

SECOND REGULAR SESSION

# SENATE BILL NO. 581

96TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CALLAHAN.

Pre-filed December 22, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 162.041, 162.081, 162.431, 163.087, and 167.131, RSMo, and to enact in lieu thereof six new sections relating to school districts, with an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 162.041, 162.081, 162.431, 163.087, and 167.131, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 162.041, 162.081, 162.082, 162.431, 163.087, and 167.131, to read as follows:

162.041. 1. If the school boards of the several districts cannot agree upon an adjustment and apportionment of property and indebtedness as provided in section 162.031, the board of either district may appeal to the state board of education, which shall appoint three persons as a board of arbitration to make an adjustment and apportionment of property and indebtedness in accordance with section 162.031. **The board of arbitration shall rule in a manner consistent with the preliminary adjustments and apportionments determined prior to the election, as specified in subsection 1 of section 162.431, unless new and significant circumstances necessitate alterations to the preliminary adjustments and apportionments, in which case the board of arbitration shall explicitly state in writing the reasons why the preliminary adjustments and apportionments are not being strictly observed.** The board of arbitration may hold hearings after giving the affected districts reasonable notice thereof before making its award. Each member of the board of arbitration shall be paid fifty dollars per day by the district instituting the appeal.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17           2. Any sum awarded by agreement of the school boards or by decision of  
18 a board of arbitration to any school district shall be a legal and valid claim in its  
19 favor and against the school district charged therewith. The amount of  
20 indebtedness, if any, apportioned to any school district shall be a legal and valid  
21 obligation.

          162.081. 1. Whenever any school district in this state fails or refuses in  
2 any school year to provide for the minimum school term required by section  
3 163.021 or is classified unaccredited for two successive school years by the state  
4 board of education, its corporate organization shall lapse. The corporate  
5 organization of any school district that is classified as unaccredited shall lapse  
6 on June thirtieth of the second full school year of such unaccredited classification  
7 after the school year during which the unaccredited classification is initially  
8 assigned. The territory theretofore embraced within any district that lapses  
9 pursuant to this section or any portion thereof may be attached to any district for  
10 school purposes by the state board of education; but no school district, except a  
11 district classified as unaccredited pursuant to section 163.023 and section 160.538  
12 shall lapse **at any time during which the state board is a party to a**  
13 **contract as provided in section 162.082, or** where provision is lawfully made  
14 for the attendance of the pupils of the district at another school district that is  
15 classified as provisionally accredited or accredited by the state board of education.

16           2. Prior to or at the time any school district in this state shall lapse, but  
17 after the school district has been classified as unaccredited, the department of  
18 elementary and secondary education shall conduct a public hearing at a location  
19 in the unaccredited school district. The purpose of the hearing shall be to:

20           (1) Review any plan by the district to return to accredited status; or

21           (2) Offer any technical assistance that can be provided to the district.

22           3. Except as otherwise provided in section 162.1100, in a metropolitan  
23 school district or an urban school district containing most or all of a city with a  
24 population greater than three hundred fifty thousand inhabitants and in any  
25 other school district if the local board of education does not anticipate a return  
26 to accredited status, the state board of education may appoint a special  
27 administrative board to supervise the financial operations, maintain and preserve  
28 the financial assets or, if warranted, continue operation of the educational  
29 programs within the district or what provisions might otherwise be made in the  
30 best interest of the education of the children of the district. The special  
31 administrative board shall consist of two persons who are residents of the school

32 district, who shall serve without compensation, and a professional administrator,  
33 who shall chair the board and shall be compensated, as determined by the state  
34 board of education, in whole or in part with funds from the district.

35 4. Upon lapse of the district, the state board of education may:

36 (1) Appoint a special administrative board, if such a board has not already  
37 been appointed, and authorize the special administrative board to retain the  
38 authority granted to a board of education for the operation of all or part of the  
39 district;

40 (2) Attach the territory of the lapsed district to another district or  
41 districts for school purposes; or

42 (3) Establish one or more school districts within the territory of the lapsed  
43 district, with a governance structure consistent with the laws applicable to  
44 districts of a similar size, with the option of permitting a district to remain intact  
45 for the purposes of assessing, collecting, and distributing property taxes, to be  
46 distributed equitably on a weighted average daily attendance basis, but to be  
47 divided for operational purposes, which shall take effect sixty days after the  
48 adjournment of the regular session of the general assembly next following the  
49 state board's decision unless a statute or concurrent resolution is enacted to  
50 nullify the state board's decision prior to such effective date. The special  
51 administrative board may retain the authority granted to a board of education for  
52 the operation of the lapsed school district under the laws of the state in effect at  
53 the time of the lapse.

54 5. The authority of the special administrative board shall expire at the  
55 end of the third full school year following its appointment, unless extended by the  
56 state board of education. If the lapsed district is reassigned, the special  
57 administrative board shall provide an accounting of all funds, assets and  
58 liabilities of the lapsed district and transfer such funds, assets, and liabilities of  
59 the lapsed district as determined by the state board of education.

60 6. Upon recommendation of the special administrative board, the state  
61 board of education may assign the funds, assets and liabilities of the lapsed  
62 district to another district or districts. Upon assignment, all authority of the  
63 special administrative board shall transfer to the assigned districts.

64 7. Neither the special administrative board nor any district or other entity  
65 assigned territory, assets or funds from a lapsed district shall be considered a  
66 successor entity for the purpose of employment contracts, unemployment  
67 compensation payment pursuant to section 288.110, or any other purpose.

68           8. If additional teachers are needed by a district as a result of increased  
69 enrollment due to the annexation of territory of a lapsed or dissolved district,  
70 such district shall grant an employment interview to any permanent teacher of  
71 the lapsed or dissolved district upon the request of such permanent teacher.

72           9. (1) The governing body of a school district, upon an initial declaration  
73 by the state board of education that such district is provisionally accredited, may,  
74 and, upon an initial declaration by the state board of education that such district  
75 is unaccredited, shall develop a plan to be submitted to the voters of the school  
76 district to divide the school district if the district cannot attain accreditation  
77 within three years of the initial declaration that such district is unaccredited. In  
78 the case of such a district being declared unaccredited, such plan shall be  
79 presented to the voters of the district before the district lapses. In the case of  
80 such a district being declared provisionally accredited, such plan may be  
81 presented before the close of the current accreditation cycle.

82           (2) The plan may provide that the school district shall remain intact for  
83 the purposes of assessing, collecting and distributing taxes for support of the  
84 schools, and the governing body of the district shall develop a plan for the  
85 distribution of such taxes equitably on a per-pupil basis if the district selects this  
86 option.

87           (3) The makeup of the new districts shall be racially balanced as far as  
88 the proportions of students allow.

89           (4) If a majority of the district's voters approve the plan, the state board  
90 of education shall cooperate with the local board of education to implement the  
91 plan, which may include use of the provisions of this section to provide an orderly  
92 transition to new school districts and achievement of accredited status for such  
93 districts.

94           10. In the event that a school district with an enrollment in excess of five  
95 thousand pupils lapses, no school district shall have all or any part of such lapsed  
96 school district attached without the approval of the board of the receiving school  
97 district.

98           **11. Notwithstanding any provision of this section to the contrary,**  
99 **the state board of education may assume responsibility for the**  
100 **educational programs, financial operations, financial assets, and the**  
101 **general supervision of any urban school district containing most or all**  
102 **of a home rule city with more than four hundred thousand inhabitants**  
103 **and located in more than one county at any time subsequent to**

104 classifying the district as unaccredited. In such an event, the state of  
105 Missouri shall take ownership of all district property, vesting oversight  
106 of said property with the state board of education for contractual  
107 purposes and the provisions of section 162.082 shall be applicable.

162.082. 1. For any school district classified as unaccredited and  
2 under the control of the state board of education under the provisions  
3 of subsection 11 of section 162.081, the state board may enter into  
4 contracts with other accredited school districts or other education  
5 service providers as described in this section in order to deliver high  
6 quality educational programs to the residents of the district.

7 2. When entering into any contract described in subsection 1 of  
8 this section, the state board of education shall give first preference to  
9 contracts with fully accredited public school districts that are  
10 contiguous to the district. The state board of education shall give  
11 second preference to contracts with accredited school districts that are  
12 located in whole or in part in any county with a charter form of  
13 government and with more than six hundred thousand but fewer than  
14 seven hundred thousand inhabitants or any county adjoining any  
15 county with a charter form of government and with more than six  
16 hundred thousand but fewer than seven hundred thousand  
17 inhabitants. The state board of education shall give third preference  
18 to contracts with all other education service providers, except that in  
19 no instance shall such contracts violate article I, section 7 or article IX,  
20 section 8 of the Missouri Constitution. If a student attends school in a  
21 portion of the district for which the state board of education has  
22 entered into a contract with an accredited school district and the  
23 student graduates from the district while under contract, the student  
24 shall receive his or her diploma from the accredited school district  
25 with which the state board has contracted.

26 3. The state board of education shall create attendance  
27 boundaries for each contracted area of the district. Such boundaries  
28 shall, to the extent possible, be geographically and demographically  
29 balanced and result in attendance boundaries comprised of  
30 approximately equal student enrollment. Once a contract for a  
31 designated area of the district has been awarded, the state board shall  
32 not enter into any other contracts with any other entities to provide  
33 education services within that area of the district.

34           4. Notwithstanding any provision of law to the contrary, any  
35 contracting school district or education service provider under this  
36 section shall have the right to employ teachers and set their  
37 compensation and conditions of employment within the area in which  
38 they have contracted to provide service.

39           5. The state board of education shall grant the following waivers  
40 to contracting school districts for those pupils whom the contracting  
41 districts are serving for purposes of Missouri school improvement  
42 program guidelines related to academic performance standards:

43           (1) For grades kindergarten through three, a three-year waiver  
44 shall apply;

45           (2) For grades four through six, a five-year waiver shall apply;

46           (3) For grades seven through twelve, a five-year waiver shall  
47 apply.

48 The state board of education's application for a waiver of the federal  
49 No Child Left Behind standards shall recognize and include the  
50 provisions of this subsection as part of the Missouri school  
51 improvement program.

52           6. Local tax revenues of the district shall be distributed to each  
53 contracting school district and contracting education service provider  
54 under this section in the same ratio that the pupil count of each  
55 contracted area of the district bears to the total pupil count of the  
56 district.

57           7. Notwithstanding any provision of law to the contrary, for  
58 purposes of state aid payments pursuant to sections 163.031, 163.043,  
59 163.087, and any other source of state aid distributed on a per-pupil  
60 basis, student attendance in any contracted area of the district under  
61 this section shall be included in the attendance figures of the  
62 district. All state revenue distributed to the district, including those  
63 payments specified in sections 163.031, 163.043, 163.087, and any other  
64 source of state aid distributed on a per-pupil basis, shall be allocated  
65 to the contracting school districts or contracting education service  
66 providers in a manner consistent with the current year weighted  
67 average daily attendance, as such term is defined in section 163.011, of  
68 each contracted area.

69           8. All existing lease purchase of school facilities of the district  
70 shall be retired prior to the state board of education contracting with

71 any entity under this section. Any operating balances and capital  
72 projects balances shall be placed in escrow in order to meet any  
73 current leasehold obligations of the district. Any remaining fund  
74 balances of the district shall be divided on a per pupil basis among the  
75 contracting school districts or contracting education service providers.

76 9. Any unallocated qualified school construction bonds held by  
77 the district shall be allocated to the contracting districts or contracting  
78 education service providers based on the number of school buildings  
79 in each contracted area of the district.

80 10. All initial contracts under this section shall be awarded for  
81 a minimum of five academic years. Upon completion of a five year  
82 contract, the state board may renew any such contract for any length  
83 of time to which the parties agree. At any point during the contract  
84 period the voters of the districts may petition for a boundary line  
85 change as provided under section 162.431.

86 11. Notwithstanding any provision of law to the contrary, any  
87 employee of a school district, as such terms are defined in section  
88 169.270, who is employed within a contracted area of any urban school  
89 district containing most or all of a home rule city with more than four  
90 hundred thousand inhabitants and located in more than one county  
91 under this section shall remain a member of the retirement system  
92 established under sections 169.270 to 169.400. Notwithstanding any  
93 provision of law to the contrary, any employee, as defined in section  
94 169.010, who becomes employed within a contracted area of any urban  
95 school district containing most or all of a home rule city with more  
96 than four hundred thousand inhabitants and located in more than one  
97 county under this section shall remain a member of the retirement  
98 system established under sections 169.010 to 169.141 and shall not  
99 become a member of the retirement system established under sections  
100 169.270 to 169.400.

101 12. Notwithstanding any provision of section 169.560 to the  
102 contrary, any person retired and currently receiving a retirement  
103 allowance from the system established under sections 169.010 to 169.141  
104 may be employed within a contracted area of any urban school district  
105 containing most or all of a home rule city with more than four hundred  
106 thousand inhabitants and located in more than one county and shall  
107 not be subject to the limits on hours of employment or compensation

108 established in section 169.560. Notwithstanding any provision of  
109 section 169.324 to the contrary, any person retired and currently  
110 receiving a retirement allowance from the system established under  
111 sections 169.270 to 169.400 may be employed within a contracted area  
112 of any urban school district containing most or all of a home rule city  
113 with more than four hundred thousand inhabitants and located in more  
114 than one county and shall not be subject to the limits on hours of  
115 employment or compensation or suspension of retirement allowance for  
116 exceeding such limits.

117       13. Notwithstanding the provisions of section 169.561, no person  
118 retired and currently receiving a retirement allowance who returns to  
119 work under subsection 12 of this section shall undertake such service  
120 under a new membership in the retirement system established in  
121 sections 169.010 to 169.141. No contributions to the system shall be  
122 made.

123       14. The joint committee on public employee retirement shall  
124 contract with an actuary, which shall conduct a comprehensive  
125 financial report and actuarial audit showing the financial condition of  
126 the retirement system established under sections 169.270 to  
127 169.400. The study shall include the system's unfunded liabilities, a  
128 detailed summary of the system's actuarial valuation for the past ten  
129 years, a summary of actuarial assumptions and methods used in such  
130 valuation, and such other data deemed necessary or desirable for a  
131 proper understanding of the condition of the system. The actuary shall  
132 submit its findings to the joint committee, president pro tempore of the  
133 senate, speaker of the house of representatives, and commissioner of  
134 education by December 31, 2012.

162.431. 1. When it is necessary to change the boundary lines between  
2 seven-director school districts, in each district affected, ten percent of the voters  
3 by number of those voting for school board members in the last annual school  
4 election in each district may petition the district boards of education in the  
5 districts affected, regardless of county lines, for a change in boundaries. The  
6 question shall be submitted at the next election, as the term election is referenced  
7 and defined in section 115.123. **Once the district boards of education in the**  
8 **districts affected have been petitioned, but not less than sixty days**  
9 **prior to the election, the boards of each affected district shall meet, in**  
10 **consultation with the department of elementary and secondary**



11 **education, and agree to preliminary adjustments and apportionments**  
12 **of all school property, real and personal, including moneys and a like**  
13 **apportionment of indebtedness, as specified in sections 162.031 and**  
14 **162.041, that would occur if the boundary line change were approved.**  
15 **If the districts cannot agree on such preliminary adjustments and**  
16 **apportionments, the state board of education shall appoint a three**  
17 **person board of arbitration to determine the preliminary adjustments**  
18 **and apportionments of property and indebtedness to be followed if the**  
19 **boundary line change occurs in the same manner as contemplated in**  
20 **section 162.041.**

21       2. The voters shall decide the question by a majority vote of those who  
22 vote upon the question. If assent to the change is given by each of the various  
23 districts voting, each voting separately, the boundaries [are] **shall be** changed  
24 **[from that date] at the beginning date of the next school year.**

25       3. If one of the districts votes against the change and the other votes for  
26 the change, the matter may be appealed to the state board of education, in  
27 writing, within fifteen days of the submission of the question by either one of the  
28 districts affected, or in the above event by a majority of the signers of the petition  
29 requesting a vote on the proposal. At the first meeting of the state board  
30 following the appeal, a board of arbitration composed of three members, none of  
31 whom shall be a resident of any district affected, shall be appointed. In  
32 determining whether it is necessary to change the boundary line between  
33 seven-director districts, the board of arbitration shall base its decision upon the  
34 following:

35       (1) **The current accreditation status of each affected district. The**  
36 **board shall determine the boundary line changes in a manner that**  
37 **moves students out of unaccredited and provisionally accredited**  
38 **districts and into accredited districts;**

39       (2) **If each district is classified as accredited by the state board**  
40 **of education, then the board of arbitration shall base its decision on the**  
41 **following criteria:**

42       (a) The presence of school-aged children in the affected area;

43       [(2)] (b) The presence of actual educational harm to school-aged children,  
44 either due to a significant difference in the time involved in transporting students  
45 or educational deficiencies in the district which would have its boundary  
46 adversely affected; and

47            [(3)] (c) The presence of an educational necessity, not of a commercial  
48 benefit to landowners or to the district benefitting for the proposed boundary  
49 adjustment.

50 For purposes of **paragraph (b) of** subdivision (2) of this subsection, "significant  
51 difference in the time involved in transporting students" shall mean a difference  
52 of forty-five minutes or more per trip in travel time. "Travel time" is the period  
53 of time required to transport a pupil from the pupil's place of residence or other  
54 designated pick-up point to the site of the pupil's educational placement.

55            4. Within twenty days after notification of appointment, the board of  
56 arbitration shall meet and consider the necessity for the proposed changes and  
57 shall decide whether the boundaries shall be changed as requested in the petition  
58 or be left unchanged, which decision shall be final. The decision by the board of  
59 arbitration shall be rendered not more than thirty days after the matter is  
60 referred to the board. The chairman of the board of arbitration shall transmit the  
61 decision to the secretary of each district affected who shall enter the same upon  
62 the records of his district and the boundaries shall thereafter be in accordance  
63 with the decision of the board of arbitration. The members of the board of  
64 arbitration shall be allowed a fee of fifty dollars each, to be paid at the time the  
65 appeal is made by the district taking the appeal or by the petitioners should they  
66 institute the appeal.

67            5. If the board of arbitration decides that the boundaries shall be left  
68 unchanged, no new petition for the same, or substantially the same, boundary  
69 change between the same districts shall be filed until after the expiration of two  
70 years from the date of the [municipal] election at which the question was  
71 submitted to the voters of the districts.

72            **6. For the three school years subsequent to a change in school**  
73 **district boundary lines, the receiving district may, but shall not be**  
74 **required to, include the statewide assessment scores of any students it**  
75 **receives as a result of the boundary line change in the statewide**  
76 **assessment scores for the school district.**

77            **7. Notwithstanding section 163.011, when a school district**  
78 **experiences an increase in student enrollment as a result of a change**  
79 **in school district boundary lines under this section during the two**  
80 **school years immediately following the change in school district**  
81 **boundary lines, such district's weighted average daily attendance count**  
82 **shall be adjusted in such a manner that the aggregate weighted average**

83 daily attendance figure for those students whom the district received  
84 as a result of the boundary line change shall be doubled when  
85 calculating the total weighted average daily attendance for the district.

86 8. Notwithstanding subsection 1 of section 163.036, when a school  
87 district experiences a decrease in student enrollment as a result of a  
88 change in school district boundary lines under this section during the  
89 school year immediately following the change in school district  
90 boundary lines, such school district may only use an estimate of the  
91 weighted average daily attendance for the current year. During the  
92 second school year following the change in school district boundary  
93 lines, such school district may use an estimate of the weighted average  
94 daily attendance for the current year or the weighted average daily  
95 attendance for the immediately preceding school year, whichever is  
96 greater. During the third school year following the change in school  
97 district boundary lines and subsequent years, such school district may  
98 use an estimate of the weighted average daily attendance for the  
99 current year, the weighted average daily attendance for the  
100 immediately preceding school year, or the weighted average daily  
101 attendance for the second preceding school year, whichever is greater.

102 9. In the event that a change in school district boundary lines  
103 occurs that results in a charter school no longer being located within  
104 the boundary of a school district identified in subsection 1 of section  
105 160.400, the district in which the charter school is newly located and  
106 the governing board of the charter school may enter into an agreement  
107 to incorporate the charter school into the district and to operate the  
108 school as a regular school building of the district. If such an agreement  
109 is reached, the district shall make arrangements to allow the students  
110 enrolled in the charter school at the time of the boundary change to  
111 continue attending the same school building until they graduate,  
112 regardless of where the students reside. The department of elementary  
113 and secondary education may grant waivers as it sees fit for the  
114 converted charter school to continue to operate in a manner similar to  
115 which it operated as a charter school, while functioning as a non-  
116 charter public school building of the new school district.

163.087. 1. Money in the school district trust fund shall be distributed  
2 to each school district in the state in the same ratio that the weighted average  
3 daily attendance in the district bears to the total weighted average daily

4 attendance in all such school districts for the preceding year, except as otherwise  
5 provided in **subsection 4 of this section and** section 163.031. In addition,  
6 each such district which is providing an approved program for pupils residing on  
7 federal lands shall receive an amount which shall be determined as follows:  
8 weighted average daily attendance for pupils residing on federal lands shall be  
9 calculated separately for the district in the manner provided in section 163.011,  
10 treating such pupils as residents of the district for this purpose. Such weighted  
11 average daily attendance shall be multiplied by one-half of the amount to be  
12 received by the district, pursuant to this subsection, per weighted average daily  
13 attendance not residing on federal lands.

14         2. Money in the fund shall be distributed monthly. The state board of  
15 education shall certify the amounts to be distributed to the several school  
16 districts to the commissioner of administration who shall issue the warrants  
17 therefor.

18         3. Money received by a school district from the school district trust fund  
19 shall be deemed to be local tax revenue derived for the same fiscal year in which  
20 the money is received for the teachers' and incidental funds. In the calculation  
21 of state aid for the district under the provisions of section 163.031, one-half the  
22 amount received by the district in the first preceding year shall be included in  
23 local effort as provided in section 163.031.

24         **4. If a change in school district boundary lines occurs under**  
25 **section 162.431, the department of elementary and secondary education**  
26 **shall modify the school district trust fund payment amounts to the**  
27 **districts affected by the change in district boundary lines during the**  
28 **first academic year in which the districts' boundaries are changed to**  
29 **accurately reflect each district's current weighted average daily**  
30 **attendance count. In each subsequent year, such districts' payments**  
31 **shall be determined by the first preceding year weighted average daily**  
32 **attendance count as provided in subsection 1 of this section.**

167.131. 1. **Except for any school district governed under the**  
2 **provisions of section 162.082,** the board of education of each district in this  
3 state that does not maintain an accredited school pursuant to the authority of the  
4 state board of education to classify schools as established in section 161.092 shall  
5 pay the tuition of and provide transportation consistent with the provisions of  
6 section 167.241 for each pupil resident therein who attends an accredited school  
7 in another district of the same or an adjoining county.

8           2. The rate of tuition to be charged by the district attended and paid by  
9 the sending district is the per pupil cost of maintaining the district's grade level  
10 grouping which includes the school attended. The cost of maintaining a grade  
11 level grouping shall be determined by the board of education of the district but  
12 in no case shall it exceed all amounts spent for teachers' wages, incidental  
13 purposes, debt service, maintenance and replacements. The term "debt service",  
14 as used in this section, means expenditures for the retirement of bonded  
15 indebtedness and expenditures for interest on bonded indebtedness. Per pupil  
16 cost of the grade level grouping shall be determined by dividing the cost of  
17 maintaining the grade level grouping by the average daily pupil attendance. If  
18 there is disagreement as to the amount of tuition to be paid, the facts shall be  
19 submitted to the state board of education, and its decision in the matter shall be  
20 final. Subject to the limitations of this section, each pupil shall be free to attend  
21 the public school of his or her choice.

Section B. Because of the importance of providing an adequate education  
2 to students in school districts, section A of this act is deemed necessary for the  
3 immediate preservation of the public health, welfare, peace and safety, and is  
4 hereby declared to be an emergency act within the meaning of the constitution,  
5 and section A of this act shall be in full force and effect upon its passage and  
6 approval.

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