of household filing returns:

If the taxable income is:	The tax shall be:
Not over \$7,000	1.7% of taxable income
Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of excess over \$ 7,000
Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of excess over \$ 14,000
Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0% of excess over \$ 20,000
Over \$ 33,000 but not over \$ 83,000	\$1,405 plus 7.1% of excess over \$ 33,000
Over \$ 83,000	\$4,955 plus 7.7% of excess over \$ 83,000.

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied

by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income. "

Section 4. Section 7-2-12 NMSA 1978 (being Laws 1965, Chapter 202, Section 10, as amended) is amended to read:

"7-2-12. TAXPAYER RETURNS--PAYMENT OF TAX.--

A. Every resident of this state and every individual deriving income from any business transaction, property or employment within this state and not exempt from tax under the Income Tax Act shall file a complete tax return with the department in form and content as prescribed by the secretary if the individual is required by the laws of the United States to file a federal income tax return or files a federal income tax return.

B. Unless otherwise required under the Income Tax Act or prescription of the secretary, in completing a return for a taxable year, the taxpayer shall declare the same filing status and number of personal exemptions as the taxpayer declared for federal income tax purposes for that same taxable year or, if the taxpayer was not required to file a federal income tax return for the taxable year, the filing status and number of personal exemptions that would



have been required or allowed for that taxpayer by the Internal Revenue Code and regulations thereunder for the taxable year.

C. The return required and the tax imposed on individuals under the Income Tax Act are due and payment is required on or before the fifteenth day of the fourth month following the end of the taxable year. "

Section 5. Section 7-2-14 NMSA 1978 (being Laws 1972, Chapter 20, Section 2, as amended) is amended to read:

"7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE. --

A. Except as otherwise provided in Subsection B of this section, any resident who files an individual New Mexico income tax return and who is not a dependent of another individual may claim a tax rebate for a portion of state and local taxes to which the resident has been subject during the taxable year for which the return is filed. The tax rebate may be claimed even though the resident has no income taxable under the Income Tax Act. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax rebate that would have been allowed on a joint return.

B. No claim for the tax rebate provided in this section shall be filed by a resident who was an inmate of a public institution for more than six months during the taxable year for which the tax rebate could be claimed or

who was not physically present in New Mexico for at least six months during the taxable year for which the tax rebate could be claimed.

C. For the purposes of this section, the total number of exemptions for which a tax rebate may be claimed or allowed is determined by adding the number of federal exemptions allowable for federal income tax purposes for each individual included in the return who is domiciled in New Mexico plus:

(1) two additional exemptions for each individual domiciled in New Mexico included in the return who is sixty-five years of age or older;

(2) one additional exemption for each individual domiciled in New Mexico included in the return who, for federal income tax purposes, is blind;

(3) two additional exemptions for each minor child or stepchild of the resident; and

(4) three exemptions for each minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident.

D. The tax rebate provided for in this section may be claimed in the amount shown in the following table:

Modified gross income is:	And the total number of exemptions is:
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Over	But Not Over	1	2	3	4	5	6 or More
\$ 0	\$ 500	\$ 140	\$ 185	\$ 230	\$ 280	\$ 325	\$ 370
500	1,000	155	225	290	360	410	500
1,000	1,500	155	225	290	360	410	510
1,500	2,000	155	225	290	360	410	520
2,000	2,500	155	225	290	360	410	520
2,500	3,000	155	225	290	360	410	520
3,000	3,500	155	225	290	360	410	520
3,500	4,000	155	225	290	360	410	520
4,000	4,500	155	225	290	360	410	520
4,500	5,000	145	220	280	355	410	520
5,000	5,500	135	205	265	340	410	495
5,500	6,000	125	180	245	300	365	475
6,000	7,000	105	150	200	255	320	430
7,000	8,000	95	135	170	210	260	340
8,000	9,000	85	125	155	200	225	280
9,000	10,000	75	110	135	170	205	240
10,000	11,000	70	95	115	150	180	215
11,000	12,000	65	85	105	130	155	185
12,000	13,000	60	75	100	115	135	165
13,000	14,000	60	75	100	115	135	165
14,000	15,000	55	70	90	105	125	140
15,000	16,000	50	65	85	100	110	130
16,000	17,000	40	60	75	95	100	125

17,000	18,000	35	55	70	85	95	110
18,000	19,000	30	40	60	70	85	95
19,000	20,000	25	35	50	60	70	75
20,000	21,000	20	30	35	50	60	65
21,000	22,000	15	25	30	40	50	55.

E. If a taxpayer's modified gross income is zero, the taxpayer may claim a credit in the amount shown in the first row of the table appropriate for the taxpayer's number of exemptions.

F. The tax rebates provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax rebates exceed the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

G. For purposes of this section, "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident."

Section 6. Section 7-2-18.6 NMSA 1978 (being Laws 1999, Chapter 217, Section 1) is amended to read:

"7-2-18.6. JOB MENTORSHIP TAX CREDIT. --

A. To encourage New Mexico businesses to hire

youth participating in certified school-to-career programs, any taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who is the owner of a New Mexico business may claim a credit in an amount equal to fifty percent of gross wages paid to qualified students who are employed by the business during the taxable year for which the return is filed. The tax credit may be known as the "job mentorship tax credit".

B. A taxpayer who is the owner of a New Mexico business may claim the credit provided in this section for each taxable year in which the business employs one or more qualified students. The maximum aggregate credit allowable shall not exceed fifty percent of the gross wages paid to not more than ten qualified students employed by the business for up to three hundred twenty hours of employment of each qualified student in each taxable year for a maximum of three taxable years for each qualified student. In no event shall a taxpayer claim a credit in excess of twelve thousand dollars (\$12,000) in any taxable year. The taxpayer shall certify that hiring the qualified student does not displace or replace a current employee.

C. The department shall allocate annually to the state school-to-work director certificates that shall be distributed by the state school-to-work director to administrators of certified school-to-career programs. The certificates, when properly executed, shall serve as

evidence of the taxpayer's eligibility for the job mentorship tax credit. The maximum number of certificates that may be issued to a single school-to-career program administrator is equal to the number of qualified school-to-career participants in that program on May 1 of the current calendar year. The certificates shall be issued in the order in which they are requested. To claim the credit pursuant to this section, the taxpayer must submit with respect to each employee for whom the credit is claimed:

(1) a properly executed certificate;

(2) information required by the secretary with respect to the employee's employment by the business during the taxable year for which the credit is claimed; and

(3) information required by the secretary that the employee was not also employed in the same taxable year by another New Mexico business qualifying for and claiming a job mentorship tax credit for that employee pursuant to this section or the Corporate Income and Franchise Tax Act.

D. The credit provided pursuant to this section may only be deducted from the taxpayer's New Mexico income tax liability for the taxable year. Any portion of the maximum tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive taxable years; provided the total tax credits claimed under this section

shall not exceed the maximum allowable pursuant to Subsection B of this section.

E. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

F. A taxpayer who otherwise qualifies for and claims a job mentorship tax credit for employment of qualified students by a partnership, limited partnership, limited liability company, S corporation or other business association of which the taxpayer is a member may claim a credit only in proportion to his interest in the partnership, limited partnership, limited liability company, S corporation or association. The total credit claimed by all members of the business shall not exceed the maximum tax credit allowable pursuant to Subsection B of this section.

G. As used in this section:

(1) "certified school-to-career program" means a summer employment program certified by the state school-to-work office as a school-to-career program designed for secondary school students to create academic and career goals and objectives and find employment in a job meeting those goals and objectives;

(2) "New Mexico business" means a partnership, limited partnership, limited liability company treated as a partnership for federal income tax purposes, S

corporation or sole proprietorship that carries on a trade or business in New Mexico and that employs in New Mexico less than three hundred full-time employees at any one time during the taxable year; and

(3) "qualified student" means an individual who is at least fourteen years of age but not more than twenty-one years of age who is attending full time an accredited New Mexico secondary school and who is a participant in a certified school-to-career program "

Section 7. Section 7-2A-17 NMSA 1978 (being Laws 1999, Chapter 217, Section 2) is amended to read:

"7-2A-17. JOB MENTORSHIP TAX CREDIT. --

A. To encourage New Mexico businesses to hire youth participating in certified school-to-career programs, any taxpayer who is a New Mexico business and who files a corporate income tax return may claim a credit in an amount equal to fifty percent of gross wages paid to qualified students who are employed by the taxpayer during the taxable year for which the return is filed. The tax credit may be known as the "job mentorship tax credit".

B. A taxpayer may claim the credit provided in this section for each taxable year in which the taxpayer employs one or more qualified students. The maximum aggregate credit allowable shall not exceed fifty percent of the gross wages paid to not more than ten qualified students employed by the taxpayer for up to three hundred twenty



hours of employment of each qualified student in each taxable year for a maximum of three taxable years for each qualified student. In no event shall a taxpayer claim a credit in excess of twelve thousand dollars (\$12,000) in any taxable year. The employer shall certify that hiring the qualified student does not displace or replace a current employee.

C. The department shall allocate annually to the state school-to-work director certificates that shall be distributed by the state school-to-work director to administrators of certified school-to-career programs. The certificates, when properly executed, shall serve as evidence of the taxpayer's eligibility for the job mentorship tax credit. The maximum number of certificates that may be issued to a single school-to-career program administrator is equal to the number of qualified school-to-career participants in that program on May 1 of the current calendar year. The certificates shall be issued in the order in which they are requested. To claim the credit under this section, the taxpayer must submit with respect to each employee for whom the credit is claimed:

- (1) a properly executed certificate;
- (2) information required by the secretary with respect to the employee's employment by the taxpayer during the taxable year for which the credit is claimed; and
- (3) information required by the secretary

that the employee was not also employed in the same taxable year by another New Mexico business qualifying for and claiming a job mentorship tax credit for that employee pursuant to this section or the Income Tax Act.

D. The credit provided pursuant to this section may only be deducted from the taxpayer's corporate income tax liability for the taxable year. Any portion of the maximum tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive taxable years; provided the total tax credits claimed pursuant to this section shall not exceed the maximum allowable under Subsection B of this section.

E. As used in this section:

(1) "certified school-to-career program" means a summer employment program certified by the state school-to-work office as a school-to-career program designed for secondary school students to create academic and career goals and objectives and find employment in a job meeting those goals and objectives;

(2) "New Mexico business" means a corporation that carries on a trade or business in New Mexico and that employs in New Mexico less than three hundred full-time employees during the taxable year; and

(3) "qualified student" means an individual who is at least fourteen years of age but not

more than twenty-one years of age who is attending full time an accredited New Mexico secondary school and who is a participant in a certified school-to-career program."

Section 8. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX--FRANCHISORS AND FRANCHISEES--CERTAIN SHARED EXPENSES AND COOPERATIVE ADVERTISING RECEIPTS.--

A. Receipts of a reservation fund from a franchisor or its franchisees for the purpose of developing, maintaining or modifying a reservation system are deductible from gross receipts. Such receipts must be used by the fund for the primary purposes of developing, operating, maintaining or modifying a reservation system for the benefit of the franchisor or franchisees that make payment to the fund.

B. Receipts of a franchisor engaged in the hospitality industry from a franchisee for the purpose of reimbursing a franchisor for payments made by the franchisor to travel agents for commission earned for booking a guest in the franchisee's facility are deductible from gross receipts.

C. Receipts of a franchisor engaged in the hospitality industry from a franchisee for the purpose of reimbursing a franchisor for the costs of providing training off the franchisee's premises to a franchisee and its

employees regarding procedures required for compliance with the franchise agreement are deductible from gross receipts.

D. Receipts of an advertising cooperative from franchisors or franchisees are deductible from gross receipts. Such receipts must be used by the advertising cooperative for the primary purpose of procuring advertising or marketing services for the benefit of the members that make payments to it.

E. For the purposes of this section:

(1) "advertising cooperative" means any form of pooling of funds or other cost-sharing arrangement that is contractually or otherwise limited to expending the funds only on advertising and marketing, including:

(a) any form of escrow, actual or constructive trust or segregated account; or

(b) any entity that directly or indirectly derives receipts from its members or other contributors for the primary purpose of procuring advertising or marketing services for the benefit of the members;

(2) "hospitality industry" means a hotel, motel, resort or similar facility that provides accommodations for overnight stays; and

(3) "reservation fund" means any form of pooling of funds or other cost-sharing arrangements in which a franchisor is contractually or otherwise limited to

expending the funds for the primary purposes of developing, operating, maintaining and modifying a reservation system, including:

(a) any form of escrow, actual or constructive trust or segregated account maintained by a franchisor; or

(b) any entity designated by a franchisor that directly or indirectly derives receipts from a franchisor or its franchisees for the primary purposes of developing, operating, maintaining or modifying a reservation system for the benefit of the franchisor or its franchisees. "

Section 9. Section 7-9-77.1 NMSA 1978 (being Laws 1998, Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Receipts of any person from payments by the United States government or any agency thereof for provision of medical and other health services, hospice care or home health services to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

B. Receipts from payments by a third-party administrator of the federal TRICARE program for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be

deducted from gross receipts.

C. For the purposes of this section:

(1) "home health services" means "home health services" as defined in 42 USCA 1395x(m) for purposes of Title 18 of the federal Social Security Act;

(2) "hospice care" means "hospice care" as defined in 42 USCA 1395x(dd) for purposes of Title 18 of the federal Social Security Act;

(3) "medical and other health services" means "medical and other health services" as defined in 42 USCA 1395x(s) for purposes of Title 18 of the federal Social Security Act;

(4) "medical doctor" means a person licensed as a physician to practice medicine pursuant to the provisions of the Medical Practice Act;

(5) "osteopathic physician" means a person licensed as an osteopathic physician pursuant to the provisions of Chapter 61, Article 10 NMSA 1978; and

(6) "TRICARE program" means the program defined in 10 USCA 1072(7). "

Section 10. REPEAL. -- Laws 1999, Chapter 217, Section 4 is repealed.

Section 11. APPLICABILITY. --

A. The provisions of Sections 4 through 7 of this act apply to taxable years beginning on or after January 1, 2001.

B. The provisions of Sections 1 and 2 of this act apply to taxable years beginning in 2001.

C. The provisions of Section 3 of this act apply to taxable years beginning on or after January 1, 2002.

Section 12. EFFECTIVE DATE. --

A. The effective date of the provisions of Sections 8 through 10 of this act is July 1, 2001.

B. The effective date of the provisions of Section 3 of this act is January 1, 2002. \_\_\_\_\_

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