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Demetrius Vallabba
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10/17/03
Date

2003 SENATE EDUCATION

SB 2197

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Deanna Sallick
Operator's Signature

01/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2197

Senate Education Committee

☐ Conference Committee

Hearing Date 01-20-03

Tape Number	Side A	Side B	Meter #
1		x	5.0 - end
Committee Clerk Signature <i>Dandra Johnson</i>			

Minutes: CHAIRMAN FREBORG called the committee to order. Roll Call was taken with all (6) members present.

CHAIRMAN FREBORG opened the hearing on SB 2197 which relates to the payment of retention incentives by school boards.

Testimony in support of SB 2197:

SENATOR RICH WARDNER, Dist. 37, stated this bill was introduced for the school boards association. There is a situation where schools have teachers retiring at a fairly young age who have been teaching in critical positions. This bill would allow or encourage them to come back to teaching. This is a permissive bill which states a school board may offer a retention incentive bonus.

REP. LISA MEIER, Dist. 32, supports the bill.

BEV NIELSON, NDSBA, presented testimony in support of the bill. (see attached). She feels there are several possibilities for the use of retention bonuses. Teachers with double majors who

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Senate Education Committee
Bill/Resolution Number SB 2197
Hearing Date 01-20-03

would be able to teach in several areas which would not require additional staffing. Teachers who have credits which are close to a major could be encouraged to complete it. Teachers considering retirement may be encouraged to stay yet another year.

SENATOR COOK asked if bonuses offered to teachers to encourage them to retire early, are these bonuses negotiated or do school boards have the flexibility to set this policy on their own. MS. NIELSON stated that NDSBA advises boards to keep it in board policy. Having it only in board policy is legal.

SENATOR CHRISTENSON asked if this would be a flat amount offered. MS. NIELSON stated that the way the bill is written it does not contain a flat amount. NDSBA would like the board to have a policy that could be changed annually. This would give authority to a school board that they don't have now. MS. NIELSON stated that when the bill was being drafted, NDSBA would have liked it to state any position a district feels they might have difficulty filling. NDSBA feels the one year retention bonus would be a more flexible management tool. SENATOR FREBORG asked about hiring bonuses. MS. NIELSON stated there is nothing in current law for hiring bonuses for education.

DEAN BARD, ND Small Organized Schools, stated this group has favored this concept for a long time. This bill is unclear as to what it actually covers. He questions if this is only for retention. He further doubts if SPB would be able to decide which positions within each district are "difficult to fill".

SENATOR FREBORG feels the bill is specific for retention. MR. BARD would like to see the bill broadened to include first year teachers. Both feel that if NCLB is passed, the definition of retention would have to be stated.

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Hearing Date 01-20-03

Testimony in opposition to SB 2197:

NANCY SAND, NDEA, presented testimony. (see attached).

There being no further testimony, the hearing on SB 2197 was closed.

SENATOR TAYLOR asked if there is a definition for "difficult to fill". SENATOR COOK stated that in other parts of CC (law) there is a definition. He also believes there are federal dollars available for the fields defined as "difficult to fill".

SENATOR FREBORG asked the committee which areas of education they think is "critical". Those mentioned were music, math, English, science counselor, foreign language, and others. SENATOR FREBORG stated that if all areas would have been allowed to be called critical, every teacher in every subject would have gotten a bonus.

SENATOR CHRISTENSON feels the collaboration between teachers and school boards is good for now considering NCLB will be rigid but is not in effect until 2006. SENATOR FREBORG asked if this would be workable if you had someone teaching in a critical area in their minor in the coming biennium, is it possible that a retention bonus would give them the opportunity to pursue that major. He feels if we wait too long, there will be a lot of teachers who will have to get a major quick because of NDLB, and we won't have given them any incentive to have done this earlier. SENATOR CHRISTENSON stated that it could be an incentive but there will be other types of stipulations to make yourself a qualified teacher under the NCLB law.

SENATOR FLAKOLL wishes there could be a provision for schools seeing the need for a teacher in a critical need area be able to petition SPB for approval. SENATOR FREBORG stated the bill can be amended.

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Senate Education Committee

Bill/Resolution Number SB 2197

Hearing Date 01-20-03

SENATOR LEE agrees with SENATOR FLAKOLL and asked if the negotiated agreement that the board and the teachers have now preclude them from sitting down and talking about what may be some parameters to use in implementing a plan like this. SENATOR FREBORG stated it would not unless it would include money. He further stated that through negotiations the board can do just about anything, but in some cases they won't, and therein lies the need for legislation.

SENATOR COOK stated that it had been said that many districts do not have this option negotiated into their contract. He feels this legislation would give all districts the option to do this. He feels if signing or retention bonuses are paid, it will ultimately raise all salaries.

SENATOR FLAKOLL asked if "pay" can be an incentive or must it always be in dollars to the person. SENATOR FREBORG feels the payment or incentive must be done within the three year period and then it ends. SENATOR TAYLOR stated the dollars to implement this must come from somewhere and therefore would be in the school's budget. SENATOR FREBORG stated these incentives are not required. He feels if there are no dollars, there won't be anything. No further discussion.

SENATOR COOK moved a DO PASS. Seconded by SENATOR FLAKOLL.

Roll Call Vote: 4 YES. 2 NO. 0 Absent. Motion Carried.

Carrier: SENATOR COOK

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01/17/03
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FISCAL NOTE
Requested by Legislative Council
01/15/2003

Bill/Resolution No.: SB 2197

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

No identifiable fiscal impact.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

It will not affect any state appropriation.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

N/A

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

N/A

Name:	Tom Decker	Agency:	Public Instruction
Phone Number:	328-2267	Date Prepared:	01/16/2003

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Operator's Signature

date

Date: 1/20/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *SB 2197*

Senate	EDUCATION	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Cook Seconded By Sen. Flakoll

[illegible]

Total (Yes) 4 No 2

Absent 0

Floor Assignment Sen. Cook

If the vote is on an amendment, briefly indicate intent:

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Donna Hall 10/17/03
Date

Operator's Signature

10/17/03
Date

REPORT OF STANDING COMMITTEE (410)
January 20, 2003 12:45 p.m.

Module No: SR-10-0762
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2197: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS**
(4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2197 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-10-0762

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Deanne Hollister
Operator's Signature

10/17/03
Date

2003 HOUSE EDUCATION

SB 2197

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2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. SB 2197
House Education Committee

☐ Conference Committee

Hearing Date March 05, 2003

Tape Number	Side A	Side B	Meter #
1		x	90-935
1		x	1000-end
2	x		00-302
2	x		1000-1140
2	x		2940- 4509
Committee Clerk Signature <i>Linda Fuchner</i>			

Chairman Kelsch opened the hearing on HB 2197

Sen. Rich Wardner, District 37

A school district may offer a retention bonus and it can only be done in certain instances. It has to be first of all a situation where it is a difficult position to be filled, designated by the ESPB. It would really be great if financially we had enough revenue to pay teachers enough so that we would not have to do this, however the fact of the matter is that sometimes that we have people retiring or moving out of state to teach, if we can keep a good instructor in that classroom for those students it is important. In my 32 years of teaching I can tell you that I did see time where teachers were pressed into classrooms where they didn't want to be. They had the raining, the right number of credit hours to teach that class but because of cuts in funding they were forced into teaching classes that they didn't feel comfortable with and want to. That can happen today as we run into hard to fill positions and we bring people in who may be qualified but don't want to be there, the students suffer. Please consider a do pass on this bill.

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House Education Committee
Bill/Resolution Number: SB 2197
Hearing Date March 5, 2003

Rep. Hanson Do you think this would be better if those negotiated between the teacher and the school board then making a law out of it?

Wardner: If it could be taken care of at the local level that would be great, but if that is difficult to do, this is something that says they may not a shall.

Rep. Herbel Do you see any conflict arising where there may be difficulty in filling the position and the one in the position threatens to leave in order to get the bonus.

Wardner: basically teachers are pretty honest people, they lay their cards on the table, I don't know a lot of them that would play hardball with something like that.

Rep. Herbel we lost high school math teacher basically over he wanted more money.

Rep. Hunsakor Morale problems with this in a critical area and give 5K and then a area that is not critical who is not a buddy of the Superintendent or the Board doesn't get any kind of bonus. I see where this could have a lot of problems.

Wardner: That is a possibility that that could happen, I'm thinking more of people who are ready to retire or move to another state to teach and draw retirement from ND and teach in another.

Maybe this bonus will be enough to keep them there now.

Rep. Jon Nelson Difficult to fill has that been defined by ESPB. **Wardner:** I believe it has

Rep. Jon Nelson If in fact that this bill passes, and a certain educator qualified and was given a retention bonus, let say over a three year, at the end of the three years, would that person qualify for the retention again, is there no limitations? **Wardner:** No limitation, other than the amount.

Rep. Mueller All major teaching areas are difficult to fill, do you understand it to be that way?

Wardner: In my mind it is going to be the sciences and math, foreign languages.

Rep. Mueller I think Chairman Kelsch that we need the definition.

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House Education Committee
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Hearing Date March 5, 2003

Rep. Williams Bonus bill, question on the bottom, 5K bonus (part 3) retention bonus, are taxes withheld and we know that income taxes are withheld, what about retirement.

Wardner: they would have to be withheld

Rep. Williams that bring it to another point, retirement paid on by the school board, that would enter into the teachers retirement fund and you get paid on the last three years , it could elevate the pay prior to retirement. **Wardner:** Yes it would, it would move it up, no question about it.

935 Sen. Wardner makes comments on SB 2177 so that he may return to his committee.

1000 resume SB 2197

(1000-1420) Bev Nielson: ND School Board Association, See Attached Testimony

Rep. Herbel For the next three years, approx. 1000 teachers will retire out if they know that they are in a critical area, they will request and stay on for another three years, it will elevate the retirement base income, therefore their retirement income will increase significantly does your association support increasing the amount that they will fund for teachers retirements to offset the funding?

Nielson: I don't think that there will be that much money available to everybody and 2nd if the teacher is qualified and the board does want to keep and to keep them from retiring and is willing to offer them a bonus, those are all considerations that have to be made. I think the number of instances that this will be used will hurt less than the rule of 85. I don't see that as a huge issue.

Rep. Herbel I guess I do because I retired at age 55, I would have stayed on if guaranteed a bonus because for every thousand dollars of increased has a significant pay out and hopefully I will live to be 80 years old, that is an extremely large amount of money.

Nielson: Last session we passed FTE which raised teachers salaries by a lot and I thought that

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Hearing Date March 5, 2003

was a good a thing, and I don't know if anyone talked about the impact on the teachers fund for retirement by bumping everyone up.

Rep. Hanson I think you can only issue a 1 year contract, how can you do a 3 year contract?

Nielson: The continuing contract law says that if you don't non-renew a teacher they automatically have a job. I suppose it is good for longer if they don't renew the contract.

Rep. Hanson at the same salary

Nielson: at no less compensation, so after three years it would have to be revisited.

Rep. Mueller In your testimony. 'The bonus system is operated widely in the private sector and in government on the individual involved.' Are we talking about these folks having a superior character than those that work in the school setting?

Nielson: Not at all, I'm talking about in the instances where those situations of harassment occur it could be the fault of how it was done administratively, pettiness amongst the employees. What I am saying over broad that teachers and school board members are no better able to handle this situation then our state employing agencies and private sector and employees. We believe that they are, we believe that the instances where this occurs is isolated and have more to do with the dynamics between the sides that are involved. I know that those things can happen. it is used as a reason to not have employer rights which recognize that we are going to need that person next year really badly and we want them to go back and get their major and be able to pay for that without having to answer to a system which wants everyone to get the same.

Rep. Williams Critical needs I an individual school district, can you give some examples of subject areas?

Nielson: This is specific to the one that ESPB defines as difficult to fill.

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Rep. Williams It will vary from urban to rural **Nielson**: That is true.

Rep. Hawken: Paying for classes to get major, is that permissible now under staff development with out the bonus. **Nielson**: Our fear is that it may not.

Dean Bard, ND Small Organized Schools

This is a bill that we support. It will have a dispirit impact in that it will help small school districts better than it will help larger school districts, because smaller more rural districts have a larger problem in getting qualified people than some urban or larger ones. Because people tend to gravitate to the larger districts. So we think this will be a good bill for our membership. We do have a legislative goal that deals with this. School districts need to be free attract and retain quality professional instructional personnel. This is one tool that we think would be helpful to do that. An optional matter to offer it as a retention bonus with three requirements; the license in ND, currently under contract and position has to be termed one that is difficult to fill. Safeguard and limitations built into the bill it may be paid over a three year period and that I think is very important. There may be instances that a teacher may get the bonus one year and leave the next, and that is not what the school district had in mind. I could be payable in installments over three years for each year that the teacher is on staff. Then finally that there is an authorization that the payments will be off of the salary schedule. And that is materially important. We have heard it said that in other circles that there is a lot of instances where this authorization to pay off of the salary schedule has been negotiated and that there is not much need or use for this authority. I urge a do pass on this bill.

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Rep. Williams A hypothetical situation: School boards want incentives to supplement this.

Fairmont High School has 7 teachers. One teacher wanted to leave, she teaches Chemistry, they gave her a 5K bonus for over the next 3 years. The money that is in the school system that size, the incentive would wipe them out, and the rest of the teachers would get nothing for three years.

Bard: School board members are reasonable people, they would not offer a bonus and clean up money and then others are unhappy and leave and no money left. And the first thing you know is you will only have one teacher. I have to trust in the responsibility of school board members to do what is right and for the most part they usually do.

Rep. Williams I don't distrust school boards members, but when we get to the child, I believe we have to have the teacher in the classroom, and in the critical needs area and the teacher is put in second place. There is a reason why we have salary schedules instead of merit schedules. No equity base with school boards and teachers in the earlier years.

Bard There is certainly a need for a standardization for teachers salaries within the districts. The only problem is when you get in some of these areas where things get a little to rigid and school districts in order to meet the curriculum requirements have to offer certain course work and if you can't find a teacher to do that, then what do you do.

Opposition:

(3032- 3782) Nancy Sand: NDEA See Attached Testimony

Rep. Sitte What is the average number of years that teachers may transfer to different district?

Sand: that varies from district to district. There are some negotiated agreements out there that allow some at 5 and some allow all. More and more districts are starting to increase the number

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of years that teachers are allowed to bring in and that is a direct reflection on the teacher shortage issue. We would like to see teachers be able to bring in all years of experience.

Rep. Sitte isn't it usually around 7 years

Sand I don't know the average., it varies.

(4000-4483) Mike Barnhardt, teacher, Center High School, See Attached Testimony

Rep. Williams How many students does Center have? **Barnhardt:** 8-12 90 students

Rep. Williams How many teachers do you have? **Barnhardt:** approx. 15

Rep. Sitte On the bottom of page 1, 'working relationship' That you would be getting paid not to do your work but for not leaving? Isn't that not what the current salary schedule dose is pay people not for doing more work but for not leaving.

Barnhardt: Salary schedules are put in place to reward experience and longevity in that sense. And what I have seen in my experience is that I am a much better teacher now after my 23 year of teaching than I was the first year there. it is a way of recognizing that we can improve our methods, knowledge over the course of time.

Rep. Sitte When we have so many young people coming out of our schools of education and not taking jobs in our state because of our low starting salaries and we have such an intense salary schedule that rewards people for longevity with triple the salary in some cases of those just starting. Maybe the time has come either in the union itself or on the state level to look at some way to get more equity to our young people who are starting out a 20K.

Barnhardt: I guess that my response to that is a situation where because of a loop hole in our own bargaining agreement, there is a possibility of a person coming in with no experience

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whatsoever actually making more money than someone there for three years. That happening created a lot of ill feelings.

Rep. Jon Nelson A q. about your testimony where you talk about a possibility of getting a retention bonus year after year. Wouldn't that be outside the scope of a retention bonus and possible be in the same light of what you took o the Supreme Court. Do you have any confidence in school boards that would make decisions based on the local needs and not abuse the a law.

Barnhardt: Unfortunately the result of the court cases were a result of our school boards not acting responsibly. The first cases was when we sued the school board of the district because they offered a contract off the schedule. And before it went to court it was settled in our favor.

Rep. Jon Nelson If some one was offered a retention bonus year after year would you consider taking the board to court for that very same reason. If it was done within the law, as this bill is proposed, we wouldn't have any option. We are not necessarily opposed to retention for longevity bonuses per say, we should have the right to bargain for those or to have some say in how they are offered and to who they are offered to.

Rep. Jon Nelson In your experiences as negotiator in the Center has this ever been brought to the table? **Barnhardt:** No we have not.

(5288-5833) Mike Gessner, Math teacher in Minot High School, See Attached Testimony

Rep. Mueller Circumstances in Minot, are there any teacher shortages this year or the past year?

Gessner: Yes I have I have part of it for a number of years. I believe we had three openings n Math and we had four applicants, we would probably disagree with the board on the number of applicants for the position, if it was enough. We don't believe it was enough applicants to choose from, coming from statewide and out side of ND to make a quality team that our kids need.

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Rep. Mueller More applications are better, lets say we could not get that position filled, what would the position of the board be?

Gessner: You would have larger class sizes, but with our current contract, our city has chosen to pay us higher than the surrounding areas. I would suppose we would get some of those individuals to move to our town. Almost all of our new teachers have not moved in but drive from the surrounding area. We are okay but we are taking away from the surrounding area, and then they suffer. **flip tape**

Rep. Jon Nelson Teachers from surrounding areas into Minot because you have a more attractive salary schedule, some would argue that this retention bonus would allow that teacher that is traveling from Towner to remain in town and not cause a hardship on that school district, if in fact they did leave the Towner school district that left a void. If you are seeing three applications for a math position in Minot you are seeing less than three in Towner. So this is as I would see it something that the smaller schools would have to identify the people that are providing good quality education in special rural areas.

Gessner: Two things, first as we using fact finding, our school board is the one the declared fact finding last session, it wasn't us, we were willing to bargain, they chose not to. Second, Fine it works this year, what about the next year, and the year after, how big do the signing bonuses have to get to bring anyone in here? We in our district in the bargaining process regionally competitive. We can only talk about within our own region. We are trying to open this up a little bit, do we pay 10K bonuses, we do what to keep people.

Closed the hearing on 2197.

Additional comments from Sen. Espgaard,

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Deanne Hall
Operator's Signature

6/17/03
Date

Page 10
House Education Committee
Bill/Resolution Number SB 2197
Hearing Date March 5, 2003

I voted against this in the Senate. I have been involved in business for 35 years. I look at retention pay, signing bonuses as accepted in business, but it is not a good thing. I have seen it abused, used to show favoritism toward employees, I see very little retention after the one year that is retained. I also see it as a substitute for poor salaries and poor wages to start with. I ask for you to give this a DO NOT PASS.

close hearing.

committee work :

Rep. Herbel moves a DO NOT PASS, Rep. Mueller seconds the motion.

Rep. Sitte I guess I will be against this. It was made clear that schools are going to be in desperate situation to try to keep their scores high, to not be labeled failing schools, NCLB, they need another tool.

Rep. Herbel I support the DNP for a variety of reasons, I think we have a bonus bill that will help somewhat to obtain qualified people. I can see where Rep. Sitte is coming from, but on the other hand there is the other side of the coin, where the people in the system what kind of job will they do based on the bonuses. I have some other concerns as well, with the retirement for teachers, if a 1000 teachers doing this, (200 x 10000) you are talking 2M impact on the teacher retirement fund. Late resignation and the competition between area schools.

Rep. Jon Nelson There are a couple of things we could do to make it palatable, maybe the train is to far down the track. if you are going to bring up every bad example that has happened in school districts across the state, and promote public policy based on that, you could do the reverse on the other side. It is a tool that school boards will increasingly have the need for. We have learned a lot as far as negotiating contracts over the last 20 years.

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10/17/03
Date

Page 11
House Education Committee
Bill/Resolution Number SB 2197
Hearing Date March 5, 2003

Rep. Norland To many things are open ended and unanswered questions, It does give the board the right to give money to who they want, with the exception of what is in the bill. I find another thing that is interesting, the teachers that testified here today were not the teachers we didn't qualify, they were teachers who are science, math that are highly qualified. you can't fix things with a bag of money, it is a Band-Aid on the problem.

Rep. Mueller One didn't show up, Mary from the ND Council of Education Leaders to take a stand. Klundt make the comment earlier: We have a lot that I like and a lot I don't like and I vote with my friends.

Rep. Jon Nelson My experiences motivation to move from teachers to administration is for the higher salary. And we have lost a lot of good classroom teachers to administration over the years. There is certainly an example of a group of people they have negotiated on their own. We are not recreating the atom here. This would allow better classroom teachers to stay in the classroom.

Chairman Kelsch We have a really good tool that made it over to the Senate and that Rep. Meier sponsored. For this body to pass one or the other it is a good step forward. Give School board a tool to use and is definitely start in the right direction.

Rep. Sitte The number of teachers who leave school after 20 years, the average is around 7 years. And so when we are talking about morale issues there are teachers out there working very hard and only making 25-30K while the ones that are 30 years and are not performing much, there comes to a point when we come into a new accountability system, why are you laying all of the accountability on the school, and then saying that school the accountability has to return to the classroom teacher. I know that this isn't popular with NDEA, this is union driven, it is time that we look beyond what the union wants and what is best for our students.

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Page 12
House Education Committee
Bill/Resolution Number SB 2197
Hearing Date March 5, 2003

Rep. Herbel I think what you are talking about, and that is another issue, is merit pay. If that was the solution to it, every school in the country would be doing it, they would be doing it. But at the same time we need to take negotiations away from the personal relationships that are formed and the favoritism that might happen.

Rep. Hanson Rep. Sitte you teach Spanish I teach American History, which one is required.

Rep. Sitte American History.

Rep. Hanson If you get the bonus and I can't and I am teaching a required class, which is more important? Neither one probably.

Rep. Meier I See this bill as having a very broad vision and I think we are moving to an era where schools and boards will need this tool.

Roll vote: 9-3-2 Rep. Hawken will carry the bill to the floor.

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Date: 3/5/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2197

House HOUSE EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DRP

Motion Made By Herbel Seconded By Mueller

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓				
Rep. Johnson	✓				
Rep. Nelson		✓			
Rep. Haas	AB				
Rep. Hawken	✓				
Rep. Herbel	✓				
Rep. Meier		✓			
Rep. Norland	✓				
Rep. Sitte		✓			
Rep. Hanson	✓				
Rep. Hunsakor	✓				
Rep. Mueller	✓				
Rep. Solberg		AB			
Rep. Williams	✓				

Total (Yes) 9 No 3

Absent 2

Floor Assignment Hawken

If the vote is on an amendment, briefly indicate intent:

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Date 3/17/03

REPORT OF STANDING COMMITTEE (410)
March 5, 2003 4:11 p.m.

Module No: HR-39-4039
Carrier: Hawken
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2197, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends
DO NOT PASS (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). Engrossed
SB 2197 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-39-4039

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12/17/03
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2003 TESTIMONY

SB 2197

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**NORTH DAKOTA
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SENATE EDUCATION COMMITTEE

SB2197

Monday, January 20, 2003

Bev Nielson, North Dakota School Boards Association

The North Dakota School Boards Association (2003 Delegate Assembly) passed a resolution in support of legislative authority for boards to offer retention incentive bonuses to teachers in difficult to fill positions. The bill before you:

- Is permissive and would not require any board to take advantage of this staff management tool.
- Would apply only to individuals licensed or approved to teach by ESPB and currently under contract with the district in a "difficult to fill position."
- Would allow, at the board's discretion, the offering and paying of a retention incentive bonus in one lump sum or over a period of up to three years.
- Stipulates that the bonus be paid outside the negotiated agreement, off the salary schedule and not considered salary for continuing contract purposes. This means a district would not require the teachers' union approval and once the bonus is fully paid, it is not a continuing obligation of the employer.
- Has no fiscal note.

For several Sessions, this committee has heard testimony regarding current and impending teacher shortages. It is our belief that the "highly qualified" standards required by No Child Left Behind will greatly exacerbate this problem in North Dakota. Hundreds of teachers are currently teaching in their minor field.

Unfortunately, the option of raising **all** teacher salaries in North Dakota enough to mitigate this problem is fiscally improbable for both the state and local school districts. School districts will require some management tools and flexibility in order to adequately staff their schools.

Teachers with majors and double majors will be in great demand. It is simply a fact that some

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degrees will be more marketable than others. **This bill is about "market" not "merit".** While performance based pay may be a topic worth discussing, it is not the impetus for SB2197.

This legislation is necessary because:

- The continuing contract law and supporting case law stipulates that, unless a teacher is non-renewed, they are guaranteed a job at no less compensation for teaching than they received the year before. So one time bonuses are not a management option.
- School districts, not the teachers' unions, are responsible for ensuring their schools are fully staffed with qualified teachers. School districts need to be pro-active in instructional staff planning to meet impending NCLB requirements. Retention bonus authority could be helpful to that end.
- It is unrealistic to assume teachers' unions would grant districts this authority at the bargaining table. Providing bonuses to select individuals, at the board's discretion, is counter to the most basic union tenets.

The concept of market driven employment is a fundamental principle of business, widely understood in a right-to-work state. The North Dakota Legislature has already recognized the necessity for this management tool in state employee recruitment and retention. Last week HB1093, which extended authority for state employee merit bonuses, passed the House 92-0. HB1032, which will be heard this week, extends authority for payment of recruiting and retention bonuses for state employees. Clearly the state has recognized the need for this critical management tool. School districts are merely asking for the same.

Last Session, you heard testimony regarding how bonuses lower staff morale and about actual staff harassment of teachers receiving bonuses. If you hear those assertions here today, I would ask you to consider whether those occurrences are the fault of a bonus system which already operates widely in the private sector and state government or more a reflection on the character of the individuals involved.

In conclusion, NDSBA supports SB2197 as a voluntary management tool that will enable school districts to meet current teacher shortages and to be pro-active in meeting the "highly qualified" staffing requirements of No Child Left Behind.

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from Bar Nelson NDSBA

SB 2197

Teacher Shortage Report: Teacher FTEs for 9th - 12th Grade Courses by Subject Area (2001-2002 School Year)
NDDPI 09/12/2002

		6.37	0.00	0.50	6.87	0.50	7.3%
23	Computer Education						
6	Foreign Languages	83.02	3.60	2.57	89.19	6.17	6.9%
12	Music	65.24	1.77	3.00	70.01	4.77	6.8%
19	Special Education Programming	343.36	3.08	21.27	367.71	24.35	6.6%
2	Art	38.94	0.60	1.28	40.82	1.88	4.6%
10	Technology Education (Industrial Arts)	63.92	2.03	1.00	66.95	3.03	4.5%
15	Social Studies	221.54	5.41	2.00	228.95	7.41	3.2%
5	English / Language Arts	283.33	8.73	0.00	292.06	8.73	3.0%
11	Mathematics	227.44	5.21	1.00	233.65	6.21	2.7%
1	Agriculture	37.46	0.00	1.00	38.46	1.00	2.6%
13	Science	216.01	3.30	2.00	221.31	5.30	2.4%
9	Family and Consumer Sciences	82.55	1.22	0.00	83.77	1.22	1.5%
3	Business Education	108.38	1.39	0.00	109.77	1.39	1.3%
8	Physical Education	114.19	1.26	0.00	115.45	1.26	1.1%
20	Career Education	8.82	0.07	0.00	8.89	0.07	0.8%
14	Business and Office Technology	30.41	0.17	0.00	30.58	0.17	0.6%
4	Marketing Education	8.12	0.00	0.00	8.12	0.00	0.0%
7	Health Careers	9.74	0.00	0.00	9.74	0.00	0.0%
17	Trade and Industrial Education	29.62	0.00	0.00	29.62	0.00	0.0%
18	Health	1.91	0.00	0.00	1.91	0.00	0.0%
21	Driver and Traffic Safety Education	10.61	0.00	0.00	10.61	0.00	0.0%
25	Diversified Occupations	3.97	0.00	0.00	3.97	0.00	0.0%

Notes: Regular - FTEs of Teachers with regular licenses.

Irregular - FTEs of Teachers with provisional, temporary, probationary, or interim licenses.

Openings - Number of open positions as of the first day of class.

Total - FTEs of necessary teachers.

Shortage - Number of Irregular FTEs and Openings.

Pct - Percentage of Irregular FTEs and Openings to the Total.

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Date

10/17/03



North Dakota Education Association • Box 5005 • Bismarck 58502-5005 • Phone 701-223-0450 • Fax 701-224-8535

January 20, 2003

Chairman Freborg and Members of the Committee,

My name is Nancy Sand, and I am representing members of the North Dakota Education Association. I am sure you are not surprised that NDEA has some serious concerns about SB2197.

Please understand that NDEA knows there is a teacher shortage in this state. All children deserve to have fully qualified teachers in their classrooms; however, we believe that an overall increase in compensation for all teachers, reasonable working conditions, adequate resources, and demonstrations of respect for the profession are the best means to recruit and retain teachers.

This bill would allow a school board to pay a recruitment bonus to anyone in a teaching position defined as "difficult to fill" by the ESPB who lists nearly every area as "difficult to fill."

While it is true that some curricular areas are harder to fill than others, this varies from district to district. One district may experience difficulty while another may have enough qualified applicants from which to choose. This bill has no requirement for a school district to demonstrate inability to hire.

Teachers and school boards jointly negotiate what they believe is affordable and appropriate compensation for teachers. If now a board could offer any amount (\$1,000, \$5,000, or \$10,000) above the salary schedule, it would be understandable that other teachers would wonder why there is no money for them.

This bill does not include limits on the amount a board could pay someone, nor does it say the bonus is a one-time bonus. Teachers sign new individual contracts for each school year. According to this bill, a teacher could ask for a bonus every time he or she signs his or her individual contract.

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Also, when should a board be allowed to offer a bonus--in March or two weeks before school starts? This bill might encourage a teacher to plot to wait until just before school starts to threaten to leave, with the idea that if he or she waits long enough, the board might agree to a higher amount.

Some teachers have spouses who are employed in the same community or area. If there were two science teachers, one whose spouse was a local business owner, and one with no family, would it be fair for a school board to pay a retention bonus to the unmarried science teacher just because this teacher threatened to leave?

Century Code says salary is a topic for negotiations. This bill sounds a lot like individual bargaining, and the Supreme Court recently ruled against individual bargaining.

Teachers and school boards have been negotiating for many years. They have worked together to develop their negotiated agreements and salary schedules. The outcome of this bill could destroy those relationships and salary schedules, and foster resentment and jealousy.

For several years, NDEA, the North Dakota School Board Association, and the North Dakota Council of Educational Leaders have conducted collaborative bargaining training across the state. Board members and teachers bring issues to the table. In the bargaining training, participants learn to discuss issues so that everyone can understand why the issue is a problem for all. Then they brainstorm possible solutions, test solutions against a set of criteria, and select the solution that will work the best to solve the problem. When a problem is solved jointly with all the stakeholders participating, the solution is more likely to be acceptable to all.

If a school board truly has a problem in hiring, they should bring this problem to the table and jointly work together with their teachers to develop a solution.

NDEA urges a Do Not Pass on SB2197.

\\slky\B2197 - Retention bonuses

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**NORTH DAKOTA
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HOUSE EDUCATION COMMITTEE SB2197

Wednesday, March 5, 2003

Bev Nielson, North Dakota School Boards Association

The North Dakota School Boards Association (2003 Delegate Assembly) passed a resolution in support of legislative authority for boards to offer retention incentive bonuses to teachers in difficult to fill positions. The bill before you:

- Is permissive and would not require any board to avail themselves of this management tool.
- Would apply only to individuals licensed or approved to teach by ESPB and currently teaching in the granting district in a "difficult to fill position" as defined by ESPB.
- Would allow, at the board's discretion, the offering and payment of a retention incentive bonus in one lump sum or over a period of up to three years.
- Stipulates that the bonus may be paid outside the negotiated agreement, off the salary schedule and not considered salary for continuing contract purposes. This means a district would not require the teachers' union approval and once the bonus is fully paid, it is not a continuing obligation of the employer.
- Has no fiscal note.

For several Sessions, this committee has heard testimony regarding current and impending teacher shortages. It is our belief that the "highly qualified" standards required by No Child Left Behind will greatly exacerbate this problem in North Dakota. Hundreds of teachers are currently teaching in their minor field.

Unfortunately, the option of raising all teacher salaries in North Dakota enough to mitigate this problem is fiscally improbable for both the state and local school districts. School Boards will require management tools and flexibility in order to adequately staff their schools.

Teachers with majors and double majors will be in great demand. It is simply a fact that some degrees will be more marketable than others. Retention will become a challenge. This bill is

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Date

about "market" not "merit". While performance based pay may be a topic worth discussing, it is not the impetus for SB2197.

This legislation is necessary because;

- The continuing contract law and supporting case law stipulates that, unless a teacher is non-renewed, they are guaranteed a job at no less compensation for teaching than they received the year before. So, one-time bonuses are not a management option.
- School boards, not the teachers' union, are responsible for and held accountable for ensuring their schools are fully staffed with qualified teachers. School boards need to be pro-active in instructional staff planning to meet impending NCLB requirements. Retention bonus authority could be helpful to that end.
- When professional development money becomes available through NCLB for the purpose of upgrading qualifications of staff, it should be the school board, not the teachers' union that makes the decision as to which teachers will receive funds to upgrade. This grant of monies would be considered a retention bonus since it will be granted by the board, not dictated by terms of a negotiated master agreement and not considered salary for continuing contact purposes
- It is unrealistic to assume teachers' unions statewide would grant districts this authority at the bargaining table. Providing bonuses to select individuals, at the board's discretion, is counter to the most basic union tenets.

The concept of market driven employment is a fundamental principle of business, widely understood in a right-to-work state. The North Dakota Legislature has already recognized the necessity for this management tool in state employee recruitment and retention. Earlier this Session, the House passed HB1093 (92-0) that extends authority for state employee signing and retention bonuses. Clearly the state has recognized the need for this critical management tool. School districts are asking for the same.

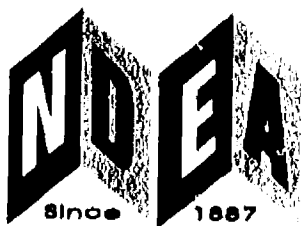
You have previously heard testimony that bonuses lower staff morale and about staff harassment of teachers receiving bonuses. If you hear those assertions here today, I would ask you to consider whether those occurrences are the fault of a bonus system that operates widely in the private sector and state government or more a reflection on the character of the individuals involved.

In conclusion, NDSBA supports SB2197 as a voluntary management tool that will help enable school districts to meet current teacher shortages and to be pro-active in the meeting the "highly qualified" staffing requirements of NCLB.

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North Dakota Education Association • Box 5005 • Bismarck 58502-5005 • Phone 701-223-0450 • Fax 701-224-8535

March 5, 2003

Representative Kelsch and Members of the Committee,

My name is Nancy Sand, and I am representing members of the North Dakota Education Association. I am sure you are not surprised that NDEA has some serious concerns about SB2197.

Please understand that NDEA knows there is a teacher shortage in this state. All children deserve to have fully qualified teachers in their classrooms. We believe an overall increase in compensation for all teachers, reasonable working conditions, adequate resources, and demonstrations of respect for the profession are the best means to retain teachers.

SB2197 allows a school board to pay a retention bonus with no requirement to justify offering the bonus. There is no guarantee that the bonus will be offered to retain the "teacher" rather than the "coach."

The bonus can be offered to anyone in a teaching position defined as "difficult to fill" by the ESPB. School boards might think that sounds pretty good because the ESPB list includes almost every curricular area. However, social studies, elementary, and physical education are not on the list. So, if Wolford's PE teacher had an offer from Belcourt, Wolford's board would actually be prohibited from offering its PE teacher a bonus to try to keep the teacher.

For years, teachers and school boards have negotiated what they believe is affordable and appropriate compensation for teachers. If now a board could offer any amount (\$1,000, \$5,000, or \$10,000) above the salary schedule, it would be understandable that other teachers would wonder why there is no money for them.

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SB2197 does not limit the bonus to a one-time bonus. Teachers sign individual contracts each school year. According to this bill, a teacher could ask for a bonus every time he or she signs his or her contract.

This sounds a lot like individual bargaining, and recently the North Dakota Supreme Court ruled against individual bargaining.

Also, when should a board be allowed to offer a bonus--in March or two weeks before school starts? This bill might encourage a teacher to plot to wait until just before school starts to threaten to leave, with the idea that if he or she waits long enough, the board might agree to a higher amount.

Some teachers have spouses who are employed in the same community or area. If there were two science teachers in Grafton, one whose spouse was a local business owner, and one with no family, would it be fair for the Grafton school board to pay a retention bonus to the unmarried science teacher just because this teacher happens to be more mobile?

These retention bonuses are not long term, and there is no certainty of the amount. Unless a bonus is continued in at least the same amount year after year, a teacher could not count on this salary for family budget purposes.

A one-or two-time bonus may not keep a teacher from leaving. If a board refuses to pay a bonus or continue paying a bonus, the teacher may just move on to another district with a better salary schedule.

A salary schedule with BA Base sufficient to sustain a family and with good career earnings potential is more likely to attract and retain a teacher who will stay in the community and raise his or her family.

For several years, NDEA, the North Dakota School Board Association, and the North Dakota Council of Educational Leaders have conducted collaborative bargaining training across the

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state. In the bargaining training, participants learn to discuss issues so that everyone can understand why a problem for one is really a problem for all. Then they brainstorm possible solutions, test solutions against a set of criteria, and select the solution that will work best to solve the problem. When a problem is solved jointly with all the stakeholders participating, the solution is more likely to be acceptable to all.

If a school board truly has a problem in hiring, they should bring this problem to the table and work together with their teachers to develop a solution. For example, our annual Teacher Recruitment/Retention Survey shows that many school boards and teachers have negotiated allowances for a board to offer additional compensation. Some school districts have negotiated longevity pay for career teachers. Unlike the proposed retention bonuses, the negotiated longevity pay and additional compensation are included as salary for continuing contract purposes. A teacher can count on that additional salary for planning family budgets.

Teachers and school boards have been negotiating for many years. They have worked together to develop negotiated agreements and salary schedules that reflect local ability to pay, values of the district for teaching experience, and values of the district for continuing education. A bonus plan that is arbitrarily implemented and prohibited from being negotiated will undermine those schedules and affect relationships between boards and administrators and teachers.

NDEA urges a Do Not Pass on SB2197.

s:\leg\SB2197 - Retention bonuses

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10/17/03
Date

Representative Kelsch and Members of the Committee

My name is Mike Barnhart. I have been a high school science teacher in North Dakota since 1976. For the last 23 years I have been at Center High School, Center, North Dakota. For approximately 20 of those 23 years I have been involved in negotiations at contract renewal time. While we didn't always get what we wanted, or felt we deserved (at least twice we got no increase at all), we always felt we had the opportunity to work something out with the school board that was fair and equitable for all concerned.

For about the last four years, as some of you may know, the Center Education Association has been involved in a court case (actually two cases) dealing with negotiations issues. This case was recently settled and upheld by the North Dakota Supreme Court in favor of the CEA. The Supreme Court decision said that, under North Dakota bargaining law, no one has the right to negotiate on their own outside the recognized bargaining unit, and that a school board cannot pay someone "off schedule".

I have seen what can happen to a staff when a school board does this. It causes ill feelings for all concerned and can cause dissension within a school district. It interferes with the smooth operation of the school because it creates an adversarial relationship between the staff and the school board. In the end, the biggest losers are the children of the district.

Now the SB 2197 proposes to eliminate the results of all those years of negotiations and circumvent the Supreme Court's decision by allowing school districts to offer retention bonuses. If this is seen as a way to alleviate the teacher shortage in North Dakota, it is wrong. A "hard to fill" teacher may just go to the highest bidder, much like free agency in professional sports. This won't bring in new teachers, it will just shift them around to the districts that can most afford them.

I am one of two science teachers in Center. I live in Mandan and commute every day. My colleague lives in Center. Under the provisions of this bill, I might be offered a retention bonus because I am less tied to the community, while my fellow science teacher, who lives in Center and is less likely to leave, might not. Also, because this bill places no limits on how often the bonus can be given, I could receive the bonus every year. Obviously, this would put a strain on our working relationship since I would be getting paid more, not for doing more work, but for not leaving.

Many school districts already offer incentives to stay by including incremental increases in their salary schedule. But, since this was something that was negotiated for, and agreed upon by all parties, there is no friction within the staff. It is seen as a true incentive to stay, something to work for.

The bargaining laws of North Dakota were put in place to keep school districts from having to negotiate separate contracts with every one of their teachers every year. I believe the passage of SB 2197 will make that a necessity again and set bargaining in North Dakota back to where it was 40 years ago. Therefore, I urge you to oppose SB 2197. Thank you for your consideration.

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Deanne Hall
Operator's Signature

10/17/03
Date

Mar. 5, 2003

Testimony re: Senate Bill No. 2197 Payment of Retention Incentives

Speaking in Opposition

Mike Gessner
Mathematics Instructor
Minot High School
Former President of Minot Education Association
Current Bargaining Representative for the Minot Education Association

Our Negotiated Agreement between the Minot Education Association and the Minot School Board is a document that has evolved over time. It is an agreement of things that both the Board and the Association have wanted. It is an agreement that to this point in time has met the purpose it was intended for, to bring together a team of instructors to do a quality job of teaching Minot's youth. We are a team that has good morale, camaraderie, a collegiality that has produced an excellent product that has been demonstrated year after year. This agreement shows the value of both instructors having experience and the importance of them furthering their educations. They are paid accordingly. Men and women, with varying years of experience and education, are applied to our pay schedule with a common understanding.

You now bring before us a law that would set us back. How far? Who knows? When some people of your team receive retention payments, team members are going to get miffed. They are not going to understand why one person does and the next one doesn't. There are way too many variables that differentiate one staff member's responsibilities from the next. The number of different preparations, types of classes taught within your own discipline, the differences of students from one year to the next, the number of special needs students assigned to you, the number of total students you have, etc. leave no way of having a reasonable method to the assigning of these payments. These bonus payments will only work to destroy the education teams that have been built across this state. At best, they will just cause a revolving door affect, get a bonus, and then move on to the next job. Where's the team?

The best way to hire a quality instructor is offer a good base salary with a salary schedule that has serious potential in it's career earnings. Along with this salary schedule provide good benefits. Now, a person can see that this school that is offering this contract really wants them to be a part of their community and their teaching team.

This Bill will set education back. Please vote Senate Bill 2197 down.

Thank you,

Mike Gessner
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