Negative: Eliminate Per-Country EB Visa Caps – bad idea

By Katherine Baker

***Resolved:* *The United States federal government should substantially reduce its restrictions on legal immigration to the United States.***

Currently, employment-based (EB) visas are allocated with limits on the number that can be granted per country. This causes problems for immigrants from large nations like India and China because there are a lot of them here on temporary visas, and very few from small countries like Iceland or New Zealand. When big country citizens immigrate to the U.S. on, for example, H-1B visas, they will have to wait for years before getting an EB visa to stay permanently. Countries with smaller populations of immigrants who want to get into the U.S. face much shorter wait times. AFF would pass the “Fairness for High Skilled Immigrants Act,” which would switch to a “first come, first serve” system and eliminate the per-country caps to solve the backlogs.

Negative: Eliminate Per-Country EB Vis Caps 3

OPENING QUOTES / NEGATIVE PHILOSOPHY 3

Band-aid over a bullet hole 3

Whole approach is wrong: They keep the faucet on when the tub is overflowing 3

MINOR REPAIR / COUNTERPLAN 3

Solve the backlog a different way: Don’t increase visas, stop accepting them 3

HARMS / SIGNIFICANCE 4

A/T “150 year wait” - Ignores other factors 4

A/T “150 year wait” - Wrong. It’s actually 6.66 years 4

Backlogs aren’t a real problem, they’re just an excuse to expand migration 4

SOLVENCY 4

1. Doesn’t eliminate long wait 4

7-year wait for everyone, post-plan 4

Shifts wait to others, doesn’t really solve it. Some get shorter waits, but longer waits for other parts of the world 5

2. Backlog still present 5

FHSIA won’t clear backlog 5

New backlogs will develop 5

Bill doesn’t create a system for dealing with backlog 5

3. Promotes more immigration, so it backfires 6

FHSIA increases immigration, we have to change mindset about not-increasing immigration first 6

4. Reverse Advocacy – because it can make getting green card harder 6

American Hospital Association and National Iranian American Council 6

DISADVANTAGES 6

1. Lower wages and higher unemployment 6

Link and Brink: More high-skilled US workers than job market can absorb 6

Impact: Americans unemployed and lower wages 6

Impact: High-skilled immigrants end up poor 7

2. Harms wages 7

Decreasing wages, discourage STEM study 7

3. Harms Healthcare 7

Link: Hospitals rely on short wait time for employees 7

Link: In Midwest, 25% of physicians and surgeons born outside of the US 7

Link: 17% of healthcare workforce foreign-born 8

Brink: Healthcare shortage growing, wrong time to limit incoming workers 8

Impact: Lack of care 8

Impact: Health risk. Doctor shortages create a real risk to patient care 8

Impact: Increased prices or limited choices in healthcare. 8

4. Ends Diversity 9

Locks out others from getting green cards 9

Other countries, and their related industries, suffer 9

Iranian nationals blocked from visas, diverse recruiting becomes harder 9

Majority of green cards will go to India 9

Pressure on H-1B Lottery System 9

Impact: Diversity protects against ethnic ghettoes and un-American values 10

5. Hurts Businesses 10

Hurts US-Canadian businesses 10

Works Cited 11

Negative: Eliminate Per-Country EB Vis Caps

OPENING QUOTES / NEGATIVE PHILOSOPHY

Band-aid over a bullet hole

Sen. Chuck Grassley, 2018. (R-Iowa) “Fairness in High-Skilled Immigrants Act Floor Speech” Dec. 18, 2018. <https://votesmart.org/public-statement/1310787/fairness-in-high-skilled-immigrants-act>

Congress must deal with the visa backlog issue, but this bill is a bandaid over a bullet hole that I fear will lead to unintended consequences. First, eliminating the per country caps will not necessarily clear out the backlog. Inevitably, with tens of thousands of people waiting in line, a backlog will ensue from a processing standpoint regardless of whether or not there are per country caps.

Whole approach is wrong: They keep the faucet on when the tub is overflowing

David North, 2018. (Fellow of the Center for Immigration Studies, is an internationally recognized authority on immigration policy.) “If the Bathtub Is Overflowing, Turn Off the Faucet: The EB 1-3 Visa Backlogs” July 9, 2018. <https://cis.org/North/If-Bathtub-Overflowing-Turn-Faucet-EB-13-Visa-Backlogs>

A sensible decision-maker, seeing a bathtub overflowing and a faucet turned on, would: Turn off the faucet; Make sure the tub's drain was not blocked; and Start to clean up the resulting mess. Our immigration system lacks such a sensible decision-maker, so it continues to approve green card petitions (the open faucet) at rates faster than the availability of visas (the drain) while wallowing around in the backlog of approved but not-yet-issued green cards (the water on the floor).

MINOR REPAIR / COUNTERPLAN

Solve the backlog a different way: Don’t increase visas, stop accepting them

David North, 2018. (Fellow of the Center for Immigration Studies, is an internationally recognized authority on immigration policy.) “If the Bathtub Is Overflowing, Turn Off the Faucet: The EB 1-3 Visa Backlogs” July 9, 2018. <https://cis.org/North/If-Bathtub-Overflowing-Turn-Faucet-EB-13-Visa-Backlogs>

Proposal. If all EB-1, 2, and 3 petition approvals were simply suspended for six years and eight months (a big if), and if there were some movement from the EB-2 list to the EB-3 list (and if the law remained constant) the chances are that all three backlogs would disappear, in six to 10 years, particularly if some administrative tinkering could be done to speed the process. This proposal would: Eliminate all of the backlogs in six to 10 years; Give virtually everyone on the list a visa faster than currently possible; Not add to the number of visas; Honor the current per-country ceilings; Do very little to change the flow of immigrants to this country; Do very little to change the total number of foreign-born in the U.S. population; and Do nothing, one way or the other, to the supply of skilled labor.

HARMS / SIGNIFICANCE

A/T “150 year wait” - Ignores other factors

David North, 2018. (Fellow of the Center for Immigration Studies, is an internationally recognized authority on immigration policy.) “If the Bathtub Is Overflowing, Turn Off the Faucet: The EB 1-3 Visa Backlogs” July 9, 2018. <https://cis.org/North/If-Bathtub-Overflowing-Turn-Faucet-EB-13-Visa-Backlogs>

The Backlogs. Those who want open borders routinely argue that more visas are needed to ease the backlogs, and often discuss the backlogs in alarmist terms. There is, for instance, a recent Cato Institute report with this sensationalist title: 150-Year Wait for Indian Immigrants with Advanced Degrees. This is statistical poppycock. It is apparently based on the assumption that none of the would-be immigrants from India, now on the very crowded EB-2 list, would have done any of the following (throughout a period of over 150 years!): Died; Decided to leave the waiting list; Moved from the EB-2 list to another EB list (Cato's text does mention this possibility;) Become green card holders through marriage; and that None of the children of the workers ever passed their 21st birthday, and thus left the list.

A/T “150 year wait” - Wrong. It’s actually 6.66 years

David North, 2018. (Fellow of the Center for Immigration Studies, is an internationally recognized authority on immigration policy.) “If the Bathtub Is Overflowing, Turn Off the Faucet: The EB 1-3 Visa Backlogs” July 9, 2018. <https://cis.org/North/If-Bathtub-Overflowing-Turn-Faucet-EB-13-Visa-Backlogs>

At this point it is useful to step back and look at two big numbers: 120,120: The number of visas to be issued annually for the EB-1, 2, and 3 classes. 799,830: the estimated number in the backlog. Dividing the larger number by the smaller one gets 6.66 years. Contrast that to the scary number of 150 years or so trotted out by Cato.

Backlogs aren’t a real problem, they’re just an excuse to expand migration

David North 2017. (Fellow of the Center for Immigration Studies, is an internationally recognized authority on immigration policy.) “Too Few Visas or Too Generous Qualifications? — EB-5 and the Ombudsman” 28 July 2017 <https://cis.org/North/Too-Few-Visas-or-Too-Generous-Qualifications-EB5-and-Ombudsman>

I should note that visa backlogs are a totally American problem. Virtually all other nations decide on an application, accepting or rejecting it, with no backlogs. Only in America do we decide to approve an application and then tell the applicant to wait months or years or decades for the approved application to be honored. The presence of backlogs always gives the anti-restrictionists an argument to expand migration.

SOLVENCY

1. Doesn’t eliminate long wait

7-year wait for everyone, post-plan

Forrest G. Read IV, 2018. (attorney; office of Jackson Lewis P.C.; immigration practice focuses on assisting employers in obtaining employment-based nonimmigrant visas) “U.S. May Eliminate Per-Country Caps on Employment Visas” November 29, 2018. <https://www.natlawreview.com/article/us-may-eliminate-country-caps-employment-visas>

If the amendment passes, most immigrant visas would be allocated to those from India and China until an equilibrium is reached. Recognizing that shutting out everyone else would not be feasible, the bill sets out a three-year transition period during which a certain percentage of immigrant visas would be reserved for those who are not from India or China: 15% in the first year, 10% in the second year, and 10% in the third year. Assuming that the annual number of employment-based immigrant visas remains the same (140,000), the projected average wait time eventually will even out at approximately seven years.

Shifts wait to others, doesn’t really solve it. Some get shorter waits, but longer waits for other parts of the world

Laura D. Francis, 2019. (Reporter for Bloomberg Law Review) “Congress Poised to Take Up Green Card Backlog Issue Again (1)” Feb. 7, 2019. <https://news.bloomberglaw.com/daily-labor-report/congress-poised-to-take-up-green-card-backlog-issue-again>

But there’s also some concern that removing per-country caps would introduce longer wait times for immigrant workers from other parts of the world, and could make it nearly impossible to get a green card without first obtaining an H-1B visa. That’s caused organizations such as the American Hospital Association and National Iranian American Council to oppose the measure.

1. Backlog still present

FHSIA won’t clear backlog

Sen. Chuck Grassley, 2018. (R-Iowa) “Fairness in High-Skilled Immigrants Act Floor Speech” Dec. 18, 2018. <https://votesmart.org/public-statement/1310787/fairness-in-high-skilled-immigrants-act>

Congress must deal with the visa backlog issue, but this bill is a bandaid over a bullet hole that I fear will lead to unintended consequences. First, eliminating the per country caps will not necessarily clear out the backlog. Inevitably, with tens of thousands of people waiting in line, a backlog will ensue from a processing standpoint regardless of whether or not there are per country caps. Second, this bill does not replace the per country caps with any sort of metric-based system or order. This is problematic at best. Of course, an immigrant's country of origin should not dictate their place in line for visas, but surely a clear corresponding domestic labor demand should.

New backlogs will develop

Laura D. Francis, 2019. (Reporter for Bloomberg Law Review)“Congress Poised to Take Up Green Card Backlog Issue Again (1)” Feb. 7, 2019. <https://news.bloomberglaw.com/daily-labor-report/congress-poised-to-take-up-green-card-backlog-issue-again>

The limited number of employment-based green cards also presents the potential for new backlogs to develop in the future, as the number of applicants continues to exceed the number of green cards available.

Bill doesn’t create a system for dealing with backlog

Sen. Chuck Grassley, 2018. (R-Iowa) “Fairness in High-Skilled Immigrants Act Floor Speech” Dec. 18, 2018. <https://votesmart.org/public-statement/1310787/fairness-in-high-skilled-immigrants-act>

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1. Promotes more immigration, so it backfires

FHSIA increases immigration, we have to change mindset about not-increasing immigration first

Sen. Chuck Grassley, 2018. (U.S. Senate (IA) - Sr, Republican President Pro Tempore) “Fairness in High-Skilled Immigrants Act Floor Speech” Dec. 18, 2018. <https://votesmart.org/public-statement/1310787/fairness-in-high-skilled-immigrants-act>

President Trump and congressional Republicans promised the American people that we would address chain migration, but this bill does not do that. Instead, it more than doubles family-sponsored visas but does not limit this privilege to the nuclear family. Before we talk about expanding family-sponsored visas, we should right-size immigration in a manner that balances domestic economic demand with American values. Limiting family-sponsored visas to spouses, children, and elderly dependent parents seems both fair and prudent.

1. Reverse Advocacy – because it can make getting green card harder

American Hospital Association and National Iranian American Council

Laura D. Francis, 2019. (Reporter for Bloomberg Law Review) “Congress Poised to Take Up Green Card Backlog Issue Again (1)” Feb. 7, 2019. <https://news.bloomberglaw.com/daily-labor-report/congress-poised-to-take-up-green-card-backlog-issue-again>

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DISADVANTAGES

1. Lower wages and higher unemployment

Link and Brink: More high-skilled US workers than job market can absorb

David Malakoff, 2013. (Deputy News Editor specializing in coverage of science policy, energy and the environment.) “Letting in More Skilled Foreign Workers Could Discourage U.S. Talent, Report Argues” Apr. 24, 2013. <https://www.sciencemag.org/news/2013/04/letting-more-skilled-foreign-workers-could-discourage-us-talent-report-argues>

The United States is already training more technical talent than the job market can absorb, says a new report, and immigration policies that encourage an inflow of high-skilled foreign workers are likely only to make matters worse. The analysis, by a trio of academics, comes as the U.S. Senate begins to debate a controversial proposal with provisions that would ease the ability of foreign-born engineers and scientists to work and live in the United States.

Impact: Americans unemployed and lower wages

Alison Bowen and Alexia Elejalde-Ruiz, 2017 (features reporter at the Chicago Tribune. Alexia Elejalde-Ruiz covers the food industry for the Chicago Tribune’s business section.) “Skilled immigrants often struggle to put degrees, credentials to use in U.S.” March 27, 2017. <https://www.chicagotribune.com/business/ct-merit-immigration-brain-waste-20170326-story.html>

Some advocates for stricter immigration applaud Trump's support of a merit-based system. Highly skilled immigrants wouldn't compete with U.S. workers for low-skill jobs, and they could have a positive impact if they pay more taxes and use fewer services, said Steven Camarota, research director at the Center for Immigration Studies, a nonprofit group that favors reducing immigration. Still, Camarota is skeptical that the U.S. needs such immigrants to plug talent shortages. Wages haven't increased for many jobs employers say they have trouble filling, and many educated Americans have trouble finding work in their fields, he said.

Impact: High-skilled immigrants end up poor

Alison Bowen and Alexia Elejalde-Ruiz, 2017 (features reporter at the Chicago Tribune. Alexia Elejalde-Ruiz covers the food industry for the Chicago Tribune’s business section.) “Skilled immigrants often struggle to put degrees, credentials to use in U.S.” March 27, 2017. <https://www.chicagotribune.com/business/ct-merit-immigration-brain-waste-20170326-story.html>

Facing licensing tests that require hundreds of dollars, or having to repeat an entire course of study, many immigrants with advanced skills take lower-paying "survival jobs" to pay rent and buy groceries. In Illinois, where there are 334,000 college-educated immigrants older than 25 in the civilian labor force, a quarter of them are in low-skilled jobs or unemployed, compared with 17 percent of their U.S.-born peers, the Migration Policy Institute says. The disparity is more pronounced among immigrants who earned their bachelor's degree abroad.

1. Harms wages

Decreasing wages, discourage STEM study

David Malakoff, 2013. (Deputy News Editor specializing in coverage of science policy, energy and the environment.) “Letting in More Skilled Foreign Workers Could Discourage U.S. Talent, Report Argues” Apr. 24, 2013. <https://www.sciencemag.org/news/2013/04/letting-more-skilled-foreign-workers-could-discourage-us-talent-report-argues>

Just how far the United States should go in attracting foreign workers with STEM (science, technology, engineering, and mathematics) training has been the subject of long and fractious debate. Some analysts and high-tech companies see a dearth of technically trained workers and say that the situation is hobbling economic growth and innovation. But other observers say that there is little evidence of a serious shortage of homegrown STEM talent, and that policies that encourage companies to hire temporary foreign "guest workers" have helped suppress wages in some fields. Lower salaries, they argue, further reduce the incentive for U.S. students to enter STEM disciplines.

1. Harms Healthcare

Link: Hospitals rely on short wait time for employees

Forrest G. Read IV, 2018. (attorney; office of Jackson Lewis P.C.; immigration practice focuses on assisting employers in obtaining employment-based nonimmigrant visas) “U.S. May Eliminate Per-Country Caps on Employment Visas” November 29, 2018. <https://www.natlawreview.com/article/us-may-eliminate-country-caps-employment-visas>

While the elimination of the backlog would be good for technology companies that employ many Indian foreign nationals, other industries may suffer. The healthcare industry, for example, is concerned because foreign nurses have to get green cards to work since they are not eligible for H-1B status. Hospitals have relied on the fact that most of the foreign nurses are from countries not subject to long backlogs. The same concern may apply regarding foreign physicians who can be locked out by the H-1B lottery.

Link: In Midwest, 25% of physicians and surgeons born outside of the US

Alison Bowen and Alexia Elejalde-Ruiz, 2017 (journalists for Chicago Tribune.) “Skilled immigrants often struggle to put degrees, credentials to use in U.S.” March 27, 2017. <https://www.chicagotribune.com/business/ct-merit-immigration-brain-waste-20170326-story.html>

Health care is an industry heavily affected by immigration legislation. In the Midwest, 25 percent of physicians and surgeons were born outside the U.S., according to a 2016 report from the Chicago Council on Global Affairs.

Link: 17% of healthcare workforce foreign-born

John Driscoll, 2018. (CEO of CareCentrix) “The impact of immigration policy on the healthcare workforce” September 27th, 2018. <https://www.beckershospitalreview.com/news-analysis/the-impact-of-immigration-policy-on-the-healthcare-workforce.html>

A disproportionate number of US healthcare workers are immigrants. According to the Migration Policy Institute (MPI), in 2015 almost 17% of the healthcare workforce was foreign-born. This includes 12% of physicians and 24% of registered nurses.

Brink: Healthcare shortage growing, wrong time to limit incoming workers

John Driscoll, 2018. (CEO of CareCentrix) “The impact of immigration policy on the healthcare workforce” September 27th, 2018. <https://www.beckershospitalreview.com/news-analysis/the-impact-of-immigration-policy-on-the-healthcare-workforce.html>

This is exactly the wrong time to cut off the supply of incoming healthcare workers. According to the Association of American Medical Colleges, the physician shortage in the US could reach 120,000 by 2030. A recent NBC report noted that substantial numbers of US medical school graduates are leaving the medical workforce or choosing not to practice medicine at all.

Impact: Lack of care

John Driscoll, 2018. (CEO of CareCentrix) “The impact of immigration policy on the healthcare workforce” September 27th, 2018. <https://www.beckershospitalreview.com/news-analysis/the-impact-of-immigration-policy-on-the-healthcare-workforce.html>

The shortage of healthcare professionals has serious, negative consequences. The widening deficit of primary care physicians means that patients will have to travel farther and wait longer for an appointment. Underserved rural communities will be particularly hard-hit. The even larger deficit of low-skilled workers such as home health aides will mean that family members will be compelled to leave the workforce and stay at home to care for loved ones. Short-staffed pharmacies will be forced to cut back on hours.

Impact: Health risk. Doctor shortages create a real risk to patient care

Medical Association of the State of Alabama 2017. " [Research: Physician Shortage Likely to Have Severe Impact on Patient Care](http://alabamamedicine.org/research-physician-shortage-likely-to-have-severe-impact-on-patient-care/)" 21 Apr 2017 <http://alabamamedicine.org/research-physician-shortage-likely-to-have-severe-impact-on-patient-care/>

The United States continues to face a projected physician shortage over the next decade, creating a real risk to patient care, according to [new data](https://aamc-black.global.ssl.fastly.net/production/media/filer_public/a5/c3/a5c3d565-14ec-48fb-974b-99fafaeecb00/aamc_projections_update_2017.pdf) released by the Association of American Medical Colleges. The latest projections continue to align with previous estimates, showing a projected shortage of between 40,800 and 104,900 doctors.

Impact: Increased prices or limited choices in healthcare.

John Driscoll, 2018. (CEO of CareCentrix) “The impact of immigration policy on the healthcare workforce” September 27th, 2018. <https://www.beckershospitalreview.com/news-analysis/the-impact-of-immigration-policy-on-the-healthcare-workforce.html>

A reduction in the supply of healthcare workers will compel provider organizations to increase prices and limit choice. It is unlikely that Americans will be recruited to fill the gaps left by the missing immigrant healthcare workers. Traditionally, many of these jobs have not been all that attractive to the native born. High-skill positions require lengthy training and preparation, so there is a substantial lead time before an individual can qualify for the job.

1. Ends Diversity

Locks out others from getting green cards

Forrest G. Read IV, 2018. (attorney; office of Jackson Lewis P.C.; immigration practice focuses on assisting employers in obtaining employment-based nonimmigrant visas) “U.S. May Eliminate Per-Country Caps on Employment Visas” November 29, 2018. <https://www.natlawreview.com/article/us-may-eliminate-country-caps-employment-visas>

Individuals from countries other than India and China who are not eligible for H-1Bs (such as some L-1B employees) may no longer be able to remain in the United States long enough to get green cards.

Other countries, and their related industries, suffer

Sujeet Rajan, 2019. (Executive Editor, Parikh Worldwide Media. Also A contributer to India Times). “Green Card in mail soon or is it just a mirage?” January 4, 2019 <http://www.newsindiatimes.com/green-card-in-mail-soon-or-is-it-just-a-mirage>

If significantly more visas and green cards are prioritized for employment-based immigrants from one nation, those in other countries and their related industries will suffer, said Foreign Policy, highlighting the plight of nationals from a country like Iran.

Iranian nationals blocked from visas, diverse recruiting becomes harder

Forrest G. Read IV, 2018. (attorney; office of Jackson Lewis P.C.; immigration practice focuses on assisting employers in obtaining employment-based nonimmigrant visas) “U.S. May Eliminate Per-Country Caps on Employment Visas” November 29, 2018. <https://www.natlawreview.com/article/us-may-eliminate-country-caps-employment-visas>

Others, such as the National Iranian American Counsel, oppose the bill because without green cards, Iranian nationals will continue to be subject to President Donald Trump’s travel ban. Recruiting and retaining foreign nationals from countries other than India and China might be harder.

Majority of green cards will go to India

Sujeet Rajan, 2019. (Sujeet Rajan is Executive Editor, Parikh Worldwide Media. Also A contributer to India Times). “Green Card in mail soon or is it just a mirage?” January 4, 2019 <http://www.newsindiatimes.com/green-card-in-mail-soon-or-is-it-just-a-mirage>

More than 306,000 Indians and 67,000 Chinese immigrants were waiting in the employment-based green-card queue, according to USCIS figures reported in May. If it becomes law, the bill will most probably mean that the majority of employment-based Green Cards issued in the next decade will go to people from India, noted Foreign Policy.

Pressure on H-1B Lottery System

Forrest G. Read IV, 2018. (attorney; office of Jackson Lewis P.C.; immigration practice focuses on assisting employers in obtaining employment-based nonimmigrant visas) “U.S. May Eliminate Per-Country Caps on Employment Visas” November 29, 2018. <https://www.natlawreview.com/article/us-may-eliminate-country-caps-employment-visas>

What has been common for Indian and Chinese foreign nationals will apply to most employment-based green card applicants. Almost anyone who wants to apply for an employment-based green card will have to be in H-1B status to remain in the country, working while waiting for a green card. This likely will put even more pressure on the H-1B lottery system.

Impact: Diversity protects against ethnic ghettoes and un-American values

Max Bloom, 2018. (editorial intern at National Review and a student of mathematics and English literature at the University of Chicago.) “The Case for Diversity in Immigration” August 8, 2017. <https://www.nationalreview.com/2017/08/skills-diversity-immigration-policy-should-pursue-both/>

For starters, it would almost certainly be beneficial to penalize applicants who come from countries that already send a very large number of immigrants to the United States. This would deter the formation of ethnic ghettoes that discourage the adoption of native cultural values, as Europe has notoriously experienced from Bangladeshi and Pakistani immigrants in the United Kingdom to Turkish immigrants in Berlin. In a points-based system, you could do this by assigning immigrants coming from countries such as China, India, or Mexico a certain number of negative points.

1. Hurts Businesses

Hurts US-Canadian businesses

Sujeet Rajan, 2019. (Executive Editor, Parikh Worldwide Media. Also A contributer to India Times). “Green Card in mail soon or is it just a mirage?” January 4, 2019 <http://www.newsindiatimes.com/green-card-in-mail-soon-or-is-it-just-a-mirage>

The Canadian American Bar Association on December 12 submitted a letter to the U.S. Congress opposing H.R. 392. CABA said the legislation “threatens to impede the free movement of highly skilled Canadian workers” and “cause harm to American businesses operating in cross-border industries.”

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