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STATEMENT OF
RAYMOND C. KELLEY
AMVETS NATIONAL LEGISLATIVE DIRECTOR

BEFORE THE
HOUSE SUBCOMMITTEE ON COMMERCIAL AND
ADMINISTRATIVE LAW

CONCERNING
THE AMENDMENT OF THE BANKRUPTCY ABUSE PREVENTION
AND CONSUMER PROTECTION ACT OF 2005, EXEMPTING
CERTAIN GUARD AND RESERVE MEMBERS FROM THE
BANKRUPTCY MEANS TEST

TUESDAY, APRIL 1, 2008
2141 RAYBURN HOUSE OFFICE BUILDING
2:00PM

Madam Chair Sánchez, Ranking Member Cannon, and members of the Subcommittee:

On behalf of AMVETS (American Veterans) I want to thank you for providing me the opportunity to testify before this Subcommittee concerning the proposed amendment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109-8) as outlined in H.R. 4044.

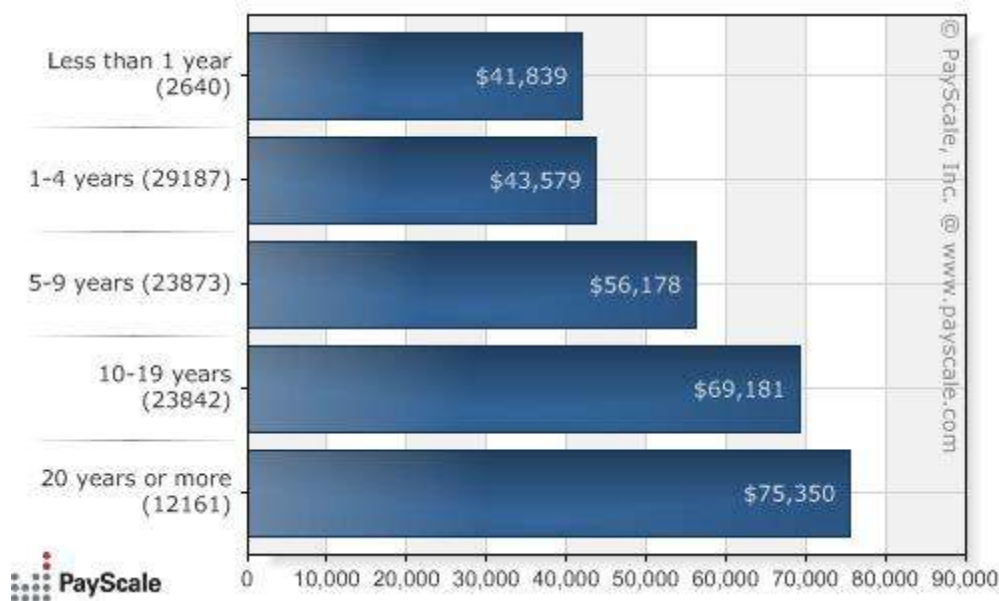
AMVETS strongly supports amending the Bankruptcy Abuse Prevention and Consumer Protection Act to exempt National Guard and Reserve members who have been called to active duty for no less than 60 days from the bankruptcy means test. Although bankruptcy should be used as a last resort to overcome accumulated debt, AMVETS realizes that Guard and Reserve members are frequently asked to accumulate debt when they deploy in service of the United States. These citizen warriors often serve in austere places around the world making less than they do in their civilian occupations. Extended or repeated deployments will require these servicemembers to rely on credit to support their families. All too often, these servicemembers return to civilian life either looking for suitable employment or dealing with an employer who either does not understand or disregards the laws pertaining to employees who serve in the military, all of this while they are trying to readjust to civilian life. This does not include those who suffer from the effects of combat that prevent them from providing for their families. These effects can be seen in the number of homeless veterans and the percentage of veterans who are unemployed. Removing the means testing for these veterans will help reduce the financial stresses that often complicate readjustment to civilian life.

Currently there are 18,252 National Guard and 8,288 Reserve members on active duty in support of OIF/OEF and Operation Jump Start along our southern border. Nearly 500,000 servicemembers from the Guard and Reserve have been deployed to Iraq and Afghanistan since 2001, with 25% of these servicemembers deploying more than once. The Guard and Reserve components of our military were not developed to sustain these types of missions over extended periods of time. It is a testament to the leadership of our Guard and Reserve forces and the

character of those serving in their ranks to be able to consistently sustain this mission tempo for six years. The stress associated with combat and leaving ones family is only aggravated by financial hardships that often accompany deployments.

On average Reserve members who have been employed for nine years in both their civilian occupation and in the Guard or Reserves and can expect to have an income deficient of nearly \$10,000 over a one-year period. There will be a \$2,700 combat pay and tax breaks while in the “Combat Zone” but these benefits are not present during mobilization or demobilization. With these statistics, it is easy to presume that Guard and Reserve members who are called to active duty will fall below the state average for income; therefore they would still qualify to file under Chapter 7 bankruptcy laws by not meeting the means test.

Average salary for residents of Illinois



Regular Military Compensation Calculator

<http://www.payscale.com/research/US/State=Illinois/Salary>

Results from Springfield, IL. Servicemember with 9 years of service at E-6 pay grade

Your Results		
	<u>Monthly</u>	<u>Annual</u>
Basic Pay	\$2,607.60	\$31,291.20
BAS	\$294.43	\$3,533.16
BAH	\$887.00	\$10,644.00
<hr/>		
Cash Total	\$3,789.03	\$45,468.36
Tax Advantage	164.08	1,968.98
<hr/>		
Regular Military Compensation	3,953.11	47,437.34

Office of the Secretary of Defense Military Compensation

<http://www.defenselink.mil/militarypay/mpcalcs/Calculators/RMC.aspx>

Adding to the financial hardship of being activated from Reserve to active duty status is the length of time these Guard and Reserve members are deployed. Currently, most deployments are predicted to be a one-year tour, but more often than not they turn into 16 to 24 month of activation. If a Guard or Reserve unit is projected to serve 12 months “boots on the ground” there are weeks and often months of pre-mobilization and training that must be validated prior to entering the combat zone and post-deployment de-mobilization that are hidden in these deployments.

Not only are some of these servicemembers taking a cut in pay, they also encounter employment discrimination for their service. The Uniformed Service Employment and Reemployment Rights Act (USERRA) provides employment and reemployment rights for members of the uniformed services, including veterans and members of the Reserve and National Guard. Under USERRA, service members who leave their civilian jobs for military service should be able to perform their

duties with the knowledge that they will be able to return to their jobs with the same pay, benefits, and status they would have attained had they not been away on duty. USERRA also prohibits employers from discriminating against these individuals in employment because of their military service. As outlined in the AMVETS sponsored "Symposium for the Needs of Young Veterans," USERRA reporting mechanism is inconsistent and complete understanding by servicemembers and employers of the Act is insufficient. In 2002 there was a 35% increase in USERRA violations with an approximate 10% increase in the years following. Now, compounding the fact many of these Reserve members are making less money, they may be returning to an employer who is violating their employment rights.

To add to the difficulties, the Employment Histories Report which was prepared by Abt Associates, Inc. for the Department of Veterans Affairs revealed startling facts about recently separated servicemembers. Eighteen percent of recently separated servicemembers, those who have separated within the past three years, are unemployed, 25% earn less than \$21,849 per year. Using employment services of DoD, VA, or Department of Labor is not a strong predictor of successful employment transition. Nearly 49% of eligible servicemembers use some portion of their GI Bill Benefit and almost 29% use the Transition Assistance Program without an indication of higher earnings.

In addition the Employment Histories Report found that presenting one's self as a good candidate for employment when transitioning back to civilian life after military service is met with difficulties. Although servicemembers can tout positive attributes such as work ethic, discipline, leadership and integrity, employers often allow perceived negative attributes such as lack of specific business knowledge, being limited to taking orders, the risk of PTSD and other effects of combat to influence their decision-making when interviewing a servicemember for a specific position.

To assume veterans will use the lack of a means test to abuse the current bankruptcy laws is wrong. If we use delinquency of payments or foreclosure statistic as an indicator, veterans fare

better than the general population. Even with all these hardships, servicemembers who have VA home loans are the only group of borrowers in the last quarter who have had a decrease in delinquency of payment and foreclosures. This should attest to our servicemembers' commitment to be fiscally responsible. H.R. 4044 should not be seen as a free pass for citizen soldiers to wipe their financial slate clean, but a step to ease their burden until we show enough respect to these brave women and men by paying them enough to be able to support their families while they are protecting our freedoms.

Madam Chair, this concludes my testimony. I thank you again for the privilege to present our views, and I would be pleased to answer any questions you might have.

Raymond C. Kelley
AMVETS National Legislative Director

Ray Kelley is the National Legislative Director for AMVETS (American Veterans) at AMVETS National Headquarters in Lanham, Md. He is responsible for the planning, coordination, and implementation of AMVETS' relations with the United States Congress and federal departments and agencies, and other organizations. He develops and executes AMVETS' Washington agenda in areas of budget, appropriations, health care, veterans' benefits issues, national security, and foreign policy. Ray also represents AMVETS to federal agencies including the Department of Defense, Department of Labor, Small Business Administration, and the Office of Personnel Management. Ray's work also includes building relationships with other non-profit organizations and developing plans to promote veteran transition to civilian life after their honorable service.

Ray served six years in the United States Marine Corps. He left the service and earned a Bachelor of Science in Political Science from Indiana University. Upon completion of his degree, Ray entered service in the Army Reserve and in April of 2006, Ray was deployed to Iraq as a Psychological Operations Team Leader. Ray served for 12 months in the base of the Sunni/Shi'ia tri-angle. Ray continues to serve in the Army Reserve. Ray lives with his wife and children in Glen Burnie, Md.

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April 1, 2008

The Honorable Linda T. Sanchez Chairman
Subcommittee on Commercial and Administrative Law
2138 Rayburn House Office Building
Washington, DC 20515

Dear Madam Chair Sanchez:

Neither AMVETS nor I have received any federal grants or contracts, during this year or in the last two years, from any agency or program relevant to the April 1, 2008 Subcommittee on Commercial and Administrative Law hearing concerning H.R. 4044.

Sincerely,

Raymond C. Kelley
National Legislative Director



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