The 29th meeting of the Senate Finance and Claims Committee met in Room 108 on the above date. The meeting was called to order by Senator Himsl, Chairman at 7:14 a.m. Roll call was taken and all members were present.

CONSIDERATION OF HOUSE BILL NO. 500:

Senator Himsl said we would continue with H.B. 500 and we will hear from any of the Department or Division heads who are here under the section "Other Education". He said following that we would take up the bill as it came but pass the non-controversial items first and those that will take more time will be delayed. He asked for comments from the head of the Library Commission.

State Library Commission: Alene Cooper, Coordinator of Library Development in Montana State Library said they feel they can get along within their budget. They do have one grave concern that so much of their funding does come from the Federal Government. We are concerned about the President's recommended budget. $114,000 the State Library has there. If Congress does approve the cuts it will be some severe problems in the next year. There is some question about the 1981 funding. If they cut funds in 1982 it will probably compound the problems.

Historical Society: Bob Archibald, Director said, I thank the subcommittee and this committee for an exhausting and careful hearing. The Subcommittee addressed some of the long term and long standing problems of the Society and recognized that what is there is a lot of what remains of Montana's heritage.

Arts Council: David Nelson, Executive Director said he thanked the committee for giving him the opportunity to share some of the concerns. The heavy dependence we have on the federal and the proposed cuts. The facts as shown is that Montana will be hurt the worst of the states so far as the arts are concerned.

School for the Deaf and Blind: No one was here on this.

Senator Himsl said he was sure we would like to have some sort of guidelines, and he had no official figures. What I am going to give you is my own figures, not figures from anywhere but me, just trying to figure out where and how far we can go. We should have some idea of what the limits should be. This is just school boy arithmetic. He said you take $503 million from the last biennium with supplements and divide that by 2 for each year and you come up with about $250 million per year. If you can accept with reason a 12% inflation figure
that would be an increase of about $30.2 million. You add
to the $252 million plus inflation and you come up with about
$282 million for one year. Then take the $282 million for
the second year, and if reasonable, a 12% inflation factor
makes that $34 million, so that if you add $284 million plus
the inflation you get $318 million. Now if you take the $282
million and the $318 million you end up with about $600 million.
It is rather interesting that that is the spending level we
might obtain if we maintain with the inflation level. If
about $50 million for payroll you can see where it puts us.
The revenue would be about $598 million plus about $25 million
including the coal tax interest. This is $623 million. If
you figure there should be a $20 million protective carry over,
that is about $603 million. In other words, we are living
pretty much within the level of spending. We are looking at
the bottom line figure. This is not sophisticated math and
my figures I might not be able to defend, but it is somewhere
close, I think.

Senator Thomas: We are then estimating a total expenditure
ball-park figure of about $602 million.

Senator Regan: What is the figure now? Himsl: $534 million
and if the pay plan is 50 we are at $589 million.

Senator Van Valkenburg: Is there any other big tickets coming
along? Himsl: A couple more. Van Valkenbury: That are not
in this request, but in other bills? Himsl: I am sure there
is. Furhermore, we don't know what the effect of some of the
tax relief might be on the income we are looking at as on-going
revenue.

Senator Story: While I think the state pay plan should take
the 12% inflation factor we should take into account that the
rest of the state should not be taken into that account. We
are not paying 18% interest on a lot. We do not have a tremen-
dously high housing cost. The energy seems to be leveling. A
lot of things do not apply to state government that do apply to
state employees. If we say 12% state government it is being
generous.

Senator Himsl: I think your point is well taken, but they do
have to live, too, within this enviroment.

Legislative Auditor: Senator Himsl said he is passing aroung
a sheet of line items for audit expense in the budget and
there is a shifting in one or two accounts. The LFA has checked
it for figures. The net figures over all is an increase of
$10,000. These figures are to be amended in the bill.
Senator Regan: If we amend this in and close the section can we amend anything else in? Himsl: Yes, I don't see why not.

MOTION #1: A motion by Senator Regan to amend House Bill 500 with the proposed amendments from the Legislative Auditors office. Attached to minutes as amendment #1.

Senator Keating: Does this increase or decrease the total? Himsl: To the extent of $10,000 that was omitted from the Department of Natural Resources. Gillette: The $10,000 was the result of an error the LFA found. It is a decrease of $10,000 and an increase of $11,000 in other funds which are Highway funds. There is a $2500 decrease in the general funds over all. Voted, passed, unanimous.

LEGISLATIVE FISCAL ANALYST:

MOTION#2: Senator Smith moved to increase the LFA budget $65,908 for the biennium and add those figures to the ones in the book.

Senator Aklestad: The error was that for some reason the calculation of 80-81 -- if we had the 14 FTE on board we should have had a $20,000 shortage that year.


Senator Himsl: Does the $65,000 include your $20,000? Smith: Yes.

Voted, passed, unanimous. Attachment.

LEGISLATIVE COUNCIL: Senator Dover: I have amendments on the National Council of State Governments. In our subcommittee we put them both in and the House changed it. I would like to amend the NCSL in. All of the states belong. It is a tremen­dous lobby force in Washington. It has helped the LFA, the Legislative Council, Senator Stan Stevens. Another thing is that they are going to be doing a study on the severance tax and we are in the middle of this. On the National Gasohol it is a big business. The other organization is the Council of State Government. The cost os $90,000, the cost of NCSL is $79,000.

Senator Van Valkenburg: There is a good reason to belong to both. The NSG divides itself into regions in the country. Montana is with the Western states. It makes it very profitable to belong. Also, certain legislators have reached a degree of authority and would like to continue to have that influence. The issues they have had in there are valuable to the state.
Senator Himsl: My experience with MGS is you show up twice and you are put on a committee or something. It works like a PTA. I am not saying they are not doing some good.

Senator Aklestad: Can anyone here tell us how it helps? Dover: A great deal of help in the Highway Department, and a great help in working with Indian affairs.

MOTION #3: A motion by Senator Dover to add $79,000 for dues to NCSL.

Senator Story: We might save the state some money by cutting down on the amount of interim studies by a like amount.

The motion was voted, passed. Senators Aklestad, Story and Nelson voting No.

Environmental Quality Council: No change.

Consumer Council: No change.

Judiciary: Senator Van Valkenburg said he would amend the bill and was passing out a sheet of housekeeping measures which had more than these amendments on. He said this amendment is at the top of the sheet and would change the language to say if federal funds should be received for previously federally funded activities that have been general funded this biennium, a like amount of general fund, less matching requirements, shall be reverted to the general fund. He said this was mostly LEAA funds.

MOTION #4: Motion by Senator Van Valkenburg that the above language be added to the bill on page 8, line 20.

Voted and passed unanimously.

MOTION #5: Senator Dover moved to have the legal secretary and the law clerks put back in the Supreme Court budget. $94,000.

There was discussion as to how many secretaries and law clerks were in there now, had been before January 1, and how many were removed, etc.

Senator Dover explained that they are not adding any new ones, just trying to keep from losing the ones they have. Senator Himsl asked if that were to merely retain their status quo and Senator Dover answered yes.

Substitute motion by Senator Van Valkenburg that we add sufficient funds to add the 2 law clerks and the 1 secretary.
More discussions were held with doubts still among the committee as to the variation in the green book to what was being said, and the white sheet additions as to House Floor action. Senator Dover promised to get more information.

Mike abley, Court Administrator said that prior to the last legislative sessions there were 3 secretaries. In the last Legislative session an addition to 3 secretaries was made and 2 additional law clerks. There are now 5 legal secretaries and 14 law clerks. The 5th legal secretary has served as a back up support. Now there are only 4. House appropriations Committee deleted 2 law clerks and one legal secretary from the ones on board. We are not asking for more--just two for what we have on board.

Senator aklestad: Before last Legislature they were working with less? They were on the same time as the judges?

SUBSTITUTE MOTION TO ALL MOTIONS PENDING: Senator Story moved to fund them at the current level and let the fiscal analyst figure it out and appropriate figures be put in.

Motion voted, passed, unanimous with one exception. One no vote.

Montclirc: Can I ask the subcommittee what they did with Montclirc? (Montana Criminal Law Information Research Center). Is all of the $163,000 general funds or what?

Senator Van Valkenburg: All general funds. We increased only for inflation factors. It was general fund last session put in the Crime Control last time. There is a transfer from agencies. That is all that occurred.

Senator Story: That is a program that was started up with federal funds. They sent out letters to the counties. We questioned the value to the county attorneys if they had to pay for the service out of their own budgets and would they consider it. Did your subcommittee consider paying it out of fees?

Senator Van Valkenburg: We investigated that and came to the conclusion that because of the nature of the speedy need for some of the information the situations in local government, because of their budgets, etc. it was not practical.

MOTION #6: Motion by Senator Boylan to pull the $164,000 for this out of the budget. (Montclirc).

Senator Van Valkenburg: I would resent the motion. I am familiar with the program and have worked very hard to get it into the budget in the last session. It had previously been in the budget on a large federal fund basis. It is an extremely valuable service County Attorneys, etc., consider it to be a very valuable service. They have not talked very much about it this session. It is the first run at this budget. I think it would be a bad mistake.
Senator Himsl: Doesn't this really finance student research? They used to send out a bulletin of opinions and they were made available to some. It was financed from the federal funds, and is sort of a student training program. When the federal funds dried up we picked up with considerable debate and division of opinion.

Senator Van Valkenburg: The program is essentially a program director and a secretary and students that work part time at the program for them and service for the local counties. It is not used very heavy in Missoula by attorneys, because we have a well stocked library available and good research help, but is used heavily by the rural attorneys that have very limited access to legal materials. I am sure that they could get along without it, but it would reduce the quality of service in those counties.

Senator Boylan: It is a training program and should be in the University budget.

Senator Aklestad: If we are going to supplement federal dollars with general fund dollars we are going to be in trouble. This is one area they can help themselves in.

Question was called: The motion was to delete the $164,000 general funds from this Judiciary budget. Voted, roll call, tie vote and thus vailed. Vote is attached.

Governor's Office: There was discussion by Senator Smith and Dover as to the additional administrative assistant in the Governor's office. Senator Dover: When the office of Commerce was removed, one from the Old West was retained in the Governor's office. One was transferred as part of the program. These were with the Governor's program before, but are transferred.

Senator Smith: How many people were moved with the Department of Commerce?

Senator Dover: I don't have this information. I think it was 5.

Senator Smith: Also, in regard to the two administrative assistants.

Senator Dover: These are the two that were transferred in to this department from the Governor's total office staff.

Senator Jacobson: Does the Department of commerce have any lobbyist for coal severence tax? It was said they should be in here.

Senator Van Valkenburg: We considered it briefly and decided it should be in a separate bill.
Senator Story: Doesn't the movement of FTE also include the people on page 8. Answer: Sure.

Senator Johnson: I see there is additional consultant fees, and how much is in the budget? Senator Himsl: I assume this is a fund in case they need it in the next 2 years.

Senator Etchart: She is asking for what is it?

Senator Van Valkenburg: I would like our fiscal analyst to answer that. Jan Dee: The executive office did not have any consultant service on 1980. This was an unusual circumstance. In the past there was about $20,000 a year for needs that arise on an ad hoc basis. There was no base, but it was put back in.

Senator Smith: The question I would have then is doesn't the Governor's office have access to all the other agencies? Will there be any other consulting service done through the budget amendment process?

Jan Dee: I think Mr. Lewis is here from the Budget office and he could answer that, I am not familiar with the process.

Dave Lewis, OBPP, said the $20,000 was discussed extensively in the subcommittee. We cannot sit here today and say what we are going to use it for. Things that come up that the Governor may have need for expertise, then it is in there. We think it better to have it there and use it as the problem arises. Last year it was foisted on the Department of Agriculture and they had to come for more. They did not have the money, either.

Board of Visitors: Senator Haffey: On the Board of Visitors for $22,000. Is it clearly authorized, then was cut by the House Appropriations Committee, or was it an additional cut back to the current level?

Senator Keating: The Board of Visitors was very tightly appropriated by the subcommittee. In the last biennium they were unable to comply with the statute of visiting all the institutions they are supposed to do. They combined their travel and did a real good job of doing with what they had. We just gave them enough to get along. The $23,000 was an arbitrary cut. There was no reason. If it is not in there they cannot travel to the Eastern Institutions and cannot comply with the constitution.

Senator Story: Didn't we wipe them out with a bill?

Senator Van Valkenburg: We had a bill that would have provided a correction board of visitors. It was killed because this was in.
Senator Etchart: I think we should uphold the House cuts. Some of the agencies go through 4 or 5 inspections and the feeling I got was that this was the least valuable.

Senator Dover: I would reiterate, that by statute they are supposed to visit them. We are tying their hands so that they can't do the regular work they are required to do.

Senator Van Valkenburg: They employ consultants to work with them, as the particular institution justifies. They prepare a professional opinion.

Senator Keating: Their budget is $97,000. The $22,000 cut is about 22% of the budget. They are supposed to go to Eastmont and another facility in Miles City. There are 5 members on the board. They have to take one or two professional people for the inspections. All they are trying to do is fulfill the mandates of the law. Senator Smith, you talked about malfeasance of office. If we don't fund, they will be charged with it.

Senator Himsl: This is not new. That is why the sensitivity with spending the money here.

Senator Keating: Then change the law and get rid of it.

Senator Etchart: Our subcommittee voted to eliminate the funding last time.

Senator Smith: In regard to not complying with the duties, they come in and say we have to have so much money to do this and then they don't do it anyway.

MOTION #7: Senator Keating moved to restore the $22,000 to the Board of Visitors. Page 9, line 12, would change $46,813 to $56,783 and $48,454 to $60,375.

Senator Smith: How many institutions do you have to visit? Answer, five. Warm Springs, Boulder, Galen, Eastmont and one other. Also 5 mental health agencies. Parents and families. There are 14 other agencies, and they act as citizens advocates.

Senator Story: What would be the purpose of visiting a Mental Health Center?

Senator Keating: Executive Secretary of the Board of Visitors is here, Kelly Morrison. Miss Morrison said we are responsible for 5 major institutions and 5 Mental Health Centers. They are included. Under the definition of patient and facility we are asked to visit them.

Senator Johnson: You mentioned the Mental Health Centers. 5 members on the board that travel to the 5 mental health places? Morrison: Yes. Johnson: How long do you stay at an institution? Morrison: About 3 days at an institution, about 1 1/2 days at a mental health center. Johnson: What is the background of
these 5 members? Morrison: By law there must be 2 consumers, one that represents DD, one of them represents the mentally ill. Also by law not more than 3 professionals. One of them is a retired bureau chief from the Department of Nursing and one is a clinical psychologist and one more.

Senator Johnson: When the 5 members visit what do you review? Do you review staffing patterns or what? Morrison: By law we review areas that affect patient care. Staffing ratios if they affect patient care, medication if it affects treatment. In addition if patients have questions about rights they have an opportunity to ask questions of the board.

Senator Stimatz: I want to point out, the Board of Visitors is statutorily mandated. Senator Smith is going to have a lot of people in trouble. If you want to repeal the whole thing that is one thing, but to cut the funding is not proper.

Senator Story: We created it because we had a real need at the time. There was a Filipino who was essentially incarcerated because he couldn't speak English, and there were other abuses. We wanted the Board of Visitors to see that people's rights were upheld, not evaluate the Institutions Department.

Senator Himsl: Can you people contract for the inspection service? Morrison: We can get a professional to help.

Senator Himsl: The contract people on Eastmont. Can you do this type of thing? Morrison: I don't believe we would have enough money to do this kind of work. We do hire consultants to help us. We don't have an m.d. so if we must have one we have to contract for him.

Senator Keating: They do not evaluate the programs in the institutions. They merely take care of patient complaints. For instance, if kids in DD are put into and sleeping the dark damp places they can find it. If someone is being mistreated the Board evaluates it.

Senator Story: He read part of the law relating to the duties and said this is what the Board of Visitors have to do. If we are cutting their funding and depleting them from doing their job we are not being fair to them. If we just improperly fund them it is not right.

Senator Smith: I don't think anyone is saying that they don't need a certain amount of money. I voted for the law and not to abolish it from the law. At the time we put this in the law we had a lot more people in the institutions. We have moved a lot out and we are not providing the service to so many people as before. I maintain when we implement a law lets see that they provide the funds to do it and also see that they do the job. If the services are cut the funds should be cut also.
Senator Dover: Kelly Morrison is the staff. The expenses other than that are travel.

Senator Aklestad: You just make visits with these 6 people? Morrison: Last year 7 of the required 10 visits were done.

VOTE was taken, motion tied, and the vote to reinsert the funding failed.

Secretary of State: Senator Himsl announced we would come back to this.

State Auditor: Page 11, Senator Dover has some amendments, and would like this section passed until later.

Department of Justice: Senator Van Valkenburg: This relates to the Highway Patrol in the Justice, the Justice-Fire Marshall and the Justice-Field Services on page 11, line 5. This is to comply with the funding changes and the net result is a reduction of $25,000. There is a decrease of $27,000 on Highway Patrol and $2,000 increase in Field Marshall.

MOTION #8: Senator Van Valkenburg moved the above amendments. They were voted and passed unanimous.

Crime Laboratory: Senator Van Valkenburg said he had an amendment for page 13 following line 2 for the crime lab. to charge the institutions for direct screens. The Crime Lab. is doing a huge number of urinalyses for drugs. Only 5% of these tests were proving to have any evidence of drugs in them. It was the committees opinion that because this service was free there is an over use of it and the 5% figure is indicative of that. If there was some nominal charge it would considerable reduce the work load. The House committee took out one lab. technician. Particularly in light of that cut, we feel it necessary to add this language.

MOTION #9: Senator Van Valkenburg moved the above language.

Senator Thomas: I don't think we put this into the Institutions budget to take care of this. That could be a problem. I could ask the budget office, but I don't have the amount of money this would involve.

Terry Cohea, Budget Office: We have a statute that forbids the crime-lab from charging.

Senator Thomas: We don't see it in contracted services and because the House took 3% out, this could be a problem.

Rae Hoffman, LFA, said the money is in the Institutions budget.
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Senator Thomas: There is a proposal to amend the language for
drug screens. Do you have any idea what the cost is? Rae:
Within the Department of Institutions, is the drugs. They
made an allocation to the Crime Bal for $79,000. That was to
be used by the Crime Lab to perform blood alcohol tests. It is
also to be used by the State Highway Patrol and is already in
the budget.

Senator Hims1: Is that what we are talking about when we say
drug screens: Rae: The particular reason it is being given to
the Dept. of Justice is for the Department of Justice to provide
the drug and alcohol screens, yes.

Senator Hims1: Then there is money in to take care of the obliga-
tions? Rae: A total assistance program, yes.

Question was called. Voted, passed, unanimous.

MOTION #10: Senator Dover said he would move an amendment on
page 13, line 2, Forensic Science. This says that salaries
shall not be altered in 1983 except for pay raises commensurate
with the pay plan.

Senator Regan: Why are you doing this? What is your rationale?

Senator Dover: They gave them a position last time for an
individual as Lab Director for $36,000 a year. The department
got a chance to get a medical examiner for $68,000 and the
friend that wanted to came along for $35,000 and they did away
completely with the position line itemed last time. This
amendment is an attempt to keep it in line.

Senator Regan: I appreciate what you are doing. I think you
should talk to whoever is responsible. When you work the
Executive you have to give them some leeway, but not for gross
abuse. We go away and don't come back for 2 years and they get
locked into a staffing pattern that they can't live with. You
can't do this any more than we can tell SRS that you are going
to have this person and this one and that one and it is to
remain that way for 2 years. The Executive has to have some
leeway.

Senator Dover: I appreciate what the Senator is saying, but
in this particular particular section there is an individual
that is determined to have their own way.

The motion was delayed and not voted upon and will be explored
further.

MOTION #11: On page 11, line 5, Senator Keating said he would
add language to say that within other funds to increase highway
earmarked funds $3,124 in '82 and $4,643 in '83 and reduce
Federal funds by a like amount. This is just a change and no
difference on the bill.
Jan Dee, LFA, said Highway Safety budget there was an error in printing. The committee should be apprised of the change. It is a change in actual funding sources. No change in H.B. 500.

MOTION #12: Senator Keating said he would like to amend under anti-trust page 11, line 11. There was a contract service here line itemed. Explanatory statement is attached with amendment. This would allow the three multi-district cases to be continued and the remainder would be in-state work. He said this bureau has caused a lot of animosity. In the subcommittee we were harsh. We don't want them chasing around the world, some can be handled by the federal regime. There is a very definite need for this service in the state. In some cases there are local entrepreneur and larger businesses have imposed unfair practices to shut them down. The anti-turst people have come to them and said you are breaking the law. Quite often that is all it takes. They have a lawyer, and investigator and a secretary and some fixed costs. It is merged into the Attorney General's office so that it is kind of out of sight now and I think it is going to be much better. I would move the amendments.

Senator Smith: What kind of track record did they have? I hope it was better than the consumer protection that we investigate in our subcommittee.

Senator Keating: Part of the problem was that they had become involved in out of state cases. There were quite a number of them and there were a number of in-state. Some of the cases were just going to the businesses and talking to them and saying what you are doing is illegal and they did not have to follow the investigation further, some was just advice to businesses. They were informative and said to back off some of the practices where they might have broken the law. We said you have to confine yourself to state actions, and I think the bureau has accepted it.

Senator Aklestad: If they are not going to be going on the federal program shouldn't there be some people backed off the program? If they aren't going to be working on the federal cases shouldn't the staff be cleaned up. There are 3 multi district cases. We are looking at a recovery of about $600 million, part to the bureau, but more to the people who were extorted. It may take 2 or 3 years to get judgments on it, and you are asking for an increase of $96,000 for the biennium? Senator Dover: Yes.

Senator Van Valkenburg: The subcommittee had reduced the budget request some $500,000 down to $339,000 then the full House committee arbitrarily reduced it to $100,000 a year with no reason but to cut money out of there. We are not adding something above the subcommittees recommendation. We are talking about coming back to some level of logical spending. They left
the FTE and cut the funds.

Question was called and MOTION #12 was passed unanimously.

Discussion was held on the time schedule for this bill. Senator Himsl said he had been given no time schedule but obviously we will have to get it out as soon as possible. Some of the other things are to be determined by what we reach here.

Senator Boylan: How many new bills are floating around over in the House? Senator Himsl: A pile of them it sounds like, and they don't have a track record of killing them, they want us to have that pleasure.

DISPOSITION OF HOUSE BILL 727:

MOTION by Senator Dover that House Bill 727 do not be concurred in.

Senator Himsl: This seems to come out of missoula with one student present from Bozeman. The other universities had no interest in it at all. The part that is a real concern to me is that it appears to abuse the control of the Board of Regents. According to the bond interest letters, this would be a problem. I guess this is a philosophy. The power of the Regents is protected by the constitution and should not be eroded in any way by student implication. They have a half dozen groups to guarantee they will have consultation. There are several different kinds of advisory committees, I guess this is a matter of your feeling.

Senator Regan: I think no one at this table believes that passage of this bill would in any way erode the power of the Regents protected by the constitution if we can't nick them in the Finance Committee. Certainly a little bill like this can't do it. I suspect this is a smoke screen by the commissioner's office. These kids are adults. They are paying certain fees that should be used for building -- not used for academic purposes. We want them to work within the system. They came to us to seek redress. They are saving, we should address their concern. This does not mean the unrest may not spread if we don't address this situation now. In no way will it threaten the Regents.

Senator Van Valkenburg: If I could just say, I think probably one of the big reasons why it is Missoula, is the use of the student fees. The Regents returned the money and it is a real indication of how the fees can be abused.

Senator Keating: If the money was returned, apparently the students had redress without this bill.
Senator Regan: I suggest that the only reason was the gross misuse. Even the newspapers took them to task.

Senator Stimztz: My letter is from a student telling of the difficulty he had in getting information from the Board of Regents. I think we should have more information on it. In this letter the student is telling it in chapter and verse.

Question was called. The committee vote was recorded, and the MOTION passed 11-5.

The meeting was adjourned at 10:52 a.m.

[Signature]

Senator Hims1, Chairman
# ROLL CALL

FINANCE AND CLAIMS COMMITTEE

47th LEGISLATIVE SESSION -- 1981 Date 3/27/81

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Sylvia Kinsey          Senator Himsl
Secretary                Chairman

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Chairman: Senator Himsl
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Sylvia Kinsey_________ Senator Himsl_________
Secretary_________ Chairman

Motion: ___________
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