



Energy and Telecommunications Interim Committee

63rd Montana Legislature

SENATE MEMBERS
EDWARD BUTTREY
ROBYN DRISCOLL
CLIFF LARSEN
ALAN OLSON

HOUSE MEMBERS
MIKE LANG
MARY MCNALLY
KEITH REGIER
TOM STEENBERG

COMMITTEE STAFF
SONJA NOWAKOWSKI, Lead Staff
TODD EVERTS, Staff Attorney
DAWN FIELD, Secretary

MINUTES LOG

June 21, 2013

Room 172, State Capitol
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

SEN. ROBYN DRISCOLL
SEN. CLIFF LARSEN
SEN. ALAN OLSON

REP. MIKE LANG
REP. MARY MCNALLY
REP. KEITH REGIER
REP. TOM STEENBERG

COMMITTEE MEMBERS EXCUSED

SEN. EDWARD BUTTREY

STAFF PRESENT

SONJA NOWAKOWSKI, Lead Staff
TODD EVERTS, Staff Attorney
DAWN FIELD, Secretary

AGENDA & VISITORS' LIST

Agenda, Attachment #1.
Visitors' list, Attachment #2.

COMMITTEE ACTION

The Energy and Telecommunications Interim Committee:

- approved July 2012 and September 2012 meeting minutes;
- elected Sen. Cliff Larsen as Chair and Rep. Keith Regier as Vice Chair;
- adopted a Work Plan for the 2013-2014 interim;
- amended and approved a meeting calendar for the 2013-2014 interim; and
- adopted rules, procedures, and guidelines for interim committees.

CALL TO ORDER AND ROLL CALL, INTRODUCTION OF COMMITTEE MEMBERS

00:00:03 SEN. OLSON called the meeting to order at 9:06 a.m. and welcomed everyone to the Energy and Telecommunications Interim Committee (ETIC) meeting. The Secretary took roll, Sen. Buttrey was excused (Attachment 3). Members introduced themselves.

ADMINISTRATIVE MATTERS

• Introduction of Staff

00:10:32 Sonja Nowakowski, Research Analyst, Legislative Services Division (LSD), Todd Everts, Staff Attorney, LSD, and Dawn Field, Legislative Secretary, LSD, introduced themselves as ETIC staff.

• Adoption of Meeting Minutes 2012

00:13:37 Ms. Nowakowski said that the members received copies of the July 2012 and September 2012 minutes in the meeting packet. **SEN. DRISCOLL moved to adopt the minutes as written. The motion passed on a unanimous voice vote.**

• Purpose of ETIC and Statutory Duties

00:15:11 Ms. Nowakowski welcomed the legislators to the Committee and reviewed the purpose and duties of the ETIC ([EXHIBIT 1](#)). The presentation included information on the budget, committee resources, ETIC duties, staff and member responsibilities, research priorities, and other details.

00:25:50 Ms. Nowakowski reviewed the Procedures, Rules, and Guidelines for Interim Committees ([EXHIBIT 2](#)).

Committee Questions

There were no questions.

Administrative Rule Duties

00:28:56 **Todd Everts, Staff Attorney, LSD**, discussed an overview of administrative rule making and his duties as staff attorney in the rule review process ([EXHIBIT 3](#)).

Committee Questions

00:34:43 There were no questions.

ELECTION OF ETIC PRESIDING OFFICER AND VICE-PRESIDING OFFICER

00:35:26 **SEN. DRISCOLL nominated Sen. Cliff Larsen as Chair. There were no additional nominations. The motion passed on a unanimous voice vote.**

00:36:20 **SEN. LARSEN nominated Rep. Keith Regier as Vice Chair. There were no additional nominations. The motion passed on a unanimous voice vote.**

00:36:55 SEN. LARSEN recessed the committee for a short break.

BREAK

INTRODUCTION AND REVIEW OF INTERIM WORK PLAN OPTIONS

00:46:51 SEN. LARSEN called the meeting back to order. 9:52 a.m.

- **Work Plan Option Matrix Introduction**

00:48:00 Ms. Nowakowski discussed the draft Work Plan ([EXHIBIT 4](#)) and Decision Matrix ([EXHIBIT 5](#)). She explained that the committee members would make their work plan choices based on their preferences on work topics and the level of study and staff resources they wish to devote to those topics.

Review of Individual Work Plan Elements

00:54:14 Mr. Everts reviewed ETIC statutory duties and obligations regarding administrative rules and options for dealing with them (page 1, [EXHIBIT 5](#)).

Ms. Nowakowski reviewed each element of the Work Plan:

00:56:12 PSC Monitoring options (page 1, [EXHIBIT 5](#)).

00:56:29 Universal Service Benefits (USB) program options (page 2, [EXHIBIT 5](#))

00:57:50 options for REC reports, geothermal research reports, and hydroelectric project reports (page 2, [EXHIBIT 5](#))

00:58:50 options for review of state energy policy (page 1, [EXHIBIT 5](#))

01:00:23 SJR 6 - Study of Montana's Renewable Portfolio Standard (RPS) (pages 7 and 8, [EXHIBIT 4](#)) and (page 2, [EXHIBIT 5](#)).

01:02:00 ETIC educational publications (page 3, [EXHIBIT 5](#)).

01:04:54 Ms. Nowakowski noted that two member-suggested study topics were included in the draft Work Plan: study green schools standards - SEN. DRISCOLL (page 10, [EXHIBIT 4](#) and page 3, [EXHIBIT 5](#)) and interoperability - SEN. OLSON (page 11, [EXHIBIT 4](#) and page 3, [EXHIBIT 5](#)). She briefly discussed each.

01:06:42 SEN. OLSON reviewed the history of interoperability and the reasons why he thinks it is a relevant and important study topic for the ETIC.

01:08:28 SEN. DRISCOLL reviewed the importance of green school standards and the topic's relevance to ETIC's work.

01:12:49 SEN. LARSEN said that the list would be reviewed in more detail after the lunch break in order to give members an opportunity to study all of the options before making decisions.

Public Comment on Work Plan

01:15:00 **Geoff Feiss, General Manager, Montana Telecommunications Association (MTA)**, commented on the issue of interoperability and encouraged the ETIC to adopt Option B in the Decision Matrix ([EXHIBIT 5](#)) to address the study.

- 01:17:38 **Bonnie Lorang, General Manager, Montana Independent Telecommunications (MITS)**, concurred with Mr. Feiss' statements regarding interoperability. She discussed her concerns about overbuilding infrastructure and how private investments could be affected. She provided an Information Technology Services Division (ITSD) flow chart illustrating the evolution of public safety communications systems in Montana ([EXHIBIT 6](#)) and a map of existing interoperability towers in Montana ([EXHIBIT 7](#)).
- 01:25:33 **Jeff Fox, Renewable Northwest Project (RNP)**, reminded the ETIC that the RNP supported SJR 6 in the 2013 Legislative Session and asked that the committee make sure that the appropriate resources are devoted in order to fully study the issue.

Questions from Committee

- 01:26:55 SEN. OLSON asked how the ETIC could pick out the pieces and parts of the study plan it wished to proceed with. Ms. Nowakowski explained how resources could be shifted to accommodate the committee's decisions.

ENERGY POLICY OVERVIEW

- 01:29:26 Ms. Nowakowski said that the 2011 Legislature approved a very detailed energy policy for the State of Montana and referred to 90-4-1001, MCA, ([EXHIBIT 8](#)) in her discussion of the policy. She noted that public comment on this issue has been received from the Montana Contractor's Association ([EXHIBIT 9](#)), which was provided in the meeting packet.

Public Comment on Energy Policy

- 01:36:07 Jeff Fox, RNP, said the RNP is mostly satisfied with the state policy but that a recent decision by Bonneville Power Association (BPA) to not roll in a segment on Montana Intertie line was troubling. He discussed his concerns regarding that decision.
- 01:38:39 Mr. Fox discussed a number of other concerns related to Montana's Energy Policy ([EXHIBIT 8](#)) including concerns specific to subsections (o), (p), and (s).
- 01:42:16 **Bryan Rogan, Gordon Butte Wind, Martinsdale, Montana**, reported that the wind farm is producing 10mw as a QF project. He said he was happy to see the energy policy on ETIC's agenda and was looking forward to more discussion at future meetings.

Committee Questions

- 01:43:47 There were no committee questions.

PUBLIC SERVICE OVERVIEW

- 01:44:39 **Bob Lake, Vice Chair, Montana Public Service Commission (PSC)**, discussed a Powerpoint presentation ([EXHIBIT 10](#)) which included a history of regulation in Montana, the PSC's role and responsibilities, PSC staff, pending cases and issues, and how the PSC can assist ETIC in its study of SJR 6 - Study of Montana's Renewable Portfolio Standards.

02:11:28 **Jason Brown, Staff Attorney, PSC**, discussed SJR 6 and said that the PSC wants to assist the ETIC with the study however it can.

Public Comment on PSC

02:13:43 Geoff Feiss, MTA, said from the MTA's perspective, the PSC is doing a good job. He listed several specific issues in which the PSC has provided assistance to the telecommunication industry and said that the MTA is also ready to assist ETIC with whatever issue it can.

02:16:33 **Kyla Maki, Montana Environmental Information Center, MEIC**, suggested that the ETIC pay special attention to the Universal Service Benefit program. She related several specific suggestions of areas for study and asked that the ETIC continue to monitor the issue.

02:18:44 Jeff Fox, RNP, discussed a number of concerns about the PSC's proposed rules for QFs, particularly regarding the small business impact statement.

Committee Questions

02:25:55 REP. REGIER asked if the PSC tax applies to cooperatives. Commissioner Lake said it does not.

02:26:21 REP. REGIER asked how or if the PSC plans to act on the executive pay issue. Commissioner Lake said the PSC does plan to take action and is in the process of taking public comment. He said that salary information only will be published and discussed the PSC's position further.

02:28:50 SEN. DRISCOLL asked, regarding the proposed rule for QFs, how the PSC settled on 100 kw. Commissioner Lake said that 100 kw is the federal minimum and that the number likely will change as the process matures.

02:30:01 SEN. DRISCOLL asked if Commissioners would agree that when the PSC adopts rules that legislative intent should be taken into account. Commissioner Lake said yes, and legislative intent will be reviewed as part of the PSC process.

02:30:47 SEN. DRISCOLL asked if the PSC followed HB 188 through the legislative process, including the amendments that were added. Commissioner Lake said yes. SEN. DRISCOLL asked that when the PSC is deliberating on this issue to please take into account the legislative intent and adopt what was set forth in HB 188 and not use the federal minimum.

02:31:40 REP. MCNALLY asked about relative rates that are charged for QFs and what the best rate is for ratepayers. She asked if there is a comparison listing the different costs for some of the different sources. Commissioner Lake said that the PSC has information from the utilities and that the information would be analyzed to determine what is best for the rate payer, as well as the entire energy system for Montana.

- 02:33:32 REP. MCNALLY asked if the information is or will be available to the public. Commissioner Lake said that the information will be available to the public and that there will be publically-noticed hearings as well.
- 02:34:34 SEN. OLSON asked Jeff Fox, RNP, if he supported the legislative intent of HB 188 or the Governor's veto of the bill. Mr. Fox said that he opposed HB 188 but does recognize that the Legislature is the policy setting body of the State.
- 02:35:39 SEN. OLSON asked why Mr. Fox would discuss the legislative intent of the bill if he is satisfied with the Governor's veto. Mr. Fox said he is concerned because it appears that the PSC is proposing a rule that would be more strict than what was provided for in HB 188.
- 02:36:19 SEN. OLSON stated that the Governor's decision to veto HB 188 is what threw this issue into the PSC's lap and that it appears that the PSC will get to make the final decision as a result.
- 02:37:09 SEN. OLSON asked Commissioner Lake if broadband grants will be awarded to incumbent providers or to other entities that may compete with existing telecommunication providers. Commissioner Lake said it is likely that current providers will get the grants but that it is a possibility that it could be opened up for bids.
- 02:38:57 SEN. OLSON discussed his concern about using public (grant) money to fund programs where rural telecommunications companies have provided service in the past. Commissioner Lake said that the PSC is looking at the needs of the public and that he would prefer that Mr. Gary Duncan, with the PSC, discuss this further with the ETIC. SEN. LARSEN he said that Mr. Duncan would be invited to address the ETIC at its next meeting.
- 02:42:06 REP. MCNALLY asked for a copy of the letter to the Environmental Protection Agency (EPA) as discussed by Commissioner Lake. Ms. Nowakowski said that copies will be provided. (*Ms. Nowakowski provided copies of the letter later in the meeting - EXHIBIT 11*).
- 02:42:49 SEN. LARSEN recessed the meeting for a lunch break at 11:52 a.m.

LUNCH BREAK

GUIDE TO REDISTRICTING MAPS

- 04:04:00 SEN. LARSEN called the meeting back to order at 1:05 p.m. **Joe Kolman and Rachel Weiss, Legislative Staff**, discussed an overview of the Final Legislative Districting Plan, adopted by the Districting and Apportionment Commission (DAC) in February 2013. Mr. Kolman demonstrated how to access and view the maps and other materials posted on the Districting webpage. He distributed a list of the materials and information on the DAC website ([EXHIBIT 12](#)).

Committee Questions

- 04:15:48 REP. REGIER asked how precincts are set up in the new districts. Mr. Kolman said that it is a local issue that the county clerks and recorders handle.

STATE GOVERNMENT ENERGY INFORMATION

Consumer Counsel

04:17:04 **Bob Nelson, Montana Consumer Counsel**, described the establishment and purpose of the Counsel, its current members, regulatory duties of the Counsel, and examples of cases and activities the Counsel is involved in. Additionally, Mr. Nelson offered the Counsel's assistance in the SJR 6 study.

Department of Environmental Quality (DEQ) and Pollution Prevention

04:25:46 **Lou Moore, Bureau Chief, Energy and Pollution Prevention Bureau, DEQ**, explained the purpose and work of the Bureau, and reviewed a number of key initiatives currently being worked on. Ms. Moore also offered the DEQ's assistance in the SJR 6 study.

Department of Commerce (DOC) Energy Promotion and Development

04:33:01 **Tom Kaiserski, Division Administrator, Energy Promotion and Development Division, DOC**, discussed the Division's operations and responsibilities, work highlights, Division publications, and current opportunities and projects ongoing in the energy sector, including several infrastructure improvement projects. He said that the Division is excited about the outcome of the SJR 6 study on renewable energy and has information to share with the ETIC.

Northwest Power and Conservation Council (NPPC)

04:44:09 **Jennifer Anders, NPCC**, reviewed the Council's creation by the United States Congress, duties and responsibilities of the Council, and documents published by the Council. She reported that the Council is beginning the process of adopting the 7th Power Plan and said that Brian DeKeip would discuss that issue in more detail.

04:46:48 **Brian DeKeip, NPCC**, discussed the 6th Power Plan Midterm Assessment and Topics for 7th Power Plan ([EXHIBIT 13](#)).

Public Comment on Energy information

04:51:40 There was no public comment.

Committee Questions

04:51:49 SEN. OLSON asked Ms. Moore to keep the ETIC apprised of DEQ rulemaking regarding emergency emissions. Ms. Moore said she would work with ETIC staff to ensure that is done. She introduced DEQ staff attending the ETIC meeting.

04:52:56 SEN. LARSEN asked Ms. Anders to give a brief update on the water compact renewal process for the Columbia River Basin. Ms. Anders said that she could provide general information but that fellow Council member Pat Smith is doing much of the work on that issue. She said that the Council would provide more detailed information, either in person at a later meeting or in written form. SEN. LARSEN said either would be fine.

ADOPTION OF WORK PLAN OPTIONS

04:56:35 The ETIC referred to the options provided in the Decision Matrix ([EXHIBIT 5](#)) in their discussion and decisionmaking. After a brief discussion of each topic, the Committee took the following actions:

Study Montana's Renewable Portfolio Standard

04:57:37 **REP. REGIER** moved to approve Option A. The motion passed on a unanimous voice vote.

Review State Energy Policy

04:59:24 **SEN. OLSON** moved to approve Option C for review state energy policy. The motion passed on a unanimous voice vote.

Review Administrative Rules

05:01:37 **SEN. DRISCOLL** moved to approve a portion of Option C (staff provides copies of notices-first paragraph) and a portion of Option B (staff attorney synopsis-third paragraph). The motion passed on a unanimous voice vote.

Review Agency Legislation

05:04:02 **SEN. OLSON** moved to accept Option B. The motion passed on a unanimous voice vote.

Monitor PSC Activity

05:04:44 **SEN. OLSON** moved to approve Option B. The motion passed on a unanimous voice vote.

Review USB Reports

05:05:39 **SEN. OLSON** moved to approve Option B. The motion passed on a unanimous voice vote.

Review Renewable Energy Credit (REC) Reports

05:06:30 **REP. REGIER** moved to approve Option B. The motion passed on a unanimous voice vote.

Review Geothermal Research

05:08:19 **SEN. DRISCOLL** moved to approve Option B. The motion passed on a unanimous voice vote.

Review Hydroelectric Projects

05:09:01 **REP. LANG** moved to approve Option B. The motion passed on a unanimous voice vote.

Revise ETIC Educational Publications

05:09:54 **SEN. LARSEN** and **SEN. OLSON** discussed their concerns about staff workload and asked about the DEQ providing assistance for this task. Ms. Nowakowski said indications are that the DEQ is willing to help. After additional discussion, it was agreed that action on this item would be postponed until later in the meeting.

Member Issue: Study Green School Standards

- 05:12:38 **SEN. DRISCOLL moved to adopt Option B without the third paragraph relating to energy performance measures and indoor air quality.** Ms. Nowakowski thought .10 FTE would suffice to complete that amount of work.
- 05:14:11 REP. LANG discussed his concern that there may be other energy issues more pressing than this issue.
- 05:16:05 REP. REGIER asked SEN. DRISCOLL to explain further the purpose and goals of a study of green schools. SEN. DRISCOLL said the goal would be to provide information to all Montana school districts on ways to reduce energy consumption.
- 05:17:26 REP. LANG said that many local school boards are already taking care of this. He asked Ms. Moore to comment on resources available to schools through the DEQ. Lou Moore explained DEQ programs designed to help schools reduce their energy costs and said she could provide additional information if needed.
- 05:20:34 REP. STEENBERG asked if eliminating the white paper portion of the study would be acceptable to SEN. DRISCOLL. Ms. Nowakowski explained how that could be done and what the FTE savings would be.
- 05:22:04 **REP. STEENBERG made a substitute motion to eliminate the white paper portion of the green schools study.**
- 05:22:40 REP. MCNALLY asked if the study could focus only on smaller school districts with smaller budgets that may struggle more with green energy options. SEN. DRISCOLL said that she didn't want the study to be only about financing.
- 05:23:58 REP. LANG said that his small school district is already addressing this issue and that other schools should be allowed do deal with this issue on their own.
- 05:25:30 SEN. LARSEN reviewed what the study option would entail if the white paper portion was taken out.
- 05:26:53 **REP. STEENBERG restated his substitute motion to adopt Option B, excluding the third paragraph relating to the discussion of energy performance measures and indoor air quality improvements and also eliminating the staff white paper. The motion passed on 5-2 roll call vote. REP. LANG and REP. REGIER voted no.**

Member Issue: Review Interoperability

- 05:28:46 **SEN. OLSON moved to adopt Option C for the interoperability study. The motion passed on a unanimous voice vote.**

Revise ETIC Publications

- 05:30:37 **REP. REGIER moved to adopt Option B.** Lou Moore, DEQ, confirmed that the agency would assist ETIC staff in revising certain publications. **The motion passed on a unanimous voice vote.**

05:32:39 Ms. Nowakowski said that she would make the needed changes in the Work Plan and would develop a meeting calendar and work list, based on the Committee's decisions.

INTRODUCTION TO MONTANA'S RPS AND SJR 6

- **Introduction - Ms. Nowakowski**

05:34:30 Ms. Nowakowski referred ETIC members to the background report in the meeting materials: *An Introduction to the Montana Renewable Portfolio Standard* ([EXHIBIT 14](#)) and reviewed the study and its assignments. She also discussed Appendix B containing compliance tables for 2008-2012.

- **Back in 2005 -- Mr. Everts**

05:39:58 Mr. Everts provided a detailed historical perspective of the issue leading up to the passage of SB 415 in 2005 which established the renewable portfolio standard for Montana. He recalled the extensive work done by both proponents and opponents.

Public Comment

05:47:49 There was no public comment given.

Committee Questions

05:48:07 SEN. OLSON asked Ms. Nowakowski if SJR 6 deals only with RPS and not every renewable energy project in the State. Ms. Nowakowski said that in terms of analysis, she would focus on the resources outlined in Appendix B on page 12 ([EXHIBIT 14](#)).

05:49:43 Ms. Nowakowski discussed staff's tentative plans for the September meeting, including potential agenda items, and how she planned to initiate work on SJR 6 through development of a questionnaire of eligible renewable energy projects and utilities and suppliers.

PUBLIC COMMENT ON MATTERS WITHIN JURISDICTION OF THE ETIC

05:52:55 There was no public comment.

OTHER BUSINESS/INSTRUCTIONS TO STAFF

- **Administrative Rule Review - Mr. Everts**

05:53:38 Mr. Everts noted that the ETIC received copies of two proposed administrative rule hearing notices: QF rules hearing on Monday, June 24, 2013, ([EXHIBIT 15](#)) and an April 23, 2013, hearing that was held on public utility executive salary ([EXHIBIT 16](#)). Regarding the hearing on the proposed rules for QFs, Mr. Everts said that the hearing will be available online should members wish to watch or listen. He said that because HB 188 did not pass, polling the Legislature for legislative intent was not an option. He discussed the options available to the ETIC, including requesting an economic impact statement and providing comment either as a committee or as individual legislators. Mr. Everts concluded his review by saying that he plans to attend the June 24 hearing and could report to the ETIC afterward, via email; and that the ETIC does have options for responding before the September meeting, if need be.

Committee Questions

05:58:48 REP. MCNALLY asked Mr. Everts to discuss further the small business impact statement criteria in his administrative rule review checklist and how it ties into his previous discussion (page 3 of [EXHIBIT 3: Overview of Administrative Rulemaking and Rule Review](#)). Mr. Everts explained and said that in this case, he did not think the legal application would apply to the QF rulemaking proceeding.

- **Adoption of Meeting Calendar**

06:01:18 SEN. LARSEN asked Ms. Nowakowski to review the proposed meeting schedule (page 12, [EXHIBIT 4](#)). Ms. Nowakowski did so, noting that the schedule could be pared down if need be.

06:03:47 **SEN. OLSON moved to eliminate the January 2014, meeting.** REP. REGIER thought it would be better to leave the calendar as is, just in case other issues arise. SEN. OLSON had confidence that the staff would keep ETIC members updated on such matters and that a meeting could be added if needed. **SEN. OLSON's motion passed on a unanimous voice vote.**

06:06:44 **SEN. OLSON moved to adopt the meeting calendar as amended. The motion passed on a unanimous voice vote.**

- **Adoption of Rules and Procedures**

06:07:04 Ms. Nowakowski referred the Committee to the Legislative Council Rules, Procedures, and Guidelines for Interim Committees ([EXHIBIT 2](#)) as discussed previously in the meeting. **SEN. OLSON moved to adopt the Rules, Procedures, and Guidelines, as presented by Ms. Nowakowski. The motion passed on a unanimous voice vote.**

- **Review of September Meeting Agenda Items - Travel**

06:08:15 Ms. Nowakowski said that she would work with the Chair and Vice Chair on the meeting agenda details. She reviewed tentative agenda items and said the members would receive a schedule and tentative agenda soon.

06:10:01 Ms. Nowakowski asked members to please submit any additional September meeting agenda items to her as soon as possible. She listed the agenda items she has to date: an update on QFs and rulemaking and the broadband issue brought up by SEN. OLSON.

06:11:44 Mr. Everts related that Van Jamison asked that the ETIC be informed of a federal energy summit scheduled for September. **Van Jamison** verified that the summit is to be held in Butte on September 16 and 17, 2013.

ADJOURN

06:14:41 The Energy and Telecommunications Interim Committee adjourned at 3:21 p.m. The ETIC will meet next on September 12 and 13, 2013, in Harlowton, Montana.

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