

NORTHERN BORDER REGIONAL COMMISSION
REAUTHORIZATION ACT OF 2018

NOVEMBER 14, 2018.—Ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3288]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3288) to amend title 40, United States Code, to promote regional economic and infrastructure development, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Northern Border Regional Commission Reauthorization Act of 2018”.

SEC. 2. ADMINISTRATIVE EXPENSES OF REGIONAL COMMISSIONS.

Section 15304(c)(3)(A) of title 40, United States Code, is amended by striking “unanimous” and inserting “majority”.

SEC. 3. ECONOMIC AND INFRASTRUCTURE DEVELOPMENT GRANTS.

Section 15501 of title 40, United States Code, is amended—

(1) in subsection (b) by striking “paragraphs (1) through (3)” and inserting “paragraph (1), (2), (3), or (7)”; and

(2) in subsection (f) by striking the period at the end and inserting “, except that financial assistance may be used as otherwise authorized by this subtitle to attract businesses to the region from outside the United States.”.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 15751(a) of title 40, United States Code, is amended by striking “2018” and inserting “2023”.

SEC. 5. TECHNICAL AMENDMENTS.

Chapters 1, 2, 3, and 4 of subtitle V of title 40, United States Code, are redesignated as chapters 151, 153, 155, and 157, respectively.

SEC. 6. VACANCIES.

Section 15301 of title 40, United States Code, is amended by adding at the end the following:

“(f) SUCCESSION.—Subject to the time limitations set forth in section 3346 of title 5, United States Code, the Federal Cochairperson may designate a Federal employee of the Commission to perform the functions and duties of the office of the Federal Cochairperson temporarily in an acting capacity if both the Federal Cochairperson and the alternate Federal Cochairperson die, resign, or otherwise are unable to perform the functions and duties of their offices.”.

PURPOSE OF LEGISLATION

H.R. 3288, the Northern Border Regional Commission Reauthorization Act, amends title 40, United States Code, to promote regional economic and infrastructure development, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3288, as amended, reauthorizes the Northern Border Regional Commission (NBRC), the Southwest Border Regional Commission, and the Southeast Crescent Regional Commission through 2023 and makes other necessary changes to the commissions.

The commissions are Federal-State partnerships for economic and community development and provide federal funds for critical economic and community development projects in distressed communities throughout their respective region.

The Northern Border Regional Commission covers portions of Maine, New Hampshire, Vermont, and New York. The Southwest Border Regional Commission covers portions of Arizona, California, New Mexico, and Texas. The Southeast Crescent Regional Commission covers Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida not already covered by the Appalachian Regional Commission or the Delta Regional Authority.

H.R. 3288, as amended, makes several changes to improve administration of the commissions. First, the bill changes the “unanimous vote” requirement needed to determine the State share of administrative expenses to “majority vote”. Under current law, a unanimous vote of the State members of each Commission is required to determine the State share of the Commissions’ adminis-

trative expenses. Unfortunately, this requirement has prevented the States in the NBRC region from reaching an agreement on the State share of administrative expenses.

Second, the bill, as amended, authorizes the Commissions to include promoting the development of renewable and alternative energy sources to meet the minimum percentage of grants the law requires be allocated for certain activities. Currently, the NBRC makes grants for various purposes, including promoting the development of renewable and alternative energy sources. The Commissions, however, must allocate at least forty percent of grant funds to: (1) develop the transportation infrastructure of the region; (2) to develop the basic public infrastructure of the region; and (3) to develop the telecommunications infrastructure of the region. Due to the limited resources available to the NBRC and the energy resources and needs of the area, the NBRC has had difficulty meeting the forty percent requirement while also trying to meet the needs of the region.

Third, the bill, as amended, reauthorizes the Commissions through 2023. Currently, the authorization of appropriations for the three Commissions expires at the end of Fiscal Year 2018.

Finally, H.R. 3288, as amended, authorizes the Federal Co-chairperson to appoint a Federal employee of the Commission to fulfill the duties of the Office of the Federal Co-chairperson in a temporary capacity in the event that the positions of Federal Co-chairperson and Alternate Federal Co-chairperson are both vacant. Without someone fulfilling the duties of the Office of the Federal Co-chairperson, the ability of the commissions to function is threatened.

HEARINGS

On September 13, 2017, the Subcommittee on Economic Development, Public Buildings and Emergency Management held a hearing titled “*Building a 21st Century Infrastructure for America: Economic Development Stakeholders’ Perspectives*” and received testimony on the important role economic development organizations play in creating resilient infrastructure.

LEGISLATIVE HISTORY AND CONSIDERATION

On July 18, 2017, Representative Ann M. Kuster (D–NH) introduced H.R. 3288, amending title 40, United States Code, to promote regional economic and infrastructure development, and for other purposes. The bill was referred primarily to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services.

On April 12, 2018, the Committee on Transportation and Infrastructure met in open session. An amendment was offered by Representative Dina Titus (D–NV) and adopted by the Committee by voice vote. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report

and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 3288 as amended.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 3288 as amended from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 18, 2018.

Hon. BILL SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3288, the Northern Border Regional Commission Reauthorization Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 3288—Northern Border Regional Commission Reauthorization Act of 2017

Summary: H.R. 3288 would authorize the annual appropriation of \$30 million over the 2019–2023 period for the Northern Border Regional Commission (NBRC). Under current law, \$30 million is authorized to be appropriated each year for the NBRC through 2018.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 3288 would cost \$92 million over the 2019–2023 period. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 3288 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 3288 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 3288 is shown in the following table. The costs of the legislation fall within budget function 450 (community and rural development).

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Authorization Level	0	30	30	30	30	30	150
Estimated Outlays	0	6	12	20	25	29	92

Basis of estimate: For this estimate, CBO assumes that H.R. 3288 will be enacted near the end of 2018 and that the authorized amounts will be appropriated for each year. Estimated outlays are based on historical spending patterns.

The NBRC is a federal-state partnership for economic and community development in Maine, New Hampshire, New York, and Vermont. Under current law, \$30 million is authorized to be appropriated annually through 2018 to the NBRC; in 2018 its appropriation was \$15 million. H.R. 3288 would extend the \$30 million annual authorization of appropriations through 2023. CBO estimates that implementing H.R. 3288 would cost \$92 million over the 2019–2023 period and \$58 million in years after 2023.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: None.

Mandates: H.R. 3288 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Robert Reese; Mandates: Andrew Laughlin.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to amend title 40, United States Code, to promote regional economic and infrastructure development, and for other purposes.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 3288 as amended establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that enacting H.R. 3288, as amended, does not direct the completion of a specific rulemaking within the meaning of section 551 of title 5, United States Code.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 3288, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF LEGISLATION, AS AMENDED

Section 1. Short title

Section 1 provides that the Act may be cited as the “Northern Border Regional Commission Reauthorization Act of 2017”.

Section 2. Administrative expenses of the regional commissions

Section 2 amends section 15304 of title 40, United States Code, to require a majority vote of the state members of the commissions to determine the State shares of the administrative costs.

Section 3. Economic and infrastructure development grants

Section 3 amends the types of projects included in the minimum allocation threshold and clarifies that financial assistance may be used as otherwise authorized to attract businesses to the respective regions from outside the United States.

Section 4. Authorization of appropriations

Section 4 reauthorizes the commissions through 2023.

Section 5. Technical amendments

Section 5 redesignates certain chapters in subtitle V of title 40, United States Code.

Section 6. Vacancies

Section 6 makes changes to ensure vacancies are filled consistent with the Federal Vacancies Reform Act of 1998 (Pub. L. 105–277).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 40, UNITED STATES CODE

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**SUBTITLE V—REGIONAL ECONOMIC AND
INFRASTRUCTURE DEVELOPMENT**

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CHAPTER [1] 151—GENERAL PROVISIONS

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CHAPTER [2] 153—REGIONAL COMMISSIONS

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§ 15301. Establishment, membership, and employees

(a) **ESTABLISHMENT.**—There are established the following regional Commissions:

- (1) The Southeast Crescent Regional Commission.
- (2) The Southwest Border Regional Commission.
- (3) The Northern Border Regional Commission.

(b) **MEMBERSHIP.**—

(1) **FEDERAL AND STATE MEMBERS.**—Each Commission shall be composed of the following members:

- (A) A Federal Cochairperson, to be appointed by the President, by and with the advice and consent of the Senate.

- (B) The Governor of each participating State in the region of the Commission.
- (2) ALTERNATE MEMBERS.—
- (A) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal Cochairperson for each Commission. The alternate Federal Cochairperson, when not actively serving as an alternate for the Federal Cochairperson, shall perform such functions and duties as are delegated by the Federal Cochairperson.
- (B) STATE ALTERNATES.—The State member of a participating State may have a single alternate, who shall be appointed by the Governor of the State from among the members of the Governor’s cabinet or personal staff.
- (C) VOTING.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State member for which the alternate member is an alternate.
- (3) COCHAIRPERSONS.—A Commission shall be headed by—
- (A) the Federal Cochairperson, who shall serve as a liaison between the Federal Government and the Commission; and
- (B) a State Cochairperson, who shall be a Governor of a participating State in the region and shall be elected by the State members for a term of not less than 1 year.
- (4) CONSECUTIVE TERMS.—A State member may not be elected to serve as State Cochairperson for more than 2 consecutive terms.
- (c) COMPENSATION.—
- (1) FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5.
- (2) ALTERNATE FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson’s alternate shall be compensated by the Federal Government at level V of the Executive Schedule as set out in section 5316 of title 5.
- (3) STATE MEMBERS AND ALTERNATES.—Each State member and alternate shall be compensated by the State that they represent at the rate established by the laws of that State.
- (d) EXECUTIVE DIRECTOR AND STAFF.—
- (1) IN GENERAL.—A Commission shall appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Commission to carry out its duties. Compensation under this paragraph may not exceed the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.
- (2) EXECUTIVE DIRECTOR.—The executive director shall be responsible for carrying out the administrative duties of the Commission, directing the Commission staff, and such other duties as the Commission may assign.
- (e) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of a Commission (other than the Federal Cochairperson, the alternate Federal Cochairperson, staff of the Federal

Cochairperson, and any Federal employee detailed to the Commission) shall be considered to be a Federal employee for any purpose.

(f) *SUCCESSION.*—Subject to the time limitations set forth in section 3346 of title 5, United States Code, the Federal Cochairperson may designate a Federal employee of the Commission to perform the functions and duties of the office of the Federal Cochairperson temporarily in an acting capacity if both the Federal Cochairperson and the alternate Federal Cochairperson die, resign, or otherwise are unable to perform the functions and duties of their offices.

* * * * *

§ 15304. Administrative powers and expenses

(a) **POWERS.**—In carrying out its duties under this subtitle, a Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Commission as the Commission considers appropriate;

(2) authorize, through the Federal or State Cochairperson or any other member of the Commission designated by the Commission, the administration of oaths if the Commission determines that testimony should be taken or evidence received under oath;

(3) request from any Federal, State, or local agency such information as may be available to or procurable by the agency that may be of use to the Commission in carrying out the duties of the Commission;

(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties by the Commission;

(5) request the head of any Federal agency, State agency, or local government to detail to the Commission such personnel as the Commission requires to carry out its duties, each such detail to be without loss of seniority, pay, or other employee status;

(6) provide for coverage of Commission employees in a suitable retirement and employee benefit system by making arrangements or entering into contracts with any participating State government or otherwise providing retirement and other employee coverage;

(7) accept, use, and dispose of gifts or donations or services or real, personal, tangible, or intangible property;

(8) enter into and perform such contracts, cooperative agreements, or other transactions as are necessary to carry out Commission duties, including any contracts or cooperative agreements with a department, agency, or instrumentality of the United States, a State (including a political subdivision, agency, or instrumentality of the State), or a person, firm, association, or corporation; and

(9) maintain a government relations office in the District of Columbia and establish and maintain a central office at such location in its region as the Commission may select.

(b) **FEDERAL AGENCY COOPERATION.**—A Federal agency shall—

(1) cooperate with a Commission; and

(2) provide, to the extent practicable, on request of the Federal Cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

(c) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Subject to paragraph (2), the administrative expenses of a Commission shall be paid—

(A) by the Federal Government, in an amount equal to 50 percent of the administrative expenses of the Commission; and

(B) by the States participating in the Commission, in an amount equal to 50 percent of the administrative expenses.

(2) EXPENSES OF THE FEDERAL COCHAIRPERSON.—All expenses of the Federal Cochairperson, including expenses of the alternate and staff of the Federal Cochairperson, shall be paid by the Federal Government.

(3) STATE SHARE.—

(A) IN GENERAL.—Subject to subparagraph (B), the share of administrative expenses of a Commission to be paid by each State of the Commission shall be determined by a [unanimous] majority vote of the State members of the Commission.

(B) NO FEDERAL PARTICIPATION.—The Federal Cochairperson shall not participate or vote in any decision under subparagraph (A).

(C) DELINQUENT STATES.—During any period in which a State is more than 1 year delinquent in payment of the State’s share of administrative expenses of the Commission under this subsection—

(i) no assistance under this subtitle shall be provided to the State (including assistance to a political subdivision or a resident of the State) for any project not approved as of the date of the commencement of the delinquency; and

(ii) no member of the Commission from the State shall participate or vote in any action by the Commission.

(4) EFFECT ON ASSISTANCE.—A State’s share of administrative expenses of a Commission under this subsection shall not be taken into consideration when determining the amount of assistance provided to the State under this subtitle.

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CHAPTER [3] 155—FINANCIAL ASSISTANCE

§ 15501. Economic and infrastructure development grants

(a) IN GENERAL.—A Commission may make grants to States and local governments, Indian tribes, and public and nonprofit organizations for projects, approved in accordance with section 15503—

(1) to develop the transportation infrastructure of its region;

(2) to develop the basic public infrastructure of its region;

(3) to develop the telecommunications infrastructure of its region;

(4) to assist its region in obtaining job skills training, skills development and employment-related education, entrepreneurship, technology, and business development;

(5) to provide assistance to severely economically distressed and underdeveloped areas of its region that lack financial resources for improving basic health care and other public services;

(6) to promote resource conservation, tourism, recreation, and preservation of open space in a manner consistent with economic development goals;

(7) to promote the development of renewable and alternative energy sources; and

(8) to otherwise achieve the purposes of this subtitle.

(b) ALLOCATION OF FUNDS.—A Commission shall allocate at least 40 percent of any grant amounts provided by the Commission in a fiscal year for projects described in [paragraphs (1) through (3)] paragraph (1), (2), (3), or (7) of subsection (a).

(c) SOURCES OF GRANTS.—Grant amounts may be provided entirely from appropriations to carry out this subtitle, in combination with amounts available under other Federal grant programs, or from any other source.

(d) MAXIMUM COMMISSION CONTRIBUTIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 15702 may be increased to 80 percent.

(3) SPECIAL RULE FOR REGIONAL PROJECTS.—A Commission may increase to 60 percent under paragraph (1) and 90 percent under paragraph (2) the maximum Commission contribution for a project or activity if—

(A) the project or activity involves 3 or more counties or more than one State; and

(B) the Commission determines in accordance with section 15302(a) that the project or activity will bring significant interstate or multicounty benefits to a region.

(e) MAINTENANCE OF EFFORT.—Funds may be provided by a Commission for a program or project in a State under this section only if the Commission determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within region, will not be reduced as a result of funds made available by this subtitle.

(f) NO RELOCATION ASSISTANCE.—Financial assistance authorized by this section may not be used to assist a person or entity in relocating from one area to another[.], *except that financial assistance may be used as otherwise authorized by this subtitle to attract businesses to the region from outside the United States.*

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CHAPTER [4] 157—ADMINISTRATIVE PROVISIONS

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SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

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§ 15751. Authorization of appropriations

(a) **IN GENERAL.**—There is authorized to be appropriated to each Commission to carry out this subtitle \$30,000,000 for each of fiscal years 2008 through **[2018] 2023**.

(b) **ADMINISTRATIVE EXPENSES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), not more than 10 percent of the funds made available to a Commission in a fiscal year under this section may be used for administrative expenses.

(2) **LIMITED FUNDING.**—In a case in which less than \$10,000,000 is made available to a Commission for a fiscal year under this section, paragraph (1) shall not apply.

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