

**Statement of Congresswoman Jan Schakowsky and
Congressman Dana Rohrabacher
Subcommittee on Commercial and Administrative Law Hearing on H.R. 4044
April 1, 2008**

Chairwoman Sanchez, Ranking Member Cannon, thank you for holding today's hearing on members of the National Guard and Reserve who face bankruptcy when they return from service.

Since 9/11, more than 460,000 reservists and guards men and women have been called to active duty in Iraq and Afghanistan. One quarter of those courageous men and women have been deployed more than once. Members of the National Guard and Reserves make up 13 percent of total U.S. forces in Iraq and an astounding 21 percent of U.S. forces in Afghanistan. These men and women have left their jobs and families to courageously enter the theater of battle, often with little or no notice and without adequate time to prepare for the financial challenges that their deployments will present.

According to the National Guard, four out of 10 members of the Reserves and National Guard lose money when they leave their civilian jobs for active duty. This is especially true for servicemembers who own and operate small businesses. These entrepreneurs put their businesses on hold, sometimes sacrificing them altogether, while they serve their country. Additionally, many members of the Guard and Reserves leave for the war thinking they will only be deployed for 6 to 12 months, and end up staying for fifteen months. There is almost no way that they can anticipate or and prepare for that extension of their service financially.

Because the forms used in bankruptcy petitions do not ask for veteran status there is currently no data available on the numbers of veterans who have filed for bankruptcy. Unfortunately, neither the Department of Defense nor the Department of Veterans Affairs (VA) keep estimates of the numbers of veterans who file for bankruptcy. However, we know that even before 9/11 many members of the military had to file for bankruptcy. A 2004 Government Accountability Office study reported that 16,000 active duty military personnel filed for bankruptcy in 1999.

While there are no figures available for the number of veterans filing for bankruptcy, an array of economic indicators point to increasing hardship for veterans. A 2007 report commissioned by the VA found that veterans have difficulties in finding their first civilian job within the first two years after they return home. As compared to their peers with the same educational attainment and demographic characteristics, these veterans are more likely to earn lower wages, especially among the college-educated. Eighteen percent of recently separated servicemembers are currently unemployed, and of those employed since separation twenty five percent earn less than \$21,840 a year.

Our legislation would help returning servicemembers like Jeremy W., a member of the National Guard who, like so many others, does not want to be identified because of the stigma surrounding financial distress. Jeremy was deployed to active duty in Iraq from

March 2006 to June 2007. After he returned, he didn't want to be away from his wife, 4 year-old daughter and 7 year-old son, so instead of returning to his previous job as a truck driver, he took a lower-paying job. Jeremy now works 6 days a week to pay the bills and is teetering on the brink of losing his house.

We want to help people like Mrs. Vicky Wessel. When she appeared on "60 Minutes" in 2004, she expressed the concerns shared by many families of reservists whose husbands or wives have been called to active duty experience. When asked why she was having financial difficulty, she said, "It is because a staff sergeant's pay is a 60 percent cut in pay from my husband's regular job."

There are thousands of families like the Wessels, who struggle financially while a family member is deployed and after they return from their tours. Many veterans who cannot return to work or return to lower paying jobs even end up homeless. The VA estimates that on any given night in 2007, 154,000 veterans were homeless, and that there are 1,500 homeless veterans of the wars in Iraq and Afghanistan. It is shameful that after serving our country, many veterans face such dire financial circumstances that they lose their homes and many end up living on the streets.

Record numbers of veterans are also returning home severely injured. A staggering 31,000 service members have been injured in combat in the wars in Afghanistan and Iraq. Compared with previous wars that the nation has fought a larger proportion of soldiers are surviving their injuries because of the advancement in battle field medicine. In World War II, 30 percent of U.S. servicemembers injured in combat died. In Vietnam, the proportion dropped to 24 percent. In Operation Enduring Freedom in Afghanistan (OEF) and Operation Iraqi Freedom (OIF) about 10 percent of those injured have died.

The Veterans Administration reports that increasing numbers of severely wounded servicemembers are returning home, many requiring prosthetic limbs and extensive medical treatment. Since FY2002, the VA's Prosthetic and Sensory Aids Service has provided services and products to over 22,000 veterans of Iraq and Afghanistan. Many of these men and women will never be able to return to their previous employment and may face long periods of rehabilitative care to get back on their feet.

Thousands of veterans are also returning with traumatic brain injury (TBI) and post traumatic stress disorder (PTSD) which may make returning to work impossible. The VA began screening veterans for TBI in April 2007 with startling results. Of the 61,285 veterans that VA has screened for TBI to date, 11,804 (19 percent) screened positive for TBI symptoms.

In April 2005, the *Bankruptcy Abuse Prevention and Consumer Act* became law, changing the way individuals have to discharge their debts in bankruptcy. A provision in this legislation requires individual debtors who file for bankruptcy to submit to a means test which assesses their eligibility to file for bankruptcy protection. H.R. 4044 would provide safe harbor from this means test for members of the National Guard and Reserves who have returned from service and are facing bankruptcy.

The means test involves a lengthy and complicated process which can end with being denied the ability to file for bankruptcy protection. H.R. 4044 would simply allow National Guard and Reservists to file for Chapter 7 without the added paperwork burden and other obstacles that the means test presents. The bill would only apply to our citizen soldiers who have served in the armed forces for more than 60 days since September 11, 2001, and would only exempt them from the test for only up to 180 days after they return home. We would be happy to work with the committee to extend that time period if you feel that it is appropriate.

Veterans and their families who must file for bankruptcy face the means test, which does not accurately judge their ability to repay their debts. The means test has a particularly adverse impact on servicemembers who, while deployed in Iraq or Afghanistan, receive higher compensation in the form of combat pay and have fewer expenses. Upon leaving service those individuals face lower income and higher expenses, but because the means test factors in a person's income and expenses for the six-month period *preceding* the bankruptcy filing, a veteran's income is artificially inflated and their expenses seem unduly low. As a result, these servicemembers risk having their chapter 7 case dismissed and being forced to file under the stricter chapter 13.

The men and women who have risked their lives to protect us deserve protection from us in return. They don't deserve to be penalized for their service through greater hardships. These are people who, through no fault of their own, may end up in bankruptcy. They risk their lives for us, give up promising careers and small businesses, and should not face harsh bankruptcy procedures if they are in financial distress when they return home. When the changes to bankruptcy law were made in 2005, Congress saw the importance of exempting disabled veterans whose debts were incurred while they were on active duty from means testing. Our bipartisan legislation would allow the same flexibility for those heroes returning from active service in the Guard and Reserves.