

**State Employees Association of New Hampshire  
Service Employees' International Union Local 1984  
NH Department of Transportation  
and  
State of New Hampshire**

**Before Fact-finder  
Mary Ellen Shea  
Fact Finding Briefs on Behalf of  
The NH State Employees Association, SEIU Local 1984**

September 1, 2021

Respectfully Submitted by the  
State Employees' Association of New Hampshire,  
SEIU Local 1984

Randy Hunneyman, Executive Branch Negotiator

Department of Transportation  
Bargaining Team

Dan Brennan

Mark Hamilton

Jeff Zedalis

Chris Tsoukalas

Eric Healey

This page is  
intentionally left Blank

## SEA Exhibits for NH DOT Sub-Unit Presentation

### Exhibits:

1. Article 43: Current NH DOT Sub Unit Agreement
2. Wall Street Journal, July 2021, <https://www.wsj.com/articles/higher-inflation-is-here-to-stay-for-years-economists-forecast-11626008400>  
Market Watch, June 2021,  
<https://www.marketwatch.com/story/inflation-is-here-to-stay-and-may-top-4-this-year-says-professor-with-a-peerless-record-of-predictions-11623339487>
3. Highway Maintainer Supplemental Job Descriptions
4. Turn over charts from NH Department of Personnel Annual Report 2011-2021
5. A000 pay scale
6. Sample of Job Postings
7. NH Employment Security, Economic and Labor Market Information Bureau - New Hampshire Economic Conditions – July 2021
8. In Depth NH – Business & Economy – “State Revenues Up \$300 Million More Than Anticipated for 2021 Fiscal Year” By GARRY RAYNO, InDepthNH.org July 2, 2021
9. NH Employment Security - New Hampshire Employment Projections- Base year 2018, projected to 2028
10. NH Employment Security - New Hampshire 2018 Workforce Analysis
11. NH-PELRB Case No. G-0240-2 Decision No. 2020-128

### Introduction

This Fact Finding is held between the State of New Hampshire Negotiating Team, a body established under RSA 273-A9 and the State Employees Association of New Hampshire / Local 1984, Service Employees International Union.

The State of New Hampshire Negotiating Team (hereafter the “State”) represents the interests of the executive head of state government, the Governor.

The State Employees Association of New Hampshire / Service Employees International Union, Local 1984 (hereafter the “SEA”) is the certified bargaining representative for the employees at the NH Department of Transportation.

The parties are signatories to a unit specific bargaining agreement (hereafter a “sub-unit contract”) dating back to 1977. The current cycle of negotiations began in November 2020 with the SEA presenting (7) proposals to the State’s team. The parties have met repeatedly since November in an attempt to reach an agreement.

The State bargaining team has presented no proposals or offered any counter proposals to the SEA bargaining team. The parties went into impasse proceeding and participated in mediation on May 14, 2021 for (1) day using the assistance of mediator Mark Grossman. In mediation, the parties were not able to make any progress on the outstanding proposals.

The SEA now presents the following proposal for your recommendation.

### **Bargaining Unit Description**

**No of employees in the bargaining unit:** Approximately 1,605

**Composition of the unit:** The bargaining unit is comprised of various divisions and bureaus with workers that come from multiple areas of the skilled and technical trades, administrative and support functions.

Composition of the DOT bargaining unit:

- Division of Aeronautics, Rail and Transit
- Division of Finance
- Division of Operations to include:
  - Bureau of Bridge Maintenance
  - Bureau of Highway Maintenance
  - Bureau of Mechanical Services
  - Bureau of Traffic
  - “ TSMO” (Transportation Systems, Management & Operations)
  - Bureau of Turnpikes
- Division of Project Development
  - Bureau of Bridge Design
  - Bureau of Construction
  - Bureau of Environment
  - Bureau of Highway Design
  - Bureau of Materials and Research
  - Bureau of Planning and Community Assistance
  - Bureau of Right-of-Way

## SEA Proposals

Item	Article	Title
1.....	43.6	Tool Rental Increase
2.....	43.11	Year Round Maintenance Stipend
3.....	43.13.	Commercial Driver's License / Drug testing Stipend
	43.13.1	Medical Card Stipend
	43.13.2	Exemption to mandatory Medical Card requirement for existing employees
4.....	43.15	Double pay for callout on holidays
5.....	43.12	40 hour schedule for select employees

### Legend:

Language proposed to be stricken from the agreement is ~~crossed out~~. New language proposed to be added to the agreement is ***bolded and italicized***. Notes to clarify what isn't changed in larger articles can be included in brackets [ ].

## **SEA Item 1: Tool Rental Increase**

**Proposed On:** 12/3/2020

43.6. **Rental & Fees:** The Employer agrees to enter into a tool rental agreement with mechanics wherein the Employer shall pay a fee for the employee's use of such tools in the service of the Employer. The agreement shall be of legal form and shall contain as minimum provisions the following:

- a. Rental fee of ~~four~~ *five* hundred dollars (~~\$400.00~~) (*\$500.00*) per year.
- b. Ownership and use shall remain vested in the employee.
- c. The employee shall furnish tools of less than one (1) inch.
- d. A pro rate termination fee schedule.

### **Facts and Relevant Information:**

- 1) The New Hampshire Department of Transportation's Bureau of Mechanical Services is responsible for the maintenance of the Department's state vehicle and equipment fleet.
- 2) There are approximately (44) employees that are covered by this contract article.
- 3) The employer does not provide the basic automotive hand tools or hand-held power tools to mechanics.
- 4) Fleet mechanics employed with the Bureau of Mechanical Services are required to possess an extensive collection of trade specific tools that include items such as ratchet sets, wrenches, sockets, screwdrivers, hammers and pliers. Employees must also possess a host of specialty items such as power tools, rethreading tools, impact sockets, calipers, and various testers. Employees must also possess toolboxes for secure storage of personally owned tools.

- 5) It is standard for veteran mechanics in the automotive and heavy equipment service industry to have thousands of items in their tool sets with total costs and values in excess of (\$20,000) dollars.
- 6) The Tool Rental Agreement in Article 43.6 was first negotiated in 1981 and has been an agreement between the parties for (40) years.
- 7) The initial amount agreed upon in 1981 was (\$200) dollars. The current stipend compensates mechanics at (\$400) dollars.
- 8) The intent of the language in Article 43.6 is to provide some compensation to fleet mechanics for the incurred cost of maintaining adequate tool inventories. This includes the risk of replacing tools due to damage, loss or theft.

**SEA Argument:**

There are several reasons that the amount of the rental fee for article 43.6 needs to be increased. When considering all of these factors together, the SEA argues that the proposed increase of \$100 dollars is fair and justified.

The State of NH does not maintain an inventory of mechanic's hand tools for employees to use in the maintenance of the DOT fleet. DOT mechanics maintain personally owned tool sets that exceed \$10,000 dollars in value with some exceeding \$20,000 dollars. The NH DOT does not indemnify these employees for the loss of or damage of these tools.

In 1981, the parties agreed to a \$200 dollars tool rental fee to help defer some of the costs of maintaining tool sets and the subsequent risks of damage or loss of tools that the employee has for keeping their tool sets onsite. During the (40) years since the initial fee was negotiated, it has only been raised once. Since the last time the fee was raised, the average rate of inflation for the Northeast Region has been 17% (2011 to 2020). So far, in 2021, the rate of inflation has

climbed to 4.6% and U.S. economist predict the inflation rate will remain high for the coming years. (Exhibit 2)

Along with inflation, the DOT Mechanics have to upgrade their tool inventories on a regular basis. The composition of the NH DOT automotive, truck and equipment fleet is constantly evolving. This includes passenger cars, pick-up trucks of various size and types, dump trucks, flatbed trucks, various types of heavy equipment such as graders, loaders as well as a variety of other heavy specialty equipment.

The functional maintenance of a fleet of this size requires that inventories be updated regularly due of deterioration and obsolescence. This results in a fleet of vehicles and equipment made up of various makes, models, manufacturers, years of service and overall operating condition. Compared to 1981, today's DOT fleet mechanic needs to have a much wider variety of essential and specialty tools in order meet the needs of the NH DOT and remain proficient at their jobs.

## SEA Item 2: Year Round Maintenance Stipend

Proposed On: 12/3/2020

- 43.11. Maintenance Activities: In recognition of their ~~obligation~~ **requirement** to respond to ~~winter~~ maintenance call outs, the Employer agrees to pay a stipend of thirty-five dollars (\$35.00) per week to ~~certain~~ **maintenance** employees ~~from the pay period that includes the first day in November through the pay period that includes the last day of March each year~~ in accordance with the following conditions:
- a. The stipend shall be paid to those employees who are determined by the Employer to be routinely engaged in ~~winter~~ maintenance and ancillary activities and are on the Employer's ~~winter~~ maintenance call out list.
  - b. **Notwithstanding the provisions of Article 7.1,** ~~Other~~ employees who are not routinely engaged in ~~winter~~ maintenance and ancillary activities but who possess a Commercial Driver's License may volunteer **at their regular rate of pay** for placement on the ~~winter~~ maintenance call out list, from the pay period that includes the first day in November through the pay period that includes the last day of March. Provided that any employee who refuses a call to perform ~~winter~~ maintenance and ancillary duties may be removed from the list, may cease to receive the stipend, and may be required to reimburse the Employer for stipends received since the date of the last ~~winter~~ maintenance call out.
  - c. Employees defined in paragraph (a. **and b.**) above who obtain and maintain a valid CDL medical card and provide an acceptable copy to the NHDOT's Driver Qualifications Specialist shall receive an additional ten dollars (\$10) per week in accordance with the above provisions.

### Facts and Relevant Information:

1. The New Hampshire Department of Transportation Bureau of Highway Maintenance is responsible for the year-round maintenance of New Hampshire's State Highways (excluding Turnpikes) which encompasses approximately 8,710 lane miles divided between six districts. This includes winter snow and ice control, guardrail repair, mowing, road patching, litter pickup, removal of highway debris/road hazards, maintenance of drainage systems, and the Sponsor-A-Highway Program.

2. During State Emergencies or accidents, highway maintainers are called upon as early responders assisting in clearing roads of washout debris, fallen trees, marking a damaged road so vehicles can safely pass and carrying out detour operations if necessary.
3. The NH Bureau of Turnpikes is responsible for the operation and maintenance of 88.9 miles of limited access highway, 36 miles of which are part of the US Interstate Highway System, comprising a total of approximately 656 total lane miles. The system is comprised of three limited-access highways: the Blue Star Turnpike (I-95) and the Spaulding Turnpike, which are collectively referred to as the Eastern Turnpike, and the F.E. Everett Turnpike, also known as the Central Turnpike.
4. Article 43.11 provides a (\$35) dollar a week stipend during the traditional winter operating months of November through March.
5. There are approximately 600+ employees who are eligible to receive the negotiated winter maintenance stipend.

These positions include:

- Highway Maintainer I
  - Highway Maintainer II
  - Highway Maintainer III
  - Highway Assistant Patrol Foreman
  - Highway Patrol Foreman
  - District Maintenance Supervisors
6. The current job classification for highway maintenance personnel requires that they perform maintenance activities under adverse conditions with exposure to high-speed traffic, hazardous materials, inclement weather, extreme temperatures, and during disaster situations, to ensure the safety of the traveling public. (Exhibit 3)
  7. The current NH DOT Supplemental Job Description for highway maintainer(s) and supervisors includes a requirement to respond immediately in performing winter maintenance and/or other traffic

emergency activities as needed on a ***24-hour per day basis, throughout the entire year.*** (Exhibit 3)

8. The NH DOT is hiring private contractors for winter maintenance at higher rates of pay than its current maintainer workforce.
9. As a way to try to compete with the higher wages offered for truck drivers and equipment operators in the current labor market, the NH DOT is hiring entry Highway Maintainers at higher steps in the existing labor grades than employees hired prior to 2021.

### **SEA Argument:**

The role of New Hampshire's state highway maintainers is a crucial one. These employees maintain the largest amount of total lane miles of any private or municipal maintenance operation in the State of New Hampshire. They are required to work in a very dangerous environment in the worst extremes of NH weather. As a result, there are DOT employees that have been seriously injured in the performance of their duties along New Hampshire's highways and turnpikes. This also unfortunately includes a death.

Given the role of the NH DOT in maintaining safe roadways during inclement weather, highway maintainers are expected to be available for call outs during winter months for snow removal and road treatment. In 2001 the parties acknowledged the importance of this role and agreed add to a maintenance stipend of \$35 dollars per week for the months of November through March.

Since the time when the winter call-out stipend was agreed upon, the demand for employee availability for call-outs has increased. The current supplemental job description for Highway Maintainers states that employees are expected to respond immediately to traffic emergency activities as

needed on a 24-hour per day basis, throughout the entire year. This requirement exceeds the original employment expectation of winter maintenance duties that were negotiated in 2001 and justifies changing the stipend from a (5) month benefit to a year round benefit.

### **SEA Item 3: Stipend for Random Drug Testing**

**Proposed On:** 12/3/2020

*43.13 Any employee who holds a Commercial Drivers License (CDL) and is subject to random drug testing shall receive an additional (\$3) three dollars per hour added to their base pay.*

#### **Introduction:**

The SEA team has presented this proposal with the goal of increasing the base pay for DOT Highway Maintenance personnel so that is more closely matches current public and private sector wage rates. This proposal is meant to be an economic realignment and not a cost of living adjustment.

The proposed contract change is not intended for all the members of the DOT bargaining unit. In order to differentiate between the different divisions and groups, the SEA bargaining team has used the job requirement of maintaining a CDL and the required mandatory drug testing as the means to identify which employees receive the wage increase.

#### **Facts and Relevant Information:**

1. According to the NH Department of Employment Security, the unemployment rate in NH is 2.9%. (Exhibit 4)
2. The Federal Reserve considers a base unemployment rate of 5% as full employment
3. It is a condition of employment, all Highway Maintainer positions above HM I must possess a valid Commercial Driver's License.
4. The U.S. Federal Motor Carrier Safety Administration (FMCSA) requires that the State of NH have alcohol and drug testing rules for employees who possess commercial driver's license (CDL) as a condition of employment.

5. The NH DOT hires entry-level HM I employees with no prior experience and no Commercial Driver's License endorsement. As a condition of employment, the employer requires these new employees to attain a valid CDL within one year of their date of hire.
6. Once an HM I gets a CDL, they are promoted to HM II
7. The NH Department of Transportation is having a significant problem with the recruitment and retention of Highway Maintainer I and Highway Maintainer II positions. (Exhibit 4)
8. Over the last decade, DOT Highway Maintainer II positions have remained among the highest levels of separation from NH State service with an average rate of \*15%. (Exhibit 4)
9. The rate of separation from service for Highway Maintainer I positions reached crisis levels in 2019 at 45% and remained abnormally high in 2020 at 41.5%. (Exhibit 4)
10. High turnover rates contribute to reduced productivity, employee stress and burnout and damages workplace morale.
11. Traditional starting pay for HM I & II positions is:
  - Highway Maintainer I: Labor Grade 9 - Step 1 = \$14.03
  - Highway Maintainer II: Labor Grade 11 - Step 1 = \$15.13(Exhibit 5)
12. The current demand for road maintenance/equipment operators in the NH labor market is high. At the time that this fact finder's presentation is being prepared, the following cities and towns in New Hampshire have job postings that mirror the duties and functions of the NH HM I & II positions and start at the following pay rates per hour: (Exhibit 6)
  - City of Concord: Laborer/Truck Driver - \$18.14 - \$26.28
  - City of Manchester: Equipment Operator II - \$16.49 to \$23.48
  - City of Nashua: Truck Driver - Not to exceed \$23.78
  - City of Rochester: Medium Equipment Operator - \$17.94 to \$25.17
  - City of Laconia: Laborer/Driver – \$16.17 – \$20.87

Town of Durham: Equipment Operator - \$22.30 to \$25.15

13. Private companies in NH have job postings that mirror the duties and functions of the Highway Maintainer I & II positions at the following rates per hour:

All State Materials Group, Winchester NH: Dump Truck Driver – From \$19.00

Sunshine Paving, Hudson NH: Dump Truck Driver - \$20.00 to \$25.00

G. W. Brooks and Son, Inc, Freedom NH: Dump Truck Driver – up to \$23.00

North Point Outdoors, Derry NH: Snow Plow Truck Operator - \$25.00 to \$30.00

Trans Force, Manchester NH: Truck Driver - \$25.00 to \$27.00

14. The NH Economic and Labor Market Bureau monthly report for July 2021, describes the NH labor market as being very tight with sizable increases in median advertised salaries in job postings. (Exhibit 7)
15. The State of New Hampshire finished the fiscal year (June 30, 2021) with a record \$280 million dollar surplus. (Exhibit 8)

**SEA Argument:**

Since 2011, the NH Department of Transportation has experienced a substantial rate of employee turnover in Highway Maintainer II positions. In the New Hampshire Department of Personnel’s Annual Reports, HM II positions have consistently been listed as having some of the highest rates of turnover among all state agencies

<b>2011</b>	<b>12%</b>	<b>2016</b>	<b>16%</b>
<b>2012</b>	<b>14%</b>	<b>2017</b>	<b>12%</b>
<b>2013</b>	<b>11%</b>	<b>2018</b>	<b>14%</b>
<b>2014</b>	<b>17%</b>	<b>2019</b>	<b>17%</b>
<b>2015</b>	<b>16%</b>	<b>2020</b>	<b>16.9%</b>

In the last (4) years the turnover in Highway Maintainer I employees matched, and then exceeded, the rate for Highway Maintainer II positions.

**2017 17%**

**2018 12%**

**2019 45%**

**2020 41.5%**

Predictably, these rates of employee turnover are having a serious impact on highway maintenance operations and has placed a significant strain on the existing workforce. Due to this, the negative impact on morale and worker satisfaction has been substantial. In bargaining, the SEA sub unit team presented extensive evidence to the State team that the wages for NH DOT highway maintenance personnel are too low compared to wages being offered by other public roadway maintenance departments for positions with comparable benefits, retirement plans and with less responsibility and risk.

In the last two bargaining cycles the SEA has offered evidence to the State bargaining team that the wages for HMs at the NH DOT is below the prevailing pay levels being offered by the private sector construction industry for drivers and equipment operators.

Despite the evidence presented by the SEA, the State has not engaged in meaningful negotiations on this issue. The State informed the SEA that there had been some discussions at the Governor and Agency levels but ultimately they offered acceptance of the SEA offer or counter proposal(s). This leaves the union, despite all its efforts, at its initial starting position.

The final response that the SEA received is that this is a funding problem for the DOT. The SEA claims that the State's position that there is a "lack of funding" lacks merit. In July 2021, the Governor announced a \$280 million-dollar surplus at the close of the fiscal year and start of the new 2021-2023 budget. The SEA argues

that the State bargaining position is not due to a lack of funds, but is really a lack of willingness to address the problem for the NH DOT workers.

The SEA further argues that the State cannot maintain this bargaining position on keeping wages below prevailing rates and expect that the NH DOT Highway and Turnpike Maintenance Divisions will have enough staff to remain functional. The current turnover problem is placing an increasing burden on the existing employees and is creating the recruitment and retention problems.

In the 2018 Workforce Analysis report from the NH Department of Employment Security, it states that competition for workers in the NH labor market will remain high and that this is not expected to change in the coming decade. (Exhibit ?) This clearly indicates that a wage adjustment is needed for the NH DOT in order to be competitive for new employees in the NH labor. (Exhibits – 8, 9, 10)

In closing, Governor Sununu explained the problem very clearly in his 2017 budget address, *“When you don’t pay anyone any more money, it shouldn’t come as a surprise to any of us who believe in capitalism that you’re going to have serious shortages...”* The SEA argues that this statement is more true today than it was (4) years ago. The SEA proposed increase of (\$3) for Highway Maintainer positions will move the DOT wages into a range that is competitive in the current labor market. This raise will be an incentive for employees in HM I & II positions to remain working for the NH DOT and thus help to see that the State gets a return on the investment of hiring non-skilled employees, training them and getting them commercial driver’s licenses.

#### **SEA Item 4: CDL Medical Card Stipend**

**Proposed On: 12/3/2020**

*43.13.1 Employees who hold a Commercial Driver's License and have a CDL medical card certification shall receive an additional (\$2) two dollars an hour added to their base pay.*

**Facts and Relevant Information:**

1. The Commercial Motor Vehicle Safety Act requires every state to meet the same minimum standards for licensing of commercial drivers. In NH, commercial drivers in the private sector must maintain a current and valid medical card on file with the NH DMV.
  2. Drivers who work for a government agency or a municipality (e.g. firefighter, rescue vehicles, federal, state, or local government employees) are not required to have a medical card and are considered "excepted" by the NH Department of Motor Vehicles  
<https://www.nh.gov/safety/divisions/dmv/driver-licensing/commercial/index.htm>
  3. NH DOT drivers are "Excepted" and not required to have to have a medical card.  
<https://www.nh.gov/safety/divisions/dmv/driver-licensing/commercial/index.htm>
  4. In 2013 sub-unit negotiations between the SEA and the Employer, the State proposed making CDL medical cards mandatory for all DOT drivers required to hold commercial driver's license. The SEA rejected the State's proposal. The parties later agreed to medical card language in Article 43.13. This provision provides a stipend to drivers who obtained a medical card. It was the goal of the parties at the time to create an incentive for NH DOT drivers to voluntarily get a medical card. The language has been successful.
- 43.13 (c). Employees defined in paragraph (a.) above who obtain and maintain a valid CDL medical card and provide an acceptable copy to the NHDOT's Driver Qualifications Specialist shall receive an additional ten dollars (\$10) per week in accordance with the above provisions.

5. While the parties were in negotiations for the 2019-2021 DOT sub-unit contract, the employer attempted to implement a mandatory policy for CDL medical cards. This policy required employees in the Highway Maintainer series to possess a CDL medical card in order to change positions within the department, including promotions, demotions, lateral transfers, and temporary promotions.
6. In April 2019, the SEA filed an unfair labor practice with the NH Public Employees Labor Relations Board (PELRB) claiming that the employer had acted in bad faith and violated NH RSA 273 by failing to bargain the new CDL medical card requirements.
7. In June 2020, the NH PELRB found that the State had committed an unfair labor practice and that bargaining unit employees were entitled to have the subject of CDL medical cards negotiated and that the State's unilateral action violated its duty to bargain. (Exhibit 11)

**SEA Argument:**

In the past, the NH DOT has strongly pursued a mandatory medical card requirement for Highway Maintainers in bargaining. Prior SEA bargaining teams have agreed with certain aspects of the State's argument for employees getting a card. However, the SEA believes that there are specific distinctions that need to be made in order to implement this type of mandatory requirement.

The SEA has maintained that requiring current employees to get and maintain a medical card comes with additional costs and burdens that employees currently do not have to assume. There is the cost of the exam as well as the personal commitment to achieve the health standards needed to maintain a card and the potential for an employee to need treatment(s) if a problem is found during the medical card exam. For these reasons, the SEA argues that current DOT employees should be compensated for getting and maintaining a card in addition to their CDL.

The State has attempted to bargain language for cards in the past, in 2019 the employer attempted circumvent negotiations on the subject and unilaterally implement a medical card requirement. The SEA filed a complaint against the State with the NH PELRB on the unilateral action by the employer. The PELRB found that the State has violated NH labor law and ordered them to negotiate this subject. (Exhibit 11)

This action clearly shows that employer wants a medical card requirement but does not want to compensate the employees for its implementation. The proposal on the table from the SEA team is an opening offer to the State. The State has presented no counter proposal or offered any alternatives. The SEA believes that the general argument for implementing medical cards is sound that that the State should use this opportunity to achieve its larger goal of medical cards for DOT Highway Maintainers through negotiations. The SEA has presented an additional proposal (43.13.3) to the State that would allow CDL medical cards to be mandatory for newly hired employees.

**SEA Item 5: Exemptions to CDL Medical Card**

**SEA Item 6: Mandatory CDL Medical Cards for new hires**

**Proposed On:** 12/3/2020

*43.13.2 Employees who hold a Commercial Driver's License (CDL) prior to the implementation of this agreement shall be exempt from the requirement to obtain and/or maintain a medical card certification.*

*43.13.3 All employees who are hired after the signing date of this agreement, and who are required to hold a Commercial Driver's License (CDL) as a condition of employment, shall be required to maintain a medical card certification and shall receive the wage adjustments as established in section 43.13 and 43.14 of this article.*

**Introduction:**

The proposals for Article(s) 43.13.2 and 43.13.3 are being presented together due to impact.

**Facts and Relevant Information:**

1. NH DOT drivers are "excepted" and not required to have to have a medical card.

<https://www.nh.gov/safety/divisions/dmv/driver-licensing/commercial/index.htm>

2. The State has tried to negotiate for mandatory CDL medical cards for DOT Highway Maintainers since 2013.
3. In the 2013-2015 DOT sub-unit contract, parties agreed on an incentive-based stipend (Article 43.13.3.e) as a method to try and get DOT Highway Maintainers to get and maintain a medical card.
4. There are 600+ bargaining unit employees working within the Highway Maintainer series that would be covered by the implementation of a CDL Medical Card requirement. Of these employees, 40% are vested in the NH retirement system and 18.5% have more than 30 years of State employment.

5. In bargaining, the parties have acknowledged that there are strong indications that a portion of the existing Highway Maintainer workforce that would have difficulties in getting a CDL medical card if it was made mandatory.

**SEA Argument:**

The SEA's first proposal 43.13.2 would make the card requirement voluntary for the current employees. This protects the benefits and longevity of these veteran employees, maintains the terms and conditions that they were hired under. Currently 40% of the Highway Maintainers have over (10) years of service with the State and are vested in the NH Retirement System. These employees will qualify to receive a pension benefits when they reach retirement age. This is a large investment of time and commitment to the State of NH.

The remaining 60% of DOT Highway Maintainers have less than (10) years with the State and have not yet vested in the retirement system. These employees are more susceptible to leaving State service for the higher wages and better working conditions that exist in the private sector, NH towns and cities as well as municipal jobs in bordering states such as Massachusetts.

With these factors in mind, the implementation of a medical card requirement needs a measured approach. With the NH labor shortage, the NH DOT cannot afford to force out existing workers with the unilateral implementation of a medical card requirement. It needs to retain its current workforce levels until market conditions change. By allowing existing employees the option of getting the card through incentives, it will reward employee initiative while protecting employees who do not want or cannot get a medical card.

In conjunction with the opt-out language, the SEA has presented a second proposal under Article 43.13.3 that would create a mandatory medical card requirement for employees hired after the date of contract implementation. These new employees

would be required to possess and maintain a medical card as an ongoing condition of employment. These new employees would be hired knowing that they are required to get the card and would receive higher wages for doing so. This scenario works best for the parties and will help the State be more competitive with other private and public sector employers. It will help keep the existing workforce and will eventually result in medical cards being a requirement for all Highway Maintainers due to attrition.

## SEA Item 7: Double OT for working holidays

Proposed On: 12/3/2020

**43.13** *Holiday Worked: In addition to the provisions of Article 9.4 and not withstanding the provision of article 9.4.2, when a full-Time employee works on a calendar holiday, he/she shall be paid either:*

*Double to their regular rate for hours actually worked on the holiday or, with mutual consent of the parties, be given compensatory time off equal to double the number of hours actually worked on the holiday.*

*A calendar holiday begins after 12:00 a.m. on the actual day of the holiday and ends at midnight on the same day. Only hours worked on the actual calendar holiday are to be compensated as indicated above.*

### **Facts and Relevant Information**

1. NH Highway Maintainers are expected to be available on a 24-hour per day basis, throughout the entire year. (Exhibit 3)
2. NH Highway Maintainers can be “called back” on extremely short notice.

### **SEA Argument:**

Due to the nature of the job requirements and responsibilities of NH Highway Maintainers, they are subject to call outs with little to no prior notice. For this reason, these employees are working under a standard that is unique and not experienced by a vast majority of their fellow State employees who work overtime. As we all know, weather conditions are very difficult to predict accurately which leaves maintainers in a demanding situation on holidays, particularly the cardinal holidays.

A majority of NH DOT highway maintainers have experienced unexpected callbacks to work during family gatherings on Christmas, Thanksgiving and New Year’s Day. These employees are expected to forgo their time with their loved ones in order to meet the mission of the DOT. This circumstance is clearly beyond the normal employment expectations for State employees. The SEA is asserting that this sacrifice is not only made by the employee but also by their families and this needs to be recognized by the employer. For this reason, the SEA is proposing that Highway Maintainers receive pay at double the regular hourly rate for any

hours they are required to work on a holiday identified in the CBA for State employees.

## **SEA Item 8: Parity for (40) hour schedules**

**Proposed On:** 12/3/2020

*43.12.1 Work Schedule Consistency: To avoid disparity, when the employer designates a DOT Division of Operations position to a 40 hour wage schedule, then all positions with the same position classification within the Division shall be assigned to a 40 hour schedule.*

### **Facts and Relevant Information**

1. There are DOT supervisors that are assigned to a (37.5) hour per week schedule and supervise subordinates that are assigned to a (40) hour workweek.
2. There are DOT supervisors that have the same job classification titles, but are assigned to work schedules that have different weekly totals than their fellow supervisors. Some supervisors work (37.5) hour per week schedule while others are work (40) hour per week schedule for the same position titles.
3. The difference between a (37.5) hour schedule and a (40) hour schedule is causing a pay disparity between fellow supervisors.
4. The differing schedules (37.5) hour schedule and a (40) hour schedule between a supervisor and subordinate employees creates a situation where the supervisor has to leave early and is not present while lower level employees are still on the clock.

### **SEA Argument:**

The SEA has proposed to create a (40) hour schedules per week for supervisors who oversee subordinates that are also on a (40) hour weekly schedule. This hourly disparity only exist for a small number of supervisors. The SEA argues that this makes operational sense. Currently, supervisors on the (37.5) schedule have to leave earlier than the employees they are responsible to supervise.

There is also an issue with pay disparity. 40-hour a week employees get overtime (time + one-half) compensation for any hours they work beyond their normal work week while the supervisor in the same situation have to work the first (2.5) hours at straight pay before they begin to qualify for overtime compensation. In this scenario, the subordinate employees are being paid at a rate that is higher than their supervisor.

In negotiations, the State has presented no argument that this proposal would be a problem for the employer. They have presented no argument that this would be operationally be a problem for the DOT. The SEA claims that this is an issue of consistency and parity.