STATE OF CONNECTICUT
STATUTORY INTEREST ARBITRATION
BEFORE
HONORABLE J. LARRY FOY, ARBITRATOR

In the matter of	)	
	)	**Case# 2008-SBA-4**
STATE OF CONNECTICUT	)	**NP-4 Bargaining Unit**
	)	
and	)	**AAA Case 12 390 00717 07**
	)	
AMERICAN FEDERATION	)	
OF STATE, COUNTY AND	)	
MUNICIPAL EMPLOYEES,	)	
Council 4, AFL-CIO	)	
Locals 387, 391 and 1565	)	**July 25, 2008**
_____	)	

BRIEF
OF THE
STATE OF CONNECTICUT

Paul Bodenhofer
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JOINT EXHIBITS

1. NP-4 Contract (July 1, 2004 – June 30, 2008).
2. Union issues submitted to arbitration.
3. State issues submitted to arbitration.
4. Initial State proposals.
5. Initial Union proposals.
6. Agreed upon language.
7. MOU regarding current language carried forward.
8. C.G.S. 5-276a.
9. NP-1 Contract.
10. NP-2 Contract.
11. NP-3 Contract.
12. NP-5 Contract.
13. NP-6 and P-1 (1199) Contract.
14. NP-8 Contract.
15. P-2 Contract.
16. P-3A Contract.
17. P-3B Contract.
18. P-4 Contract.
19. P-5 Contract.
20. NP-4 Contract (July 1, 2001 – June 30, 2004).
21. NP-4 Contract (July 1, 1994 – June 30, 2001).
22. NP-4 Contract (July 1, 1988 – June 30, 1994).
23. NP-4 Contract (July 1, 1988 – June 30, 1991).
24. NP-4 Contract (July 1, 1985 – June 30, 1988).
25. NP-4 Contract (July 1, 1982 – June 30, 1985).
26. NP-4 Contract (July 1, 1979 – June 30, 1982).
27. NP-4 Contract (July 1, 1977 – June 30, 1979).
28. Meredith NP-4 award of March 31, 1997.
29. Denenberg NP-4 award for the 1988 – 1991 contract.
30. C.G.S. 27-33.
31. Dunn NP-4 award of October 19, 1995.

JOINT EXHIBITS CONT.

32. Foy NP-4 award of March 4, 1994.
33. NP-1 Contract (July 1, 2004 – June 30, 2007).
34. Waiver of timelines.
35. Judicial Professionals Contract (July 1, 2006 – June 30, 2009).
36. Rinaldo NP-1 award of April 13, 2005.
37. C.G.S. 5-247, Section 11.
38. DOC Administrative Directive 2.15 effective March 15, 1999.
39. DOC Administrative Directive 2.15 effective December 15, 2005.
40. NP-4 Article 15, Section 10 (Agreed upon language).
41. DOC Administrative Directive 2.11.
42. Memorandum of February 28, 2008.
43. DOC Administrative Directive 8.14.
44. DOC Administrative Directive 8.11.
45. "Blue Book" page 22 – C.G.S. 5-213.
46. Regulations of the State Board of Mediation and Arbitration.
47. Bargaining unit grievances.
48. C.G.S. 53a-3(9).
49. C.G.S. 5-213.
50. C.G.S. 5-173.
51. Tier II retirement hazardous duty.
52. Number of employees by Bargaining Unit.

STATE EXHIBITS

1. Sick leave usage in selected State agencies.
2. Sick leave usage by NP-4 classification.
3. NP-4 overtime for FY 2008.
4. Correction Officer transfer list packet.
5. Willard-Cybulski CI presentation.
6. DOC Administrative Directive 6.6.
7. Osborne CI presentation.
8. Correction Transportation Unit Organization Chart.
9. Correction Transportation Unit roster.
10. LaPointe stipulated agreement.
11. Correction Transportation Unit transfer letter.
12. DOC schedule document.
13. DOC swap guidelines.
14. Letter of April 8, 2008.
15. Chart of statewide mass salary increases.
16. Connecticut Comptroller memo – 2005.
17. Connecticut Comptroller memo – 2006.
18. Connecticut Comptroller memo – 2007.
19. Tewksbury package.
20. Tier II retirement extract.
21. Connecticut ability to pay power point presentation.
22. Connecticut Probation packet.
23. Connecticut State Police packet.
24. Connecticut Protective Services packet.
25. Connecticut Corrections packet.
26. Connecticut Department of Administrative Services Family and Medical Leave booklet.
27. Code of Federal Regulations extract regarding Family and Medical Leave.
28. Bergin CI multiple occasions of unscheduled absence.
29. Manson Youth Institution occasions of unscheduled absence.
30. York CI occasions of unscheduled absence.
31. Osborn CI occasions of unscheduled absence.

STATE EXHIBITS CONT.

32. MacDougal – Walker CI occasions of unscheduled absence.
33. Bridgeport CI occasions of unscheduled absence.
34. DOC report of drug arrests.
35. Connecticut Parole packet.
36. NP-4 tuition fund balances as of April 14, 2008.
37. Connecticut Tax Expenditures.
38. Letter of April 23, 2008.
39. Connecticut Management Personnel Policy 05-03.

UNION EXHIBITS

1. Letters of April 15 and 23, 2004.
2. Transfer list of: A - July 6, 2007; B – October 2, 2007 and C – January 3, 2008.
3. Medical Certificate requirement analysis.
4. DVD of March 4 presentation.
5. DOC Administrative Directive 2.3.
6. Letter of January 22, 2002.
7. New England Correction Officer salary comparisons.
8. Correction Officer salary comparisons at 10 year point.
9. 2006 Cost of Living Index.
10. Salary at 10 year point adjusted for COLA.
11. State per capita income compared to CO's at 10 year point.
12. CO salaries for selected years.
13. Salaries adjusted for hours worked.
14. State government average monthly payroll for full time employees.
15. Wages compared to the CPI.
16. Recent Connecticut wage increases as reported by BNA.
17. New England comparison of longevity payments.
18. Comparison of vacation accrual rates.
19. Comparison of standby pay.
20. Inmates classified as maximum custody.
21. Current NP-4 longevity (extract).
22. Extract of P-2 and Judicial contracts.
23. Chart of NP-4 years of service.
24. Total annual amount of various payments.
25. Annual increment comparison.
26. Department of Correction top step.
27. Comparison of Connecticut lump sum payments.
28. Office of Fiscal Analysis report on surplus/deficit 2000 – 2008 dated January 15, 2008.
29. Top step analysis.
30. Comparison with Connecticut State Police and Probation.
31. NP-4 total payroll.
32. Comparison between Correction Officer and State Police Trooper.

UNION EXHIBITS CONT.

33. Tuition funds.
34. Union ability to pay presentation.
35. Transcript of testimony of DOC Commissioner Lantz on November 13, 2006.
36. Connecticut State Board of Mediation and Arbitration packet.
37. Stipulated agreement regarding SBMA fees.
38. 3 CD's regarding Connecticut prison overcrowding. A - Transcript of prison overcrowding CD's.
39. Organizational response to Correction Officer stress.
40. Packet on Connecticut DOC suspensions.

INTRODUCTION

The process of negotiating for a successor agreement for the Corrections (NP-4) Unit began with the ground rules meeting at the end of September, 2007. The parties engaged in multiple meetings, both formal and informal, including meetings after impasse was declared, until January of 2008.

The State initially had 15 proposals, exclusive of economic proposals while the Union presented 32. At the end of arbitration, the State had 7 remaining proposals while the Union had 65. The significant increase in the number of Union proposals is directly attributable to creating 4 separate proposals for each original economic proposal, based on the Union demand that this be a four year contract. As can be seen by simply looking at the proposals, the primary matters in contention are economic in nature, and there are few language issues, as befits a relationship that has existed between the State and the Union for over 30 years.

Connecticut has had collective bargaining for its public sector employee unions since 1977 when the State entered into an initial agreement with AFSCME Council 4 for the Corrections Unit (J-27). This will be the ninth successor agreement in the NP-4 chain of contracts.

Prior to 1986 collective bargaining for State employees provided no final impasse resolution. State employees could not strike and the only available mechanism was fact-finding which was not binding on the parties. Even though not binding, the parties did engage in fact-finding and the fact finders' recommendations were generally accepted by the parties. In 1986 the Connecticut General Assembly passed legislation establishing

issue-by-issue Interest Arbitration. This legislation established the process and time frames in which briefing and award are to be accomplished and also established factors to be considered by the Arbitrator in arriving at a decision.

The Connecticut General Statutes (C.G.S.), in Section 5-276a(e)(4), provides that the arbitrator "shall select the more reasonable last best offer proposal on each of the disputed issues based on the factors in subdivision (5)". Subsection (4) also provides that the arbitrator shall state, "...with particularity the basis for such decision" and "...shall not affect the rights accorded to either party by law or by any collective bargaining agreement". The factors to be considered by the arbitrator are listed in C.G.S Section 5-276 a(e)(5) and are as follows:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
2. The existing conditions of employment of similar groups of employees;
3. The wages, fringe benefits and working conditions prevailing in the labor market;
4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);
5. The ability of the employer to pay;
6. Changes in the cost of living;
7. The interests and welfare of the employees.

After considering all of the arguments, evidence and testimony, the Arbitrator should recognize that the State's positions throughout contract negotiations and this arbitration process are most reasonable and should thus be favorably awarded.

FISCAL AND ECONOMIC CONSTRAINTS

(Unless otherwise noted, citations are to page numbers in State Exhibit 21)

On April 14, 2008 the State presented Robert L. Genuario, Secretary of the Office of Policy and Management (OPM), to explain the current and future economic constraints facing the State and to explain the circumstances of the State budgets in recent years and as projected for the term of the successor agreement. At the beginning of his presentation, Secretary Genuario described his education, experience with the State and his current position as OPM Secretary. Significantly, Mr. Genuario, while a State Senator, was the Chair of the Senate Appropriations Committee for a year and ranking member for an additional seven years.

Secretary Genuario's presentation (S-21) contains descriptions, charts and other sub-exhibits, as highlighted and explained by his direct testimony, and should be reviewed in its entirety. This brief cannot begin to describe or convey all of the information in the presentation but will attempt to highlight the major elements. The State asks that the Arbitrator also review the exhibit and the testimony presented by Secretary Genuario in considering these issues.

One of the most significant considerations is the current and future national economic outlook. At the time of the presentation the risk of a U.S. recession was over 60% (pg 48) and it is common knowledge that the outlook has gotten worse since then. Correspondingly, consumer confidence had been steadily declining, with the index dropping from 111.9 in July of 2007 to 64.5 in March of 2008 (pg 50) and presumably it has

continued to drop. As we are clearly beyond the verge of an economic downturn, State revenues will be adversely impacted and budget shortfalls will result.

The State's financial situation is in tremendous flux and any financial decisions, including decisions on employee wage increases, must be made with the following factors in mind:

- Long term obligations currently total $54 billion with 70% related to state employee pension and health benefits and state subsidized municipal employee pension and health benefits (primarily teacher benefits) (pg 7). These obligations dwarf state surpluses, which have totaled only $4.3 billion over the past thirty fiscal years (pg 8).

- The expenditure cap continues to be a major factor in spending decisions. Since its creation there have been 17 budgets subject to the cap, 7 of which exceeded the cap (pg 26). All of the 7 exceeding the cap spent surplus funds and 1 also permitted the use of additional federal revenue. Another, in 2007, also increased the state's commitment to local education and health care. Over the last five years, the state experienced budget deficiencies (monies to fund unanticipated contingencies such as court mandates and natural disasters) that have averaged $51.7 million each year as well (pg 27).

- The budget reserve fund balance, now required to be 10% of General Fund appropriations was almost $250 million below target in 2007 and was projected to be about $325 million below in 2008 (pg 19). As

a result of the last period of economic recession, the budget reserve fund was completely wiped out in 2002 even though it had been fully funded at the then 5% level in 2000 (pg 18).

THE STATE TAX BURDEN AND SPENDING CAP

It is now an accepted fact of life in Connecticut that we have an income tax but it was not always so. The tax was imposed in 1991 and, as part of the compromise that led to the tax, there is a corresponding expenditure cap that was (and is) designed to prevent runaway spending (pg 23). Prior to the expenditure cap, the budget grew by a little under 10% a year for the preceding 14 years but since the cap the growth rate is half that. The expenditure cap is required both by statute and by the State Constitution (pg 26), and it applies to almost all funds, including the General Fund (from which most State employees, including NP-4, are compensated), Special Transportation Fund and the Worker's Compensation Fund among others (see pg. 25 for full list). While there may be some very limited exceptions, all increases in costs associated with the NP-4 bargaining unit employee wages and benefits are subject to the spending cap. The cap may be exceeded only if the Governor declares an emergency **and** three-fifths of both houses of the legislature concur (pg 24).

The spending cap is required in order to limit the burden on the taxpayers of Connecticut. We have one of the highest (fifth in the nation) per capita state tax burdens in the United States with a state tax of $3,470.00 for each resident (pg 29). This is $1,091 higher than the national average and between $456 and $887 higher than our three neighbors, New York, Massachusetts and Rhode Island. In New England, only Vermont has a higher burden.

As we all know, taxpayers face not only local, county and state taxes, but also federal taxes. Factoring those in, Connecticut leaps to the head of the line, with a tax burden of $17.3 total taxes paid per $100 of personal income). New York (15.7%) and Massachusetts are second and third. Vermont, which was ahead of us in the two previous comparisons now plummets to twenty-eight while Maine has dropped to twenty-six (pg 31). One of the reasons we have the highest tax burden is that we are one of the highest (third) exporters of tax dollars to the federal government, getting only 73 cents back for each dollar sent to Washington (pg 32).

It is also very important to acknowledge Connecticut's debt burden, which is the third highest per capita in the country. It is almost triple the national average (pg 34). As a result, debt service expenditures in the General and Special Transportation Funds have almost doubled since FY 97 (pg 35) which curtails discretionary spending.

STATE REVENUES

At the time of Secretary Genuario's presentation, the State was already feeling the effects of the weakening economy. In FY 08, in eight revenue streams alone, the actual receipts have been much lower than was budgeted (pg 43). The largest difference occurred in the corporation tax receipts, and the economy is not improving. The projected surplus is dwindling as well, falling by 33% between January and March of 2008 (pg 42). The Office of Fiscal Analysis (OFA), a non-partisan legislative unit, had even projected a lower surplus, by $14 million, in March than has OPM. The estimated surplus had fallen from $262.5 million to $174.8 million ($160.4 million projected by OFA) (pg 42) in two months with the fiscal year ending on June 30, 2008, during which period it is entirely likely that the surplus will

disappear entirely. Contrast this with FY 07 which ended with a $1,066.4 million surplus, portions of which were allocated to FYs 08 and 09 and $269.2 being deposited in the Budget Reserve Fund (pg 41). This is a prime example of how quickly circumstances can, and will, change.

STATE SPENDING NEEDS

As previously described, the State spending cap is a constitutional and statutory measure to control the growth of State spending. The cap, however, applies to total spending and not to each line item expenditure. It is, therefore, important to recognize that there are areas of the State budget that require substantial increases that may exceed the criteria of the spending cap (pg 24) and create a substantial need to stabilize or even reduce spending in other areas of the budget. Increases in some of these areas are beyond the control of the State, such as court mandates or increase in costs or demands for services.

One of these areas is the increasing contributions for the unfunded State employee pension liabilities and the substantial increases in the cost for State employee and State retiree health insurance (pgs 9-11). Additionally, the same costs associated with teachers are equally on the rise (pgs 12, 13). When State employee/retiree and teacher liabilities are combined, there are only three states in worse shape than Connecticut, with an unfunded liability of almost $15 billion. This does not take into consideration other post employment benefits (OPEB), which results in Connecticut being ranked third with the highest OPEB liability per capita (pg 16).

In his presentation, Secretary Genuario touched on several State agencies that, in and of themselves, administer programs with rapidly increasing costs. These are the Department of Social Services (pg 59), Department of Children and Families (pg 59), Department of Developmental Services (pg 60) and the Department of Correction (pg 61). These agencies provide services for a "clientele" for which there are no controls in terms of limiting the number of people they must serve. The mentally ill, mentally disabled and neglected or abused children cannot be ignored and there are both state and federal mandates on their treatment which must be funded. Criminals will continue to commit crimes, be convicted and sentenced to incarceration, with the numbers on a steady increase, and these people must be properly housed, supervised and treated. It is not possible to accurately predict the costs of these services and we know, through experience, that the costs can suddenly and unexpectedly be multiplied by actions beyond our control.

CURRENT ADOPTED BUDGET

The State of Connecticut is at the end of the first year of its current biennial budget (FY 07-09), which has an estimated current services deficit of $546.6 million for the first year and $714.4 million for the second year (pp 40). In order to at least partially address this concern, the State has relied on non-recurring resources for the FY 2009 budget, in the form of a significant portion of the FY 2007 surplus ($274.4 million) and another $96 million in one-time revenues (pp 44). As Secretary Genuario testified, such reliance on non-recurring resources, particularly use of previous years surpluses, creates structural holes in future budget years that will cause greater and greater imbalances (see pp 45).

THE UNION'S EVIDENCE:

Unless otherwise indicated, citations are to Union Exhibit 34.

The Union presented Associate Professor James Stodder to testify about the State's economic situation and "ability to pay" on April 14, 2008. Mr. Stodder testified that the fact that the State resident tax burden was higher and that the State received less federal funding was because the State per capita income was higher. It seems as if the primary points of his testimony were to assert that the OPM projections were pessimistic, that the State is inefficient in the way it does business and that higher taxes could be imposed upon the residents of Connecticut. The real essence of Mr. Stodder's testimony appears to be that as long as the State had the ability to levy taxes, the State would have the ability to pay.

While it may be possible to argue about the relative tax burden upon the citizens of Connecticut, depending upon the statistics used and the comparisons made, there is no question that the State's tax revenues have not only leveled off but are declining and are not going to be sufficient enough to cover the increased cost of current programs and services. Furthermore, the Union cannot possibly claim that either the Republican Governor or the Democratic majority of the Legislature would support increasing any of the major taxes (e.g. income, sales, etc.) and therefore increasing the tax burden on every citizen in Connecticut.

It should also be noted that Mr. Stodder's assertion of unjustified pessimistic forecasts by OPM is not based upon the deficit or surplus forecasting but instead is based upon a forecast relying on the assertion that Connecticut did not get as caught up in the housing bubble as other

states did (pp 1). While this may mean that other states will be harder hit, I am certain that it is no solace to those Connecticut residents who have lost or are losing their homes because of the sub-prime mortgage lending crisis. Furthermore, he indicated that our largest private employers (mostly major insurance companies, but also General Dynamics, Pfizer, the casinos and hospitals (pp2)) are essentially recession proof, which I am sure is news to the employees currently being laid off by the casinos, Pfizer and General Dynamics. Clearly, his analysis does not demonstrate that OPM has an unjustly pessimistic view in its forecasting, particularly in relation to budget revenue or spending.

Additionally, when there is a State constitutional requirement of a balanced budget and there is still taxpayer resentment of the budget deficits and tax increases, particularly the imposition of the income tax, in the early 1990s, it is fiscally prudent and fiscally responsible to act conservatively in the budgetary process. It should also be pointed out that the State budget process involves both the Governor and the Legislature and that the revenue and expenditure forecasts upon which the final budget rests have had to be endorsed by both branches of government.

In his presentation (pp 7) Professor Stodder specifically mentions "Tax Expenditures" as examples of potential revenues consciously uncollected by the State and which create a false picture of the Spending Cap (pp6). While it is true that the State's Legislature has made a policy decision regarding the need to attract and keep certain businesses in the State through these incentives, only a small percentage of the overall "Tax Expenditures" are aimed at helping businesses, as demonstrated by State Exhibit 39. The majority of these expenditures involve sales and use taxes on food, clothing, prescription medications, heating oil, motor fuel and other things that

directly affect the individual tax payers rather than big business. It seems as if this witness's conjecture evidenced a lack of real understanding about the Spending Cap. The Spending cap requires a balanced budget and limits spending; it has nothing to do with tax incentives. Eliminating the incentives would mean raising taxes on corporations doing business within the state, and increasing the individual tax burden on all Connecticut tax payers, a position the Union cannot seriously take because the clear ramifications of such will most likely result in an even greater deterioration of the State's ability to pay.

THE ENVIRONMENT:

It was somewhat perplexing to find a significant part of Professor Stodder's presentation, ostensibly addressing the State's ability to pay, devoted to "Stresses and Dangers for Connecticut Correction Officers" (pp 10-13), although it was certainly in line with other witnesses and evidence presented by the Union in regard to its economic proposals. In addition to Professor Stodder's materials, Correction Officer Lawrence Tyler presented and narrated a collection of news reports and DOC video clips that recorded major disturbances in several correctional facilities and Correction Officer Paul Barselau shared his distaste for the inmates he is tasked with supervising, complaining about, among other things, the way they smell.

In addition to the testimony and evidence presented on the record, the Arbitrator and representatives of the State and the Union visited the Willard-Cybulski and Osborn Correctional Facilities on March 7, 2008 where the Arbitrator was able to see first hand the circumstances under

which many Connecticut correctional staff work and, as the Arbitrator noted, observe the very professional manner in which their duties were performed.

Correction Officer Tyler did a commendable and professional job in his narration and explanation of what we were seeing when the DVD (U-4) was shown. The scenes were horrific and probably can only begin to give an idea of what many NP-4 members were going through at the time the videos were recorded, but it must be recognized that the most recent incident contained in Union Exhibit 4 occurred in 1994, some fourteen years (and 3 contracts) ago. If there were more recent incidents of this nature, they would have been noted by the Union in these proceedings.

If it was the Union's purpose to demonstrate that they work under hazardous conditions, they were successful. However, this was never in contention. The State fully recognizes that correctional work is hazardous and that the risk of assault by inmates is ever present for many staff. Because of that, all NP-4 members are classified as Hazardous Duty employees and are eligible for a hazardous duty retirement. As demonstrated in Joint Exhibit 51, an employee eligible for hazardous duty retirement may retire with medical benefits and a pension equal to 50% of the average of the highest three years of earnings upon the completion of twenty years of hazardous duty service, regardless of age.

Additionally, the working conditions of NP-4 members are factored in for the assessment of points in the Objective Job Evaluation process (see Appendix C of J-1 and Corrections Unit OJE Point Ranges on pp 98 of J-1) which results in a higher point total and therefore a higher placement on

the pay scale. In fact, NP-4 members receive an annual stipend of $800 in further recognition of the hazardous nature of their duties (Article 17, Section 10) and have done so since December of 1997.

There is no intention to minimize the hazardous and unpleasant working conditions of many NP-4 staff, but since this information was apparently provided by the Union in support of their many and varied proposals for increased compensation, one must ask how paying an individual more money will make him or her any safer? The Department of Correction has obviously done a very good job over the last 14 years creating a safer work environment or, as noted above, we would have evidence of much more recent disturbances in the facilities.

COMPARISONS:

In regard to pay comparison between the NP-4 unit and other groups of employees, the Union presented Mr. Michael Messina, an AFSCME Labor Economist who spoke to regional comparisons and Mr. Albert Chiucarello, an AFSCME Service Representative (and Chief Union spokesperson for this arbitration) who made comparisons to other Connecticut bargaining units.

Mr. Chiucarello compared the salaries, at the top step for each bargaining unit, of Correction Officer, State Police Troopers and Probation Officer II. What Mr. Chiucarello did not do was make any comparison between the qualifications for and duties of each classification.

The easiest comparison is between Correction Officer (CO) and Probation Officer II. To start with, an applicant for CO must be a high school graduate (S-25) or equivalent while a Probation Officer must be a college

graduate with a Bachelor's degree (S-22). Further comparison of the examples of duties contained in the class specifications for each reveals rather significant differences in the duties of each, with the Probation Officer engaging in very significant activities requiring independent judgment while the CO performs quite specific and detailed duties with the exercise of far less independent judgment. Since the difference in pay between a Correction Officer at the top step and a Probation Officer II at the top step is more than $30,000.00 a year, it is understandable that Mr. Chiucarello would use Probation Officer as a comparison, but his doing so is also clearly an attempt to mislead the Arbitrator. There is an NP-4 classification other than Correction Officer that is almost identical in duties to Probation Officer II, although only the Probation Officer is required to have the college degree, and that is Parole Officer 2 (S-35). Even though the duties are quite similar, it is immediately obvious why the Union did not use this classification as a comparison. The Parole Officer II at top step makes $84,627.00 (J-1), only a little more than $1,300.00 dollars less than the Probation Officer II who had to get that college degree first. This comparison does not help the Union's position that its members are not being paid the same as other similar State employees.

As mentioned above, the Union also would very much like to equate the position of Correction Officer to State Police Trooper and who can blame them, since a Trooper at the top step earns about $30,000.00 more than a Correction Officer, just as a Probation Officer 2 (and an NP-4 Parole Officer 2) does. Once again, however, there is no comparison between the qualifications for and duties of the different positions.

Before one can become a State Trooper, he or she must first complete the required training regimen. That training course, as described in the class specification for State Police Trooper Trainee (S-23) is as follows:

> "At the Police Training Academy received formal and field instruction in a wide variety of basic police science courses including such subjects as motor vehicle law, laws, techniques and mechanics of arrest, criminal law, search and seizure, detention and transportation of accused, rules of evidence, interviewing and interrogation principles and techniques, communications, traffic control and techniques of patrol, use and care of firearms and equipment, court organization and courtroom procedure including testifying, modern investigative methods and techniques including fingerprinting, ballistics, photography, handwriting and related scientific elements; civil disorder and riot control techniques; accident investigation; first aid; physical training and self-defense tactics; additional courses related to performance of police work including dealing effectively with miscreants; oral communication skills; public speaking and public and community relations; police ethics; history and organization of criminal justice system and department rules, regulations and orders, upon successful completion of academic training is assigned to a troop to receive under close supervision on the job training and practical application of academic training in the full range of law enforcement activities; as knowledge is achieved, techniques mastered and maturity and judgment develop, is assigned increasingly responsible duties with latitude for independent judgment; performs related duties as required; following satisfactory performance of the one (1) year training, is reassigned to a position of State Police Trooper."

Once an individual has satisfactorily completed the Academy training, he or she will be POST (Police Officer Standards and Training) certified, such certification being an absolute pre-requisite to having the authority to arrest others and to function as a police officer. The class specification for State Trooper basically gives as examples of duties all of the above duties in which they receive training, but it is requested that the Arbitrator pay

particular attention to the duties of a Resident Trooper. These involve, among other things, the establishment and administration of the town police budget, supervision of the town constables and various police and community relations activities. It should also be noted that the difference between Trooper and Trooper First Class is one in title only, as each is in the same pay plan. Designation as a Trooper First Class is automatic following seven years of service as a Trooper.

There is a very considerable difference between the duties and responsibilities of a Correction Officer, who performs clearly delineated duties in a correctional facility and a State Trooper who very often is on armed patrol in a police cruiser responsible for all manner of law enforcement and investigations.

There is another group of employees who are more similar to Correction Officer who were not used for comparison by the Union. State Exhibit 24 is a collection of class specifications from the Protective Services (NP-5) Bargaining Unit, starting with Building and Grounds Patrol Officer. The B&G Patrol Officers are not sworn (or POST certified) police officers but they deal with the public and others on State property by enforcing parking and traffic regulations, issuing tickets, perform security guard duties, assist in maintaining order and many other things that are not dissimilar to many of the things Correction Officers do, although they clearly do not deal with the same kind of "clientele" on a regular basis. In keeping with the similar but not identical examples of duties and the "better" class of people dealt with, B&G Patrol Officers are paid less than Correction Officers at all steps ($34,697 - $46, 584 for B&G Patrol Officers vs. $38,387 - $50,571 for

Correction Officers (pay plans are from the respective contracts, J-12 and J-1)) and are not entitled to hazardous duty retirement.

The next higher paid NP-5 classification is Police Officer and this one is paid at a higher rate than Correction Officer ($60,767 at top step) but, as the class title indicates, these employees are sworn police officers with full police powers and responsibility for law enforcement who must acquire and maintain certification (POST) to be qualified for the position. Given the requirement for POST certification and the fact that these employees are law enforcement officials with full police powers, it is appropriate that they be paid more than Correction Officers who need no such certification and who have no responsibility to exercise any police powers.

Union Exhibit 26 represents the salaries of the Wardens, Deputy Wardens, Captains and Lieutenants as well as CO's and it is apparent that the Wardens and Deputy Wardens are paid quite a bit more than Correction Officers. Since these are the individuals who are responsible for every aspect of the operations of the facilities, and the only managers assigned, it is very appropriate that they be paid more since their accountability is significantly greater. In addition, since they are managers, they get no overtime pay for the many hours in excess of a regular 8 hour workday that they have to work. The Captains and Lieutenants, members of the NP-8 bargaining unit, are the supervisors of the custody staff and their compensation reflects their duties as well.

Mr. Messina's testimony related to Union Exhibits 7 – 20 and compared selected items of Connecticut Correction Officer's compensation to that of Correction Officers in other States in New England and in New York, New

Jersey and Pennsylvania. What is missing from his analysis, which he very candidly acknowledged, are such things as the actual work schedules of the CO's in the other states (5/2 vs. 5/3 and every other weekend off), the value and coverage of health benefits, when and at what percentage they qualify for retirement and so on. As established in S-12, Connecticut CO's on either a 5/3 or every other weekend off schedule work 18 fewer days than employees who work a standard five day on, two day off schedule. This in and of itself is a tremendously valuable benefit and when added to the ability to take a full retirement after 20 years of service regardless of age, it is clear that NP-4 members are very well treated.

Although both sides can present any number of comparisons between other States and other Connecticut Bargaining Units, the most telling statistics are those addressing the State's ability to recruit for and the retention of Connecticut's NP-4 members.

RETENTION RATE:

Dan Callahan testified that there were in excess of 1400 Correction Officer Applicants eligible to be interviewed as of the date of his testimony (April 23, 2008). This means that each applicant had passed the written and physical agility examinations and are available for consideration for up to three years. In any given year, Dan indicated that the DOC hires between four and five hundred new CO's. He further testified that once hired, NP-4 members tend to stay for long periods. The voluntary turnover rate from 2005 to 2007 was slightly over 1% with 2006 actually seeing a less than 1% rate. This clearly is not indicative of higher paying jobs readily available to members of this Unit and, in fact, is a strong indicator that these employees are happy with their salary and benefits.

U-23 indicates the number of NP-4 bargaining unit members at each year of service between 0 and 34 years. Even though a 20 year retirement is available, there are over 250 employees with over 20 years of service, including 6 with over 30 years. Granted, some of these employees likely had other state service which does not qualify as hazardous duty and have not yet compiled 20 years of actual hazardous duty, but one may assume that the greater number are simply in positions they like and for which they are paid well. More significantly, there are almost 2800 employees with between 10 and 20 years of service, again indicative of their satisfaction with the total compensation, including the beneficial schedule, received for their work.

HISTORY OF NEGOTIATIONS:

State Exhibit 15 is a history of mass salary increases for all Executive Branch employees from 1990 to present and it is clear that NP-4, for the most part, received increases at the same rate as the other units. The Union will point out that there was no Collective Bargaining Increase (CBI) between May of 1993 and December of 1997, which is correct. This was the period following the expiration of the 1988-1994 Contract (J-22) and for which the arbitrated award (J-28) was rejected by the State Legislature. Although one never knows with certainty why the Legislature may act as it does, it is reasonable to assume that the award of two 4% CBI's (for the third and fifth years of the contract) was a significant factor. Notwithstanding the absence of a CBI for the four year period, by agreement between the State and the Union employees did receive additional compensation in the form of a lump-sum payment ranging from $900.00 to $5,700.00, depending on years of service (J-21, pp 31). Since

then, this Unit has received increases equal or greater than most other units, including two years in which the increase was 2% every six months (S-15).

Finally, it is appropriate to comment on the total impact of the Union's economic proposals, as they relate to base salary. In each year of the contract, the Union is requesting a General Wage Increase, a percentage increase of the top step after the application of the GWI and an increase in the base amount of each step by one or two thousand dollars, depending on the year to be implemented before the GWI is applied. Without considering any of the other many requests for increases, these proposals alone would affect a Correction Officer's salary (CO-7) as follows:

Step 1, in the first year, will increase from $38,387 to $40,667, a 6% increase (38,387+1000) x1.0325=40,667). Step 10, in year one, goes from $50,571 to $54,844, an 8.45% increase. Carrying these calculations forward through a third year, step 1 will be $46,704 and step 10 $64,655, representing a three year increase of 22% for step 1 and 28% for step 10. For the highest paid NP-4 employees, Parole Officer 2 at CO-16, the three year change will be from $76,693 to $93,657, an increase of 22% for those at the top step.

Since the Union is likely arguing that its members who were employed at the time of the rejection of the 88-94 successor agreement award are now at the top of the pay scales and need the additional bump to catch up to where they would have been, it is necessary to keep in mind that these are the employees who received the lump sum payments mentioned above.

The Union's proposals for increases in the base amount of existing pay plans, increases to the top steps of the pay plans, a stipend for grooming when all clothing is already furnished by the employer to most members, and so on, at best seems to be an attempt by the Union to throw so many proposals, no matter how unreasonable, at the Arbitrator in the hopes that some of them will simply slip by. Other than reasonable General Wage Increases and various differential and meal allowance increases, all of the other requests for more money are both not supported by any valid argument and, even if there were some justification, completely inappropriate given the current economic situation.

Duration of Agreement:

As indicated in the State's Last Best Offers, the parties are not in agreement on the length of this contract. The State is proposing a three-year term while the Union wants an additional year. The discussion for Union Issue 66 addresses the State's position in this regard, but this is to remind the Arbitrator that any State LBO regarding a fourth year of the contract is solely for the contingency of the Arbitrator awarding a fourth year and does not otherwise indicate agreement to the Union's proposal for a four-year contract.

ISSUE NO: A1S:

Article 10
Seniority
Section 2(C) 1

Current contract language:

Section 2. Seniority for Vacation Scheduling and Transfer. Seniority shall be defined as length of total service in each class from date of permanent appointment to such class, subject to the provisions of Section 3, "Seniority and Working Test Period," of this article, and shall apply as follows:

A. **(1) Transfer List**. As the correctional institutions, centers and units develop vacancies, the senior institution, center or unit employee in the same classification whose name appears on the transfer list for institutions, centers or units will be transferred, with the exception of transfers into the Central Office, Center for Training and Staff Development and the K-9 Unit. Employees assigned to the Central Office, Center for Training and Staff Development or K-9 Unit may transfer out of the unit in accordance with this Article. An employee on workers' compensation leave will be eligible to transfer under this provision. An employee requesting transfer under this Section must put his/her name on the departmental transfer list in accordance with the departmental procedures in order to be considered. Such list will be updated quarterly.

State's Last Best Offer:

(1) **Transfer List**. As the correctional institutions, centers and units develop vacancies, the senior institution, center or unit employee in the same classification whose name appears on the transfer list for institutions, centers or units will be transferred, with the exception of transfers into the Central Office, Center for Training and Staff Development and the K-9 Unit. Employees assigned to the Central Office, Center for Training and Staff

(2) Development or K-9 Unit may transfer out of the unit in accordance with this Article. An employee on workers' compensation leave will be eligible to transfer under this provision, but only if the anticipated return to work date is within ninety (90) calendar days of the date of transfer. An employee requesting transfer under this Section must put his/her name on the departmental transfer list in accordance with the departmental procedures in order to be considered. **[**Such list will be updated quarterly. (This language subject to proposal A2S below)**]**

Union's Last Best Offer:

C. (1) Transfer List. As the correctional institutions, centers and units develop vacancies, the senior institution, center or unit employee in the same classification whose name appears on the transfer list for institutions, centers or units will be transferred, with the exception of transfers into the Central Office, Center for Training and Staff Development and the K-9 Unit. Employees assigned to the Central Office, Center for Training and Staff Development or K-9 Unit may transfer out of the unit in accordance with this Article. An employee on Workers' Compensation leave will be eligible to transfer under this provision. An employee requesting transfer under this Section must put his/her name on the departmental transfer list in accordance with the departmental procedures in order to be considered. Such list will be updated quarterly.

Discussion:

This proposal addresses the ability of an NP-4 employee to transfer between facilities while on worker's compensation status. Prior to the 2001-2004 contract (J-20) this section of the contract was silent regarding transfer rights of employees not fit for full duty but the practice was that such employees could not transfer unless and until they were fit for duty. In the 2001-2004 contract, the parties agreed to add the specific language at issue which permitted unrestricted transfer rights to otherwise eligible employees on worker's compensation status. The purpose of this proposal is not to return to the days of no transfer ability but rather to establish a conditional right that gives a reasonable assurance that the facility to which the employee transfers will be getting someone who will shortly be able to return to full duty status.

In her testimony Human Resources Specialist Linda Fowler indicated several reasons in support of this proposal. As she stated, there are very often different human factors and considerations involved in each individual case and the HR person at the receiving facility more than likely will not know the transferring employee which may result in an unintentional diminution of contact. In addition, since there are different worker's compensation liaisons for different facilities, there may well be a change of liaison which may result in some reduction in services as the new liaison becomes familiar with the case.

While the above would primarily affect the employee, there are clear impacts on the receiving facility as well. First and foremost, the transferee

is coming in to fill a vacant position and, if unable to work, the position remains de facto vacant. The Union will argue, and there is substance to this argument, that whether the employee transfers or not, s/he will not be able to work in any case, so why is there any concern about where the employee is actually assigned? As Ms. Fowler indicated, there is an administrative process that allows an overlap in a position if the regular incumbent is unable to work for an extended period of time and it is used with some regularity for extended worker's compensation situations. This is not an automatic process and it takes some time to set up the overlap and to hire an employee to take the position. If the incumbent transfers to another facility, the overlap authorization does not transfer with the employee and the receiving facility will be required to start the authorization process from scratch.

In addition, Connecticut's Correctional Facilities vary greatly in size and while one may believe a large facility can more easily deal with an encumbered position whose incumbent cannot work, such is clearly not the case in the smaller facilities and in both cases it will cause unneeded difficulties.

Director Richard Miele testified about the Correctional Transportation Unit, to which NP-4 members have seniority transfer rights, and the clear impact of having employees on worker's compensation status transfer into the unit. Because this unit has the special requirement that employees have a valid Commercial Drivers License (CDL) there is a time critical training program administered by the Agency to get new employees qualified and if an employee cannot participate in the program there is a significant gap in

staffing. State Exhibits 8 and 9 are the Organization Chart and Roster of the Correctional Transportation Unit and it can easily be seen that there is very little margin for absence, particularly since all assigned personnel are entitled to vacation, personal leave, sick leave and so on. In addition, Director Miele indicated that there are a substantial number of claimed compensable injuries among assigned staff as it is which further supports a condition on in-coming transfers that they be fully able to work with a reasonable period.

This proposal continues to acknowledge the seniority transfer rights of NP-4 members but with the caveat that they be able to work within a reasonable period. Ninety (90) days is a reasonable period and the State's proposal should be awarded.

Statutory factors to be considered:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
7. The interests and welfare of the employees.

ISSUE NO: A2S:

Article 10
Seniority
Section 2(C) 1

Current contract language:

Section 2. Seniority for Vacation Scheduling and Transfer. Seniority shall be defined as length of total service in each class from date of permanent appointment to such class, subject to the provisions of Section 3, "Seniority and Working Test Period," of this article, and shall apply as follows:

B. **(1) Transfer List**. As the correctional institutions, centers and units develop vacancies, the senior institution, center or unit employee in the same classification whose name appears on the transfer list for institutions, centers or units will be transferred, with the exception of transfers into the Central Office, Center for Training and Staff Development and the K-9 Unit. Employees assigned to the Central Office, Center for Training and Staff Development or K-9 Unit may transfer out of the unit in accordance with this Article. An employee on workers' compensation leave will be eligible to transfer under this provision. An employee requesting transfer under this Section must put his/her name on the departmental transfer list in accordance with the departmental procedures in order to be considered. Such list will be updated quarterly.

State's Last Best Offer:

(1) Transfer List. As the correctional institutions, centers and units develop vacancies, the senior institution, center or unit employee in the same classification whose name appears on the transfer list for

institutions, centers or units will be transferred, with the exception of transfers into the Central Office, Center for Training and Staff Development and the K-9 Unit. Employees assigned to the Central Office, Center for Training and Staff Development or K-9 Unit may transfer out of the unit in accordance with this Article. **[**An employee on workers' compensation leave will be eligible to transfer under this provision (This language subject to Proposal 1 above).**]** An employee requesting transfer under this Section must put his/her name on the departmental transfer list in accordance with the departmental procedures in order to be considered. Such list will be updated thrice-yearly on January 1, May 1 and September 1 of each year.

Union's Last Best Offer:

C. (1) Transfer List. As the correctional institutions, centers and units develop vacancies, the senior institution, center or unit employee in the same classification whose name appears on the transfer list for institutions, centers or units will be transferred, with the exception of transfers into the Central Office, Center for Training and Staff Development and the K-9 Unit. Employees assigned to the Central Office, Center for Training and Staff Development or K-9 Unit may transfer out of the unit in accordance with this Article. An employee on Workers' Compensation leave will be eligible to transfer under this provision. An employee requesting transfer under this Section must put his/her name on the departmental transfer list in accordance with the departmental procedures in order to be considered. Such list will be updated quarterly.

Discussion:

This proposal is designed to ease the impact of administering the voluntary seniority based transfer lists for the Department of Correction. Currently the transfer lists must be updated every quarter and we are simply seeking to make it every four months instead of three.

Human Resources Specialist Patricia Meskers, the person responsible for actually putting the Correction Officer Transfer List together and administering it, testified about how the process works.

State Exhibit 4 is a packet of documents that Ms. Meskers used in describing how she goes about determining how many vacancies will be available for transfer and where they are located. This begins with the size of the next class at the Academy and which facilities will actually be getting new personnel, a determination made by others and always subject to change. She then begins to offer transfers to the most senior employees on the transfer list until all vacancies are either filled or there are no further names to contact. Since this could potentially result in all vacancies in an initially targeted facility being filled, it must next be determined which vacancies will be back-filled (i.e. once an employee transfers, his or her former position becomes vacant and subject to refill) which then begins the whole process over again, and so on until there are no more names on the transfer list for available vacancies. At this point, the new hires will be assigned to the remaining available vacant positions.

Page 30 of S-4 is the transfer request form, which, when received by Ms. Meskers unit must be entered on the computerized transfer list. Before it gets to Ms. Meskers unit, the form must be reviewed by the facility HR staff for accuracy and upon receipt it must be determined whether or not the employee is actually eligible to go on the list by checking if they have accepted or declined a transfer offer within the previous 6 months, which, although relatively simple, is time consuming. Pages 2-23 are an actual transfer list and 24-28 are examples of the work sheets Ms. Meskers uses. Page 29 is the letter used to offer the transfer, and as can be seen the employee may either accept or decline the offer. As Ms. Meskers testified, although the employee ostensibly must respond within 24 hours, there are very often circumstances (illness, vacation, not scheduled to work) that delay the response of the employee and therefore the ability to go to the next person on the list if the employee declines.

As demonstrated by both her testimony and pages 46 – 50, Ms. Meskers had to go through 6 rounds of transfer offers before she finished up Class 239, which had a target effective date of 12-31-07 and a reporting date of 03-28-08.

There is no question that all of the above activities have to occur whether the transfer list is updated quarterly or thrice-yearly and this proposal will do nothing to relieve this workload, but that is not the intention of the proposal. What we are looking for is a reduction by one of the number of times each year the transfer list must be updated. This will help to relieve the administrative burden on the Agency by giving them one less set of time-consuming tasks over the course of the year.

As there is no foreseeable harm to NP-4 members, this is a reasonable proposal and should be awarded.

Statutory factors to be considered:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

7. The interests and welfare of the employees.

ISSUE NO: A3S

Article 10

Seniority
Section 10

Current Language:

Section 10. **Shift Transfer Lists**. Each facility shall maintain a shift transfer list which will be updated on a quarterly basis. An employee on Worker's Compensation shall be eligible for shift transfer under this provision.

State's Last Best Offer:

Section 10. **Shift Transfer Lists**. Each facility shall maintain a shift transfer list which will be updated on a thrice-yearly basis on January 1, May 1 and September 1 of each year. An employee on Worker's Compensation shall be eligible for shift transfer under this provision.

Union's Last Best Offer:

Section 10. Shift Transfer Lists. Each facility shall maintain a shift transfer list which will be updated on a quarterly basis. An employee on Workers' Compensation shall be eligible for shift transfer under this provision.

Discussion:

This proposal is directly related to State issue A2S and is simply to conform the frequency of updating of the facility shift transfer list to the inter-facility transfer list. Although the shift transfer process is not the same as the inter-facility transfer process, facilities wait until the inter-facility process is complete to determine if employees are being gained from or lost to another facility before offering shift transfers to employees already assigned. This is necessary to ensure adequate coverage on all shifts and it is administratively more efficient to conform shift transfers to the same timelines as inter-facility transfers. Please see the discussion on the previous issue.

Statutory factors to be considered:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
7. The interests and welfare of the employees.

ISSUE NO: A4S

Article 26
Retirement, Insurances And Leaves
Section 3

Current Language:

Section 3. **Medical Certificate**. If an employee is absent on sick leave for five (5) or more consecutive working days, the employee must submit a medical certificate stating reasons for the absence. When continued absences from work constitute an abuse of sick leave, the employee and the Union shall be notified in writing. After such notification, the Employer may deny sick pay. Such denial of sick pay is subject to the grievance and arbitration provision of this Agreement. Continued abuse of sick leave will subject the employee to progressive discipline.

State's Last Best Offer:

Section 3. **Medical Certificate**. If an employee is absent on sick leave for three (3) or more consecutive working days, the employee must submit a medical certificate stating reasons for the absence. When continued absences from work constitute an abuse of sick leave, the employee and the Union shall be notified in writing. After such notification, the Employer may deny sick pay. Such denial of sick pay is subject to the grievance and arbitration provision of this Agreement. Continued abuse of sick leave will subject the employee to progressive discipline.

Union's Last Best Offer:

Section 3. Medical Certificate. If an employee is absent on sick leave for five (5) or more consecutive working days, the employee must submit a medical certificate stating reasons for the absence. When continued absences from work constitute an abuse of sick leave, the employee and the Union shall be notified in writing. After such notification, the Employer may deny sick pay. Such denial of sick pay is subject to the grievance and arbitration provision of this Agreement. Continued abuse of sick leave will subject the employee to progressive discipline.

Discussion:

This is, in all probability, the proposal of the State, aside from economics, that is causing the Union the most concern. The current contract requires, without any further notice or request, that all NP-4 employees absent on sick leave for five or more consecutive working days provide a medical certificate stating the reasons for the absence. Although the contract does not say so, the consequence for failure to provide the certificate is to be charged with unauthorized leave and not paid for the absence.

Mr. Chiucarello, in his testimony regarding this proposal, provided an analysis he had conducted of the other executive branch bargaining units (and the State Personnel Regulations) which reveals that all other employees also are required to provide medical certificates when they are absent five or more consecutive days (U-3), so that if this proposal is awarded, NP-4 would be the only bargaining unit required to provide the certificate after only three days.

While this is absolutely correct, there are several factors that clearly support this change in the language of the contract. First and foremost, this bargaining unit has one of the highest average sick leave usage rates of any unit. Daniel Callahan, the Department of Correction Personnel Administrator, testified about this usage rate based on a Department of Administrative Services study of sick leave usage by bargaining unit in selected State agencies (S-2). Mr. Callahan indicated that, based on the study, in the 12 months between July 1, 2006 and June 30, 2007 the

average NP-4 member used 19.1 days of sick leave per year (based on a 7 ¼ hour work day). These absences were sometimes a few hours or a single day but far more often were for multiple days.

There are logically two reasons for the multiple day absences of NP-4 members. One, of course, is that there is no requirement to support a claim of illness or injury if the absence is less than five days. The other, somewhat less obvious but no less real, is tied to the DOC Attendance Policy, Administrative Directive 2.11 (J-41).

Paragraph 7 of AD 2.11 deals with "Analysis of Absenteeism" and, in a nutshell, exposes an employee to an unsatisfactory performance appraisal if he or she has nine (9) or more "occasions of absence" in the twelve month appraisal period. An "occasion of absence" is defined in paragraph 3, in part, as "one or more unscheduled, continuous days of absence charged to sick leave." This means that whether an employee is out one (1) or four (4) days, it still counts as only one occasion and, if less than five (5) days, there is no requirement to bring in a medical certificate. While certainly not all employees would go through this thought process, there are a significant number who would make a conscious decision to stay home additional days, even if not really ill, because they already have an occasion and there is no adverse affect for being out longer so long as the need for a medical certificate is not triggered.

This combination of factors is clearly a major contributor to the high average sick leave usage. To illustrate this, one need look no further than State Exhibits 28 through 33 which list sick leave usage from highest to lowest employee for selected facilities for calendar year 2007.

The first employee listed on S-28 (Bergin CI), JPC, used a total of almost 458 hours of sick leave on 20 occasions, none of which was more than four (4) consecutive days in length. The first 20 employees listed all used more than 200 hours of sick leave in 2007 and there are very few occasions of five (5) days or more. We have to go all the way to page 72 (of 88) to find the first employee who used less than 100 hours of sick leave.

On S-29 (Manson Youth Institution), the first employee, COF, used almost 520 hours on multiple occasions, none of which were five (5) or more days in length. Over one hundred and forty-five employees at MYI used in excess of 100 hours of sick leave during 2007. Only COF used over five hundred (500) hours, but the next three used over four hundred (400).

This theme continues through the remaining exhibits. S-30 (York CI) has RPG using over 300 hours with no occasions of more than 4 days (Note: The first employee listed in S-30, KBC, was out over 1,000 hours, but all of her time was consecutive and was without pay, indicating that she was required to provide medical documentation). S-31 (Osborn CI) shows CNL with over 460 hours and no occasions over five days. There is no need to point out each and every individual, as the documents very clearly indicate

total hours used and the dates show how the occasions may be determined. It is simply beyond belief that NP-4 members so consistently suffer from three and four day illnesses on such a recurring basis.

In most cases, and in almost all cases involving Correction Officers, when an NP-4 employee calls in sick, s/he must be replaced by hiring another employee on overtime. This creates a tremendous fiscal burden for the Agency, since not only is the absent employee being paid his or her regular wage but the overtime employee is being paid as well, usually at the rate of time and a half. State Exhibit 3 is a graphic depiction of the number of overtime hours worked by Correction Officers in the first 14 pay periods of the current fiscal year. The middle section indicates hours incurred due to absences charged to sick leave and it is clear that these numbers are significant.

Using the lowest hourly rate for a Correction Officer as the basis for the calculation and assuming time and one-half compensation, the 18,115 hours in the 6/12/07 pay period cost the DOC $551,330.00. The total cost for all 14 pay periods, again using the lowest hourly rate at time and one-half, is over 7 and ½ million dollars. There are 26 pay periods in a year, so it is fair to say that overtime due to sick leave usage will cost well in excess of 15 million dollars, since most Correction Officers are well above the lowest hourly rate.

Although the substantial and significant absenteeism represented by high sick leave usage is reason enough to award the proposed language, there is another basis for the proposal, which establishes why three days is requested as the standard. As Mr. Callahan testified, the State of Connecticut, as an employer, is subject to and responsible for the application of both the State and Federal Family and Medical Leave Acts (FMLA). When an employee qualifies for coverage under either act, the employer is obligated to grant the requested leave and it therefore is beneficial for both the employee and the employer to identify any qualifying event so that the leave may be properly begun. For the employer, this is particularly important so that an employee does not end up being absent longer than the act entitles him or her because the absence was not initially identified as being due to a qualifying event.

Eligibility for leave under the federal FMLA is determined, in part, by the existence of a serious health condition, defined as "A period of incapacity of more than three consecutive calendar days" (S-26 pp 3) which takes the definition from the federal regulations(S-27 29 CFR 825.114 (a)(2)(i)). This is the basis for requesting three days as the automatic trigger for a medical certificate and such a change is both reasonable and necessary, given the excessive use of sick leave by members of this bargaining unit.

As they did during the arbitration proceedings, the Union will likely argue that no change is necessary because an enforcement mechanism is already

contained in the current contract language. The language they are referring to is:

> "When continued absences from work constitute an abuse of sick leave, the employee and the Union shall be notified in writing. After such notification, the Employer may deny sick pay. Such denial of sick pay is subject to the grievance and arbitration provision of this Agreement. Continued abuse of sick leave will subject the employee to progressive discipline." (Article 26, Section 3).

As is obvious by the questions asked of Mr. Callahan, the Union will try to imply that this language permits the imposition of a medical certificate requirement on employees such as those featured in State Exhibits 28 through 33, but the fact is that it does not. This provision allows the employer to withhold pay, but does not contain a clear requirement that an employee must provide medical certification for any particular absence. Equally significant is that the employee may grieve the employer's actions under this provision which will both delay the ultimate enforcement of the provision and contribute to the already significant arbitration backlog.

There is no reason why an employee should not be automatically required to provide medical documentation if s/he is absent on sick leave for three or more consecutive days. The sheer numbers of sick days used by this bargaining unit should compel such a requirement, but coupled with the determinations under FMLA, there is every reason to award this proposal to the State.

Statutory factors for consideration:

1. The history of negotiations between the parties:
5. The ability of the employer to pay;
7. The interests and welfare of the employees

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ISSUE NO: A13S

Article 17
Compensation
New Section 11

Current Language:

None.

State's Last Best Offer:

New Section 11 Development Of A Maintenance On-Call Standby Program

Section 11 (new). **Maintenance On-call/Standby.** Effective thirty (30) days following legislative approval, management may establish a procedure to designate qualified employees in Correctional Maintenance positions by job classification and function as on-call/standby status. Management will solicit volunteers and provide any necessary training for the performance of on call-duties, which will be rotated among the volunteers. Such designation obligates the designated employee to be available and to respond in the event of a call. Employees designated to this on-call/standby status shall be compensated at the rate of $1.00 per hour for each hour so assigned. Notwithstanding the duration of any on-call/standby assignment, such compensation shall not exceed $100.00 per work week. Employees so designated shall be issued cell phones or similar equipment.

A. An employee who is required to take or respond to a call while on such status shall receive one-hour's compensation at the applicable rate.

B. An employee who is required to report for duty shall be compensated in accordance with the Overtime Article (Article 15).

Union's Last Best Offer:

There shall be no such language.

Discussion:

This proposal is in response to a very specific problem identified with Facilities Management in the DOC. David Batten, Director of Facilities Management, testified that they have had significant problems getting employees to respond to after-hours calls. The potential impact of this is that serious maintenance problems, such as heating system breakdowns, water leaks, malfunctioning toilets and loss of electrical systems may not be evaluated and addressed until many hours have passed, creating a significant impact on the facilities and health and safety issues for inmates and employees. In addition, the longer maintenance problems are unaddressed the more potential there is for greater damage. The purpose of this proposal is to provide an incentive for employees to make themselves available after hours by providing compensation both for simply being available and for taking or responding to a call without having to leave home. Obviously, if the employee has to report for duty, he or she will be paid in accordance with already existing contract language.

As indicated, no employee will be forced to be on-call and all who agree to do so will receive appropriate training before being placed in on-call status.

This is a reasonable proposal and should be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties.
7. Interests and Welfare of the employees.

ISSUE NO: A14S

Article 37
Employee Drug Testing/Screening
Sections 2 Through 8

Current Language:

Section 2. **Probable Cause**. An employee shall be subject to an immediate drug test if probable cause of drug use exists as determined by his/her supervisor, Warden, or designee. Such drug testing shall be administered by a qualified physician of the Employer's choice. The initial method of testing shall use an immunoassay. All specimens identified as positive on the initial test shall be confirmed using the chromatography/mass spectrometry test. If such test is again positive, a third more complex test on the same specimen can be administered at the request and expense of the employee. All initial tests shall be paid for by the Employer.

Section 3. **Refusal to Take Test**. Termination will result if the employee refuses to be administered the test. Positive findings from both the drug tests administered will result in the employee being relieved of duty and placed on sick or vacation pay, pending completion of departmental-approved drug rehabilitation program.

Section 4. **Rehabilitation Program**. Termination of the employee will result if he/she refuses to participate in or to complete such program.

Section 5. **Return to Duty**. Upon return to duty after successfully completing the drug rehabilitation program, the employee will be subject to a maximum of three random drug screens for the first eighteen (18) months following return to duty, in addition to drug screening based on probable cause for a period of two years during which time if the employee tests positive for drug use he/she will be subject to termination. Any employee refusing to be administered either a random or probable cause drug test during the time frames indicated above, as appropriate, when requested to by his/her supervisor, Warden, or designee, based on probable cause, shall be terminated.

State's Last Best Offer:

Section 2. **Probable Cause**. An employee shall be subject to an immediate drug test if probable cause of drug use exists as determined by his/her supervisor, Warden, or designee.

Section 3. Random Drug Testing. All bargaining unit members will be subject to random drug testing. During any contract year up to twenty-five percent (25%) of bargaining unit members may be so tested. No employee shall be subject to more than two (2) random drug tests in any contract year.

Upon notification that an employee is scheduled for random drug testing, such employee will appear as required at the location specified for drug testing. The random selection shall be made by computer-generated numbers for each employee covered by this Agreement. Such computer-generated program shall be performed by an outside contractor hired by the State after consultation with the Union and which specializes in such function. Each random selection shall be made from the full complement of bargaining unit members, by Agency, covered by this Agreement.

Section 4. **Refusal to Take Test**. An investigation will result if the employee refuses to be administered the test or if it is indicated that the sample has been tampered with. Termination will result if the employee for either refusing to take the test or being found culpable for tampering with the sample.

Section 5. Post-incident drug testing. An employee may be subject to an immediate post-incident drug test when involved in any incident which results in the death of or injury to a person.

Section 6. Drug Testing Procedures. Drug testing shall be administered by a qualified physician of the Employer's choice. The initial method of testing shall use an immunoassay. All specimens identified as positive on the initial test shall be confirmed using the chromatography/mass spectrometry test. If such test is again positive, a third more complex test on the same specimen can be administered at the request and expense of the employee. All initial tests shall be paid for by the Employer.

Section 7. **Consequences of a Positive Test.** Any test that indicates a positive presence of any prohibited drug shall result in the employee being relieved of duty and placed on sick or vacation pay, if the employee has sufficient accruals, or authorized leave without pay, pending completion of

an Agency approved drug rehabilitation program. Termination of the employee will result if he/she refuses to participate in or to complete such program.

Section 8. Return to Duty. After return to duty following successful completion of the drug rehabilitation program, the employee will be subject to a maximum of three directed drug screens for the first eighteen (18) months following return to duty, in addition to drug screening based on probable cause or random selection. Any positive drug test will subject the employee to termination. Any employee refusing to be administered a directed, random or probable cause drug test, as appropriate, shall be terminated.

Union's Last Best Offer:

Current contract language as follows:

Section 2. Probable Cause. An employee shall be subject to an immediate drug test if probable cause of drug use exists as determined by his/her supervisor, Warden, or designee. Such drug testing shall be administered by a qualified physician of the Employer's choice. The initial method of testing shall use an immunoassay. All specimens identified as positive on the initial test shall be confirmed using the chromatography/mass spectrometry test. If such test is again positive, a third more complex test on the same specimen can be administered at the request and expense of the employee. All initial tests shall be paid for by the Employer.

Section 3. Refusal to Take Test. Termination will result if the employee refuses to be administered the test. Positive findings from both the drug tests administered will result in the employee being relieved of duty and placed on sick or vacation pay, pending completion of departmental-approved drug rehabilitation program.

Section 4. Rehabilitation Program. Termination of the employee will result if he/she refuses to participate in or to complete such program.

Section 5. Return to Duty. Upon return to duty after successfully completing the drug rehabilitation program, the employee will be subject to a maximum of three random drug screens for the first eighteen (18) months following return to duty, in addition to drug screening based on probable

cause for a period of two years during which time if the employee tests positive for drug use he/she will be subject to termination. Any employee refusing to be administered either a random or probable cause drug test during the time frames indicated above, as appropriate, when requested to by his/her supervisor, Warden, or designee, based on probable cause, shall be terminated.

Discussion:

This proposal takes existing language for drug testing based on probable cause and expands it to include random testing in addition to probable cause testing.

As Personnel Administrator Dan Callahan testified, drug use among employees is a constant and rising concern, both to management and to the Union. Dan indicated that Union officials have acknowledged to him that they, too, are worried about employees using drugs, either recreationally or otherwise and then reporting to duty under their influence. As the Union so ably demonstrated in their presentations regarding compensation, the Correctional environment is potentially volatile and dangerous and staff have to be at their best when performing their duties. Even though the ability to require a test for probable cause already exists, it is not enough to fully address the existing concerns.

An equally important consideration is that the majority of inmates in our facilities are there because of crimes involving illegal drugs. Either they were in possession of or sold drugs, committed larcenies and burglaries to get money to buy drugs, or committed other crimes while under the influence of drugs. It should go without saying that the employees responsible for supervising these inmates should not themselves be using drugs. Additionally, since there is no legal source of illegal drugs, there is a very real possibility that the persons selling the drugs will learn that a customer is a Correctional employee and that knowledge may well be used to coerce the employee to bring contraband into a facility or otherwise allow

an inmate to do something inappropriate for fear for being turned in and losing his or her job. It has happened in the past, is happening now and will happen in the future. The only way to avoid this is to not use illegal drugs. The possibility of a random drug test is a significant deterrent and will go a long way toward helping employees rid themselves of a problem that they are unable to address by themselves.

State Exhibit 34 is a list of drug related arrests of DOC employees since 2003. Of the 32 employees on the list, 29 were NP-4 members. While 29 NP-4 members over a period of five years is not a statistically high number, keep in mind that these are the ones who were actually arrested for drug related charges. There are certainly many more employees who use drugs who are not arrested.

There is only one DOC unit that currently has random drug tests and that is the Transportation Unit which does so by virtue of the Commercial Drivers License requirement. Even though these employees know with absolute certainty that they will be tested, Mr. Callahan testified that some of those tests have come back positive.

Please note that this proposal does not seek to dismiss or otherwise discipline employees who return a positive result on a random test, but rather is intended to identify those using drugs and get them the rehabilitative help they need. Certainly if an employee chooses not to cooperate with the process, s/he will be dismissed but the primary goal is remediation, not punishment.

These employees work in a hazardous environment and should not have to be concerned about whether a co-worker is under the influence or not. It is management's obligation to provide as safe a work environment as possible and this proposal is one of the tools necessary to do so and should be awarded.

Statutory factors to be considered:

1. The history of negotiations between the parties:
7. The interests and welfare of the employees.

(Each party has proposals relating to the same contract sections)

Issue No. A5S:

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

A. Dismissals.

1) **Submission**. Submission shall be to the Connecticut Board of Mediation and Arbitration by letter, postage pre-paid, addressed to the Board; a copy of such letter will also be mailed concurrently to the Office of Labor Relations by certified mail;

2) **Cost Allocation**. Effective July 1, 1994, and for each year of this Contract, the State shall allocate $5,000.00 to cover the cost of arbitration at a rate of $250.00 per case. Unexpended funds in any contract year shall carry over into the next contract year. Should the yearly allocation and the carry over funds combined be insufficient to pay for cases in any contract year, the parties agree to share equally in the per case cost;

3) **Arbitrators**. Arbitrators assigned to hear cases under this provision shall be mutually agreeable to the parties;

4) **Cases Submitted Under Previous Agreement**. For cases already submitted to the Board under previous contract provisions, those involving suspensions of fifteen (15) days or more shall remain with the Board. All other cases shall be processed under B. below. In the assignment of cases, discharge cases will be assigned first, all other cases will be assigned in the order of the date of filing, first filed, first assigned. Cases shall be assigned on a rotating basis to the arbitrators. For Dismissal cases resulting from progressive discipline, the underlying lesser disciplines shall also be heard by the same arbitrator.

B. Other Discipline and Contract Interpretation

1) **Submission**. Submission shall be by certified letter, postage prepaid to the Office of Labor Relations.

2) **Selection of Panel**. The parties shall establish a panel of five (5) arbitrators selected by mutual agreement.

3) **Costs**. The parties shall share equally in the expenses of the arbitrator.

4) **Assignment of Cases**. Cases shall be assigned on a rotating basis (alphabetically) to the arbitrator panel based on the date of filing, first filed, first assigned.

5) **Removal of Arbitrator**. Either party, upon written notice to the other, between March 1st and March 10th of each contract year may remove an arbitrator(s). By April 1st the parties will have a reconstituted mutually agreed upon panel of five (5) arbitrators for the succeeding contract year.

C. Arbitrability. A party raising an issue of arbitrability shall do so by notifying the other party at least seven (7) working days in advance of the scheduled hearing. Such notice requirement shall be waived in instances of new evidence discovered during the arbitration hearing.

D. Expedited Cases. Up to ten (10) cases per contract year by the Union and up to five (5) cases per year by the State may receive expedited arbitrator assignment as exclusions to the "first filed, first assigned" rule expressed herein.

E. Pending Cases. The parties agree, immediately upon legislative approval of this Agreement, if not beforehand, to meet and discuss the backlog of pending arbitration cases with the goal of resolving, thereby reducing, the numbers of same.

F. Multiple Case Assignments. The parties by mutual agreement may assign multiple cases to an individual arbitrator for expedited arbitration.

G. Postponements. In any individual arbitration case, each party will be allowed one postponement. Thereafter, postponements shall only be by mutual consent of the parties.

H. Arbitrator's Authority. The arbitrator shall have no power to add to, subtract from, alter, or modify this Agreement, nor to grant to either party matters which were not obtained in the bargaining process, nor to impose any remedy or right of relief for any period of time prior to the effective date of the Agreement, nor to grant pay retroactively for more than thirty (30) calendar days prior to the date a grievance was submitted at Step I.

I. Decision Final and Binding. The arbitrator's decision shall be final and binding on the parties in accordance with Connecticut General Statutes Section 52-4l8, provided, however, neither the submission of questions of arbitrability to any arbitrator in the first instance nor any voluntary submission shall be deemed to diminish the scope of judicial review over arbitral awards, including awards on arbitrability.

State's Last Best Offer:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

1) **Submission**. Submission shall be by certified letter, postage prepaid to the Office of Labor Relations.
2) **Selection of Panel**. The parties shall establish a panel of five (5) arbitrators selected by mutual agreement.
3) **Costs**. The parties shall share equally in the expenses of the arbitrator.
4) **Assignment of Cases.** Cases shall be assigned on a rotating basis (alphabetically) to the arbitrator panel based on the date of filing, first filed, first assigned except that Dismissal cases shall be given precedence in scheduling. For Dismissal cases resulting from progressive discipline, the underlying lesser disciplines shall also be heard by the same arbitrator.
5) **Removal of Arbitrator**. Either party, upon written notice to the other, between March 1st and March 10th of each contract year may remove an arbitrator(s). By April 1st the parties will have a reconstituted mutually agreed upon panel of five (5) arbitrators for the succeeding contract year.
6) **Cases Submitted Under Previous Agreement.** Dismissal cases already submitted to the Connecticut Board of Mediation and Arbitration will remain with the Board in accordance with the prior contract provisions. Effective upon legislative approval of this

Agreement, the State shall allocate $5,000.00 to cover the cost of arbitration at the rate of: $225 for day one of the hearing; $150 per day for each additional hearing date; and $175 for writing the arbitration award. Unexpended funds shall revert to the State. Should the yearly allocation be insufficient to pay for all remaining cases, the parties will share equally in the per case cost.

7) **Arbitrability**. A party raising an issue of arbitrability shall do so by notifying the other party at least seven (7) working days in advance of the scheduled hearing. Such notice requirement shall be waived in instances of new evidence discovered during the arbitration hearing.

8) **Pending Cases**. The parties agree, immediately upon legislative approval of this Agreement, if not beforehand, to meet and discuss the backlog of pending arbitration case with the goal of resolving, thereby reducing, the numbers of the same.

9) **Postponements**. In any individual arbitration case, each party will be allowed one postponement. Thereafter, postponements shall only be by mutual consent of the parties.

Union's Last Best Offer:

There shall be no such language.

Discussion:

Both the State and the Union have proposals regarding the arbitration process for this contract. The current language involves two separate processes depending on the nature of the grievance. All disciplinary dismissals are submitted to the Connecticut State Board of Mediation and Arbitration (SBMA) while all other cases, whether involving discipline or contract interpretation, are submitted to a closed panel of arbitrators established under the provisions of this Article. Both the State and the Union are proposing a single process for all grievances and each is proposing use of one of the existing procedures but, obviously not the same one for each proposal.

The State proposal is to submit all grievances where the vast majority already must be submitted, which is to the closed panel. The Union wants all grievances to go where the small percentage presently are submitted, that being the SBMA.

By way of background, up until the 1994-2001 (J-21) contract, Article 12, Section Nine required that all grievances submitted to arbitration go to the SBMA, with the State paying the costs (see J-22). In the 94-01 contract this was modified so that only suspensions greater than five days, demotions and dismissals went to the SBMA, again with the State paying the costs, and that all other grievances go to the newly created closed panel. The current language, sending only dismissals to the SBMA, appeared first in the 2001-2004 contract (J-20). The Union now wants to return to the way it was pre-1994.

The Union will very likely argue that use of the SBMA will actually lower costs for both parties, as their LBO's have no language similar to the current language in Section 9 A. 2.) which requires no payment by the Union until the allocated funds are exhausted. If this is their argument, they are trying to pull the wool over the Arbitrator's eyes. The SBMA regulations (J-46) Section 31-91-48 do state that, with the exception of the filing fee, arbitration services of the board are supplied to Connecticut employers and employee organizations without charge. This obviously means that the Union, other than paying the filing fee, will pay nothing else for arbitration services, but it does nothing to reduce costs for the State. The second page of the regulations (J-46) indicates that "The State Board of Mediation and Arbitration, SBMA, is a state agency..." The taxpayers of Connecticut will continue to fund the SBMA as they have in the past and the Union will continue to get a free ride, as they have in the past, if their LBO is awarded.

As was established by the testimony of Mr. Carbone during the arbitration, there is currently a backlog of almost a thousand cases waiting for arbitration, some dating back to the last century. The backlog is the reason for Union Issue 9 and both sides agree that it needs to be reduced. One of the reasons for the significant backlog is that prior to 1994 the Union paid nothing but a filing fee for arbitration services so there was absolutely no reason for them to judge the actual merits of a case before filing to arbitration. Since cases are heard on a first filed, first heard basis (except dismissals), this backlog has continually choked the process, even though the parties have made significant efforts to reduce it over the past several years. If the Union again has to pay almost nothing for arbitration services

there will again be no reason to consider withdrawing a grievance that has no merit and the backlog can only get worse. Even a case that is clearly not arbitrable either because of untimely filing or because it addresses an issue specifically excluded by the Contract from arbitration requires an arbitration hearing so the Arbitrator can declare it not arbitrable. This is not an appropriate use of state funds.

The Union's LBO for the State's proposed language is simply "No such language". Their LBO's on their own proposals regarding the same section are both a significant change from their submitted proposals (J-2) and incredibly confusing, as noted in the discussion for the Union's proposals.

As is clear from the State's LBO, it is our desire to have one process for arbitrations and that is the closed panel. It is simply preferable to have a single process and it is most preferable to have one that the parties to the agreement are in control of. The Union's proposals, if they can be fully understood, would cede control of our arbitration process in its entirety to the SBMA by making the parties subject to whatever regulations the Board chooses to impose. In addition, this bargaining unit is the only one that has any activity with the SBMA, as Ms. Serino testified. It would be far preferable to use the same process that all the other Executive Branch bargaining units do (see J-9 through J-19) and there is no reason why NP-4 should be treated any differently.

Ms. Serino also testifies that the SBMA would be able to handle any and all arbitrations that might be filed to the Board in any given year, limited only

by the availability of the State and/or Union for scheduling. A review of NP-4 SBMA cases since calendar year 2004 is quite illuminating, as follows:

Calendar year	Number of cases	Number of days
2004	21	29
2005	26	46
2006	27	51
2007	18	34
2008 to date	8	11

While Ms. Serino could not be expected to testify that the SBMA cannot handle the greatly increased caseload that the Union proposals would create, it is obvious that the little work the Board already gets takes up a significant amount of time. When non-dismissal cases are added in, the numbers will take a huge leap and this does not even consider the almost 1,000 case backlog that will have to be scheduled before any new non-dismissal case.

Union proposal 9, with which the State is in agreement, codifies an already on-going process aimed at reducing the current backlog of cases, which amounts to many hundreds of grievances. This backlog did not spring into being overnight but rather has carried forward for many years, originating during the pre-1994 years when the SBMA was the sole arbiter of NP-4 grievances. Although Ms. Serino has given assurances that the SBMA can handle whatever work is referred to them, the reality is that the backlog began with them and there is no reason to assume the Board can do a better job now.

The State's proposal creates a single arbitration process that is consistent with every other executive branch bargaining unit. The Union's proposals on the same section (Union Proposals 1 through 10) are confusing, inconsistent and defective.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
7. The ability of the employer to pay.

UNION

PROPOSALS

ISSUE NO: 1

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

1) **Submission**. Submission shall be by certified letter, postage prepaid to the Office of Labor Relations.

State's Last Best Offer:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

1. **Submission**. Submission shall be by certified letter, postage prepaid to the Office of Labor Relations.

Union's Last Best Offer:

Arbitration. Thirty (30) days following the effective date of this Agreement; Within forty (40) days from receipt of a Step III response, or if no response within forty (40) days of the due date, grievances during the life of this Agreement, shall be submitted for arbitration as follows:
A. Dismissals

1. Submission shall be to the Connecticut Board of Mediation and Arbitration by letter, postage prepaid, addressed to the Board; a copy of such letter will also be mailed concurrently to the Office of Labor Relations by certified mail;

Discussion:

Union Proposals 1 through 10 address the same sections of Article 12 as State Proposal A5S. This general discussion is in regard to all ten Union Proposals.

While the Union chose to develop a separate issue on each subsection of this article, its Last Best Offer, if awarded, would set the entire Arbitration and Grievance procedure back twenty-five (25) years to a totally arcane and unworkable arrangement under which employees would have their grievances unresolved for significantly longer periods of time.

As noted in the discussion for State Proposal A5S, the Union's proposals are totally unjustified and represent a significant change in the arbitration process. Additionally, the language of the Union's Last Best Offers result in the State trying to decipher here what it appears that the Union is trying to gain. If awarded, the parties will be in endless disputes regarding the meaning of the language.

Union LBO U-1 is apparently for current language, i.e. dismissals continue to be submitted to the SBMA. U-2 seems to be asking that the current language in 9 A 2-4 be replaced with a new section 2 that requires SBMA rules apply in the submission process. U-3 contains language that would require all grievances submitted to arbitration go to the SBMA in accordance with SBMA rules. So far, so good.

It is when we reach the LBO for U-4 that we have to wonder exactly what is being requested. That LBO, in reference to Article 12, Section 9. – Arbitration is "No such language". This is not the LBO for the State's proposal, but for the Union's own proposal. U-4 was not withdrawn, there is no reference to any particular sub-section of Section 9, no reference to any proposed language – only the cryptic "No such language".

U-5 proposes language that lends itself to relatively easy interpretation, but it appears we have to guess where it would be inserted in this section. U-6, unlike U-4, is withdrawn. U-7 proposes a mix of contingencies, applying one standard for raising the issue of arbitrability to be replaced at a somewhat vague future point by another.

U-8 and U-9 are the easiest to address since the State agrees with these proposals, as evidenced in our LBO's. With U-10 we are again faced with the same confusion created by U-4.

It was obvious from the Union's initial proposals 1-10 (J-2) that their desire to return entirely to the SBMA was motivated by a singular desire to get a free ride in the arbitration process, as they were asking that the State pay all costs, including the filing fee (see original proposal 6). While that particular motive seems to have been submerged, one can only surmise that the Union is still of the belief that it will be significantly less expensive for them to arbitrate cases through the SBMA and therefore to their benefit to do so. Union Exhibit 37 is an agreement between the parties regarding fees

to be paid (by the State until funds are exhausted) for SBMA cases, but this agreement will not be in effect should the Union's proposals be awarded and the SBMA regulations become the rule.

Please also see the discussion on State Proposal A5S. The State's LBO here is an extract from the LBO for our proposal regarding this particular portion of the affected section.

It must be noted that in 2004, the Union went forward to arbitration for two (2) cases to the closed panel. In 2005, the number was the same – two (2) cases. In 2006, the number was also two (2). In 2007, the number jumped to an all time high of four (4) cases. It appears we may have a pattern here. When the Union has to pay its fair share of the cost of arbitration, only a small number of cases go to arbitration. When the State has to pay, the numbers are substantially different. One must also factor in the number of nondismissal cases which were withdrawn based presumably, at least somewhat, on the cost factor to the Union.

The numbers for dismissal cases at the SBMA for the noted years is as follows:

Calendar year	Number of cases	Number of days
2004	21	29
2005	26	46
2006	27	51
2007	18	34

2008 to date	8	11

There are presently close to 1,000 cases filed for arbitration by this bargaining unit. This number is substantially more than all other bargaining units except one which has approximately the same number. While Ms. Serino testified that the SBMA could accommodate the huge influx of additional cases, it is hard to fathom how this could be possible. Based upon the backlog of 1,000 cases, assuming arguendo that the Union withdrew fifty percent (50%), leaving a balance of 500 and the SBMA increased its present 0utput of cases by two hundred percent (200%) to sixty (60) cases using the highest year, it would take the SBMA a minimum of eight (8) years to hear the present backlog of cases. Of course this does not account for the fact that this unit files a minimum of one hundred fifty (150) cases to arbitration each and every year. Unless the SBMA were able to increase its output by five hundred percent (500%), it could not even handle the cases filed by this unit in any given year. It is difficult to comprehend how the Union could make this proposal. Its members will never have their cases heard under its proposals.

For all the reasons indicated above, together with the previous discussion under Issue A5S, the State Proposal is the more reasonable and should be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 2

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

2) **Cost Allocation**. Effective July 1, 1994, and for each year of this Contract, the State shall allocate $5,000.00 to cover the cost of arbitration at a rate of $250.00 per case. Unexpended funds in any contract year shall carry over into the next contract year. Should the yearly allocation and the carry over funds combined be insufficient to pay for cases in any contract year, the parties agree to share equally in the per case cost;

3) **Arbitrators**. Arbitrators assigned to hear cases under this provision shall be mutually agreeable to the parties;

4) **Cases Submitted Under Previous Agreement**. For cases already submitted to the Board under previous contract provisions, those involving suspensions of fifteen (15) days or more shall remain with the Board. All other cases shall be processed under B. below. In the assignment of cases, discharge cases will be assigned first, all other cases will be assigned in the order of the date of filing, first filed, first assigned. Cases shall be assigned on a rotating basis to the arbitrators. For Dismissal cases resulting from progressive discipline, the underlying lesser disciplines shall also be heard by the same arbitrator.

State's Last Best Offer:

2. **Selection of Panel**. The parties shall establish a panel of five (5) arbitrators selected by mutual agreement.
3. **Costs**. The parties shall share equally in the expenses of the arbitrator.
4. **Assignment of Cases.** Cases shall be assigned on a rotating basis (alphabetically) to the arbitrator panel based on the date of filing, first filed, first assigned except that Dismissal cases shall be given precedence in scheduling. For Dismissal cases resulting from progressive discipline, the underlying lesser disciplines shall also be heard by the same arbitrator.
5. **Removal of Arbitrator**. Either party, upon written notice to the other, between March 1st and March 10th of each contract year may remove an arbitrator(s). By April 1st the parties will have a reconstituted mutually agreed upon panel of five (5) arbitrators for the succeeding contract year.

Union's Last Best Offer:

2. Thirty (30) days following the effective date of this Agreement submission of all arbitrations shall be done per the State Board of Mediation and Arbitration rules and regulations. All dismissal cases submitted up to 30 days following the effective date
of this Agreement shall be submitted under the rules in effect at the time of their submission. Said submissions shall be in accordance with the provisions of the Collective Bargaining Agreement(s) under which they were filed.

Discussion:

Please also see the discussion on State Proposal A5S and Union Proposal U-1. The State's LBO here is an extract from the LBO for our proposal regarding this particular portion of the affected section. For all the reasons indicated in the previous discussion, the State Proposal is the more reasonable and should be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 3

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

2) **Cost Allocation**. Effective July 1, 1994, and for each year of this Contract, the State shall allocate $5,000.00 to cover the cost of arbitration at a rate of $250.00 per case. Unexpended funds in any contract year shall carry over into the next contract year. Should the yearly allocation and the carry over funds combined be insufficient to pay for cases in any contract year, the parties agree to share equally in the per case cost;

3) **Arbitrators**. Arbitrators assigned to hear cases under this provision shall be mutually agreeable to the parties;

4) **Cases Submitted Under Previous Agreement**. For cases already submitted to the Board under previous contract provisions, those involving suspensions of fifteen (15) days or more shall remain with the Board. All other cases shall be processed under B. below. In the assignment of cases, discharge cases will be assigned first, all other cases will be assigned in the order of the date of filing, first filed, first assigned. Cases shall be assigned on a rotating basis to the arbitrators. For Dismissal cases resulting from progressive discipline, the underlying lesser disciplines shall also be heard by the same arbitrator.

State's Last Best Offer:

2. **Selection of Panel**. The parties shall establish a panel of five (5) arbitrators selected by mutual agreement.

3. **Costs**. The parties shall share equally in the expenses of the arbitrator.

4. **Assignment of Cases.** Cases shall be assigned on a rotating basis (alphabetically) to the arbitrator panel based on the date of filing, first filed, first assigned except that Dismissal cases shall be given precedence in scheduling. For Dismissal cases resulting from progressive discipline, the underlying lesser disciplines shall also be heard by the same arbitrator.

5. **Removal of Arbitrator**. Either party, upon written notice to the other, between March 1st and March 10th of each contract year may remove an arbitrator(s). By April 1st the parties will have a reconstituted mutually agreed upon panel of five (5) arbitrators for the succeeding contract year.

Union's Last Best Offer:

B. Other Discipline and Contract Interpretation

1. Thirty (30) days following the effective date of this Agreement submission shall be to the Connecticut Board of Mediation and Arbitration in accordance with their rules and regulations by letter, postage prepaid, addressed to the Board; a copy of such letter will also be mailed concurrently to the Office of Labor Relations by certified mail.

Discussion:

Please also see the discussion on State Proposal A5S and Union Proposal U-1. The State's LBO here is an extract from the LBO for our proposal regarding this particular portion of the affected section. For all the reasons indicated in the previous discussion, the State Proposal is the more reasonable and should be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 4

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

2) Cost Allocation. Effective July 1, 1994, and for each year of this Contract, the State shall allocate $5,000.00 to cover the cost of arbitration at a rate of $250.00 per case. Unexpended funds in any contract year shall carry over into the next contract year. Should the yearly allocation and the carry over funds combined be insufficient to pay for cases in any contract year, the parties agree to share equally in the per case cost;

3)Arbitrators. Arbitrators assigned to hear cases under this provision shall be mutually agreeable to the parties;

4)Cases Submitted Under Previous Agreement. For cases already submitted to the Board under previous contract provisions, those involving suspensions of fifteen (15) days or more shall remain with the Board. All other cases shall be processed under B. below. In the assignment of cases, discharge cases will be assigned first, all other cases will be assigned in the order of the date of filing, first filed, first assigned. Cases shall be assigned on a rotating basis to the arbitrators. For Dismissal cases resulting from progressive discipline, the underlying lesser disciplines shall also be heard by the same arbitrator.

State's Last Best Offer:

3. **Costs**. The parties shall share equally in the expenses of the arbitrator.

Union's Last Best Offer:

No such language

Discussion:

Please also see the discussion on State Proposal A5S and Union Proposal U-1. The State's LBO here is an extract from the LBO for our proposal regarding this particular portion of the affected section.

In addition to the foregoing, the Arbitrator is asked to recognize that it is normally the case that both parties to an arbitration share equally in the costs. That this is universally recognized is obvious from the following:

> "Arbitration costs, except for counsel fees, generally are shared by the parties. Even where the parties had reached no agreement as to costs, arbitrators have required equal division since such "is common practice in arbitration". Occasionally the collective bargaining agreement will provide that the loser in arbitration shall pay all of the costs. This is contrary to the recommendation of the President's National Labor-Management Conference that the cost of the neutral "should be shared equally by both parties."(How Arbitration Works, Elkouri & Elkouri (Fifth Edition, 1997).

The Union is attempting to create a circumstance in which, win or lose, the State bears the entire burden of paying for the costs of arbitration.

For all the reasons indicated in the previous discussion and above, the State Proposal is the more reasonable and should be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 5

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

> **2) Cost Allocation**. Effective July 1, 1994, and for each year of this Contract, the State shall allocate $5,000.00 to cover the cost of arbitration at a rate of $250.00 per case. Unexpended funds in any contract year shall carry over into the next contract year. Should the yearly allocation and the carry over funds combined be insufficient to pay for cases in any contract year, the parties agree to share equally in the per case cost;
>
> **3)Arbitrators**. Arbitrators assigned to hear cases under this provision shall be mutually agreeable to the parties;
>
> **4)Cases Submitted Under Previous Agreement**. For cases already submitted to the Board under previous contract provisions, those involving suspensions of fifteen (15) days or more shall remain with the Board. All other cases shall be processed under B. below. In the assignment of cases, discharge cases will be assigned first, all other cases will be assigned in the order of the date of filing, first filed, first assigned. Cases shall be assigned on a rotating basis to the arbitrators. For Dismissal cases resulting from progressive discipline, the underlying lesser disciplines shall also be heard by the same arbitrator.

State's Last Best Offer:

4. **Cases Submitted Under Previous Agreement.** Dismissal cases already submitted to the Connecticut Board of Mediation and Arbitration will remain with the Board in accordance with the prior

contract provisions. Effective upon legislative approval of this Agreement, the State shall allocate $5,000.00 to cover the cost of arbitration at the rate of: $225 for day one of the hearing; $150 per day for each additional hearing date; and $175 for writing the arbitration award. Unexpended funds shall revert to the State. Should the yearly allocation be insufficient to pay for all remaining cases, the parties will share equally in the per case cost.

Union's Last Best Offer:

Thirty (30) days following the effective date of this Agreement cases already submitted to OLR and not yet scheduled shall be resubmitted by letter to the State Board of Mediation and Arbitration for arbitration services under the SBMA rules and regulations. Cases that have been already scheduled shall be adjudicated in accordance with the provisions of the Collective Bargaining Agreement(s) in which they were filed.

Discussion:

Please also see the discussion on State Proposal A5S and Union Proposal U-1. The State's LBO here is an extract from the LBO for our proposal regarding this particular portion of the affected section.

Grievances filed under the current agreement are subject to the terms of that agreement. It is inappropriate for the Union to force this issue forward in interest arbitration. The current contract, including all of its terms superseding statutes and regulations which pertain to grievances, was approved by the legislature. It is a binding obligation. The Union cannot insist this arbitrator grant it language which would in essence create a two-tiered grievance process, impacting those grievances which arose under the current, legislatively approved, agreement. A two-tiered grievance process is also repugnant to the State employees relations act.

While it is well settled that the grievance procedure is a mandatory subject of bargaining, it is not without limit. In Kolman/Athey Division, 303 NLRB 92 (1991), the NLRB held that insistence to impasse on a provision which in essence established two-tiered system was a violation. The NLRB did not decide whether the clause was a permissive or illegal subject of bargaining. In a concurring opinion, Chairman Stephens noted that the NLRB has held that in some cases that certain aspects of grievance and arbitration procedures are mandatory subjects. However, only the "essential

components of the grievance arbitration process [which] govern the way it is to function" are mandatory. Certainly, the Union's proposal which requires reaching back into the expired agreement for grievances and dragging them into the new agreement is not, nor does it touch upon an essential component of the process.

For all the reasons indicated in the previous discussion, the State Proposal is the more reasonable and should be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 6

Withdrawn by the Union.

ISSUE NO: 7

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

Arbitrability. A party raising an issue of arbitrability shall do so by notifying the other party at least seven (7) working days in advance of the scheduled hearing. Such notice requirement shall be waived in instances of new evidence discovered during the arbitration hearing.

State's Last Best Offer:

Numbered appropriately.

> **Arbitrability**. A party raising an issue of arbitrability shall do so by notifying the other party at least seven (7) working days in advance of the scheduled hearing. Such notice requirement shall be waived in instances of new evidence discovered during the arbitration hearing.

Union's Last Best Offer:

> Arbitrability. A party raising an issue of arbitrability shall do so by notifying the other party at least seven (7) working days in advance of the scheduled hearing. Such notice requirement shall be waived in instances of new evidence discovered during the arbitration hearing. This provision shall only be applicable until such time that the rules and regulations of the State Board of Mediation and Arbitration are enacted.

Discussion:

Please also see the discussion on State Proposal A5S and Union Proposal U-1. The State's LBO here is an extract from the LBO for our proposal regarding this particular portion of the affected section. For all the reasons indicated in the previous discussion, the State Proposal is the more reasonable and should be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 8

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

Expedited Cases. Up to ten (10) cases per contract year by the Union and up to five (5) cases per year by the State may receive expedited arbitrator assignment as exclusions to the "first filed, first assigned" rule expressed herein.

State's Last Best Offer:

Expedited cases. No Language.

Union's Last Best Offer:

No such language

Discussion:

Both parties are in agreement that the language regarding expedited cases be removed from the contract, so either LBO may be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 9

Article 12
Grievance Procedure
Section 9

Current Language:

None.

State's Last Best Offer:

Numbered appropriately.

Pending Cases. The parties agree, immediately upon legislative approval of this Agreement, if not beforehand, to meet and discuss the backlog of pending arbitration case with the goal of resolving, thereby reducing, the numbers of the same.

Union's Last Best Offer:

Pending Cases. The parties agree, immediately upon legislative approval of this Agreement, if not beforehand, to meet and discuss the backlog of pending arbitration cases with the goal of resolving, thereby reducing, the numbers of same.

Discussion:

The parties are in agreement over this proposal, so either LBO may be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 10

Article 12
Grievance Procedure
Section 9

Current Language:

Section 9. **Arbitration**. Within forty (40) days from receipt of a Step III response, or if no response, within forty (40) days of the due date, grievances, during the life of this Agreement, shall be submitted for arbitration as follows:

G. Postponements. In any individual arbitration case, each party will be allowed one postponement. Thereafter, postponements shall only be by mutual consent of the parties.

State's Last Best Offer:

Numbered appropriately.

Postponements. In any individual arbitration case, each party will be allowed one postponement. Thereafter, postponements shall only be by mutual consent of the parties.

Union's Last Best Offer:

No such language

Discussion:

Please also see the discussion on State Proposal A5S and Union Proposal U-1. The State's LBO here is an extract from the LBO for our proposal regarding this particular portion of the affected section.

Over the past several years, the parties have postponed scheduled arbitrations multiple times as follows:

2004	3 for the closed panel	7 for SBMA
2005	0 for the closed panel	9 for SBMA
2006	2 for the closed panel	8 for SBMA
2007	3 for the closed panel	6 for SBMA

Thus far in 2008 there have been no postponements, but there are still 5 months left in the year. The closed panel postponements have been primarily requested by the Union, while those involving the SBMA have varied between all the parties, with many of them actually postponed on behalf of the Board itself. Nonetheless, it is apparent that both parties to this contract benefit from the ability to postpone scheduled arbitrations and there is no reason to remove the language specifically allowing one postponement by either party without the consent of the other.

For all the reasons indicated in the previous discussion, the State Proposal is the more reasonable and should be awarded.

Statutory factors for consideration:

1. The history of negotiations between the parties (including those leading to the instant proceedings);

2. The existing conditions of employment of similar groups of employees.

5. The ability of the employer to pay.

ISSUE NO. 11:

State's Last Best Offer:

Article 12

Grievance Procedure

Section 9

Withdrawn

ISSUE NO: 12

Article 13
Dismissal, Suspension, Demotion Or Other Discipline
Section 3

Current Language:

Section 3. **Discipline**. No employee who has completed the working test period shall be disciplined or discharged except for just cause. In determining just cause, the regulations of the Blue Book governing disciplinary action as defined above are hereby incorporated by reference.

State's Last Best Offer:

Retain current language.

Union's Last Best Offer:

Implementation of a Suspension. Effective July 1, 2009 the implementation of a suspension action by the employer shall be forestalled until the Step III Response has been rendered regarding the grievance filed under Article 13 of the grievance process.

Discussion:

Employee discipline is a traditional management right, subject to the imposition of the Just Cause Standard by this contract, but otherwise to be exercised as deemed appropriate by the employer. This view was articulated by Arbitrator Whitley P. McCoy when he wrote:

> "Where an employee has violated a rule or engaged in conduct meriting disciplinary action, it is primarily the function of management to decide upon the proper penalty. If management acts in good faith upon a fair investigation and fixes a penalty not inconsistent with that imposed in other like cases, an arbitrator should not disturb it." (How Arbitration Works, Elkouri & Elkouri, Fifth Edition (BNA Books, 1997), page 910.)

Step III of the grievance process takes place at the Office of Labor Relations, which is not the authority that imposes the discipline. The purpose of employee discipline is to be corrective in nature and it is appropriate and necessary that the managers in an employee's agency determine what level of discipline is appropriate to correct the employee's conduct or performance and that the discipline be imposed as soon as possible. If a determination is made that there was no just cause, the contract already provides for an appropriate remedy.

The Union is attempting to get language in this contract that exists in no other contract. While Mr. Carbone's testimony regarding the number of suspensions that are reduced or voided by agreement between the parties following the serving of the suspension by the employee was undisputed, it is also undisputed that a significant number of suspensions are not reduced

by agreement. There is nothing to prevent the Union and the Agency from discussing resolution at any point in the process but it is important that discipline be as timely as possible in its effect and there is no benefit to contractually compelling a delay in the implementation of a suspension. In addition, although this proposal would stay implementation of a suspension until a step III response there is nothing that addresses delays in the grievance process, whether Union, Agency or otherwise created, such as the absence of a critical witness, the unavailability of an advocate or even the long-term illness or injury of the grievant. This is not an appropriate proposal and the State's LBO is the most reasonable and should be awarded.

Statutory factors to be considered:

1. The history of negotiations between the parties.
2. The existing conditions of employment of similar groups of employees.
5. The ability of the employer to pay.

ISSUE NO: 13

Article 17
Compensation
Section 1

Current Language:

Section 1. **Salaries**.
A. **General Increases**. Employees shall receive pay increases as follows:

State's Last Best Offer:

Section 1. **Salaries**.

A. General Increases. Employees shall receive pay increases as follows:

1) Effective July 4, 2008, the base annual salary of all employees shall be increased by three percent (3.0%).

Union's Last Best Offer:

(1) Effective and retroactive to the pay period including July 1, 2008, the base annual salary of all employees shall be increased by three and a quarter percent (3.25%).

Discussion:

The following discussion applies generally to Union issues 13, 14, 15 and 16. In considering the parties' positions on the general wage increases and the other salary proposals, the State would ask that the Arbitrator keep in mind the information in the **General Economic Discussion** section of this brief, particularly the information regarding the State's ability to pay and the comparability of wages between this unit and other Executive Branch bargaining units. While some of the information from that section may be mentioned in the Discussion of the individual issues, it is not feasible to keep citing the State's economic situation or the fact that the NP-4 unit has received increases that are, at a minimum, comparable to all of the other bargaining units in recent years.

The Union's LBO of a 3.25% increase in the first year of the contract costs $33,206,800.00 over the life of a four-year contract. The LBO's of 3.5% for each of the three following years will cost $29,073,800.00, $21,146,000.00 and $11,466,300.00 respectively.

There were 8 bargaining units with contracts extending into FY 08-09 that have CBI's effective on or about July 1, 2008 (S-15). These are:

NP-1	3%
NP-3	3%
NP-6/P-1	3%
P-2	3%
P-3A	3.5%
P-3B	3.5%
P-4	3.5%
P-5	3%

In addition, the NP-5 Contract was recently resolved, by agreement, and they will be getting a 3% CBI effective on or about July 1, 2008.

The LBO of the State for a 3% increase in the first year of the contract is consistent with the increases received by 4 non-professional and 2 professional bargaining units for the same period and is appropriate for the first year of this contract as well.

For all the reasons cited in this brief, the State urges the Arbitrator to award the State's LBO.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
2. The existing conditions of employment of similar groups of employees;
3. The wages, fringe benefits and working conditions prevailing in the labor market;
4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);
5. The ability of the employer to pay;
6. Changes in the cost of living;
7. The interests and welfare of the employees.

ISSUE NO: 14

Article 17
Compensation
Section 1

Current Language:

Section 1. **Salaries**.
B. **General Increases**. Employees shall receive pay increases as follows:

State's Last Best Offer:

Section 1. **Salaries**.

A. General Increases. Employees shall receive pay increases as follows:

2) Effective June 24, 2009, the base annual salary of all employees shall be increased by two and one-half percent (2.5%).

Union's Last Best Offer:

(2) Effective the pay period including July 1, 2009, the base annual salary of all employees shall be increased by three and a half percent (3.50%).

Discussion:

In regard to CBI's in this year of the contract, only 3 other bargaining units have increases scheduled to become effective on or about July 1, 2009.

NP-1 (CSPU) has increase of 2.25% for step 1-4, 2.5% for steps 5-8, 3.25% for steps 9-11 of SP-1 and 3.5% for all of SP-3 and SP-4 (S-15). P-5 (A&R) is getting 3.25% (S-15) and NP-5 (PSEC) 3%.

While the State LBO of 2.5% is less than any of these other increases, it is imperative to recognize that the economic situation is deteriorating as Secretary Genuario testified it would and contrary to the predictions of Professor Stodder. The State's LBO provides a reasonable increase without being reckless.

For all the reasons cited in this brief, the State urges the Arbitrator to award the State's LBO.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
2. The existing conditions of employment of similar groups of employees;
3. The wages, fringe benefits and working conditions prevailing in the labor market;
4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);
5. The ability of the employer to pay;
6. Changes in the cost of living;
7. The interests and welfare of the employees.

ISSUE NO: 15

Article 17
Compensation
Section 1

Current Language:

Section 1. **Salaries**.
C. **General Increases**. Employees shall receive pay increases as follows:

State's Last Best Offer:

Section 1. **Salaries**.

A. General Increases. Employees shall receive pay increases as follows:

3) Effective June 23, 2010, the base annual salary of all employees shall be increased by two and one-half percent (2.5%).

Union's Last Best Offer:

(3) Effective the pay period including July 1, 2010, the base annual salary of all employees shall be increased by three and a half percent (3.50%).

Discussion:

See discussion in Union Issues 13 and 14.

For all the reasons cited in this brief, the State urges the Arbitrator to award the State's LBO.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 16

Article 17
Compensation
Section 1

Current Language:

Section 1. **Salaries**.
D. **General Increases**. Employees shall receive pay increases as follows:

State's Last Best Offer:

Section 1. **Salaries**.

A. General Increases. Employees shall receive pay increases as follows:

4) Effective July 1, 2011, the base annual salary of all employees shall be increased by three percent (3.0%).

Union's Last Best Offer:

(4) Effective the pay period including July 1, 2011, the base annual salary of all employees shall be increased by three and a half percent (3.50%).

Discussion:

See the discussion in Union Issues 13 and 14.

For all the reasons cited in this brief, the State urges the Arbitrator to award the State's LBO.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 17

Article 17
Compensation
Section 2

Current Language:

Section 2. Annual Increments.

1. Annual increments shall not be paid for 2004–2005.
2. Annual increments for 2005-2006 shall be delayed six months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.
3. Annual increments for 2006-2007 shall be delayed three months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.
4. Annual increments for 2007-2008 shall be on time. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

State's Last Best Offer:

Section 2. Annual Increments.

1. Annual increments for 2008-2009 shall be delayed six months. Employees at the top step of the pay scale shall receive a [subject to award on Issue No. 46] lump sum payment.

Union's Last Best Offer:

1. Annual increments shall be retroactive for 2008-2009 year and shall be on time.

Discussion:

The State's LBO in regard to the application of annual increments is a direct reaction to the current economic situation which, as predicted, is one in which both the State and the nation as a whole are in the process of an economic downturn. As Secretary Genuario testified, an economic downturn has a clear impact on State revenues which, in turn, creates budget shortfalls. The State is not looking to withhold annual increments, only to delay them for six months.

In each year of the contract, a six-month delay in annual increments will result in savings to the State as follows:

Year 1 (08-09) - $1,838,000.00.
Year 2 (09-10) - $1,652,000.00.
Year 3 (10-11) - $1,551,000.00.
Year 4 (11-12) - $1,357,000.00 (If 4th year is awarded).

For all the reasons cited in this brief, the State urges the Arbitrator to award the State's LBO.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 18

Article 17
Compensation
Section 2

Current Language:

Section 2. Annual Increments.

1. Annual increments shall not be paid for 2004–2005.

2. Annual increments for 2005-2006 shall be delayed six months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

3. Annual increments for 2006-2007 shall be delayed three months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

4. Annual increments for 2007-2008 shall be on time. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

State's Last Best Offer:

Section 2. Annual Increments.

2. Annual increments for 2009-2010 shall be delayed six months. Employees at the top step of the pay scale shall receive a [subject to award on Issue No. 47] lump sum payment.

Union's Last Best Offer:

2. Annual increments for 2009-2010 shall be on time.

Discussion:

See the discussion in Union Issue 17.

For all the reasons cited in this brief, the State urges the Arbitrator to award the State's LBO.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 19

Article 17
Compensation
Section 2

Current Language:

Section 2. Annual Increments.

1. Annual increments shall not be paid for 2004–2005.

2. Annual increments for 2005-2006 shall be delayed six months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

3. Annual increments for 2006-2007 shall be delayed three months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

4. Annual increments for 2007-2008 shall be on time. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

State's Last Best Offer:

Section 2. Annual Increments.

3. Annual increments for 2010-2011 shall be delayed six months. Employees at the top step of the pay scale shall receive a [subject to award on Issue No. 48] lump sum payment.

Union's Last Best Offer:

5. Annual increments for 2010-2011 shall be on time.

Discussion:

See the discussion in Union Issue 17.

For all the reasons cited in this brief, the State urges the Arbitrator to award the State's LBO.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 20

Article 17
Compensation
Section 2

Current Language:

Section 2. Annual Increments.

1. Annual increments shall not be paid for 2004–2005.

2. Annual increments for 2005-2006 shall be delayed six months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

3. Annual increments for 2006-2007 shall be delayed three months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

4. Annual increments for 2007-2008 shall be on time. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

State's Last Best Offer:

Section 2. Annual Increments.

4. Annual increments for 2011-2012 shall be delayed six months. Employees at the top step of the pay scale shall receive a [subject to award on Issue No. 49] lump sum payment.

Union's Last Best Offer:

6. Annual increments for 2011-2012 shall be on time.

Discussion:

See the discussion in Union Issue 17.

For all the reasons cited in this brief, the State urges the Arbitrator to award the State's LBO.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 21

Article 17
Compensation
Section 4

Current Language:

Section 4. **Longevity**. The longevity schedule based on the pay plan effective on June 30, 1977 shall remain unchanged in dollar amounts during the life of this Agreement, and is appended.

State's Last Best Offer:

Retain current language.

Union's Last Best Offer:

The longevity schedule is appended under Appendix B (1), and shall be effective on July 1, 2009.

Discussion:

The Union is seeking to change the longevity schedule applicable to this bargaining unit by increasing each amount three-fold. Longevity is a lump sum amount paid to employees depending on their grade and length of service, with eligibility beginning after 10 years of service and the amount of the longevity bonus increasing at the 15, 20 and 25 year points.

The current NP-4 longevity schedule is identical to the longevity schedule for all other executive branch bargaining units (see J-9 through J-19) whether professional or non-professional. Longevity was authorized by C.G.S. 5-213 in 1967 (J-45) and called for payment of varying amounts of money depending on length of service at the 10, 15, 20 and 25 year points, just as now. Since the Union offered J-45 in support of this proposal, it is assumed that the argument will be that this statute called for increasing longevity by a percentage of any annual increase in salary if such amount is greater than the listed amount and such increases have not been made over time.

If this is the Union's argument, it is accurate so far as it goes but ignores the fact that C.G.S. 5-213 was subsequently amended by Public Act 79-621 to remove the increases based on a percentage of salary increase and instead established the fixed amounts used today and reflected in the current longevity schedule (J-49).

There has been no evidence offered that would justify an increase in the NP-4 Longevity Schedule which is currently exactly the same as that of every other executive branch bargaining unit.

The LBO of the State is the more reasonable and should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 22

Article 17
Compensation
Section 6

Current Language:

Section 6. **Night Shift Differential**. All employees who are in this bargaining unit and who are eligible to receive shift differential in accordance with current practice and whose assigned work shift begins any time after 2:00 P.M. and before 6:00 A.M. shall receive a night shift differential of eighty (80) cents per hour. Shift differential will only be paid when an employee is actually working.

State's Last Best Offer:

Retain current language.

Union's Last Best Offer:

B. Effective and retroactive to the pay period including July 1, 2008, the night shift differential shall be increased by ten (10) cents per hour.

Discussion:

The Union is seeking a ten (10) cent increase in night shift differential to ninety (90) cents per hour for the first year of this contract, while the State is asking that there be no increase.

For those units that have a night shift differential, the current amounts as of July 1, 2008 are:

NP-1	Seventy-five (75) cents (J-9).
NP-2	Eighty–five (85) cents (J-10).
NP-3	Seventy-five (75) cents (J-11).
NP-5	Eighty-five (85) cents (J-12).
NP-8	Eighty-five (85) cents (J-14).
P-2	Eighty (80) cents (J-15).
P-3B	Eighty-five (85) cents (J-17).
P-4	Eighty-five (85) cents (J-18).
P-5	Seventy-five (75) cents (J-19).

The NP-4 differential is currently the same or higher than four other bargaining units (NP-1, NP-3, P-2 and P-5) and, obviously, is five cents an hour lower than the remaining units. While lower than some units, five cents an hour is not a significant difference and NP-4 compares very well with other State employees.

The general economic forecast is such that it would be best to delay any increase in night shift differential until the out years of this contract, and such is the State's recommendation. In the third year of the contract, the

State is offering an increase in night shift differential to ninety (90) cents an hour, an amount higher than any other unit presently gets, but is asking the Arbitrator to award no increase in years one and two.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 23

Article 17
Compensation
Section 6

Current Language:

Section 6. **Night Shift Differential**. All employees who are in this bargaining unit and who are eligible to receive shift differential in accordance with current practice and whose assigned work shift begins any time after 2:00 P.M. and before 6:00 A.M. shall receive a night shift differential of eighty (80) cents per hour. Shift differential will only be paid when an employee is actually working.

State's Last Best Offer:

Retain current language.

Union's Last Best Offer:

C. Effective the pay period including July 1, 2009, the night shift differential shall be increased by ten (10) cents per hour.

Discussion:

Please see discussion for Union Issue 22. Assuming, arguendo, that the Union's proposal for a ten-cent increase in the first year of the contract is awarded, this proposal would then increase the night shift differential to one dollar ($1.00) per hour.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 24

Article 17
Compensation
Section 6

Current Language:

Section 6. **Night Shift Differential**. All employees who are in this bargaining unit and who are eligible to receive shift differential in accordance with current practice and whose assigned work shift begins any time after 2:00 P.M. and before 6:00 A.M. shall receive a night shift differential of eighty (80) cents per hour. Shift differential will only be paid when an employee is actually working.

State's Last Best Offer:

A. Effective June 18, 2010, the night shift differential shall be increased to ninety (90) cents per hour. Shift differential will only be paid when an employee is actually working.

Union's Last Best Offer:

D. Effective the pay period including July 1, 2010, the night shift differential shall be increased by ten (10) cents per hour.

Discussion:

Please see discussion for Union Issue 22. If the Union has been successful with its previous proposals for this section, the night shift differential will be one dollar and ten cents ($1.10) an hour if this one is awarded as well.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 25

Article 17
Compensation
Section 6

Current Language:

Section 6. **Night Shift Differential**. All employees who are in this bargaining unit and who are eligible to receive shift differential in accordance with current practice and whose assigned work shift begins any time after 2:00 P.M. and before 6:00 A.M. shall receive a night shift differential of eighty (80) cents per hour. Shift differential will only be paid when an employee is actually working.

State's Last Best Offer:

A. Effective June 18, 2010, the night shift differential shall be increased to ninety (90) cents per hour. Shift differential will only be paid when an employee is actually working.

Union's Last Best Offer:

E. Effective the pay period including July 1, 2011, the night shift differential shall be increased by ten (10) cents per hour.

Discussion:

Please see discussion for Union Issue 22 and the further discussion in Issues 23-24.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 26

Article 17
Compensation
Section 7

Current Language:

Section 7. Weekend Differential. For the purposes of this Section, a weekend is defined as beginning with the start of the third shift on Friday and terminating with the end of the second shift on Sunday inclusive.

A. Minimum. The weekend differential shall be paid for working a minimum of six (6) hours on a shift defined in Section 7 above.

B. Rate. The rate shall be fifty-five (55) cents an hour.

State's Last Best Offer:

Retain current language.

Union's Last Best Offer:

B. (2) Effective and retroactive to the pay period including July 1, 2008, the weekend shift differential shall be increased by ten (10) cents per hour.

Discussion:

The Union is seeking a ten (10) cent increase in weekend differential to sixty-five (65) cents per hour for the first year of this contract, while the State is asking that there be no increase.

For those units that have a weekend differential, the current amounts as of July 1, 2008 are:

NP-2	Sixty (60) cents (J-10).
NP-3	Forty (40) cents (J-11).
NP-5	Seventy-five (75) cents (J-12).
NP-8	Sixty (60) cents (J-14).
P-2	Fifty-five (55) cents (J-15).
P-3B	Seventy-five (75) cents (J-17).
P-4	Seventy-five (75) cents (J-18).
P-5	Fifty (50) cents (J-19).

The NP-4 differential is currently the same or higher than three other bargaining units (NP-3, P-2 and P-5) and is five cents an hour lower than NP-2 and NP-8. The three remaining units do receive fifteen cents an hour more, but overall there is not a significant difference, with NP-4 landing pretty much in the middle of the pack.

The general economic forecast is such that it would be best to delay any increase in weekend differential until the out years of this contract, and such is the State's recommendation. In the third year of the contract, the State is proposing an increase in weekend differential to sixty-five (65)

cents an hour, an amount higher than all but three bargaining units receive, but is asking the Arbitrator to award no increase in years one, two or four (if applicable). Should the Union's proposals be awarded, the weekend differential will be sixty-five (65), seventy-five (75), eighty-five (85) and ultimately ninety-five (95) cents for each year of the contract, if a fourth year is awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 27

Article 17
Compensation
Section 7

Current Language:

Section 7. Weekend Differential. For the purposes of this Section, a weekend is defined as beginning with the start of the third shift on Friday and terminating with the end of the second shift on Sunday inclusive.

A. Minimum. The weekend differential shall be paid for working a minimum of six (6) hours on a shift defined in Section 7 above.

B. Rate. The rate shall be fifty-five (55) cents an hour.

State's Last Best Offer:

Retain current language.

Union's Last Best Offer:

B. (3) Effective the pay period including July 1, 2009, the weekend shift differential shall be increased by ten (10) cents per hour.

Discussion:

Please see discussion for Union Issue 26.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 28

Article 17
Compensation
Section 7

Current Language:

Section 7. Weekend Differential. For the purposes of this Section, a weekend is defined as beginning with the start of the third shift on Friday and terminating with the end of the second shift on Sunday inclusive.

A. Minimum. The weekend differential shall be paid for working a minimum of six (6) hours on a shift defined in Section 7 above.

B. Rate. The rate shall be fifty-five (55) cents an hour.

State's Last Best Offer:

(1) Effective June 18, 2010, the weekend differential shall be increased to sixty-five (65) cents an hour.

Union's Last Best Offer:

7. Effective the pay period including July 1, 2010, the weekend shift differential shall be increased by ten (10) cents per hour

Discussion:

Please see discussion for Union Issue 26.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 29

Article 17
Compensation
Section 7

Current Language:

Section 7. Weekend Differential. For the purposes of this Section, a weekend is defined as beginning with the start of the third shift on Friday and terminating with the end of the second shift on Sunday inclusive.

A. Minimum. The weekend differential shall be paid for working a minimum of six (6) hours on a shift defined in Section 7 above.

B. Rate. The rate shall be fifty-five (55) cents an hour.

State's Last Best Offer:

(1) Effective June 18, 2010, the weekend differential shall be increased to sixty-five (65) cents an hour.

Union's Last Best Offer:

B. (5) Effective the pay period including July 1, 2011, the weekend shift differential shall be increased by ten (10) cents per hour.

Discussion:

Please see discussion for Union Issue 26.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 30

Article 17
Compensation
Section 9 B.

Current Language:

Section 9. Facility Meal Reimbursement. Employees at all existing correctional facilities shall continue to receive reimbursement as detailed herein.

B. **Rate**. The meal reimbursement rate shall be $7.00 for each shift actually worked. **(1)** Effective June 24, 2005, the meal reimbursement rate shall be $8.00.

State's Last Best Offer:

Facility Meal Reimbursement. Rate

B. Rate. Effective July 4, 2008, the meal reimbursement rate shall be $8.50 for each shift actually worked.

Union's Last Best Offer:

B. (2) Effective and retroactive to the pay period including July 1, 2008, the meal reimbursement rate shall be increased by two (2) dollars.

Discussion:

The current meal reimbursement rate has been in effect for three years and the State acknowledges that it is appropriate to increase it. However, the Union's proposed $2.00 increase is simply too much, particularly with the current state of the economy. Such an increase will cost more than $2,186,000.00 for the first year and over $2,274,000.00 in each succeeding year while the State's proposal will only cost $546,700.00 in the first year and about $20,000.00 more in the succeeding years.

The fact is that most employees pack a meal at home and bring it in to eat, as they are not allowed to leave the facility to eat at a restaurant or to bring a food order back from a restaurant. They are also at times permitted to have takeout food delivered. One can pack a very satisfying and nutritious meal for eight dollars and fifty cents ($8.50) a shift and realistically it costs far less to pack a meal. There was no evidence presented in support of a need for a twenty-five percent increase in the meal allowance and it may be reasonably concluded that the increase actually would represent extra cash for the employees.

The State's proposed increase of fifty (50) cents a shift is the more reasonable proposal and should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 31

Article 17
Compensation
Section 9 B.
Facility Meal Reimbursement. Rate

Current Language:

Section 9. Facility Meal Reimbursement. Employees at all existing correctional facilities shall continue to receive reimbursement as detailed herein.

C. **Rate**. The meal reimbursement rate shall be $7.00 for each shift actually worked. **(1)** Effective June 24, 2005, the meal reimbursement rate shall be $8.00.

State's Last Best Offer:

C. **Rate.** Effective July 4, 2008, the meal reimbursement rate shall be $8.50 for each shift actually worked.

Union's Last Best Offer:

(3) Effective the pay period including July 1, 2009, the meal reimbursement rate shall be increased by one (1) dollar.

Discussion:

Please see the discussion for Union Issue 31. The State is asking that there be no increase in the meal allowance for the second year of the contract, in light of the current economic situation.

The Union proposal, if awarded, will cost $1,093,400.00 in the first year and $1,137,200.00 in each succeeding year.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 32

Article 17
Compensation
Section 9 B.
Facility Meal Reimbursement. Rate

Current Language:

Section 9. Facility Meal Reimbursement. Employees at all existing correctional facilities shall continue to receive reimbursement as detailed herein.

D. **Rate**. The meal reimbursement rate shall be $7.00 for each shift actually worked. **(1)** Effective June 24, 2005, the meal reimbursement rate shall be $8.00.

State's Last Best Offer:

C. **Rate.** Effective July 4, 2008, the meal reimbursement rate shall be $8.50 for each shift actually worked. Effective June 18, 2010, the meal reimbursement rate shall be $9.00 for each shift actually worked.

Union's Last Best Offer:

(5) Effective the pay period including July 1, 2010, the meal reimbursement rate shall be increased by one (1) dollar

Discussion:

Please see the discussion for Union Issues 31 and 32. The costs of this proposal are the same as in the preceding year.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 33

Article 17
Compensation
Section 9 B.
Facility Meal Reimbursement. Rate

Current Language:

Section 9. Facility Meal Reimbursement. Employees at all existing correctional facilities shall continue to receive reimbursement as detailed herein.

E. **Rate**. The meal reimbursement rate shall be $7.00 for each shift actually worked. **(1)** Effective June 24, 2005, the meal reimbursement rate shall be $8.00.

State's Last Best Offer:

B. Rate. Effective July 4, 2008, the meal reimbursement rate shall be $8.50 for each shift actually worked. Effective June 18, 2010, the meal reimbursement rate shall be $9.00 for each shift actually worked.

Union's Last Best Offer:

B. (5) Effective the pay period including July 1, 2011, the meal reimbursement rate shall be increased by one (1) dollar.

Discussion:

Please see the discussion for U-31. The State is asking that there be no increase in the meal allowance for the fourth year of the contract, if there is a fourth year, in light of the current economic situation.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 34

Article 17
Compensation
Section 9 C.
Facility Meal Reimbursement. Eligibility

Current Language:

C. Eligibility. The minimum time for eligibility for such reimbursement shall be equal to one-half (½) of the shift, except unanticipated overtime after a regular scheduled shift the employee shall be provided with a sandwich and a beverage, prepared by a staff member.

State's Last Best Offer:

Retain Current language.

Union's Last Best Offer :

C. (1) Effective July 1, 2009, in lieu of the meal being provided, employees will be paid the full meal reimbursement rate when working unanticipated overtime after a regular shift.

Discussion:

This proposal seeks to eliminate the requirement that employee's working unanticipated overtime after a regular shift be provided with a sandwich and a beverage and instead be paid the meal reimbursement. It is interesting that part of the testimony in support of this proposal had to do with the fact that employees who are unexpectedly working overtime (i.e. are drafted) may not want to eat the sandwich, but will not have brought enough money to purchase items from the provided vending machines. It is difficult to see how awarding this proposal will result in employees who are drafted remembering to bring money just in case, but that apparently is the position of the Union.

The present procedure is that if an employee is drafted to work overtime rather than volunteering, s/he does not get the meal allowance, receiving the sandwich and beverage instead. This has the effect of encouraging volunteers although there is often so much overtime at some facilities drafting occurs regularly, but the State would prefer to limit payment of the meal allowance for overtime shifts to those who volunteer.

It also appears that the Union proposal creates some confusion in regard to how long an employee must work to be eligible for the allowance. The current language requires at least one-half (1/2) of a shift, and there is no such limitation in the Union proposal. If it were their intention to simply remove the sandwich and beverage, the appropriate proposal would have been to remove the current language. Instead, this proposal would have the effect of requiring ½ of a shift for all employees **except** those working unanticipated overtime, as there is no limitation in the proposed language.

This makes the Union proposal defective and it should not be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 35

Article 17
Compensation
New Section 11 A. Bumps Top Step

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

A. The top step of all pay classifications shall be increased in the following manner.

Discussion:

As addressed in much greater detail in the general economic discussion, this proposal is in addition to the standard General Wage Increase requests and seeks to bump up the top step of each pay grade by a percentage in each year ranging from 3% in the first year, 2.5% in the second and 2% in each subsequent year.

The costs associated with these proposals are:

> Union Issue 36: $4,769,100.00 in year one and slightly less than $5,000,000.00 in each succeeding year.
> Union Issue 37: $4,961,900.00 for the first year and $5,179,600.00 for the out years.
> Union Issue 38: $5,240,600.00 for the first year and $5,470,200.00 in the next year, if one is awarded.
> Union Issue 39: If there is a fourth year of the contract and this issue is awarded to the Union, the cost will be $6,135,700.00 in that year alone.

Although the Union believes that its members have somehow fallen significantly behind other bargaining units, this is simply not true as discussed in the general economic section. There is no justification for these increases and they should not be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 36

Article 17
Compensation
New Section 11 (1) Increase Top Step By Three Percent (3%) July 1, 2008

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

Effective and retroactive to the pay period including July 1, 2008, immediately following the application of the General Wage Increase, the top step shall be increased by three percent (3%).

Discussion:

See discussion for Union Issue 35.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 37

Article 17
Compensation
New Section 11 (1) Increase Top Step By Two and one-half Percent (2.5%) July 1, 2009

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(2) Effective the pay period including July 1, 2009, immediately following the application of the General Wage Increase, the top step shall be increased by two and a half percent (2.5%).

Discussion:

See discussion for U-35.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 38

Article 17
Compensation
New Section 11 (1) Increase Top Step By Two Percent (2%) July 1, 2010

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(3) Effective the pay period including July 1, 2010, immediately following the application of the General Wage Increase, the top step shall be increased by two percent (2%).

Discussion:

See discussion for Union Issue 35.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 39

Article 17
Compensation
New Section 11 (1) Increase Top Step By Two Percent (2%) July 1, 2011

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(4) Effective the pay period including July 1, 2011, immediately following the application of the General Wage Increase, the top step shall be increased by two percent (2%).

Discussion:

See discussion for Union Issue 35.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 40

Article 17
Compensation
New Section 12 A. Add Additional Steps

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

A. Employees shall receive additional steps as follows:

Discussion:

Please see the general economic discussion. The Union has not demonstrated a need for any additional steps to be added to the NP-4 pay plan, particularly since they compare quite favorably to comparable classifications in other bargaining units. In addition, current economic conditions strongly indicate that it would be inappropriate to incur additional liability for the State at this time. Assuming a four year contract, adding a step 11 in the first year will cost almost 10 million dollars. A step 12 added in the second year costs 7 ½ million and a step 13 in the third year is 9 million. An added step in the fourth year will cost 6 ½ million.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 41

Article 17
Compensation
New Section 12 (1) Add An Additional Step To Pay Plan Four Percent (3%) Higher, Effective June 30, 2009

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(1) Effective the last pay period of the first year of the Agreement, a new additional top step shall be added to the pay plan for each grade. The new top step shall be three percent (3%) greater than Step Ten (10).

Discussion:

See discussion for Union Issue 40.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 42

Article 17

Compensation

New Section 12 (2) Add An Additional Step To Pay Plan Four Percent (3%) Higher, Effective June 30, 2010

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(2) Effective the last pay period of the second year of the Agreement, a new additional top step shall be added to the pay plan for each grade. The new top step shall be three percent (3%) greater than the existing top step.

Discussion:

See discussion for Union Issue 40.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 43

Article 17
Compensation
New Section 12 (3) Add An Additional Step To Pay Plan Four Percent (3%) Higher, Effective June 30, 2011

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(3) Effective the last pay period of the third year of the Agreement, a new additional top step shall be added to the pay plan for each grade. The new top step shall be three percent (3%) greater than the existing top step.

Discussion:

See discussion for Union Issue 40.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 44

Article 17
Compensation
New Section 12 (4) Add An Additional Step To Pay Plan Four Percent (3%) Higher, Effective June 30, 2012

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(4) Effective the last pay period of the fourth year of the Agreement, a new additional top step shall be added to the pay plan for each grade. The new top step shall be three percent (3%) greater than the top step.

Discussion:

See discussion for Union Issue 40.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 45

Article 17
Compensation
New Section 13. Lump Sum Amounts For Employees At Maximum Changed From Fixed Amount To Percentage Of Pay.

Current Language:

None.

State's Last Best Offer:

No new language

Union's Last Best Offer:

A. Employees shall receive a lump sum if they are at their top step as follows:

Discussion:

The State's LBO's for this and the following related Union Issues (46, 47, 48 and 49) go to the amount of the lump sum for employees at the top step of the pay plan.

The Union is seeking to both increase and change the method of computation for the lump sum received by employees at the top step of the pay plan. Employees currently receive a $500 lump sum and the Union is asking that this be changed to a percentage of the base salary amount.

The State is in agreement that the amount should be increased, and has proposed a 50% increase from $500 to $750. It is not appropriate that NP-4 members receive a percentage of base salary as a lump sum if at maximum salary.

The Union's proposal will cost $12,507,100.00 over a three year contract and $17,581,500.00 over four years. The State's proposal will cost $2,055,000 over three years and $2,740,000 for four years. This gives the employees a significant increase while keeping cost increases within reason.

The other bargaining units that have lump sum payments for employees at the maximum step are NP-2, P-4 and P-5 with 2.5%; NP-3 and P-2 with $750; and NP-5 at $500.00. NP-2 is the only non-professional bargaining unit with a percentage for the lump sum and all the bargaining units receiving a fixed amount are equal to or less than $750.

The Union's proposal to change the method by which the lump sum is determined should not be awarded. The State's proposal to increase the lump sum amount by 50% to $750 is the more reasonable.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 46

Article 17
Compensation
Section 2. Annual Increments. Lump Sum Amounts

Current Language:

Section 2. Annual Increments.

1. Annual increments shall not be paid for 2004–2005.
2. Annual increments for 2005-2006 shall be delayed six months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.
3. Annual increments for 2006-2007 shall be delayed three months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.
4. Annual increments for 2007-2008 shall be on time. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

State's Last Best Offer:

Section 2. Annual Increments.

1. [Subject to award on Union Issue 17]. Employees at the top step of the pay scale shall receive a $750 lump sum payment.

Union's Last Best Offer:

Article 17, Section 13, A., 1 – Lump Sum

Commencing and retroactive the first year of this Agreement (July 1, 2008 to June 30, 2009), employees at their maximum step of their pay plan who are not eligible for an annual increment shall be paid a lump sum payment equal to two and a half percent (2.5%) of their annual base salary. Payments shall be made at the time the employee would have received an annual increment (July or January).

Discussion:

Please see the general economic discussion and the discussion for U-45. In addition to increasing the lump sum amount to $750 the State is asking that annual increments be delayed by six months in each year of the contract. This is a direct result of the deteriorating economic climate and is intended to give employees their step increases while reasonably and realistically minimizing the economic impact on the State.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 47

Article 17
Compensation
Section 2. Annual Increments. Lump Sum Amounts

Current Language:

Section 2. Annual Increments.

1. Annual increments shall not be paid for 2004–2005.
2. Annual increments for 2005-2006 shall be delayed six months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.
3. Annual increments for 2006-2007 shall be delayed three months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.
4. Annual increments for 2007-2008 shall be on time. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

State's Last Best Offer:

Section 2. Annual Increments.

2. [Subject to award on Union Issue 18]. Employees at the top step of the pay scale shall receive a $750 lump sum payment.

Union's Last Best Offer:

Article 17, Section 13, A., 2 – Lump Sum

Commencing in the second year of this Agreement (July 1, 2009 to June 30, 2010), employees at their maximum step of their pay plan who are not eligible for an annual increment shall be paid a lump sum payment equal to two and a half percent (2.5%) of their annual base salary. Payments shall be made at the time the employee would have received an annual increment (July or January).

Discussion:

Please see the discussion on Union Issue 46.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 48

Article 17
Compensation
Section 2. Annual Increments. Lump Sum Amounts

Current Language:

Section 2. Annual Increments.

1. Annual increments shall not be paid for 2004–2005.
2. Annual increments for 2005-2006 shall be delayed six months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.
3. Annual increments for 2006-2007 shall be delayed three months. Employees at the top step of the pay scale shall receive a $500 lump sum payment.
4. Annual increments for 2007-2008 shall be on time. Employees at the top step of the pay scale shall receive a $500 lump sum payment.

State's Last Best Offer:

Section 2. Annual Increments.

3. [Subject to award on Union Issue 19]. Employees at the top step of the pay scale shall receive a $750 lump sum payment.

Union's Last Best Offer:

Article 17, Section 13, A., 3 – Lump Sum

Commencing in the third year of this Agreement (July 1, 2010 to June 30, 2011), employees at their maximum step of their pay plan who are not eligible for an annual increment shall be paid a lump sum payment equal to two and a half percent (2.5%) of their annual base salary. Payments shall be made at the time the employee would have received an annual increment (July or January).

Discussion:

Please see the discussion on Union Issue 46.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 49

Article 17
Compensation
Section 2. Annual Increments. Lump Sum amounts

Current Language:

Section 2. Annual Increments.

State's Last Best Offer:

Section 2. Annual Increments.

4. [Subject to award on Union Issue 20]. Employees at the top step of the pay scale shall receive a $750 lump sum payment.

Union's Last Best Offer:

Article 17, Section 13, A., 4 – Lump Sum

Commencing in the fourth year of this Agreement (July 1, 2011 to June 30, 2012), employees at their maximum step of their pay plan who are not eligible for an annual increment shall be paid a lump sum payment equal to two and a half percent (2.5%) of their annual base salary. Payments shall be made at the time the employee would have received an annual increment (July or January).

Discussion:

Please see the discussion on Union Issue 46.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 50

Article 17
Compensation
New Section 15 a. Revised pay Plan

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

A. Employees shall receive revised pay plan rates as follows:

Discussion:

Please see the general economic discussion. As in U-40 et seq, the Union has not demonstrated a need for any increase to the existing step of the current pay plan, again since they compare quite favorably to comparable classifications in other bargaining units. In addition, current economic conditions strongly indicate that it would be inappropriate to incur additional liability for the State at this time. Over the course of the contract, the cost of these proposals will be over 41 million dollars over a four year contract if done in the first year, an additional 30 million if added in the second year, over 39 million in the third year and over 17 million for the fourth year.

There is no justification for the proposed increases and they should not be awarded in any year of the contract.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 51

Article 17
Compensation
New Section 15 (1) Revised pay Plan increasing each step by $1,000 effective July 1, 2008

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(1) Effective and retroactive to the pay period including July 1, 2008, each step of each NP-4 pay grade shall be increased by $1,000 prior to the 2008-2009 GWI being implemented.

Discussion:

Please see discussion in Union Issue 50.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 52

Article 17
Compensation
New Section 15 (2) Revised pay Plan increasing each step by another $1,000 effective July 1, 2009

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(2) Effective the pay period including July 1, 2009, the top three steps of each NP-4 pay grade shall be increased by $1,000 prior to the 2009-2010 GWI being implemented.

Discussion:

Please see discussion in Union Issue 50.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 53

Article 17
Compensation
New Section 15 (3) Revised pay Plan increasing each step by another $2,000 effective July 1, 2010

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(3) Effective the pay period including July 1, 2010, the top three steps of each NP-4 pay grade shall be increased by $2,000 prior to the 2010-2011 GWI being implemented.

Discussion:

Please see discussion in Union Issue 50.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 54

Article 17
Compensation
New Section 15 (4) Revised pay Plan increasing each step by another $2,000 effective July 1, 2011

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

(4) Effective the pay period including July 1, 2011, the top three steps of each NP-4 pay grade shall be increased by $2,000 prior to the 2011-2012 GWI being implemented.

Discussion:

Please see discussion in Union Issue 50.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 55

Article 17
Compensation
New Section 16 Additional compensation for carrying response device off duty

Current Language:

None.

State's Last Best Offer:

No new language.

Union's Last Best Offer:

Effective the pay period including July 1, 2009, employees carrying a state issued response device during off-duty hours will be compensated at the rate of fifty dollars ($50.00) per pay period.

Discussion:

The testimony of Director Miele confirmed that there are a number of NP-4 employees who carry state issued response devices, although, for security reasons, the exact number was not divulged. These employees are members of the various tactical operations teams, such as the Correctional Emergency Response Teams (CERT), Hostage Negotiation Teams (SITCON) and the Special Operations Group (SOG). In addition, Director Miele is responsible for the Honor Guard, members of which also have response devices although they are not a tactical operations unit.

Director Miele further testified that each and every one of these employees are volunteers for these units and that appointment is highly sought after, as these are considered elite units. Their duties are in addition to their regular duties and they are paid at the appropriate rate when engaged in these duties. As Director Miele stated, these employees may cease activities with these teams at any time and with no adverse impact on their employment and, if they were to fail to respond to their response device, there would be no disciplinary action taken against them. In his experience, the Department has never had a lack of applicants for positions with any of these teams and has never had a problem with individuals failing to respond when summoned.

In addition to the above referenced volunteers, there are two groups of employees who, as a condition of employment, are required to carry response devices. One group are the Parole Officers and they are discussed

elsewhere in this brief, as there are separate proposals regarding them and response devices. The other group are Correction Officers assigned to the K-9 unit.

Deputy Warden Chapdelaine is the manager responsible for the K-9 unit, which has 18 Correction Officers assigned, and he confirmed that all members of that unit are issued Nextel phones which are used both on and off duty. The K-9 unit is one of the few units exempt from the seniority transfer requirements of Article 10 (see Section 2 C (1)) and Correction Officers must apply and go through an evaluation process before assignment to the unit. As Mr. Chapdelaine stated, before accepting an assignment to the unit, employees must commit to at least 2 years in the unit and to be available to be called at all times, unless on authorized leave. Inasmuch as this is an employees' full-time duty, it does differ from the collateral duties of the tactical team members discussed above, but application for and acceptance of assignment to the K-9 unit is a completely voluntary act on the part of the employee.

Director Miele testified that he has been involved in tactical unit activities in one form or another for much of his 28 year career with the Department of Correction and that it had initially been an idea of team members to get pagers so they could be more easily reached when he was at Cheshire some 20 years ago or so. While there is certainly a benefit to the State to have a rapid response for emergency situations, no employee is ever required to either be a member of a tactical unit or of the K-9 Unit. It is a tribute to the professionalism of the employees who volunteer to be a part of these units,

but there is no basis to require any compensation for their voluntary act of carrying a response device. Any time they are called out, they are fully compensated for their time and nothing further is necessary.

The Union has not demonstrated any need for this proposal, and the State's proposal should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 56

Article 25
Vacations

Current Language:

Section 1. **Schedule**. Employees who were hired prior to July 1, 1997 shall continue to accrue vacation at the rate of one and one-quarter (1-1/4) days per month, except that employees who have completed twenty (20) years of service shall earn paid vacation at the rate of one and two-thirds (1-2/3) work days for each calendar month of service. For employees who were hired on or after July 1, 1977, the following vacation leave shall apply:

Years of Service	Vacation
Zero (0) to five (5) years	One (l) day per month
Over five (5) and under twenty (20) years	One and one-quarter (1-1/4) days per month
Twenty (20) or more years	One and two-thirds (1-2/3) days per month

State's Last Best Offer:

Retain current language.

Union's Last Best Offer:

(a) The following vacation leave shall apply for all NP-4 members vacation accruals:

Effective July 1, 2009, employees shall be entitled to:

YEARS OF SERVICE VACATION

Zero (0) to five (5) years: One (1) day per month.
Over five (5) and under sixteen (16) years: One and a quarter (1.25) days per month.

16 years: 16 days
17 years: 17 days
18 years: 18 days
19 years: 19 days
20 years: 20 days
21 years: 21 days
22 years: 22 days
23 years: 23 days
24 years: 24 days
25 years: 25 days

Vacation leave beyond fifteen (15) days is granted as bonus day(s) each January 1st of the calendar year.

Discussion:

What the Union is asking for here is a vacation accrual schedule that imitates but goes far beyond the managerial vacation accrual rate (S-39). No other bargaining unit, with the exception of the NP-8 Unit (to be discussed below), has a vacation accrual rate any different than the current language of the NP-4 contract and NP-8 is different only because some bargaining unit members were managerial employees before the formation of this unit. Not even the Connecticut State Police, with whom this Unit would otherwise like to be equally compared, have a vacation accrual rate different than the existing NP-4 rate.

Article 33, Section 1 of the NP-8 contract (J-14) contains two accrual schedules, one for employees in the bargaining unit as of December 3, 2001 and the other for employees in the unit as of December 4, 2001 and after. The first schedule, which applies only to those employees who were managers at the time of the formation of this bargaining unit, is identical to the managerial schedule (S-39) and the second is identical to the current NP-4 schedule and that of every other bargaining unit.

It is anticipated that the Union will claim the working conditions of its members militate for more paid time off and it likely will refer to Union Exhibit 18 which lists vacation accrual rates for states in New England or otherwise nearby, as all of them indicate accrual rates in excess of the 20 day maximum per year that all non-managerial Connecticut State Employees receive. What U-18 does not reveal is the regular work schedule of these employees.

Connecticut's Correction Officers, with very few exceptions, work either a five day on-three day off or an every-other-weekend-off schedule. Either way, these employees are scheduled to work 230 days per year and are off on 135 days. There is no evidence that any of the Correction Officers in the other states listed in U-18 have such a generous schedule. The vast majority of other Connecticut State Employees work a regular five day on / two day off Monday through Friday schedule. This means, counting the twelve holidays off all employees get, they work 248 days each year (52 weeks multiplied by 5 and then minus 12). Correction Officers already have 18 more days (over 2 ½ weeks) off work than most other employees. They also accrue 3 Personal Leave days each calendar year, which they must use in the year or lose. Since they are also paid on the basis of an averaging schedule of 8 ¼ hours per day rather than the 7 ¼ hours an NP-4 member on a 5/2 schedule would work (see Article 14 of J-1), their compensation is the same as if they worked 248 days for a 7 ¼ hour day. This schedule alone is hard to beat, and there is no demonstrated need for any additional vacation accrual.

It was very clearly demonstrated during the course of this arbitration that all posts must be staffed in order for any facility to operate safely and efficiently. When an employee does not report to work for any reason, including scheduled authorized vacation, another employee must be hired on an overtime basis to cover for the first employee's absence. The additional vacation days requested by the Union will result in a significant increase in overtime costs (about one and one-half million ($1,500,000.00) dollars each year) if awarded.

This proposal is simply unreasonable and there is no logical basis to award it. The State's LBO to keep the existing vacation accrual rate is the only reasonable one.

Statutory factors for consideration:

1. The history of negotiations between the parties.
2. The existing conditions of employment of similar groups of employees.
5. Ability of the employer to pay.

ISSUE NO: 57

Article 27 B.
Employee Uniform, Personal Appearance And Identification

Current Language:

B. Uniformed Personnel. The Department of Correction shall provide uniforms in accordance with Appendix E, "Uniform Specification and Allotment," except that the Commissioner of Correction may change the color and style of the uniform upon notice to the Union. Uniform items which require dry cleaning shall be maintained by the Department through a designated vendor. A limit of three (3) pairs of uniform pants per week and one (1) Department issued winter coat per year, shall be maintained by the Department. Uniforms shall only be worn as provided in this Directive. No portion of a uniform shall be worn with any other clothing not authorized herein. Uniforms shall not be worn while off duty except as necessary to travel to and from the employee's worksite, fulfill family responsibilities, or while volunteering and officially representing the Department of Correction. The consumption of alcohol while in uniform is strictly prohibited.

State's Last Best Offer:

Retain Current Language.

No New Section 6 providing for a stipend to wear clean clothes.

Union's Last Best Offer:

Article 27, Section 3. B. – Dry Cleaning Deletion
Article 27, Section 6. – Stipend Appearance/Cleaning

B. Uniformed Personnel. Effective the pay period including July 1, 2009, the Department of Correction shall provide uniforms in accordance with Appendix E, "Uniform Specification and Allotment," except that the Commissioner of Correction may change the color and style of the uniform upon notice to the Union. Uniforms shall only be worn as provided in this Directive. No portion of a uniform shall be worn with any other clothing not authorized herein. Uniforms shall not be worn while off duty except as necessary to travel to and from the employee's worksite, fulfill family responsibilities, or while volunteering and officially representing the Department of Correction. The consumption of alcohol while in uniform is strictly prohibited.

6. Stipend, Appearance and Cleaning. Effective the pay period including July 1, 2009 and annually thereafter, in lieu of the request for dry cleaning, NP-4 members shall receive a stipend of six hundred dollars ($600.00) to maintain personal appearance and to clean their work clothing.

Discussion:

This is an interesting proposal on the part of the Union, particularly since there was absolutely no evidence submitted in support of it. Members of this Bargaining Unit are issued uniforms and equipment in accordance with Appendix E of the contract (J-1). Uniforms are issued to Custody Staff (Correction Officers and Correctional Treatment Officers among others); Correctional Maintenance, Industry and Commissary employees and to Correctional Food Service Staff. The uniforms include shirts, trousers, hats, belts, socks, ties, jackets, sweaters and shoes. The only thing not issued is underwear. When uniform items wear out, they are replaced.

There are two other Executive Branch contracts, NP-1 in Article 19, Section Thirteen (J-9) and NP-5 in Article 20, Section Six (b) (J-12) that provide for a clothing/cleaning allowance but in both cases it applies only to employees who would normally wear a uniform but are assigned to duties that preclude wearing of the uniform. No contract provides for an allowance to be paid to employees who are fully clothed at the expense of the State.

In almost every single employment situation, whether public or private, employees are expected to come to work clothed. They are also expected to provide and maintain their own clothing and to wear appropriate clothing. Here, the members of the NP-4 unit are given everything they need to wear and there is absolutely no reason why they should not be responsible for throwing their uniforms in a washing machine along with all the other clothing that they wear when not at work.

In the absence of any evidence in support of the need for special compensation to clean the wash-and-wear uniforms issued to the employees and any evidence indicating how $600.00 is related to the actual costs of cleaning the uniforms, this can be regarded only as what it is, that is a blatant attempt to get money for nothing. The cost of this will be over $3,000,000.00 each year.

The State's LBO is the only reasonable choice and should be awarded.

Statutory factors to be considered:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
2. The existing conditions of employment of similar groups of employees;
5. The ability of the employer to pay;

ISSUE NO: 58

Article 28
Military Leave

Current Language:

Section 1. **Paid Leave for Drills, Emergencies**. A full-time permanent employee who is a member of the armed forces of the State or any reserve component of the armed forces of the United States shall be entitled to military leave with pay for required field training, provided such leave does not exceed two (2) calendar weeks in a calendar year, in addition to up to seven (7) days of military leave for weekend drills. Additionally, any such employee who is ordered to active duty as a result of an unscheduled emergency (natural disaster or civil disorder) shall be entitled to military leave with pay not to exceed thirty (30) calendar days in a calendar year. During such leave the employee's position shall be held, and the employee shall be credited with such time for seniority purposes.

State's Last Best Offer:

Retain current language.

Union's Last Best Offer:

1. A. Effective July 1, 2009, a full-time permanent employee who is a member of the Armed Forces of the State or any reserve component of the Armed Forces of the United States shall be entitled to military leave with pay for required field training, provided such leave does not exceed two (2) calendar weeks in a calendar year, in addition to up to fourteen (14) days of military leave for weekend drills. Additionally, any such employee who is ordered to active duty as a result of an unscheduled emergency (natural disaster or civil disorder) shall be entitled to military leave with pay not to exceed thirty (30) calendar days in a calendar year. During such leave the employee's position shall be held, and the employee shall be credited with such time for seniority purposes.

Discussion:

The Union is asking to increase the number of days of paid military leave for NP-4 employees from 7 to 14 for weekend drills. Before discussing this proposal further, it is appropriate to look at the contractual history of this Article.

The first contract (1977-1979, J-27, Article XXXIII, Section Five) kept in place the present military leave policy but limited paid leave to unscheduled emergencies. The next contract (1979-1982, J-26) established a separate article (XXXVIII) for military leave, but limited it to three (3) calendar weeks for required field training in addition to thirty (30) calendar days for emergency call-up. This leave entitlement was essentially unchanged until the 2001-2004 (J-20, Article 28) contract, when the entitlement changed from three (3) calendar weeks for required field training to two (2) calendar weeks for required field training and seven (7) days for weekend drills. The thirty (30) days for emergency call-up remained the same.

The reason for this change, as is apparent from the language of the contracts, is that prior to 2001 there was no military leave entitlement for weekend drills, as they were not considered to be required field training.

The 2001 change in the military leave language did not increase the leave entitlement, but rather expanded the military activities for which an employee could be credited with military leave. Now the Union is asking to increase the number of days of leave as well.

There are several points that are important to keep in mind in considering this proposal. First, an employee must be actually scheduled to work on any day that s/he is absent on military duty in order to be entitled to military leave. Second, military leave gives the employee his/her full state compensation for any day of military leave, even though the employee is also receiving full military compensation for the day as well. Finally, membership in a military reserve or national guard unit is voluntary on the part of the employee.

The Union presented several witnesses who testified about their experiences as members of a national guard or reserve component of the armed forces. All of them were current or former Correction Officers who were on a five-day on, three-day off schedule. This means, as demonstrated in State Exhibit 12, they were scheduled to work a total of 230 days each year and on 14 full weekends. Because of the way their schedules work, they also worked on one day only of an additional 13 weekends, for a total of 41 Saturdays or Sundays in any given year. That leaves 63 weekend days they are not required to work. In addition, a 5/3 schedule results in working only 230 days in a year, as opposed to the 248 a person working a Monday-Friday schedule would have. This leaves 18 additional days to spend away from work doing whatever they wish to do that most other people do not have.

One of the primary concerns voiced by these witnesses was that since all of their time on military duty is not covered by paid military leave, they are forced to use their accrued time if they want to get paid, thereby reducing the number of days they can spend with their families. While there is no

question that use of a vacation day while away on military duty means that day cannot be used for a family vacation, the fact is that there are other ways to get paid for the day.

State Exhibit 13 is the Department of Correction swap guidelines which allow an employee to swap shifts with another employee five times in each month, with the ability to have up to twelve swaps in each of two months of the year. This obviously would allow an employee to have someone else work his/her regularly scheduled weekend shift in return for the employee working a different shift as part of the swap, but getting paid as if the weekend shift had been worked. The argument was made that this simply creates more time away from the family (i.e. the day on military duty plus the swap day) but realistically the swaps can be scheduled to minimize additional days worked, such as before or after a regularly scheduled shift.

In addition, several of the witnesses testified that they elect not to use certain accrued time, such as IL's (days in lieu of a holiday, when the employee has to work on a holiday) because they prefer to save them for a big payout when they leave State service. While this is understandable, it is their choice to do so rather than get paid on a military duty day that does not qualify for paid leave.

There was also testimony that several of these witnesses were of the belief that they would have to work additional days to make up for unpaid military leave days in order to qualify for their 20 years of hazardous duty service. As verified by Human Resources Manager Suzanne Smedes in her testimony and by State Exhibit 20, this is not true. Upon payment of the

required employee contribution, military leave without pay counts as qualifying service toward a hazardous duty retirement and there is no need to work additional days to make up for it.

Comparing the other bargaining unit contracts, NP-3, P-3A and P-3B, (J-11, -16 and -17, respectively) have the language of the original NP-4 contract mentioned above, NP-2, P-2 and P-4 (J-10, -15 and -18, respectively) authorize three calendar weeks for required field training and 30 days for emergency call-ups and NP-1, NP-5, NP-8 and P-5 (J-9, -12, -14 and -19, respectively) have language identical to the current NP-4 language.

While we all admire and respect the dedication and sacrifice demonstrated by these employees, that cannot be the basis for changing this language. The fact is, the State of Connecticut has already taken steps to compensate employees who are in the reserve or national guard by passing legislation to given them additional benefits because of the current state of affairs.

State Exhibits 16, 17 and 18 are packets of memoranda from the State Comptroller for fiscal years 2005, 2006 and 2007 detailing the additional benefits all state employees who are called to active duty, under certain circumstances, will receive IN ADDITION TO their contractual benefits. As can be seen, these benefits include continuation of health insurance, full pay for 30 days in a calendar year, part-pay (the difference between military pay and state pay) for the remainder of the active duty and accrual of sick and vacation leave during the period. These are very significant benefits, particularly on top of the existing contractual benefits, and there is no reason to expand those contractual benefits.

The LBO of the State is the more reasonable and should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;
7. The interests and welfare of the employees.

ISSUE NO: 59

Article 33
Tuition Reimbursement

Current Language:

Section 2. Fund Amount. There shall be $50,000 appropriated for the first year of this Agreement for the purpose of tuition reimbursement. Effective July 1, 2005, there shall be $55,000 appropriated for this purpose and effective July 1, 2006 and July 1, 2007 there shall be $60,000 appropriated for this purpose for each year. Funds committed for reimbursement in one fiscal year shall carry over into the next fiscal year in order to allow payment of tuition reimbursement claims for prior year courses.

State's Last Best Offer:

Section 2. Fund Amount. Effective July 1, 2008, there shall be $80,000 appropriated for each year of this Agreement for the purpose of tuition reimbursement. Funds committed for reimbursement in one fiscal year shall carry over into the next fiscal year in order to allow payment of tuition reimbursement claims for prior year courses.

Union's Last Best Offer:

2. A. Effective July 1, 2008 there shall be $75,000 appropriated for the purpose of tuition reimbursement.

Discussion:

Both parties are proposing increases in the tuition reimbursement fund for the first year of this contract and at first glance it may seem surprising that the State's proposal is for a greater increase than the Union's. However, a review of the subsequent LBO's regarding this Section will reveal that the State's proposal is for a one-time increase while the Union is seeking an increase in the first, third and fourth (if awarded) years of the contract.

Before addressing the proposals on this section of the contract, it is important to note that the parties, by agreement, have increased the amount of tuition reimbursement any individual employee may receive by 50% (see Article 33, Section 3A and 3B in J-6). This should, by simple mathematics, increase the demand on the overall tuition reimbursement fund and both parties have recognized this.

Notwithstanding the assumed increased demand on the fund, the reality is that the fund is significantly underutilized. State Exhibit 36 demonstrates that over the four years of the previous contract, (J-1) the fund has carried a balance into the following year. In the first year, the balance was minimal ($547.75) but the following year it was over $29,000.00 with the third year showing an almost $50,000.00 carry over. As of April 14, 2008, the unused balance was in excess of $78, 000.00, although final payments had not been made. Given the surplus from the preceding year, it is a reasonable conclusion that the final amount will be significant.

In discussions during this arbitration, the Union's Chief Negotiator indicated that the Union was encouraging its members to take advantage of this fund, but since tuition reimbursement has been a part of this contract since 1988 (see Article 48 of J-23) it remains to be seen if the next several years demonstrates higher usage than the previous 20 have.

The State's proposal, a one-time increase resulting in $80,000.00 added to the fund each year, will address both the immediate increase in demand due to the higher amounts of individual reimbursement and the demand over the life of the contract. When compared to the Union LBO's, this will result in the fund receiving $5,000.00 more over a three year term than the Union is proposing, and only $5,000.00 less if there is a fourth year. This proposal is far better suited to the needs of both the State and the individual employees and should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
2. The existing conditions of employment of similar groups of employees;
3. The wages, fringe benefits and working conditions prevailing in the labor market;
4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);
5. The ability of the employer to pay;
6. Changes in the cost of living;
7. The interests and welfare of the employees.

ISSUE NO: 60

Article 33
Tuition Reimbursement

Current Language:

Section 2. Fund Amount. There shall be $50,000 appropriated for the first year of this Agreement for the purpose of tuition reimbursement. Effective July 1, 2005, there shall be $55,000 appropriated for this purpose and effective July 1, 2006 and July 1, 2007 there shall be $60,000 appropriated for this purpose for each year. Funds committed for reimbursement in one fiscal year shall carry over into the next fiscal year in order to allow payment of tuition reimbursement claims for prior year courses.

State's Last Best Offer:

Section 2. Fund Amount. Effective July 1, 2008, there shall be $80,000 appropriated for each year of this Agreement for the purpose of tuition reimbursement. Funds committed for reimbursement in one fiscal year shall carry over into the next fiscal year in order to allow payment of tuition reimbursement claims for prior year courses.

Union's Last Best Offer:

2.B. Effective July 1, 2009, there shall be $75,000 appropriated for the purpose of tuition reimbursement.

Discussion:

Please see the discussion for issue 59.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 61

Article 33
Tuition Reimbursement

Current Language:

Section 2. Fund Amount. There shall be $50,000 appropriated for the first year of this Agreement for the purpose of tuition reimbursement. Effective July 1, 2005, there shall be $55,000 appropriated for this purpose and effective July 1, 2006 and July 1, 2007 there shall be $60,000 appropriated for this purpose for each year. Funds committed for reimbursement in one fiscal year shall carry over into the next fiscal year in order to allow payment of tuition reimbursement claims for prior year courses.

State's Last Best Offer:

Section 2. Fund Amount. Effective July 1, 2008, there shall be $80,000 appropriated for each year of this Agreement for the purpose of tuition reimbursement. Funds committed for reimbursement in one fiscal year shall carry over into the next fiscal year in order to allow payment of tuition reimbursement claims for prior year courses.

Union's Last Best Offer:

2.C.

1. Effective July 1, 2010, there shall be $85,000 appropriated for the purpose of tuition reimbursement.

2. Effective July 1, 2011, there shall be $90,000 appropriated for the purpose of tuition reimbursement.

Discussion:

Please see the discussion for issue 59.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 62

ARTICLE 33
TUITION REIMBURSEMENT
Add new Section 2(D)

Current Language:

None.

State's Last Best Offer:

This is a non mandatory subject of bargaining.

Union must withdraw.

Union's Last Best Offer:

2.(D) Tuition funds not expended during the life of this Agreement shall roll over into the successor to this Agreement under the provisions of this Article.

Discussion:

The obligation to bargain collectively is contained in Chapter 68 of the Connecticut General Statutes (CGS 5-270 et seq), which requires that the employer and the employee organization (here the NP-4 Bargaining Unit) must negotiate in good faith over mandatory subjects of bargaining which are those respecting wages, hours and other conditions of employment (CGS 5-272(c)). However, there is no obligation to bargain over illegal or non-mandatory subjects of bargaining and the Union is attempting to do exactly that in regard to this issue.

The Connecticut Labor Board articulated the distinction between mandatory, non-mandatory and illegal subjects of bargaining. It held that:

> While a contract provision that concerns a mandatory subject of bargaining will be valid and enforceable, we have distinguished permissive subjects as being those for which the law creates no mandatory duty to bargain and are within the area of managerial prerogative. If the parties mutually choose to bargain over such matters a resulting contract provision will be enforceable. (Citation omitted.)
>
> Illegal subjects of bargaining are those which, if included as a provision in a collective bargaining agreement, result in that provision being both illegal and unenforceable to the extent that the provision involves an illegal subject of bargaining. A subject will be designated as being illegal if it is contrary to the provisions of the Act and/or would require the taking of action which is prohibited by the Act. A subject may also be found to be an illegal subject of bargaining if it would result in a contract provision which would be contrary to other provisions of State or Federal statutes or other controlling laws. (Citation omitted). A subject may also be illegal to the extent that it is contrary to an important public policy.

Greenwich Board of Education, CT Labor Board case # 3141 (1993).

The same statute granting the NP-4 unit the right to bargain collectively also excludes certain matters from negotiations. The Connecticut Legislature has already determined which terms of a negotiated agreement continue until a successor agreement has been approved by the then sitting legislature. That serves the limited purpose of maintaining the status quo until impasse is reached. The Legislature ensured that each agreement, including its economic terms, would be subject to legislative scrutiny. Based upon the economic climate existing at the time, the General Assembly could take proper action for or against that agreement. This proposal usurps that authority from the Legislature.

"It is a well established that one legislature cannot bind its successors with respect to the exercise of the taxing power . . . ."); Board of Education v. Bremen Township Rural Independent School Dist., 260 Iowa 400, 148 N.W.2d 419, 424 (1967) (school board could not by resolution limit power of subsequent board to modify district boundaries, stating "one legislature cannot bind future legislatures upon such policy matters."); This simple proposition, dating back at least to Sir William Blackstone, makes good constitutional sense and has been echoed repeatedly by the United States Supreme Court in a host of cases.

The Union seeks to violate this very basic premise by having the legislature, charged with voting upon this arbitrated contract, impose its will upon the future legislature that will review and act upon a successor agreement.

Such a provision likely would not pass constitutional muster, and is at odds with the State Employee Relations Act. If it is not an illegal subject of bargaining, it is at best a permissive subject of bargaining. In either event, it is not subject to this arbitrator's review, and should be soundly rejected.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 63

Article 35
Board of Parole - Add new section to pay for the meals of Parole employees

Current Language:

None.

State's Last Best Offer:

No New Language.

Union's Last Best Offer:

Article 35, Section 15. – Meal Money Parole Series Employees (New)

Effective the pay period including July 1, 2009, NP-4 members working in the classification of Parole Officer II, Parole Officer I, Parole Officer Trainee and Parole Officer Aide shall receive the meal reimbursement for each shift worked at the rate cited under Article 17 of the NP-4 Agreement.

Discussion:

The Union is proposing a new entitlement for NP-4 members in the Parole classifications to receive the meal money provided for in Article 17, Section 9 of the contract. This provision gives each member assigned to a correctional facility a certain amount of money ($8.00 in the current contract) for each shift in which s/he works at least one-half (1/2) of the shift. Most employees who are in the Parole classifications are not assigned to a correctional facility, and those who do actually report to a facility on a regular basis are not part of the custody staff of the particular facility to which they report. They are free to leave the premises for lunch.

As for other proposals, a little history is appropriate in considering this issue. The first appearance of a monetary meal allowance was in the 1988-1994 (J-22) as a new Section Nine (c) to Article 17. This new section reflected a stipulated agreement signed in October of 1986 and printed as an appendix to the contract. The agreement states that it is in resolution of issues arising from food tampering by inmates.

Prior to the stipulated agreement, Correctional Staff assigned to facilities were permitted to eat meals from the food lines serving the inmates. An incident of food adulteration with a noxious bodily substance led to the agreement, which permitted members at each facility to vote on whether or not to continue to receive meals in kind or to receive a monetary allowance in lieu of the meals. Over time, all correctional facilities voted for the cash allowance. There was never a period when meals were provided to NP-4 members not assigned to a facility and, correspondingly, such members have never received a cash allowance.

Clearly, the cash allowance is a substitute for a benefit previously received by certain bargaining unit members and those who continue in comparable assignments still get the allowance. The meals and, subsequently the cash allowance, were, in part, compensation for facility employees who were and are required to be available to supervise inmates during their meal periods and are thus not permitted to leave the secure area of the facility for meal breaks (see Article 14, Section 4of the contract (J-1). This restriction has been in place since the first contract (J-27, Article XV, long predating the 1986 stipulated agreement.

Parole employees are not restricted to the secure area of a facility, are not required to be available at all times to supervise inmates and do not in anyway have job requirements that would justify receipt of the cash meal allowance that facility based employees receive. There was the testimony of a single Parole Officer, John Duca, that in recent months he has been so busy that he has had to work through lunch, but that is not the same as being required to supervise inmates in a secure environment during lunch. In addition, Parole Officers such as Mr. Duca work an unscheduled work week which allows them to determine their own schedule, within certain core parameters and to plan their work accordingly (see Article 35, Section 12 of J-1). Parole Manager Richard Anderson testified that if Parole Officers were working through lunch, it was not known to management and that it would be indicative of poor time management on the part of the Parole Officer and not required by the Department.

There is absolutely no basis to extend the cash meal allowance provided for in Article 17, Section 9 to Parole employees and the LBO of the State should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

ISSUE NO: 64

Article 35
Section 15

Current Language:

None.

State's Last Best Offer:

No New Language.

Union's Last Best Offer:

Effective the pay period including July 1, 2009, Counselors working in Community Service shall receive the meal reimbursement for each shift worked at the rate cited under Article 17 of the NP-4 Agreement.

Discussion:

This is essentially the same as U-63, substituting Counselors for Parole classifications. By definition, Counselors in Community Service are not assigned to correctional facilities and the same arguments made in the previous discussion apply here.

The LBO of the State should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

ISSUE NO: 65

Appendix D, Parole Pagers
Section 1A

Current Language:

PAROLE - PAGERS

1) When a Parole Officer is paged during their non-work hours by a Parole Supervisor or by the answering service, the Officer shall be eligible for one (1) hour of callback compensatory time if required to make phone calls/faxes;

2) If the Parole Officer is paged during their non-work hours by a Parole Supervisor or by the answering service, the Officer shall be eligible for a minimum four (4) hours of callback compensatory time if required to take further action such as picking up a parolee, going to a police station or going to court;

3) Should a Parole Officer be paged during their non-work hours by a Parole Supervisor or by the answering service on a State holiday, Article 21 "Holidays," shall apply for the accrual of callback compensatory time. This shall not be used for the purpose of earning any additional pay;

4) The Board shall continue its practice of providing tinted windows for cars that have cages as long as DAS Fleet Services permits.

State's Last Best Offer:

Retain Current Language.

Union's Last Best Offer:

1) A. Effective the pay period including July 1, 2009, the compensation rate shall be set at one and a half (1.5) hours of compensatory time.

Discussion:

In this proposal, the Union is seeking to increase compensation for which Parole Officers are already doubly compensated.

Parole Officers are assigned state owned and maintained vehicles which they use for commuting to and from work, as well as in the normal course of their duties. If they are called out after regular hours, they have the right to use their vehicles and further have the right to make incidental stops for personal business, including dropping off or picking up a child at child care on the way to an from work. (see Article 35, Section 7). Section 7 A. makes the assignment of the vehicle contingent upon the employee being available for contact assignment on a 24-hour basis, except when on authorized leave.

In addition to the use of the vehicle, Appendix D (Parole-Pagers) of the contract provides further compensation, in the form of compensatory time off, if the employee is actually paged and has to make a return call, the employee gets an hour of compensatory time off, regardless of the length of the call. There is greater compensation if the employee has to leave home, but that is not the subject of this issue. It should be noted that as unscheduled employees, Parole Officers are exempt from overtime pay, receiving compensatory time off instead (Article 15, Section 1).

There is no reasonable argument in favor of increasing the already significant compensation Parole employees get for having to respond to an after-hours call. They already get a vehicle to use at no cost to themselves

(more and more a significant benefit, what with rising gasoline prices) and an hour of compensatory time off no matter how long the call is. This is enough.

The LBO of the State should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);

2. The existing conditions of employment of similar groups of employees;

3. The wages, fringe benefits and working conditions prevailing in the labor market;

4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);

5. The ability of the employer to pay;

6. Changes in the cost of living;

7. The interests and welfare of the employees.

ISSUE NO: 66

Article 38
Duration

Current Language:

Section 1. Effective Date. Although this Agreement covers the period July 1, 2004 to June 30, 2008, the provisions contained herein shall not be effective until legislative action under the State Employees Relations Act, unless a specific provision is stated to the contrary.

State's Last Best Offer:

Section 1. Effective Date. Although this Agreement covers the period July 1, 2008 to June 30, 2011, the provisions contained herein shall not be effective until legislative action under the State Employees Relations Act, unless a specific provision is stated to the contrary.

Union's Last Best Offer:

Section 1. Effective Date. Although this Agreement covers the period July 1, 2008 to June 30, 2012, the provisions contained herein shall not be effective until legislative action under the State Employees Relations Act, unless a specific provision is stated to the contrary.

Discussion:

The conflict between the State and Union LBO's is obvious. The State is asking for a three year contract and the Union wants a four year term. It is very clear that due to the current economic situation both parties will be better off with a shorter rather than longer term for the contract. Up to this point, the economic forecast presented by Secretary Genuario in his testimony on April 14 has not only been right on the money but, if anything, was more conservative than events have shown (see S-21). It would be irresponsible to commit to a four-year term when all the evidence demonstrates a failing economy and if by some miracle things turn around quickly, the Union can make its case for appropriate action in the next round of negotiations.

The State proposal for a three-year contract term is more reasonable and should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
2. The existing conditions of employment of similar groups of employees;
3. The wages, fringe benefits and working conditions prevailing in the labor market;
4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);
5. The ability of the employer to pay;
6. Changes in the cost of living;
7. The interests and welfare of the employees.

ISSUE NO: 67

Appendix B
Longevity Semi-Annual Payment
Collective Bargaining Unit Np-4

Current Language:

Effective July 1, 2001 through June 30, 2004

Salary Group	10 Years	15 Years	20 Years	25 Years
CO-1	75.00	150.00	225.00	300.00
CO-2	75.25	150.50	225.75	301.00
CO-3	92.00	184.00	276.00	368.00
CO-4	94.75	189.50	284.25	379.00
CO-5	97.50	195.00	292.50	390.00
CO-6	100.50	201.00	301.50	402.00
CO-7	103.25	206.50	309.75	413.00
CO-8	106.00	212.00	318.00	424.00
CO-9	109.00	218.00	327.00	436.00
CO-10	111.75	223.50	335.25	447.00
CO-11	114.75	229.50	344.25	459.00
CO-12	117.50	235.00	352.50	470.00
CO-16	141.50	283.00	424.50	566.00

State's Last Best Offer:

Effective July 1, 2008 Through June 30, 2011

Salary Group	10 Years	15 Years	20 Years	25 Years
CO-1	$75.00	$150.00	$225.00	$300.00
CO-2	75.25	150.50	225.75	301.00
CO-3	92.00	184.00	276.00	368.00
CO-4	94.75	189.50	284.25	379.00
CO-5	97.50	195.00	292.50	390.00
CO-6	100.50	201.00	301.50	402.00
CO-7	103.25	206.50	309.75	413.00
CO-8	106.00	212.00	318.00	424.00
CO-9	109.00	218.00	327.00	436.00
CO-10	111.75	223.50	335.25	447.00
CO-11	114.75	229.50	344.25	459.00
CO-12	117.50	235.00	352.50	470.00
CO-16	141.50	283.00	424.50	566.00

Union's Last Best Offer:

EFFECTIVE JULY 1, 2009 AND ANNUALLY THEREAFTER

SALARY GROUP	10 YEARS	15 YEARS	20 YEARS	25 YEARS
CO 1	225.00	450.00	675.00	900.00
CO 2	225.75	451.50	677.25	903.00
CO 3	276.00	552.00	828.00	1,104.00
CO 4	284.25	568.50	852.75	1,137.00
CO 5	292.50	585.00	877.50	1,170.00
CO 6	301.50	603.00	904.50	1,206.00
CO 7	309.75	619.50	929.25	1,239.00
CO 8	318.00	636.00	954.00	1,272.00
CO 9	327.00	654.00	981.00	1,308.00
CO 10	335.25	670.50	1,005.75	1,341.00
CO 11	344.25	688.50	1,032.75	1,377.00
CO 12	352.50	705.00	1,057.50	1,410.00
CO 13	370.50	741.00	1,111.50	1,482.00
CO 14	388.50	777.00	1,165.50	1,554.00
CO 15	406.50	813.00	1,219.50	1,626.00
CO 16	424.50	849.00	1,273.50	1,698.00

Discussion:

The Union is seeking to change the longevity schedule applicable to this bargaining unit by increasing each amount three-fold. Longevity is a lump sum amount paid to employees depending on their grade and length of service, with eligibility beginning after 10 years of service and the amount of the longevity bonus increasing at the 15, 20 and 25 year points.

The current NP-4 longevity schedule is identical to the longevity schedule for all other executive branch bargaining units (see J-9 through J-19) whether professional or non-professional and has been since 1977. Longevity was authorized by C.G.S. 5-213 in 1967 (J-45) and called for payment of varying amounts of money depending on length of service at the 10, 15, 20 and 25 year points, just as now. Since the Union offered J-45 in support of this proposal, it is assumed that the argument will be that this statute called for increasing longevity by a percentage of any annual increase in salary if such amount is greater than the listed amount and such increases have not been made over time.

If this is the Union argument, it is accurate so far as it goes but ignores the fact that C.G.S. 5-213 was subsequently amended by Public Act 79-621 to remove the increases based on a percentage of salary increase and instead established the fixed amounts used today and reflected in the current longevity schedule (J-49).

Other than Joint Exhibit 45, the Union has provided no other evidence in support of their proposal to increase the longevity schedule. While it is true that the schedule has not changed since 1977, when an employee reaches 15 years of employment the longevity schedule doubles and it also increases at the 20 and 25 year points. The State's proposal on longevity is the same as that of all other Executive Branch bargaining units and the Union has failed to demonstrate that the NP-4 bargaining unit has unique or special needs that would justify the substantial increases being requested.

The LBO of the State is the more reasonable and should be awarded.

Statutory Factors for Consideration:

1. The history of negotiations between the parties (including those leading to the instant proceeding);
2. The existing conditions of employment of similar groups of employees;
3. The wages, fringe benefits and working conditions prevailing in the labor market;
4. The overall compensation paid to unit employees; (including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by unit employees);
5. The ability of the employer to pay;
6. Changes in the cost of living;
7. The interests and welfare of the employees.