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STATE OF WISCONSIN
WISCONSIN EMPLOYMENT RELATIONS COMMISSION
WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of Arbitration

between

The St. Croix Falls School
District

-and-

Northwest United Educators

OPINION & AWARD

Interest Arbitration

WERC Case No. 33817

MED/ARB - 2947

Decision No. 22307-A

Before: J. C. Fogelberg
Mediator/Arbitrator

Appearances -

For the Union:

Alan D. Manson, Executive Director NUE
Colleen Adams
Kermit Valleen

For the District:

Stephen Weld, Attorney
Frederick E. Johnson, District Administrator
Richard Larson
Charles Suboda

Preliminary Statement -

The St. Croix Falls School District is situated in the west central portion of the State of Wisconsin in Polk County. During the currently completed 1984-85 school year the District had a student enrollment of 1,003 pupils who were taught by approximately 59 instructors. For purposes of collective

bargaining, the teachers are represented by the Northwest United Educators.

The record developed at the hearing demonstrates that on August 15, 1984 representatives of the District and the Association exchanged proposals on matters to be included in a successor agreement for the 1984-85 school year. Subsequently the Parties met on two separate occasions in an effort to reach an accord on a new contract, but were unsuccessful in reaching a settlement. Accordingly, on September 12, 1984 the Employer filed a petition with the Wisconsin Employment Relations Commission seeking an initiation of the mediation/arbitration process pursuant to Section 111.70(4)(cm)6 of Wisconsin Statutes. Thereafter the Commission sent a member of its staff on October 16, 1984 to St. Croix Falls wherein an investigation was undertaken which reflected that the Parties were "deadlocked in their negotiations." Final offers were exchanged subsequently by the Parties and submitted to the Investigator on January 11, 1985. On the 24th of the same month, the Investigator notified the Parties that the investigation was "closed" and the Commission then ordered the Parties to select a mediator/arbitrator to assist them in attempting to resolve their dispute.

On February 12, 1985 the Commission notified the undersigned that he had been selected as the Neutral to serve the Parties in an attempt to resolve the impasse that existed. Accordingly, on Wednesday, March 27th the Mediator/Arbitrator met with the Association and the District whereupon efforts were undertaken by the Neutral to reach a settlement through mediation. When it became almost immediately apparent that the matter was not going to be settled in mediation, the Parties moved directly to an arbitration hearing on that same date. At the hearing, evidence was received and testimony taken relative to the outstanding issues, at the conclusion of which the Parties indicated a preference for filing post-hearing briefs and also requested the opportunity to file a reply brief within a set time following receipt of the initial written summation. The original briefs were received by the Neutral on April 30, 1985. Thereafter on May 15th, notification was received that the Parties would not file reply briefs. Accordingly, the hearing was deemed officially closed on that date.

The Issues -

The following issues remain at impasse between the Parties and have been certified as being at impasse by the

Commission:

- 1) Salary Schedule for the 198-85 school year
- 2) Adjustments to the extracurricular salary schedule for the 1984-85 school year
- 3) Long-term disability insurance
- 4) Snow days
- 5) Health insurance
- 6) Layoff notification

Position of the Parties -

Association's Position: For the term of the 1984-85 Contract, the teachers seek an increase on the salary schedule of 6.5% at each of the cells. This proposal also includes a concomitant increase for each of the designated salaries for extracurricular activities as set forth in the Agreement.

In addition, the bargaining unit members are seeking new language in the Agreement relative to long-term disability insurance which would read as follows:

"Effective on March 5, 1985 or thirty (30) days after an arbitration award settles this contract, whichever is later, the Board will pay one-half the premium for LTD insurance for each teacher. The Board may select the carrier. The insurance coverage and benefits shall be comparably equivalent to those in the WEIT 90-day 90 percent, modified COL Plan."

As regards the issue of snow days, the Association proposes the following:

"The equivalent of the first two snow days shall not be made up. Additional snow days shall be at the discretion of the Board, and, if made up shall be added to the end of the school year."

Regarding the health insurance issue, the teachers ask that language be appended to Article XX, which would provide for a \$2.00 prescription drug card.

Finally, as regards the matter of layoff, the NUE seeks additional language in Article XIV which would provide that all layoffs commence at the beginning of the following fall semester.

District's Position: The School Board, on the other hand, has proposed an increase on each step of the salary schedule in each lane by \$700 for the 1984-85 school year, and additionally that the extracurricular schedule be adjusted by 5½% at each position.

As regards the remaining matters concerning long-term disability insurance, snow days, health insurance and layoffs, in each instance the Employer takes the position that the current contract language should remain unaltered for the duration of the 1984-85 Agreement. (The final offers of the

Association and the District as received by the Commission and duly noted, are attached to this Award and marked "A" and "B" respectively.)

Analysis of the Evidence

In arriving at the decision that has been made here, the Arbitrator has given careful consideration to each of the criteria enumerated in Section 111.70(4)(cm) of the Wisconsin Statutes, as they relate to the documents, testimony and written arguments submitted by the Parties.

The certified issues that remain at impasse can readily be divided into two distinct groupings. The first concerns the monetary items regarding wages and the appended extra-curricular schedules. The remaining matters are primarily "language" issues. For purposes of analysis and discussion, salary adjustments and extracurricular pay will be examined together.

As in most impasse disputes such as this, the principal emphasis lies with the singular question of the most appropriate monetary adjustment to be granted to the bargaining unit members. In this regard, the Association is seeking percentage increases at each cell on the salary schedule, while the Board has offered a flat dollar adjustment over the preceding

year - improving each cell by \$700.

No rational discussion of such issues as teachers' salaries can be made without reference to the critical statutory criteria: comparability. Here the Parties have varied somewhat in their respective approaches as to what each perceives to be valid comparable groupings. The District has stressed the Upper St. Croix Valley Conference, of which the Employer is a member, as being "most appropriate." These eight school districts, Frederic, Grantsburg, Luck, Osceola, Somerset, Unity, Webster and St. Croix Falls are - in the District's words - "sufficiently similar" so as to afford a reasonable evaluation of the offers before the Arbitrator. Conversely, the Association chooses to utilize a larger base for comparison purposes, relying chiefly on the 41 school districts comprising the CESA 11 Region - most of which fall within a 50 mile radius of St. Croix Falls, and beyond that a statewide comparison of schools of 99 FTE or less. In support of this position, the Association maintains that the high percentage of settlements and the primary rural composition of these schools make them valid for purposes of testing the equity of the respective final offers. Rejecting the Employer's limitation to conference schools, the NUE asserts that the limited number of schools in

the conference under this particular comparison grouping is "quite small" and thus are unable to provide a sound statistical basis.

In evaluating the respective positions of the Parties relative to comparable groupings, the Arbitrator believes that the Association's position must be rejected. This is based principally upon two distinct factors: (1) the acknowledgement at the hearing that historically the Parties have looked to wage patterns within the Upper St. Croix Valley Conference when negotiating a new salary schedule and; (2) the inconsistent reasoning of the bargaining unit set forth in their post-hearing brief. In that document, the Association asserts that while the conference is not the most appropriate grouping for comparison purposes on salaries, it is for the other specific language items as well as for a general measurement of the overall settlement expressed in terms of total cost. The Arbitrator finds the rationale employed here by the bargaining unit to be less than persuasive. Why the settlements in CESA 11 relative to monetary issues are a superior measurement for purposes of salary adjustments, but not when looking at the specific language items, wasn't adequately explained. In light of the past

practice of these Parties in negotiating new agreements and the numerous awards wherein the athletic conference was considered to be the primary grouping for comparison purposes, the Arbitrator will rely chiefly upon the data provided relative to the remaining seven school districts in the Upper St. Croix Valley Conference. Indeed, the Association itself points out that even by restricting comparisons to the conference, their position will remain the most reasonable.

In the Employer's post-hearing brief, they summarized their exhibits presented (Nos. 71-75) relative to the issue of salary comparisons within the conference and concluded that the Board's offer for the term of the new Agreement maintains the bargaining unit's relative rank at the various benchmark rates from 1983-84 to 1984-85 in two of the five benchmark positions and results in "no overall appreciable loss of rank order." By contrast, the District points out that an implementation of the Association's offer, would improve the teachers' historical rank within the conference. Given the economic circumstances within the District, the Board urges the Arbitrator to adopt their final position relative to this issue.

While the District's analysis would appear at first glance not to diminish the teachers' standards vis-a-vis other con-

ference settlements for 1984-85, a closer examination of the faculty distribution across the salary grid reveals a contrary result. At the hearing, it was stipulated that Employer Exhibit 107 fairly represents the 1983-84 faculty matrix at St. Croix Falls. Even the most cursory review of that document readily demonstrates a senior staff. Approximately 49 teachers, or 85% of the faculty, are located beyond the 7th step on the BA lane. Thirty-two bargaining unit members have reached the top of the schedule and thus are ineligible for any incremental step increases for the duration of their employment in the District (barring a negotiated schedule change). As the Association has pointed out, this relatively "high experience level...translates into several significant factors." One obvious conclusion that is quickly realized is that the 6½% position of the NUE will be just that - 6½% for well over one-half of the staff at the top of the salary grid. Other consequences of adopting the Employer's final offer become more apparent when analyzing the data provided by the Association relative to comparisons at the BA step 7 and above. The District maintains that if their final offer is accepted, the overall average rank of the faculty at St. Croix Falls would be only minimally affected. Specifically, utilizing the five standard benchmarks, the salary schedule

in the District would fall from a ranking in the middle (4th) in 1983-84, to 4.8 in 1984-85. Conversely, the Employer asserts that should the Association's offer be adopted, the faculty would improve to 3.6 overall for the school year just completed. When the relative maturity of the teaching staff is considered however, the reviewer finds noticeably different results.

As has been demonstrated by the Association, an adoption of the Employer's final offer when considering the benchmarks at BA 7 and above, would translate to a significant departure from the previous year's ranking. An analysis of the relevant exhibits demonstrates that the Board's position is approximately \$520 below the established pattern increases in the conference as a whole. At BA 7 and above, the disparity grows to \$655. Conversely the Association's final offer translates to a somewhat modest improvement of \$49, or +.3% (vs. a 2.5% departure using the Board's offer). Moreover, even the District's own analysis - including the BA and MA minimum benchmarks - shows that their final offer departs from last year's ranking at a greater amount than does the Association's (.8 vs. .4).

The disproportionate effect upon the faculty, and concomitantly the larger departure from the "norm" at the higher benchmarks, when implementing the School Board's final offer can be plainly attributed to a single factor: the Employer's

method of distributing the increase across the salary schedule. By increasing each cell on the grid and equal dollar amount, the District is in effect compressing the schedule. This results in a noticeable reduction in ratios to the BA base. As Association Exhibit 4 aptly demonstrates, the BA maximum in 1984-85 is reduced to 1.43 (from the previous 1.46 in 1983-84) should the Board's offer be adopted. Similarly significant compression results at the MA maximum and schedule maximum steps if a flat dollar increase is awarded. On the other hand, these ratios remain unaltered, of course, if each cell is adjusted on a percentage basis. Given the relative experience of the teaching staff in the District, the consequences of the Board's offer must necessarily be given every consideration. In point of fact, should the Board's position be implemented here, over 85% of the bargaining unit would receive salary increases of 3½% or less. At the hearing it was learned that the previous two contract settlements were arrived at on a percentage per cell increase basis. In their written summation, the Employer cites the "overwhelming weight of arbitral authority" in Wisconsin which holds that the burden of proof with respect to establishing the need for any change lies with the proposing party. Nowhere - either at the hearing, or in their brief -

has the Employer adequately explained the rationale behind their departure from granting percentage increases at each cell, nor the need to now to so. In this regard, their burden of proof has not been met.

Concerning the issue of extracurricular salaries, the Employer maintains that a 5½% adjustment at each position (note that here the District shifts from a flat dollar adjustment to a percentage increase) is most appropriate. This figure was arrived at, according to the School Board, by costing their total salary offer for 1984-85 over the previous year. The Association, on the other hand, has sought a consistent 6½% adjustment for extracurricular wages, similar to their final position on salaries. Using the Employer's cost figures as set forth in their Exhibit 106, the Arbitrator finds that the final offers of the Parties are only approximately \$500 apart regarding this issue. This translates to approximately .0003% of last year's total budget for teachers' salaries and related expenses (this percentage would be even smaller for the 1984-85 school year). Additionally, the District has demonstrated that St. Croix Falls enjoys a favorable ranking within the conference relative to most benchmark positions within the extracurricular area. Neither final offer however, changes these ratings appreciably. As the Association has pointed

out, favoring either position here will not greatly affect the outcome of the overall Award, as its effect on the bidding is at best minimal.

At the hearing, the Employer suggested that even if the totality of the evidence favors the Association's position relative to the money issues, their (the teachers') "Achilles heel" in terms of adopting a final offer, lies in an examination of their position regarding the so-called "language items." Here, the District points out that the bargaining unit is seeking a departure from the previous contract in each of the remaining four issues certified at impasse, while the District is offering no change in existing contractual provisions. As such, the burden of proof lies with the NUE to demonstrate a need for the alterations in each instance. The Arbitrator would concur with this assertion and will examine the remaining issues accordingly.

As regards the issue of long-term disability (LTD) insurance, the Association seeks a new provision whereby the Board would pay one-half the premium for a long-term disability insurance plan which would provide for payment of 90% of the teachers' salary (i.e., the modified COL Plan) following a 90 day waiting period for the coverage. The teachers'

proposal would not become effective until 30 days after the issuance of the Award itself. Given the time frame in which this decision is being rendered, the new provision (were it adopted) would have virtually no financial impact on the District this year. This fact notwithstanding however, it does not necessarily follow that the need for the new language has been demonstrated. For comparability purposes, the Association has offered their exhibit (17) which demonstrates that within the Upper St. Croix Valley Conference, four other districts currently have such a provision in their contract. As the District has pointed out, this exhibit simply establishes that some type of long-term disability plan is available in these districts, but does not go into significant detail (examining specific programs) for purposes of comparability. While this point is well taken, nevertheless it must be noted that in three conference districts (Grantsburg, Luck and Somerset) a 100% LTD benefit is provided. This must necessarily be contrasted with the 50% language proposed by the Association. It is also relevant to point out the District's argument here that no appreciable evidence has been adduced to demonstrate that the teachers have established a reasonable need for the new benefit. For example, there was no documentation sub-

mitted to demonstrate that bargaining unit members have exhausted the available paid benefits already provided under the Master Contract. Had this been done, the need for the additional benefits would certainly have been more demonstrable.

A comparison of Union Exhibit 18 with Employer Exhibit 84 relative to the issue of a school calendar and snow days reveals a discrepancy in terms of the conference practices. The Association's data attempts to demonstrate that five of the seven remaining schools now have in place agreements which forgive the first two (or more) days that are to otherwise be made up at the end of the school year due to inclement weather. Conversely the Employer's Exhibit 84 indicates that only the districts of Unity and Webster contain contract language similar to what the Association is here seeking. This discrepancy is resolved however, through a reading of the Employer's post-hearing brief wherein (at page 15) they acknowledge that "at least" three of the seven remaining districts in the conference have language which requires the make-up of snow days or at least affords the Board of Education the discretion as to making up those days. Based upon this statement, the Arbitrator would favor the accuracy of the Association's

exhibit, thereby demonstrating that the majority of the schools in the conference have language which at the very minimum is similar to the proposal here advanced by the teachers. Both at the hearing and in their written summary, the Board attempted to demonstrate that the cost of the Union's proposal would amount to approximately \$13,700 (Employer Exhibit 82) should the Union's final offer be implemented. While this amount translates to approximately 1½% of the total cost, at the hearing the School Board acknowledged that it does not represent an actual out-of-pocket expense to the District. At the same time, the Arbitrator finds that the Employer has aptly demonstrated no significant hardship on the bargaining unit members as a result of the current practice wherein the additional days may or may not be made up at the School Board's discretion following an "open discussion" with the faculty. On balance therefore, it is perceived that this issue is essentially a standoff with valid arguments being advanced equally by the Parties.

The issue regarding health insurance is limited in scope to the area of prescription drug coverage within the context of this particular benefit, which the Employer unilaterally altered at the commencement of the 1984-85 school year to a self-funding program up to the

point that the major medical plan assumed the cost of the coverage. The District estimates that in so doing, they have saved approximately \$3,400 through reduced premium costs. Though this issue remained at impasse through negotiations and the subsequent statutory resolution process, as a practical matter it was implemented for the balance of the recently completed school year. While the Association made certain references to inconvenience, higher costs and less privacy, there was (as the Employer contends) little, if any, evidence presented to substantiate these claims. Union Exhibit 19 demonstrates that all of the comparable districts in the conference currently provide the drug prescription coverage. The document does not however, adequately explain the individual provisions in each instance. There is, according to the evidence in the record, no convincing argument before the Neutral demonstrating that the bargaining unit has been placed at a disadvantage as a result of the Board's action. It also warrants mention however, that inasmuch as this Award will be prospective in connection with this issue (as opposed to the salary and extracurricular issues) a significant savings has been realized by the District regardless of the final decision made here - calculated to be in excess of \$6,000 should the

Union's position be ultimately implemented.

The final issue certified at impasse concerns the matter of layoff notices and commencement dates for purposes of calculating the 24 month recall period. Here the Association maintains that it is necessary to clarify an "ambiguity" that exists in the Contract relative to this matter, whereas the Employer counters by asserting that such a position is inadequately supported by the evidence. Employer Exhibits 86-88 delineate some 13 notifications of layoff since the language was adopted by the Parties in the 1979-80 Contract which "generally" were issued in February or March of each year. Significantly, the Employer's contention that "no pattern of abuse" has been demonstrated, is supported on the record. At the hearing, it was acknowledged that there has been no significant disputes between the Parties relevant to this issue to date, which might otherwise justify an alteration of the current contract language. Moreover, no supportive documentation was offered by the Association (beyond the fact that the issue has been ruled to be a mandatory subject of bargaining in Wisconsin) which would indicate any common use of their proposal in other comparable districts. The burden of proof therefore, has not been fully satisfied in this instance.

On balance, the totality of the foregoing indicates evidence favoring the NUE in matters of salary and extracurricular

issues, while the remaining issues generally favor the Employer's position. This necessarily leads the reviewer to assigning relative importance to each of the certified items. In this regard there can be little question but that in the vast majority of impasse disputes such as this, salary and related monetary issues take precedence over the balance of the so-called language issues. There was no evidence presented in the immediate dispute which would indicate an exception to the rule. Clearly, by the Board's own calculations, salary alone comprises approximately 75% of the total estimated cost (Employer Exhibit 106). Indeed, this percentage is even greater if such directly related items as FICA and WRF are also taken into consideration. Given the weight of the evidence relative to salaries, which clearly favors the Union's position, the Arbitrator is compelled to find for the teachers in this instance. It is believed that an analysis of some of the additional statutory criteria further supports the decision reached here.

The District has emphasized the depressed economic conditions in this largely rural district as justification for their final offer. Indeed, ample evidence was presented both through documentation and testimony from two citizens in the district demonstrating the severity of the agricultural

conditions that are prevalent in Polk County and throughout the state and the nation as well. Certainly the economic decline experienced by the family farmer in today's market has had an adverse impact on this district. Yet at the same time, there was no evidence advanced which distinguishes the situation in St. Croix Falls from any of the other surrounding districts - communities that have settled with their respective teacher bargaining units at a significantly higher rate. In this regard, the comments of Arbitrator Zel Rice in Plum City are deemed appropriate. In that award, he reasoned:

"Since the Employer has not experienced any different economic conditions than those faced by the comparables, it is only proper that the proposals for its school teachers should be measured against those of the comparable group."

Similarly, Arbitrator Joe Kirkman wrote in the Westin school case (WERC 21307-A) in August of last year, that in connection with the statutory cost of living factor, again comparable wage settlements and the pattern they establish at the various benchmarks, best indicate a true COL for the purpose of analysis:

"Considerable arbitral authority, including the opinions of the undersigned, have previously held that the measure of insulation against inflation is properly ascertained by the patterns of settlement voluntarily entered into between parties during the same period that the CPI index covers. Consequently, the


undersigned, in evaluating what impact the cost of living criteria should weigh in this decision, will rely on the patterns of settlements among the comparables in making that determination."

Finally, it must be noted that by the time this Award is fully implemented the school year will, of course, be completed and the Parties will in the very near future again commence negotiations over a new agreement for the 1985-86 academic year. During the past year therefore, presumably the District has been able to invest monies that were otherwise earmarked for salary improvement and related costs, gaining a favorable return on their investment. Given the District's admission at the hearing that funding the Association's final offer would still fall within their projected 1984-85 budget, and when coupled with the realization of additional monies due to elapsed time, the Arbitrator finds that the overall impact to the District's finances has been significantly minimized.

Award -

Accordingly, for the reasons set forth above, any and all stipulations entered into by the Parties and the Association's final offer are to be incorporated into the 1984-85 Agreement effective July 1, 1984.

Respectfully submitted this 19th day of June, 1985.



J. C. Fogelberg
Arbitrator

FINAL OFFER OF NORTHWEST UNITED EDUCATORS
 IN THE CASE
 SCHOOL DISTRICT OF ST. CROIX FALLS
 WERC CASE 17 NO. 33817 MED/ARB-2947

1. All items as in the 1982-84 Agreement except as follows:
2. Stipulations between the parties.
3. Revise Article XXIV (to be the 1984-85 salary schedule) by a 6.5 percent increase (see attached salary schedule).
4. All extra-curricular rates in Article XXV shall be increased by 6.5 percent.
5. Add new article: Long Term Disability Insurance
 "Effective on March 1, 1985 or 30 days after an arbitration award which settles this contract, whichever is later, the Board will pay one-half the premium for LTD insurance for each teacher. The Board may select the carrier. The insurance coverage and benefits shall be comparably equivalent to those in the WEAIT 90-day, 90 percent, modified-COL Plan."
6. Replace Article XVII, Part B (Calendar) with: "The equivalent of the first two snow days shall not be made up. Additional snow days shall be at the discretion of the Board, and, if made up shall be added to the end of the school year."
7. Revise Article XX - Health Insurance, to read:
 "The Board will pay the full health insurance premium for family, single, and medicare categories of teachers. The Board may select the carrier. The insurance coverage and benefits shall remain substantially equivalent to those during the 1982-84 years, and shall include a \$2 prescription drug card."
8. Revise Article XIV - Layoff, Part B, to read:
 "Teachers to be laid off shall be notified no later than March 1; all layoffs shall commence at the beginning of the following fall semester."

1 of 2
 ALAN D. MANN
 11/15/84

NUE FINAL OFFER FOR ST. CROIX FALLS 1984-85 SCHEDULE

STEP	BA	BA+15	MA	MA+15
0	15195	15868	16678	17486
1	15727	16455	17317	18147
2	16260	17042	17957	18807
3	16792	17627	18598	19467
4	17324	18213	19237	20125
5	17856	18798	19876	20786
6	18389	19385	20516	21446
7	18920	19972	21156	22106
8	19452	20558	21796	22767
9	19985	21142	22436	23427
10	20516	21728	23075	24086
11	21049	22315	23716	24746
12	21581	22901	24357	25407
13	22113	23488	24996	26068

2 of 2
ALAN D. MANN
11/15/84

JAN 14 1984

FINAL OFFER OF THE
ST. CROIX FALLS SCHOOL DISTRICT
CASE 17 NO. 33817 MED/ARB-2947

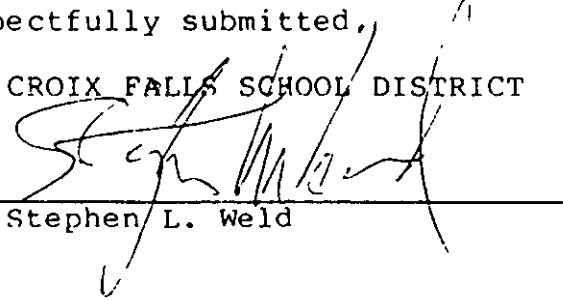
WISCONSIN LABOR AGREEMENT
RECORDS SECTION 101

1. All items as in the 1982-84 collective bargaining agreement except as follows:
2. All items incorporated in the Stipulation of Tentative Agreements enclosed herewith.
3. Revise Article XXIV's salary schedule by increasing the base by \$700 (see attached salary schedule).
4. All extra-curricular rates in Article XXV shall be increased by 5.5%.

Respectfully submitted,

ST. CROIX FALLS SCHOOL DISTRICT

By



Stephen L. Weld

ARTICLE XXIV

ST. CROIX FALLS 1984-85 SALARY SCHEDULE

<u>Step</u>	<u>BA</u>	<u>BA+15</u>	<u>MA</u>	<u>MA+15</u>
0	14968	15600	16360	17119
1	15467	16151	16960	17739
2	15968	16702	17561	18359
3	16467	17251	18163	18979
4	16967	17801	18763	19597
5	17466	18351	19363	20217
6	17967	18902	19964	20837
7	18465	19453	20565	21457
8	18965	20003	21166	22077
9	19465	20552	21767	22697
10	19964	21102	22367	23316
11	20464	21653	22969	23936
12	20964	22203	23570	24556
14	21463	22754	24170	25177