

Discussion Points

MILITARY SERVICES

Domestic Mission Support SARS CoV-2 (COVID-19)

1. More than 150 Soldiers and Airmen with the New Jersey National Guard (Guard) were called on to State active duty orders on March 16, 2020 to assist with the response to the COVID-19 outbreak.

- **Question:** Please explain the “dual mission” of the Guard and how the Guard functions under Titles 10 and 32 of the United States Code to be able to support a domestic mission.

Answer: Title 32: U.S. Code, Title 32 (T32) governs the federal laws under which the National Guard can operate under the command of the Governor of the 54 states and territories. When a National Guard member is on T32, the Governor has command of the Guard with federal funding. An example would be a traditional National Guard member performing their monthly weekend duty or two-week annual training.

Title 10: U.S. Code Title 10 (T10) governs active military forces under the command and control of the President of the United States. The President or Secretary of Defense can activate the National Guard to active duty under T10 in support of federal missions such as wars and other global conflicts. The National Guard force is under the President’s authority, and the Governor no longer has command authority when the National Guard is activated to T10. The National Guard returns to T32 status when T10 status ends; thereby returning to the Governor’s authority. The Federal government provides all funding.

State Active Duty: The Governor can activate the state National Guard in support of domestic situations such as Hurricane Sandy response operations. The Governor can use his/her State Active Duty (SAD) authority to support a state domestic response. The State provides the funding for SAD, which includes pay and allowances, any per diem, and reimbursement to the federal government for use of T32 funded military equipment. Once the Governor’s mission is complete, the state National Guard returns T32 duty status.

In the simplest terms, T32, T10, and SAD are about funding sources and command authority. During the initial period of the COVID-19 pandemic in March 2020, Governor Murphy utilized the New Jersey National Guard (NJNG) to assist the NJ State Police and NJ Department of Health to establish and operate COVID-19 testing sites and support the three state veterans’ homes. Guard members were on SAD from March 14 through April 01, 2020. As of April 02, 2020, the President approved federal T32 funding specifically to support COVID-19 efforts that otherwise would have been paid with state funding. The federal T32 funding authorization currently exists through September 30, 2021.

- **Question:** What does it mean to serve under Titles 10 and 32 of the United State Code and is it possible to serve under both titles simultaneously?

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Answer: Refer to response above. It is unlawful for the National Guard to serve in more than one status at the same time. See *Perpich v. Department of Defense*, 496 U.S. 334 (1990).

- **Question:** What action must be taken to activate Title 32?

Answer: To authorize Title 32 (T32) to support non-federal missions, the Governor of a state must request and receive approval for the use of T32 federal funds from the Secretary of Defense or the President.

- **Question:** Please discuss the mission of the Guard in its response to the COVID-19 pandemic since March 16, 2020 including, but not limited to assisting at COVID-19 testing sites, assisting counties in processing mail-in ballots, delivering personal protective equipment and other medical supplies, assisting frontline workers, and other duties.

Answer: The NJNG's purpose is to provide support to state and federal missions. The Guard has been a key player in COVID-19 response. Since March 2020, the NJNG has been called to support our state and nation in the following ways:

- Setting up and manning FEMA drive-thru testing sites in our hardest hit areas;
- Setting up and manning alternate care facilities called Federal Medical Stations (FMS) at three convention centers;
- Supporting the NJ Medical Examiner's Office with mortuary affairs;
- Supporting our veterans in the three state veterans homes with Combat Medics to conduct 24-hour operations, from basic medical assistance and care to security, interacting with residents, and assisting with responding to concerned family members;
- Providing culinary and cooking support for state veteran havens;
- Supporting privately-owned Long-Term Care (LTC) facilities with medical assistance (CNA); janitorial / disinfecting assistance; culinary / cooking assistance; and logistics (PPE re-supply). The support provided is considered essential assistance to meet the immediate threat to life, health and safety presented by COVID-19;
- Processing mail-in ballots and administrative support to various county Board of Elections during the 2020 Primary and General Elections, with approximately over 100 and 350 personnel, respectively;
- Providing security at state capitol in Trenton, NJ during the 59th Presidential Inauguration;
- Providing security support in Washington, DC for the Presidential Inauguration;
- Providing security support in response to Operation Capitol Response with approximately 700 personnel in Washington, DC; and
- Supporting six state-run vaccination mega sites with approximately 350 personnel.

2. Federal Law provides the Governor with the ability to place Soldiers and Airmen in full-time active duty status under the command and control of the State, but directly funded with federal funding. Even though this duty status is authorized by federal law, this section is an exception to the Posse Comitatus Act.

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- **Question:** Please explain what the Posse Comitatus Act is and how State active duty, authorized by federal law, is a statutory exception to the Act.

Answer: The Posse Comitatus Act (PCA) is codified under 18 USC 1385 and states in relevant part that "Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or Air Force as a Posse Comitatus or otherwise to execute the law shall be fined under the title or imprisoned not more than two years, or both." PCA essentially prohibits the use of "federal" military forces from enforcing the laws of a state or the laws of the United States. It prevents the military from performing law enforcement functions.

As the statutory language suggests, there are several statutory exceptions, one of which is the Insurrection Act, 10 USC 331-335 (last invoked by the President in 1992 during the LA Riots during which federal military forces were called to augment local law enforcement to assist with rioting and civil disturbance response operations). In a domestic mission, PCA would apply to the active component of the military or the Reserve (Army Reserve, Air Force Reserve, etc.). The active component and the Reserve can, and often do, respond to domestic emergencies, but usually only to provide logistical support or some other support short of law enforcement because of PCA restrictions.

The National Guard by contrast, in either Title 32 (T32) status (federally funded under the command and control of the state governor) or State Active Duty Status (SAD) (state funded under the command and control of the state governor) is EXEMPT from PCA prohibitions. That being said, the National Guard, if called by the appropriate authority to respond to a domestic mission in support of civil authorities CAN perform law enforcement functions in addition to logistical or non-law enforcement functions so long as it remains in either T32 or SAD status. If the National Guard is mobilized for a domestic mission under a Title 10 (T10) authority under the command and control of the President, then the National Guard would in essence become part of the federal military and be subject to PCA restrictions.

Despite not being subject to PCA restrictions, the National Guard working domestically in either T32 or SAD status would still be subject to state law as to how force is used, which in New Jersey is restrictive (NJ law does not give the National Guard law enforcement powers). The National Guard is presently supporting civil authorities in Washington, D.C. (U.S. Capitol Police, U.S. Park Police, etc.). The National Guard is performing this mission in Title 32 USC 502(f) status which means that PCA does not apply but the National Guard is still subject to D.C. law as to how force can be used and what law enforcement functions can be performed (unlike New Jersey, D.C. law allows members of the National Guard to be sworn in as "special" law enforcement officers with limited law enforcement powers).

- **Questions:** What amount of federal support and from what source(s) has the Guard received funding for its State active duty COVID-19 mission(s) to date? Is there any State match required?

Answer: State Active Duty (SAD) is 100% supported by State funds. The Department intends to cover excess State active duty expenditures with FEMA funds expected by the end of this fiscal year. Federal funds do not support State Active Duty.

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- **Questions:** Has the Guard received any hazard pay, in any form such as bonuses, overtime pay, increased salary, and other compensation and if so, from what source or sources? Was there a spike in overtime in response to the COVID-19 outbreak? Please provide details of the hours and the cost.

Answer: National Guard members activated to Title 10 or Title 32 were not eligible to receive hazardous duty, bonuses, overtime pay, increased salary or any other compensation in support of COVID-19 associated missions or civil disturbance. State Active Duty (SAD) troops were paid Base Pay plus Allowances in accordance with state law.

New Jersey National Guard Support - United States Capitol Attack on January 6, 2021

3. On the evening of January 6, 2021, after the Capitol attack, Acting Defense Secretary Chris Miller authorized up to 6,200 National Guard members from Maryland, Virginia, New York, New Jersey, Delaware, and Pennsylvania to join the District of Columbia National Guard to help secure the events of the 59th inauguration and the peaceful transfer of power to Joseph R. Biden, 46th President of the United States on January 20, 2021.

On January 7, 2021, upon the request of the United States National Guard Bureau, Governor Murphy authorized the deployment of the New Jersey National Guard to Washington, D.C. to reinforce the District of Columbia National Guard and local law enforcement.

- **Questions:** What were and are the mission and role of the New Jersey National Guard in providing support to the United States Capitol? What specific duties have been assigned to the New Jersey National Guard Soldiers and Airmen and Airwomen? Are these Soldiers and Airmen and Airwomen deployed under Title 10 or Title 32 of the United States Code and how does that affect the control of their mission and duties?

Answer: The National Guard has a long standing history of protecting the well-being of our neighbors, the First Amendment, property, and the right to peacefully assemble and protest. Under Title 32 (T32) status, Guard members from the 54 states and territories were called to support the U.S. Secret Service, U.S. Park Service, U.S. Capitol Police, and District of Columbia (DC) National Guard to provide law enforcement support to federal and DC authorities. The NJNG's specific duties consisted of security of critical infrastructures and national monuments in the National Capitol Region.

Guard members in Title 10 (T10) status are under the command control and deploy at the discretion of the President, while Guard members in T32 or State Active Duty Status (SAD) are under the command and control of the Governor. Each of these statuses have specific guidelines for what missions can be performed. T10 is more restrictive with regards to law enforcement assistance type missions, while T32 has a little more flexibility which was an appropriate status for the DC Mission.

- **Questions:** What obstacles, problems, issues, and difficulties have the men and women of the New Jersey National Guard encountered in carrying out their

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duties at the Capitol? When is it anticipated that they will return home to New Jersey?

Answer: The NJNG is a trained and skilled force that maintains readiness to support our communities during times of natural disasters and emergency situations. The safety of our Guard members is our top priority. It is not uncommon to be met with challenges during the initial phases of missions, especially when factoring in COVID-19 safety protocols. There were complaints regarding contracted food vendor(s), which was addressed directly by the National Guard Bureau and DC National Guard. Given the large number of Guard members from the 54 states and territories on mission, there was a limited supply of body armor and crowd control equipment. Lack of such equipment is still a challenge, but did not adversely impact the NJNG's ability to execute its mission. The procurement of equipment has been factored into future **federal** NJNG budget considerations. COVID-19 screening capability was also a challenge; however, the NJNG sent the Brigade Surgeon and a medical team to mitigate the issue. The NJNG is expected to complete its mission at the National Capitol Region by the end of May 2021.

- **Questions: What amount of federal support and from what source(s) has the Guard received funding for its deployment to the United States Capitol to date? Is there any State match required?**

Answer: Federal pay and allowances funding for NJNG support to the Operation Capitol Response in Washington, DC cost \$6.0 million from early January to mid-April 2021. The estimated cost for continued support from mid-April to late June is \$5.2 million. There was no state match required.

- **Questions: Has the Guard received any hazard pay, in any form such as bonuses, overtime pay, increased salary, and other compensation and if so, from what source or sources related to their mission at the Capitol? Was there a spike in overtime in response to the mission and duties at the Capitol? Please provide details of the hours and the cost.**

Answer: National Guard members activated to Title 10 or Title 32 were not eligible to receive hazardous duty, bonuses, overtime pay, increased salary or any other compensation in support of COVID-19 associated missions or civil disturbance.

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SERVCS TO VETERANS

New Jersey Veterans Memorial Nursing Homes

4. As of March 24, 2021, the Department of Military and Veterans' Affairs COVID-19 website reports that a total of 156 residents living in the Veterans Memorial Homes died of COVID-19: 64 at Menlo Park, 81 at Paramus, and 11 at Vineland., or approximately 17 percent of the FY 2021 average daily population as reported in the FY 2021 Governor's Budget.

- **Question:** Please explain what happened at the nursing homes.

Answer: At the start of the Pandemic, the DMAVA began preparation for the protection of its nursing home resident population state-wide from a potential outbreak of the SARS-CoV-2 virus (COVID-19). The CDC and NJDOH determined that nursing home populations were at high risk of being affected by COVID-19 given the congregate nature of the homes and the resident population served. Despite DMAVA's preparation, the COVID-19 virus made its way into the nursing home facilities, as it did with virtually all other nursing home facilities in the country. Tragically, some of DMAVA's nursing home residents and staff contracted the virus and did not survive. Northern New Jersey was located at the epicenter of the initial wave of the COVID-19 outbreak, and our two northern nursing homes were affected more quickly and severely as a result.

- **Question:** What actions were taken to contain and resolve the COVID-19 outbreak in the homes?

Answer: During the course of the pandemic, DMAVA and the senior staff of the Veterans Homes continuously updated relevant policies and protocols in accordance with CDC and NJDOH guidance and requirements to ensure the health and safety of our residents and staff. The areas that have been addressed are:

Infection Prevention:

- Each Veterans Home has implemented cohorting. Residents are placed in units determined by their COVID-19 status or potential exposure. The cohort groups are:
 - Quarantine: This group includes new admissions, readmissions from the hospital, and individuals that have gone out into the community and returned to the facility. Also quarantined are Persons Under Investigation (PUIs) residents, who may have had exposure to a COVID-19 positive staff member or resident
 - Isolation: COVID positive
 - COVID-19 negative/not exposed
- Staff are required to wear full Personal Protective Equipment (PPE), including N95 facemasks in PUI and Isolation cohort units.

Education:

- Multiple education sessions have been provided to all staff including on preventive measures such as handwashing, PPE use, symptoms of COVID-19, exposure etc.

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Facility Cleaning:

- N-Listed disinfectants that are effective against the SARS-CoV (COVID-19) virus are used throughout the Veterans Homes.
- Increased frequency of cleaning and disinfection of frequently touched surface.

Personal Protective Equipment (PPE which includes surgical facemasks, N95 masks, gloves and gowns):

- Each Veterans Home has a 10-week stockpiled supply of PPE.
- There is ongoing close monitoring of burn rate of PPE.
- Each Veterans Home reports weekly to the Central Office on current PPE supply in storeroom (not including stockpiled supply).
- There is centralized procurement of PPE supplies for the Veterans Homes.
- Meetings are held weekly to monitor the logistical posture of PPE and PPE supplies to ensure flow and inventory of products are at the correct level. In addition, testing supplies are monitored and procured as needed.

COVID-19 Testing:

- Each Veterans Home resident is tested weekly and more frequently if needed.
- Each Veterans Home staff member is tested at least weekly. Menlo Park and Paramus are testing staff members three times per week (including PCR and rapid testing).
- Staff members with a positive test result for COVID-19 are immediately excluded from work for a period of 14 days per CDC guidelines.
- All visitors and vendors receive a rapid COVID-19 test (15 minutes) and are denied entry if the test result is positive.

Staffing:

- The Veterans Homes use the NJ state-contracted staffing agency Century 21 in the event of staffing shortages.
- The NJ National Guard continues to provide assistance in each Veterans Home with testing, screening and other support duties.

Additional Interventions:

- All individuals are routinely screened for COVID-19 prior to entering the Veterans Homes, which includes a temperature check and answering questions related to travel, symptoms, exposure etc. Individuals are not allowed to enter the building if their temperature is above 100.4 degrees, or if they have other risk factors.
- Respiratory Protection Program, procurement of Powered Air Purifying Respirators (PAPR), and fit testing of all staff are in place in each Veterans Home.
- Infectious Disease and Respiratory Protection consultants assist the Veterans Homes.
- Communal dining and activities are suspended for the residents as per NJDOH requirement. Residents do not "co-mingle" with residents on other units. Person-centered activities are provided to all residents daily.

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- **Question:** What is the current status of the COVID-19 infiltration at the homes?

Answer: There are no COVID-19 positives among the residents at the Veteran Homes. There is one staff positive COVID-19 at Vineland and Menlo. In the event there are COVID-19 positive staff members, they are immediately excluded from work until the quarantine period is complete as per CDC and NJDOH criteria. Staff members are tested upon their return to work.

- **Question:** What is the status of any investigation into deaths at the State's Veterans' Memorial Nursing Homes?

Answer: The investigations into the deaths at the NJ Veterans Homes are ongoing. The Department has complied with all requests of both federal and state investigators.

5. Current law enacted in October 2020 (P.L.2020, c.112) established staffing ratios for nursing homes in New Jersey, including the three New Jersey Veterans Memorial Nursing Homes by requiring: (1) one certified nurse aide to every eight residents for a day shift; (2) one direct care staff member to every 10 residents for an evening shift, provided that no fewer than half of all staff members are to be certified nurse aides, and each staff member will sign in to work as a certified nurse aide and will perform certified nurse aide duties; and (3) one direct care staff member to every 14 residents for a night shift, provided that each direct care staff member is to sign in to work as a certified nurse aide and perform certified nurse aide duties.

The FY 2022 Governor's Budget recommends an increase in State funding of \$1.0 million to support the hiring of 74 new direct care employees in the three New Jersey Veterans Memorial Homes to meet the new resident to staff ratios pursuant to P.L.2020, c.112 (Page H-12).

- **Questions:** If these were new funded positions that were filled for the full 12 months of the fiscal year, with everything else staying the same, the average salary per new hire would be \$13,851. Is the intent to have all new positions filled for the 12 months of FY 2022? What is the department's timeline of its hiring plans and what is the full annualized impact of P.L.2020, c.112? Are these positions full-time, part-time, or a combination of full-time and part-time positions? What would be the salary of a full-time position? Do the positions include pensions and health benefits?

Answer: The law (P.L.2020, c112) requires that staffing be linked to resident population. Current resident populations do not require additional direct care staff pursuant to the standards created in recent legislation. As admissions in our Homes increase, additional staffing will be needed; therefore, only one quarter of the total funding has been requested in this budget. The Department projects full annualized funding of \$4,099,000 will be required in FY23. The positions requested are 21 Charge Nurses / annual salary \$78,417 and 57 Human Service Technicians / annual salary \$43,018. As full-time hires of the State these employees are entitled to the full allocation of Fringe Benefits.

6. Current law enacted in September 2020 (P.L.2020, c.89) establishes minimum wage requirements for certain long term care facility staff requiring that the minimum wage for direct

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care staff in long-term care facilities is to be \$3 higher than the prevailing State minimum wage and annually adjusted based on cost-of-living increases.

- **Questions:** What are the projected fiscal impacts of the new minimum wage requirements on each of the Veterans Memorial Home budgets for the 12 months of FY 2022? How will this affect the new hires required to meet the new resident to staff ratios under current law (P.L.2020, c.112)?

Answer: All direct care employees at our Veteran Long-Term Care facilities are currently earning a rate consistent with the law. DMAVA has reached out to Civil Service for updated rates for calendar year 2022. We do not expect a significant impact to operations at our Long-Term Care facilities because of this law.

New Jersey National Guard Youth ChalleNGe Academy (NJYCA)

7. The NJYCA program is part of the United States National Guard Youth ChalleNGe program adding value to local communities by mentoring at-risk youth. The mission of the NJYCA is "to provide a highly disciplined environment fostering academics, leadership development, physical training, and personal growth to educate and train unemployed youth who ceased to attend high school." The program consists of a 22-week residential phase at Fort Dix and a 12-month post-graduate, post-residential phase during which the participants are matched with a mentor. To graduate from the program, each cadet must complete successfully the residential phase. Academics are an integral component of the NJYCA program. The cadets are tested and are able to earn their New Jersey State High School diploma. Cadets are required to take courses in Math, Science, Reading, English, History, and Computer Applications.

The FY 2022 Governor's Budget recommends an increase of \$199,000, restoring State funding for the NJYCA program to its previous level of \$265,000. These State funds provide a State match to federal funding for the program. In FY 2022, federal funding for the program increased by \$1.1 million, or 33.4% from \$3.2 million to \$4.3 million.

- **Questions:** What is the reason for the increased federal funding and the renewed focus on the NJYCA program? Has the program been revamped at the federal level? What are the current mission, values, and goals of the federal and State programs? Please discuss the plans for the NJYCA program.

Answer: The increase in federal funding is based on the National Guard Bureau's (NGB) preliminary approval of the proposed FY22 budget for the New Jersey Youth ChalleNGe Program (YCP). NGB is taking into account the cost-of-living disparities between NJ and other states that operate YCPs throughout the U.S. As a result, they have preliminarily approved an increase in our funding to better meet our programmatic needs. The program has not been revamped at the federal level. The state is not required to increase its funding to the program as a result of increased federal funding.

The NJYCA's mission is to train and mentor disengaged teenage youth so that they have the opportunity to become responsible and productive citizens of their community, state, and country. We will do so by providing unique transformational experiences through a highly disciplined 22-week residential program that integrates

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a quasi-military training environment, innovative academic offerings, and opportunities to further develop their physical, social, and intellectual abilities. In partnership with a mentor, they will receive continued guidance and support during their one-year post residential phase immediately following graduation.

The NJYCA's vision is to provide the nation's best unique transformational experience for today's disengaged teens within a highly structured environment where excellence is the standard and their physical, social, emotional, and intellectual development and well-being are our priorities. Every graduate continues their journey as a confident, poised, and motivated young leader prepared to make a positive difference in their lives and those of others.

NJYCA Values are:

- BE PASSIONATE – Care about your work and take pride in what you do.
- VALUE TEAMWORK – Approach problems with a “we over me” mentality.
- ENSURE GROWTH – Learn and evolve personally, professionally, as a team and as an Academy.
- TRUST THE PROCESS – Respect and understand that the program design has tremendous value and demonstrates proven results over time.
- HAVE FUN – Create a positive workspace and build strong relationships.

Future plans for NJYCA are being developed to update and rebrand NJYCA as a leadership academy and shift its operating location from JBMDL to the National Guard Training Center (NGTC) in Sea Girt, NJ. Prior to the pandemic, both DMAVA and JBMDL believed that the NJYCA had outgrown its facility and location; internal and external assessments have indicated the available space and fixed site layout are not conducive to good order and discipline and lack the ability to become a more favorable setting for enhanced teaching and learning. The NGTC is a NJ National Guard owned base with modern, state-of-the-art facilities that will allow the program to exercise nearly complete autonomy and flexibility. In addition, Sea Girt offers a more open yet still controlled environment with improved opportunities for positive role modeling due to its proximity to the tenant NJ State Police Academy, which we expect will directly contribute to positive outcomes.

Programmatically, we will be supporting our mission of providing multiple pathways for our students to improve academically, physically and socially. This will include direct instruction, online learning, leadership development through aquatics, outdoor recreation, experiential learning via field trips, and more. Furthermore, additional staff will be onsite to address our residents' social and emotional well-being and supported by interns from four-year universities as part of their graduate coursework. Finally, our Academy will expand its focus on leadership development through guest-speaker series comprised of accomplished military and law enforcement role models to share their knowledge and influence transformation.

Hazard Pay

Discussion Points (Cont'd)

8. In 2020, the State received \$2.4 billion in flexible Coronavirus Relief Fund disbursements from the federal government under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. The federal law and United States Treasury guidance require that Coronavirus Relief Fund balances be used to cover costs incurred due to the COVID-19 pandemic, including salaries of employees involved in pandemic response efforts. The federal government may disallow expenditures states charge to the Coronavirus Relief Fund that fall outside of permissible parameters.

The State used some of its allocation to provide Special Pay to State employees who worked on the frontline in State institutions. In March 2021, the Wall Street Journal reported that the Department of Military and Veterans Affairs awarded Special Pay to ineligible administrators. The article quotes a spokesperson for the Civil Service Commission who stated that two specific managers who each received over \$10,000 in Special Pay did not qualify for the special project rate because of their salary levels.

- **Questions:** Please specify the amount of hazard pay that the Department of Military and Veterans Affairs has provided to its employees out of the Coronavirus Relief Fund. For what period did the department provide hazard pay? How did the department determine what employees would receive hazard pay? Was there a benchmark that required a certain percentage of an employee's time to be spent on the frontline providing care services for that employee to be eligible for hazard pay? Please provide a listing by position of every employee who received hazard pay out of the Coronavirus Relief Fund indicating: 1) the job title, 2) the amount of hazard pay received, and 3) the percentage of the employee's total working hours for which the employee received hazard pay during the period during which hazard pay was available.

Answer: The Department has paid a total of \$6,423,568 to qualifying employees for Special Pay. These payments were made directly out of the state salary accounts to which the employees are assigned. Special Pay is a qualifying reimbursable FEMA expense and was included in the Department's initial claim to FEMA. FEMA reimbursement is expected to be received prior to fiscal year end.

DMAVA submitted a request to New Jersey Civil Service Commission, Chair/Chief Executive Officer for an emergency rate for employees in direct care and service titles, which was approved. Special Pay was given to employees from March 28, 2020 to June 30, 2020.

Under conditions set forth in N.J.A.C. 4A:3-4.19A, the emergency rate was approved at one-half the employee's regular hourly rate, limited to employees in direct care and service titles within DMAVA's three long term care facilities and limited to the time spent performing the at-risk in-person services. Justification and supervisor approval was required for any Special Pay requests for non-direct care, patient services, administrative, clerical, personnel, secretarial, or accounting titles conducting at-risk in-person services or out of title work due to COVID-19. There was no benchmark that required a certain percentage of an employee's time to be spent on the frontline providing care services for that employee to be eligible for Special Pay.

See attached spreadsheets entitled "Q8 – Special Pay – DMAVA under CRF".

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GENERAL DISCUSSION POINTS

Federal Funding Awards Due to COVID-19

Discussion Points (Cont'd)

9. Since the onset of the COVID-19 pandemic, the federal government has awarded several billions of dollars to the State of New Jersey.

- **Question:** What are the department's plans to maximize federal financial assistance during the COVID-19 pandemic and as the State recovers there from? Please provide a chart of the federal COVID-19 funding the Department has received to date including the name of the funding, the funding agency, the amount, what it was expended on, and the account number.

Answer: The Department is taking advantage of all available federal reimbursement and funding streams including what the Veteran Homes received directly.

| Name of funding | Funding Agency | Amount (in thousands) | Use of Funds | Account number |
|------------------------|----------------|-----------------------|---|---------------------|
| FEMA* | | \$2,093 | Cover FY20 salary deficits | 20-100-067-3620-271 |
| FEMA* | | \$2,587 | Offset FY21 operating expenses at 3 Homes | 20-100-067-3620-271 |
| COVID-CRF | | \$5,661 | Cover FY20 salary deficits | 20-100-067-3620-272 |
| COVID-CRF | | \$686 | Offset FY21 operating expenses at 3 Homes | 20-100-067-3620-272 |
| Public Health Menlo | HHS | \$4,129 | Offset direct care salary expenses | 20-100-067-3630-042 |
| Public Health Paramus | HHS | \$4,600 | Offset direct care salary expenses | 20-100-067-3640-057 |
| Public Health Vineland | HHS | \$5,159 | Offset direct care salary expenses | 20-100-067-3650-045 |
| CARES Act-Menlo | HHS | \$1,289 | Cover COVID Operating expenses for FY 20 | 20-100-067-3630-030 |
| CARES Act-Paramus | HHS | \$1,782 | Cover COVID Operating expenses for FY 20 | 20-100-067-3640-041 |
| CARES Act-Vineland | HHS | \$1,185 | Cover COVID Operating expenses for FY 20 | 20-100-067-3650-037 |
| CARES Act-Menlo | HHS | \$989 | Cover COVID Operating expenses for FY 21 | 21-100-067-3630-030 |
| CARES Act-Paramus | HHS | \$626 | Cover COVID Operating expenses for FY 21 | 21-100-067-3640-041 |
| CARES Act-Vineland | HHS | \$544 | Cover COVID Operating expenses for FY 21 | 21-100-067-3650-037 |

* These FEMA funds were initially coded as CRF; however, once FEMA modified their reimbursement rate from 75% to 100%, they now qualify for FEMA reimbursement.

- Public Health CRF reimbursements of \$13,887,717 for direct-care salary costs at the department's three Memorial Homes. This reimbursement was posted to the Memorial Homes' salary accounts.

Federal Waivers Due to COVID-19

10. Many federal agencies and departments have waived certain requirements during the COVID-19 pandemic.

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- **Questions:** What, if any, federal waivers has the department applied for during the COVID-19 pandemic? What waiver requests were approved and what waiver requests were denied? How many of these waivers have an opportunity to be extended?

Answer: There are no federal waivers processed by the Department.

American Rescue Plan Act of 2021

11. The Federal Funds Information for States estimates that New Jersey State and local government entities will receive a combined \$15.1 billion in federal assistance under the American Rescue Plan Act of 2021.

- **Questions:** Please detail the amounts the department anticipates receiving under the American Rescue Plan Act of 2021 and indicate the purposes for which the funds would be used. By what date would the funds have to be expended?

Answer: Although the American Rescue Plan provides for the amounts to support renovation at Veteran nursing facilities and increased per diem, there is no indication of qualification requirements, timing of payments, or dollar amounts allocated to each state. As part of the American Rescue Plan, the federal Veterans Housing Administration has requested that the Department certify the population counts at the three Veterans' Memorial Homes as of December 27, 2020. We have done so and are awaiting next steps.

Diversity and Inclusion

12. Diversity and inclusion in the workplace rose to prominence as a mainstream topic of interest in 2020.

- **Questions:** Please indicate the percentage of minorities and women in each of the department's middle and senior management. Please detail any plans the department may have to increase the representation of minorities and women among its middle and senior managers.

Answer: DMAVA has implemented diversity and inclusion policies and programs to increase representation of historically underrepresented groups, with the goal of addressing racial and gender gaps to reflect the demographics of New Jersey. DMAVA works with CSC Diversity Council to increase diversity recruitment and outreach in order to increase representation of minorities and women among its middle and senior management. As a result of our efforts, middle and senior management consist of 37% women and 21% minorities.

- **Questions:** Please indicate any structures and elements of its culture that are known to the department as having had the effects of making minorities and women feel unwelcome and limiting diversity and inclusion. How does the

Discussion Points (Cont'd)

department intend to address these structures and cultural elements? What initiatives has the department implemented in the last two years to further the diversity and inclusiveness of its workplace? Does the department intend to undertake any additional initiatives through the end of FY 2022?

Answer: There are no known structures and elements in DMAVA's organizational culture that make minorities and women feel unwelcome or limiting diversity and inclusion. DMAVA strictly follows Civil Service policies, procedures, and statues as well as emphasis on equal employment opportunity laws to prevent discrimination or harassment. Prior to the pandemic, DMAVA implemented monthly A"Wear"ness Wednesdays as an opportunity to highlight topics and observances relevant to the Department, military, veterans, and the general public. In doing so, employees are given the opportunity to dress down, wear a color associated with the theme color of the day, and increase morale. The initiative was restarted in March in observance of Women's History Month. In addition, a department-wide anonymous climate survey is currently being conducted to discover the health of the organization and discover employee concerns. Results will be used to identify and address departmental shortcomings as well as sustain or enhance strengths.