

**TESTIMONY OF THE  
NATIONAL GUARD ASSOCIATION OF THE UNITED STATES**

**Senate Committee on Veterans' Affairs**

**House Committee on Veterans' Affairs**

**Joint Hearing on Legislative Presentations**

**March 9, 2017**

Dear Chairman Isakson, Ranking Member Tester, Chairman Roe, Ranking Member Walz and other distinguished members of the Senate and House Committees:

**Introduction:**

On behalf of the almost 45,000 members of the National Guard Association of the United States and the nearly 500,000 soldiers and airmen of the National Guard, we deeply appreciate this opportunity to share with you our thoughts on today's hearing topics for the record. We also thank you for the tireless oversight you have provided to ensure accountability and improve our nation's services to veterans and their families.

For the last few years, one of NGAUS' top priorities has been securing veterans status for our members who have never been called under Title 10, but who have still served this country with great honor. With the passage of veterans' status last December, I want to express my deepest gratitude to this Committee for their efforts. I'd be remiss to not especially thank Ranking Member Walz for his tireless leadership in the House on behalf of these Guard members. And we are also so very thankful to Ranking Member Tester, Senator Heller and Senator Boozman, and their staff, who fought to ensure that these Guardsmen are able to join their brothers and sisters as veterans of the armed services.

In my testimony, I would like to focus on three specific issues impacting the National Guard that fall under the jurisdiction of this Committee. These issues are: correcting the benefit disparity for members of the National Guard when deployed under 10 U.S.C. §12304b status, the strengthening of numerous provisions in the Uniformed Services Employment and Reemployment Rights Act (USERRA), and pursuing initiatives to reduce the high rate of suicides within the National Guard. My goal today is to highlight these particular issues and offer possible solutions for your consideration.

**Duty Status Reform and Benefit Parity:**

One of the main goals of NGAUS is to address the benefit disparity under federal activation authorities. We are specifically concerned with numerous benefits currently not attributed to Guard and Reserve Servicemembers deploying under 10 U.S.C. §12304b status. Since establishing the 12304b authority in 2012 to give Combatant Commanders greater authority to utilize the Reserve Component, thousands of our members have been deployed on operations to support the Multinational Force Observers mission in the Sinai, Egypt, NATO's Operation Joint Guardian in Kosovo, and most recently the European Reassurance Initiative countering Russian aggression in Eastern Europe. The Guard and Reserve forces have provided a cost-effective means of meeting the needs of Combatant Commanders and have provided important experience and expertise.

However, when the 12304b authority was established, it failed to make important changes to 5 U.S.C., 37 U.S.C., 38 U.S.C. and 10 U.S.C. As such, health, education, leave, pay, and retirement benefits equal with Active Component troops serving the same functions have been denied to Guard and Reserve Component soldiers serving under the 12304b authority. While our constituency wants to serve in any capacity, we believe that they should be afforded

benefits such as: tuition assistance, early retirement credit, transitional healthcare access, and Post-9/11 G.I. Bill benefits currently not funded under 12304b status.

NGAUS strongly supports all legislative efforts by this Committee to ensure members of the Guard and Reserve receive the same benefits as their active duty counterparts. To that end, we ask that you support the passage of Ranking Member Tester's bill, the Educational Development for Troops and Veterans Act, which would ensure that deployed reserve-component members would receive Post-9/11 GI Bill benefits equal to those enjoyed by Active Component members. It would also protect them from lost wages while deployed. This is not just a benefit-parity issue. It's a question of fairness.

**Strengthening and Clarifying Provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA):**

Since 9/11, National Guardsmen have mobilized more than 780,000 times in support of the nation's national security objectives abroad, creating possibly the largest number of National Guard veterans since World War II. The vast majority of these deployments involve members of the Guard who also have civilian or government employers making the Veterans' Reemployment Rights statute and the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 – two of the most important laws protecting the National Guard members who step away from their jobs to serve their country. Under USERRA, all uniformed service members are protected within their civilian employment. Guard members may not be discriminated against because of their past, present or future service, including training or deployment. USERRA establishes a right to prompt reinstatement after service and ensures certain health care benefits during and after.

At NGAUS, we receive calls and emails from our members asking about their civilian employment rights as well as from citizens considering enlisting in the National Guard. USERRA enforcement offices of the Department of Labor and the Office of Special Counsel receive tens of thousands of calls annually asking for assistance. The National Guard is also heavily reliant on Employer Support for the Guard and Reserve (ESGR), a Department of Defense program established in 1972 to promote cooperation and understanding between reserve-component service members and their civilian employers and to assist in the resolution of conflicts arising from an employee's military commitment. Many employers have rightfully received awards for their commitment to their National Guard employees, but there are still many instances where lack of understanding has caused problems.

In the 114<sup>th</sup> Congress, we strongly supported Senator Blumenthal's efforts under S. 3042, legislation that would have clarified in law the procedural rights of Guard members within USERRA. Unfortunately, current USERRA language surrounding forced arbitration is not clear, and there are conflicting court decisions that do not always protect Guard members' procedural rights. NGAUS urges the reintroduction of this common-sense legislation and asks this Committee to champion changes in law to clarify congressional intent, stop misinterpretations, protect our Guard members and grant them due process in these workplace circumstances.

### **Combating Suicide Within the National Guard**

I would like to convey our extreme concern with the high rate of suicides across all components of the military, and especially those that continue to plague the Army National Guard in particular.<sup>1</sup> We greatly appreciate the efforts made by this Committee to try to combat

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<sup>1</sup> Per the National Guard Bureau, the average number of suicides in the National Guard from CY13 to CY16 is 118 (approx. 16 airmen and 102 soldiers). In 2016, the Guard had 123 total suicides (109 in the ARNG and 14 in ANG). In 2017 (from January 1 to February 13), we've had 17 total reported suicides (15 in the ARNG and 2 in the ANG).

the near-epidemic rate of suicides across the military and among our veteran population, but I think we all agree that much more needs to be done.

NGAUS hopes to continue our work with this Committee and the National Guard Bureau to support and amplify numerous initiatives to reduce suicides in the National Guard. Before identifying some of these specific initiatives, I'd like to briefly point out a few of the challenges we face in combating mental health issues.

First, we ask this Committee's support to help standardize the various mental and behavioral health programs within the Department of Defense, including in the National Guard Bureau. Even among the Air and Army National Guard, as well as within the 54 states and territories, we've seen numerous examples of inconsistencies in staffing and perhaps most alarming, programs and key personnel are working in silos and do not share a common analysis or reporting system.

In terms of staffing and personnel, there is currently insufficient funding for Army National Guard Directors of Psychological Health (DPH), who provide vitally important counseling services to our members. Similarly, research has found the importance and benefits of full-time chaplains at Air and Army Guard units. However, a combined 90 total chaplains across the Guard as of today are unable to meet the needs of nearly 448,000 Guardsmen. We all must do more to ensure that members of the Reserve Component have access to qualified mental health professionals. There is no doubt that increasing funding in order to hire additional Directors of Psychological Health and full-time chaplains is a positive step forward.

NGAUS has and will continue to support increased access to Veterans Centers for our members. Last Congress, we endorsed Ranking Member Tester's bill, S. 832, to authorize the provision of behavioral-health readiness services to certain members of the Reserve Component

based on need and to expand eligibility to such members for readjustment counseling from the Department of Veterans Affairs.

As you know, members of the Guard and Reserve Component struggle to access the same care as their Active Duty counterparts because they often live far from military installations. For this reason, we ask for your support in pursuing initiatives that utilize new technologies, including access to telehealth services, to deliver care to our most vulnerable members.

Currently, members of the National Guard and Reserves undergo annual health assessments to identify medical issues that could impact their ability to deploy, but any follow-up care is often pursued at their own expense. We supported Ranking Member Tester's legislation that would have allowed Guardsmen and Reservists to access Vet Centers for mental-health screening and counseling, employment assessments, education training, and other services to help them. We ask for your assistance in pursuing additional legislation that would provide all drilling Guard and Reserve members access to Vet Center counseling services regardless of whether they have been deployed.

While NGAUS continues to support the Department of Veterans Affairs mental health initiatives, we believe it is essential to establish a network of local, state, and federal resources centered at the community level in order to deliver evidence-based care to veterans whenever and wherever they are located. To facilitate the leveraging of innovative mental health care providers in our communities, the VA can actively exercise its authority to contract with private entities in local communities, or creatively implement a voucher program that would allow our veterans to seek fee-based treatment locally outside the brick and mortar of the Veterans Affairs' facilities and even Vet Centers.

The Military Support Program (MSP) established by the Department of Mental Health and Addiction in the state of Connecticut is one fantastic example of a community-based initiative. We believe the MSP could serve as a successful model for the rest of the nation. For just over \$500,000 per year, the MSP, which is available to all Servicemembers, veterans and their families in Connecticut, provides its clients with accessible, convenient and completely confidential counseling services through a geographically dispersed network of over 400 clinicians, as well as the staffing of a 24/7 call center.

The MSP also includes an Embedded Clinician Program, who are civilian providers made available to Connecticut National Guard personnel during their unit's weekend training periods and at any time over the phone. They get to know the unit members and are immediately accessible if a Guardsman needs assistance or would like to schedule follow-on counseling. We believe this program is successful because it focuses on accessibility and convenience for the men and women of the Connecticut National Guard. NGAUS would be more than willing to facilitate establishing a collaborative relationship between the Connecticut National Guard, MSP, and this Committee.

While we recognize there is no silver bullet to dealing with a myriad of mental health issues across all components of the military, NGAUS will support all legislative approaches that seek to expand quality, access and affordable healthcare options for our members.

**Conclusion:**

I thank you all again for allowing NGAUS to testify before this Committee today. As I retire from NGAUS at the end of this month, I look forward to introducing you to my successor, Brigadier General Roy Robinson. It has truly been a distinct honor to work with every member

of this Committee. And I sincerely appreciate all your steadfast leadership in advocating for the men and women of the National Guard.

**Biography of MG (Ret) Gus Hargett:**

Retired Tennessee Army National Guard Adjutant General Maj. Gen. Gus Hargett succeeded retired Brig. Gen. Stephen M. Koper, as president of the National Guard Association of United States on Jan. 1, 2010.

General Hargett is the chief executive officer of NGAUS. He is responsible for the association's day-to-day operations in Washington, D.C., and a staff of 28 employees. He also oversees the National Guard Educational Foundation, which maintains the National Guard Memorial Museum.

The duties include providing the Guard with unified representation before Congress and a variety of other functions to support a nationwide membership of nearly 45,000 current and former Army and Air National Guard officers.

General Hargett was the Tennessee adjutant general from 2002 through the end of 2009. In that capacity, he was responsible for the supervision of the Military Department of Tennessee, which includes the Tennessee Army National Guard, the Tennessee Air National Guard, the Tennessee Emergency Management Agency and the Tennessee State Guard.

In all, he has more than 47 years of military service. He enlisted in the Tennessee Army National Guard in 1962 as an infantry soldier and served in a variety of staff and leadership positions in his home state, in the Pentagon and overseas. During Operation Desert Shield/Storm, he was chief of operations and exercises at the National Guard Bureau in Arlington, Va.

General Hargett holds a bachelor's degree in criminal justice from Cumberland University in Lebanon, Tenn. He also completed the Defense Language Institute and the U.S.



Army War College and holds the distinction of being the first National Guard officer to attend the NATO Defense College in Rome, Italy.

He also has served on the Pentagon's Reserve Forces Policy Board, the Army Reserve Forces Policy Committee and was NGAUS chairman of the board—the association's elected leader—from 2002 to 2004.

Just prior to his retirement, General Hargett received the Distinguished Service Medal, the U.S. military's highest award for non-battlefield service. The award citation noted his "masterful balance of compassion and strength."

Among his many other military decorations are the Legion of Merit, the Meritorious Service Medal and several Tennessee National Guard awards.

The general is married to the former Shirley Wilson. They have four children and seven grandchildren.