

EAMES CONSULTING

2019

END OF SESSION LEGISLATIVE REPORT



A LOOK BACK OVERVIEW

Oregon's 2019 Legislative Session was an unprecedented display of Democratic policy triumphs and vitriolic cross-party relations. While each legislative session brings unique hurdles, this session was marked by divisive partisanship, culminating in two walkouts by Senate Republicans frustrated at their inability to have a greater impact on legislation. To better understand why the session reached a boiling point, one must begin with the results of the 2018 midterm elections.

November 6, 2018, election day, was a decisive day of victory for the Democratic Party as the Governor's seat was retained by incumbent Kate Brown and Democrats made significant gains in their majorities in both the House and Senate chambers. The Gubernatorial race was not nearly as close as had been predicted, as incumbent Governor Kate Brown bested former Legislator Knute Buehler by a margin of 50-44% despite a contentious campaign fueled by record-breaking campaign contributions.

Oregon Democrats were able to secure supermajorities in both the House and the Senate. In the Senate, Democrats picked up one seat in the Medford/Ashland area by the election of Jeff Golden, bringing the chamber totals to 18 Democrats and 12 Republicans. In the House, Democrats flipped 3 Republican held seats: Anna Williams defeated incumbent Jeff Helfrich in Hood River, Rachel Prusak defeated Julie Parrish in West Linn, and Courtney Neron

The stage was set, or so it seemed, for the 80th Legislative Assembly to “swing left” and the Democrats to test the limits of their progressive agenda.

beat Rich Vial in Sherwood, bringing the House to a total of 38 Democrats and 22 Republicans.

The blue wave swept through the ballot measure campaigns as well resulting in reduced barriers to affordable housing, maintained abortion access and sanctuary state status, and affirmation of the Legislature's ability to raise revenue.

The stage was set, or so it seemed, for the 80th Legislative Assembly to “swing left” and the Democrats to test the limits of their progressive agenda.

2019-21 BUDGET

With the momentum of a successful election, in early December, 2018, Governor Brown released an ambitious proposed budget for the 2019-21 biennium. Her budget included enhanced revenue from a \$2 billion revenue increase from yet-to-be-passed corporate tax reform, reauthorization of both the hospital provider tax and the health insurance premium assessment, and a tobacco tax increase of \$2 per pack. The Governor also named five priorities that would shape her agenda for the long session: decreasing money in politics and improving voter access, increasing efficiency and reducing waste, affordability of housing, healthcare, and education, prevention in addiction, environment, and poverty, and, the most explicit policy in her agenda: a \$2 billion investment in education.

Ultimately, many of these priorities were realized in the 2019 Legislative Session. Much of it made possible by two simple factors: the power wielded by a bicameral Democratic supermajority and Oregon's thriving economy.



Oregon's constitution requires a three-fifths majority, or supermajority, to pass revenue raising measures, so with Senate Democrats holding the exact number of seats required to meet this bar and House Democrats three members above the threshold, the vision for the session was set around securing new sources of funding.

Additionally, on May 15, the session's final quarterly revenue forecast showed Oregon's economy far exceeded expectations, providing the state with record-breaking resources. In the forecast, an additional \$870 million was made available to the Legislature to invest, resulting in about \$500 million above what a typical year would bring. With this uptick came near certainty that Oregon's largest-ever kicker would take effect in 2020, anticipated to distribute around \$1.4 billion to Oregon taxpayers. In spite of the positive news, concerns loomed that the exemplary boom was indicative of economic patterns ahead of a downturn. Economists who presented the forecast deemed the tax



Senate President Peter Courtney addressing the chamber

season typical of something we could see prior to a crash. To hedge the uncertain future, Oregon planned to end the '17-'19 biennium with about \$3.5 billion in reserves; far and away larger than anything Oregon saved before, using the unanticipated resources as a cushion for any downturn to come.

The news late in session of this record-breaking revenue forecast served as a catalyst among growing Republican push-back, but tensions had already been rising.

THE BIG ONES: MAJOR POLICY CONSIDERATIONS

The first two major policies taken up by the Legislature were not new to the body and had been discussed in previous sessions: HB 2010 extended the healthcare assessments approved by voters in January 2018's Ballot Measure 101 and SB 608 revisited Oregon's statewide rent stabilization proposal in addition to preventing rent spikes and no-cause eviction. Even after taking into account the Legislature's familiarity with the two policies, the speed with which these substantive policies moved through the process still took the building by surprise. Both bills hit the Governor's desk before most bills had their first work session in committee.

This early momentum served notice from Democratic leadership of their commitment to moving through an aggressive agenda. Next up was the largest and most highly anticipated revenue raising proposal was formulated, the Student Success Act, causing tension between parties to peak. In early May, Senate Republicans staged a four-day walkout in protest of the Student Success Act, HB 3427. This bill included a commercial activities tax intended to accomplish the Governor's chief priority: injecting \$2 billion into Oregon schools. Championed by leadership of the Joint Committee on Student Success, Representative Barbara Smith Warner and Senator Arnie Roblan, the package divides roughly half the new money among districts based on enrollment with the remaining dollars dedicated to early learning and statewide initiatives to support students. With little leverage in negotiations, GOP Senators resorted to what became known as the "nuclear option" and vacated the Capitol ahead of the scheduled vote on the package. This move denied Democrats a 20-member quorum, halting all business in the Senate, including the package.

With signs covering Republican Senators' desks reading "REAL PERS REFORM NOW," it was initially believed negotiations around the walkout were directly tied to the ballooning PERS debt.

However, what brought Republicans back to the building had nothing to do with Oregon's budget. Instead, two policy bills were killed that Republicans requested exchange for their return. Governor Brown and Senate Republican leadership reached a deal resulting in the death of HB 3063, which would have required public school students be vaccinated, and SB 978, an omnibus gun violence prevention package. These policy bills ignited more public engagement than possibly all other proposed legislation combined up to that point. On days with hearings scheduled for either bill, the Capitol grounds was flooded with activists, with opposition largely outnumbering proponents. The death of these two policy bills sent a clear signal that Democrats planned to maintain steadfast focus on seizing the opportunities afforded to them by a three-fifths majority, and thus would prioritize revenue raising measures above policy.

With a negotiation reached, Senate Republicans returned on May 13 for a vote on the Student Success package, which passed the chamber on the party line. But while the promise of PERS reform was not a factor in bringing back Senate Republicans, the necessity of it loomed over Democrats. Made increasingly severe by the ruling against the state in the 2015 case of *Moro v. State*, the ballooning public employee pension system was on track to gobble up the Student Success Act's \$2 billion investment over the next 10 years. This led to the passage of SB 1049, a bill which reinstates employee contributions dedicated to pension benefits, ranging from 0.75% to 2.5% and places a cap on pensionable salaries at \$195,000. The bill was widely disliked by both parties, with those on the far left and far right believing the bill went too far and not far enough, respectively. Ultimately, with leadership recognizing the financial strain of the current system, arms were twisted to move the package across the finish line, and the bill was signed into law by the Governor.

MORE THAN LEGISLATION...

Over the next couple of months the rapid progress of the Democratic agenda slowed as bills faced deadlines in both chambers and the bulk of noncontroversial business moved through the process.

During this session, Oregon lost two long-serving elected officials to battles with cancer. On February 26, Secretary of State Dennis Richardson passed away after a lengthy fight with brain cancer. Richardson was a combat helicopter pilot during the Vietnam War and spent much of his later life in public service, having served six terms in the state House after being elected in 2002. He served as Secretary of State from 2016 until the time of his passing.

On May 29, Senator Jackie Winters passed away from lung cancer. First elected in 1999, Senator Winters was one of the longest serving members of the Legislature and was highly regarded by both sides of the aisle. Elected to the Oregon Senate in 2006, Winters eventually rose to the post of caucus leader, becoming the first and only Black person to hold the position. In her final months battling lung cancer, Senator Winters continued her pursuit of criminal justice reform. Gaining the support of her fellow Republicans, Winters passed SB 1008, overturning aspects of Oregon's Measure 11 and providing historic reforms to the juvenile sentencing system.

It is also important to note issues of workplace misconduct, sexual harassment, and unlawful discrimination were prominent throughout the 2019 Legislative Session. Questions around the Capitol's workplace culture first entered the media spotlight with the uncovering of then-Senator Jeff Kruse's pattern of sexual harassment, but were quickly understood to be entrenched and widespread. Following the 2018 session, many new workplace conduct issues came to light as House and Senate

Leadership found themselves entangled in accusations of mishandling incident reports related to these complaints.

The Legislature's actions this session showed they were eager to put that to rest. Early in session, leadership introduced mandatory workplace conduct trainings to capitol staff and lobbyists. While the trainings proved to be controversial, they sparked a discussion that set the stage for new standards of workplace conduct in the building. This continued through session with Speaker Kotek's swift removal of members from positions of authority and committees when concerns around inappropriate behavior arose, including the removal of Representative Greenlick's gavel from the House Health Care Committee after a heated exchange, and the removal of Representative Post from the Judiciary Committee over inciting comments he made to the media regarding gun violence prevention advocates.

A settlement agreement was reached in early March to the tune of \$1.1 million paid to eight women who were sexually harassed in the Capitol by members and staff. Throughout the settlement negotiations, pressure remained on Senate President Peter Courtney from interest groups and members both inside his caucus and out. The day the settlement was released, Senate President Courtney notified staff and fellow

members he had been instructed by his doctors to take a 10-day medical leave of absence. Some speculated the leave was tied to heightened focus on workplace conduct issues and that it might signal a change in leadership, but ultimately Senator Courtney returned to his post, just in time to vote on a measure supporting survivors of sexual assault.

Workplace conduct issues continued to be a factor in the final weeks and hours of the 2019 Legislative Session as a result of comments made in the heat of final partisan negotiations.

THE CULMINATION AHEAD OF SINE DIE

Less than two weeks prior to the constitutionally required Sine Die, news spread that Republicans were threatening the "nuclear option" of a walkout once again. Earlier concerns that any negotiations with Senate Republicans would set a pattern of denying quorum came to fruition as the same Senators fled a second time. This walkout focused on their staunch opposition to HB 2020, a cap and invest policy which became known as the "carbon bill." The legislation would have capped emissions to move Oregon closer to previously set climate goals, but Republicans argued the costs associated with the program would harm rural businesses. The issue rose to the national media stage



Senator Jackie Winters

as Governor Brown, at the request of Senate leadership, deployed Oregon State Police to retrieve the absconding Senators. The move was largely symbolic as many Republicans had left the state, outside Oregon Troopers' jurisdiction.

After nine days, an agreement was struck to kill HB 2020 and many of the Senate Republicans finally returned. With less than 48 hours to spare before the legislative session would be forced to adjourn, the Senate chamber began moving the remaining docket with rapid speed. The chamber voted on 105 bills on Saturday, possibly setting a new single-day record for the chamber. However, much of the policy passed on Saturday was noncontroversial, leaving several Democratic priorities subject to negotiations on the final day.

With hours to spare, many of the remaining priorities were negotiated through the Senate chamber and ultimately passed, but not without tumult. The last policy vote taken by the Senate was on HB 2270, a bill referring a \$2 per pack tobacco tax increase to the ballot. Republicans and the tobacco lobby mounted an impressive defense, ultimately pushing the vote down to the wire. Procedural rules require a bill be read on the floor on three consecutive days prior to a bill's final vote. With only two days remaining, the rules would need to be suspended for the bill to pass, thus forcing Democrats to rely on Republican votes for the tax referral to pass. Republicans gained substantial leverage for their priorities as well as investments dedicated to their districts. In the final moments of the session, Republicans allowed the vote to move forward by granting the necessary rules-suspension. Ultimately, the bill passed the Senate on a party-line vote.

This session's massive achievements are due in large part to the leverage afforded to Democratic leadership as a result of their victories in the 2018 election. But these achievements were won at considerable cost, as the 2019 Legislature wraps up more partisan and more divided than it began. Many predicted



this session's supermajority margins would result in Democratic infighting with moderate Democrats leveraging their votes required for revenue raising measures. It is perhaps indicative of the national political landscape that Oregon's session resulted instead in fierce partisanship, rather than a race to the middle.

In addition to the referral of the tobacco tax, the 2019 Legislature passed the following landmark policies in the final days of session:

- HB 2007 requires medium and heavy-duty truck owners in the Portland-metro area to begin eliminating old, dirty diesel engines.
- HB 2001 lifts local bans on multi family housing zoning, allowing for the development of smaller housing options like duplexes, triplexes, quads and townhomes.
- SB 861 provides prepaid postage on ballots, allowing Oregonians to vote by mail without paying for a stamp starting in 2020.
- HB 2002 expands laws regarding the preservation of publicly supported housing.
- HB 2015 allows undocumented immigrants to obtain drivers' licenses. Those who cannot provide documentation of citizenship will not be added to the voter rolls, however.
- HB 2005 creates a system for paid family leave in which Oregon workers can take up to 12 weeks of paid leave to care for a new child or sick family member, or to recover from a serious illness or domestic violence.
- Senate Joint Resolution 18 asks Oregon voters whether the state constitution should be changed to allow campaign finance limits.
- HB 2983 requires nonprofits involved in politically-oriented advertising to provide more information about their large donors.
- HB 2716 calls for some political campaigns to list their biggest contributors.

PPS TRACKED POLICY AREAS



Representative Barbara Smith Warner addressing the House Chamber

EDUCATION BUDGET

This composition of the 2019 Legislature granted unique authority to Democrats seeking to make their mark improving Oregon's education system. Their dedication became most apparent when leadership traded away key priority legislation to ensure the early passage of Oregon's historic Student Success Act. With a unified front, education advocates across the spectrum fell into line to pass HB 3427. Details of the Act are outlined in the bill explanation below.

In addition, the Department of Education State School Fund bill, HB 5016, included \$9 billion in funding for kindergarten through high school over the next two years. This amounts to a \$657 million increase above the previous biennium and 10% above the current service level (CSL.) These funds are additive and do not include the resources from the passage of the Student Success Act.

Additionally, the Department of Education passed their internal budget which received \$3 billion, a 6.7% increase from the previous biennium. The biggest investments include the creation and resourcing of the Educator Advancement Council to the tune of \$35 million, charged with professional development of K-12 and early learning educators, an increase of 42 positions for the Early Learning Division, most of which relate to the licensure, inspection, and investigations of child care providers, and an increase in staff resources to address civil rights issues including the training of district personnel and the continuation of the \$1.8 million Native American Curriculum project. This bill includes the Regional Programs which successfully maintained their funding and received a slight cost of living increase for a total funds budget of \$62.7 million.

Other key education investments came from HB 5005, the bill containing the states general obligation and revenue bonds. Schools were awarded \$121.5 million for seismic rehabilitation grants and emergency services facilities as well as \$126.1 million in matching grants to school districts for capital improvements.

HEALTH & HUMAN SERVICES

The Oregon Legislature entered the 2019 Session in a similar position to that of 2017, facing a several hundred million dollar Medicaid funding gap. However, this year, the 2019 Legislature had the benefit of the groundwork laid by the provider tax expansion passed both in the 2017 Legislature and on the January 2018 ballot in the form of Measure 101. One of the first major

policy bills that passed with bi-partisan support this session was HB 2010, an extension of these revenue raising measures dedicated to healthcare. This bill included the reinstatement of the insurance premium assessment at 2%, increases in hospital assessment rates, and changes related to the OHSU intergovernmental transfer. As a result of these revenue sources, this biennium's budget reflects a 14.6% reduction in the OHP's reliance on Oregon's general fund. Most importantly, however, the budget maintains health care benefits and eligibility for Oregon Health Plan members.

Oregon's Department of Human Services faced scrutiny throughout the 2019 session, with the spotlight primarily on the child welfare system. The sentiment was largely sympathetic to an agency that has been historically under resourced as it strives to serve a growing population. However there were several accusations directed at the agency for its handling of the child welfare system specifically. While there were some disagreements about the breadth of changes needed at DHS, there was widespread agreement that a substantive investment in this agency was necessary. As a result, the legislature approved a budget with very little opposition that granted the agency a 19.8% general fund increase, amounting to a 6.1% total fund increase. The highlights of these investments include the addition of 347 positions and \$176 million to the Child Welfare system amounting to a 29.3% increase from the previous biennium, \$40 million reinvested in TANF to help stabilize housing and expand Employment Related Day Care, and \$30 million to improve the wages of direct support professionals in the Intellectual and Developmental Disabilities budget.

HOUSING

Victories for housing advocates spanned the entirety of session, with the passage of two first-in-the-nation policies sandwiching the 2019 Legislative Session: statewide rent control (SB 608) was one of the first substantive policies moved this session, and the elimination of single-family zoning (HB 2001) was passed with hours to spare on the final day of session. In addition, Housing advocates secured a historic investment of \$336.5 million: \$70.5M to addressing and preventing homelessness, \$206.5 million for increasing the supply of affordable housing, \$5 million for accelerating housing development, and \$54.5 million for permanent supportive housing. The Housing and Community Services Department, which oversees these investments, has dramatically increased staff to accomplish the necessary work of engaging with stakeholders in the implementation and rollout of these funds.



Senate President Peter Courtney

PPS TRACKED BILLS

EDUCATION

HB 2023 | PASSED

Summary: Directs State Board of Education to ensure that academic content standards for history, geography, economics and civics include sufficient instruction and textbook materials on the histories, contributions and perspectives of individuals who are Native American, are of African, Asian, Pacific Island, Chicano, Latino or Middle Eastern descent, are women, have disabilities, are immigrants or refugees, and/or are lesbian, gay, bisexual or transgender.

HB 2164 | PASSED

Summary: Establishes refundable credit against personal income taxes for contributions to higher education savings network account or ABLE account, starting in January 2020.

HB 2266 | PASSED

Summary: Directs Public Employees' Benefit Board and Oregon Educators Benefit Board to impose surcharge on eligible employee who arranges coverage for spouse or dependent with access to medical coverage through a PEBB or OEGB health benefit plan. Also directs PEBB and OEGB to conduct audit of spouse or dependent coverage eligibility as frequently as is recommended by consultants engaged by boards.

HB 2514 | PASSED

Summary: Requires district school board or hearings officer to conduct hearings in executive session or privately if the hearing involves an examination of the confidential records of a student.

HB 3077 | PASSED

Summary: Clarifies definition of sexual harassment and requires school districts to adopt new provisions related to sexual harassment of K-12 students, staff, and individuals adjacent to school grounds. Requires staff to contact a school district official to coordinate efforts when they become aware of sexual harassment.

HB 3310 | PASSED

Summary: Prohibits school district, community college district and certain education service district elections from being conducted in manner that impairs members of protected class from having equal opportunity to elect



Representative Barbara Smith Warner

candidates and aligns these elections with the Voting Rights Act.

HB 3409 | PASSED

Summary: Authorizes a school district to be a member of an interscholastic organization only if the organization implements policies that address the use of derogatory or inappropriate behavior. The organization must also maintain a transparent complaint process, develop and implement a sanction system, and perform an annual survey of students and their parents to understand and respond to potential policy violations.

HB 3427 | PASSED

Summary: Establishes the Fund for Student Success, investing \$1 billion annually into K-12 education. The revenue is the result of a new commercial activities tax which is expected to take effect January 1, 2020 as members of the business community appear to have reached agreement not to refer the new assessment to the ballot.

50% of the investment is dedicated to the Student Investment Account to award grants for purposes of meeting students' behavioral health needs, reducing disparities among students that have historically experienced academic disparities, reducing class sizes, increasing instructional time, broadening curricular access, among other areas.

30% is dedicated to Statewide Education Initiatives Account to expand school breakfast and lunch programs, operate the youth reengagement system, establish the Statewide School Safety and Prevention System, develop statewide equity initiatives, provide summer learning programs for certain schools and full funding for Measure 98.

20% is dedicated to the Early Learning Account for early childhood special education and early intervention services, relief nurseries, professional development, Head Start programs, among others. The Early Childhood Equity Fund grants are aimed at promoting capacity of culturally-specific organizations and reducing the equity gap for early childhood programs.

SB 116 | PASSED

Summary: Provides that HB 3427, the Student Success Act, if referred by referendum petition, be submitted to the people for a special election held on January 21, 2020. This is not expected to be necessary with recent news that the business community no longer intends to refer the measure.

SB 155 | PASSED

Summary: Requires inter-agency collaboration to keep kids safe from dangerous adults in our schools. The bill changes the definition of sexual conduct to more accurately encompass inappropriate behavior and properly substantiate claims of misconduct. To accomplish this the bill does a number of things: tightens TSPC investigatory timelines for licensed employees to 90 days, changes the definition of “student” to include those up to age 21 engaged with a school district (Community Transition Program,) provides resources for DHS to investigate claims of abuse that would historically be “closed at screening” (non-familial cases,) and creates an investigatory structure at ODE to investigate classified staff, contractors and volunteers. The bill accomplishes the legislative recommendations of the Whitehurst Report and allocates over \$4 million dedicated to fund over 16 full time state employees to carry out investigations and support for the legislation.

SB 160 | PASSED

Summary: Requires public universities and community colleges to award academic credit to incoming students who earn a score of four or higher on International Baccalaureate exams.

SB 212 | PASSED

Summary: Ensures that if the corporate activity tax portion of HB 3427 does not become law by March 1, 2020, HB 3427 as a package does not take effect. This is a prevention measure likely to be unnecessary in light of news the business community no longer intends to refer the bill.

SB 415 | PASSED

Summary: Adds to the list of mandatory reporters of child abuse to include school district board members, public charter school governing body members, and employees of the Oregon Department of Education.

SB 496 | PASSED

Summary: Ensures that school districts which serve special education students, alternative education students, or English language learners provide the same access to specialized or common areas as traditional students. These areas include laboratories, auditoriums, athletic facilities, common lunch area, common gathering areas and recreational areas.

SB 664 | PASSED

Summary: Requires school districts to incorporate competent curriculum on the Holocaust, other specific genocides, and general genocide topics.

SB 963 | PASSED

Summary: Clarifies the types of physical restraints that are permissible to use in a school setting. Adds supine restraint and others to the list of prohibited restraints. Specifies that restraints may not be used for retaliation.

SB 1049 | PASSED

Summary: This reform of PERS redirects a portion of employee contributions to an Employee Pension Stability Account. The bill creates a new pathway for retired public employees to return to work, caps the annual salary used to calculate the final average salary at \$195,000, and changes the interest rate for money match benefit calculation from 7.2% to 3.6%. This package is estimated to save the state \$1.2 billion to \$1.8



Representative Mark Meek, Representative Ron Noble, Representative Alissa Keny-Guyer during the House Committee on Human Services & Housing

billion per biennium beginning in 2021-23. PPS estimates a net cost reduction of \$51,497,496 for the 21-23 biennium.

HEALTH & HUMAN SERVICES

HB 2005 | PASSED

Summary: Creates an insurance program to provide partially or fully compensated time away from work to employees while on family, medical, or safety-related leave. Requires employer to pay a minimum of 60% of contributions and employee to pay 40%.

HB 2191 | PASSED

Summary: Adds behavioral health to acceptable reasons for excused absences from school.

HB 2270 | PASSED

Summary: Increases taxes \$2 per pack on cigarettes and on other tobacco products, including e-cigarettes or vaporizers. Revenue is dedicated 90% to the Oregon Health Plan and 10% to programs addressing tobacco and nicotine related health and mental health issues.

HB 2876 | PASSED

Summary: Requires each school district to provide a comprehensive school counseling program. The program may be implemented by a TSPC licensed school counselor, a TSPC licensed school social worker, or anyone deemed qualified as determined in rules by the State Board of Education.

SB 52 | PASSED

Summary: Requires each school district to create a comprehensive suicide prevention plan for students in kindergarten through 12th grade. This plan must include: methods to address higher-risk student groups, identification of which school officials are responsible for responding to reports of suicidal risk, and the procedures, intervention and activities that reduce risk and promote healing after a suicide.

SB 283 | PASSED

Summary: Directs OHA to review peer-reviewed, independently funded scientific studies on the health effects of exposure to microwave radiation, and the Department of Education to develop recommendations on practices and alternative technologies for schools across the state.

HOUSING

HB 2001 | PASSED

Summary: Requires cities of more than 1,000 in the Portland metropolitan area and those of more than 25,000 in the rest of the state to allow up to fourplexes in single-family neighborhoods. Cities between 10,000 and 25,000 will have to at least allow duplexes.



House Speaker Tina Korek

2019-2020 INTERIM SCHEDULE

SEPTEMBER
16-18, 2019

LEGISLATIVE
COMMITTEE
MEETINGS

NOVEMBER
18-20, 2019


LEGISLATIVE
COMMITTEE
MEETINGS

JANUARY
13-15, 2020

LEGISLATIVE
ORGANIZATIONAL
DAYS

FEBRUARY 3-
MARCH 8, 2020

LEGISLATIVE
SESSION 2020



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