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**TESTIMONY OF U.S. REPRESENTATIVE JERROLD NADLER (D-NY 08)**

**Before the Energy and Commerce  
Subcommittee on Health**

**The James Zadroga 9/11 Health and Compensation Act of 2008**

**July 31, 2008**

I want to extend my thanks to Chairman Pallone, Ranking Member Deal, and the members of the Subcommittee for convening this hearing and inviting my colleagues and me to testify before you today. I also want to thank Speaker Pelosi, the Chairmen of the Committees of jurisdiction, the bi-partisan members of the New York, New Jersey, and Connecticut Congressional delegations, the Mayor of the City of New York, and the Governor of New York, the AFL-CIO, and numerous local community groups for working with us intensively over the past several weeks to sharpen the focus of the legislation before you today.

As you know, Congresswoman Maloney and I, along with Congressman Fossella and Congressman King have introduced H.R. 6594, the James Zadroga 9/11 Health and Compensation Act of 2008, to ensure that the living victims of the September 11<sup>th</sup> terrorist attacks have a right to health care for their World Trade Center-related illnesses and a route to compensation for their economic losses. We believe that the current version of this bill represents our collective best efforts to provide that critical support for those affected by the attacks – regardless of whether they are our heroic first responders, area workers, resident, students or others – through a stable, long-term approach that builds on successful, existing programs. And it does all of this in a fiscally responsible manner.

We are hopeful that today's hearing marks the beginning of the end of our collective seven-year struggle in pressing this case. Those of us sitting on these panels have held so many press conferences, testified at so many hearings and released so many memos and reports about the environmental impacts and health effects of 9/11, that we can hardly keep track anymore.

We warned that the air wasn't safe and that our courageous first responders were not properly protected from dangerous toxins as they were toiling on the pile to rebuild. We spent years working to try to convince public officials that the asbestos, fiberglass and other toxins had travelled far and settled into the interiors of residences, workplaces and schools, and that a proper testing and cleanup program would be required to eliminate the health risks to area residents, workers and students. We demanded that the government acknowledge the fact, supported by a mountain of peer-reviewed research, that thousands of our nation's citizens are today sick from 9/11 and that many, many more could become sick in the future. We explained to whomever would listen that our 9/11 heroes were struggling to pay health care costs because they could no longer work and no longer had health insurance, or because they have had their worker's compensation claims controverted, and we have argued vigorously that the federal response to date has been dangerously limited, piecemeal and unstable – both in terms of preventing further health impacts from potentially persistent indoor contamination and, most notably, in terms of a lack of comprehensive, long-term approach to providing health care and compensation for those already affected.

Thankfully, we believe that we have now finally achieved a much more widespread recognition of many of these problems, and nearly seven years after the attacks, we believe that Congress will do what is right for our heroes and our living victims, and pass H.R. 6594.

Though the devastating 9/11 attacks on the World Trade Center occurred within the bounds of my Congressional district, we know that these were really attacks on our nation as a whole – figuratively and literally. The President has repeatedly referred to them as such. The victims can be found throughout the country. Every member in New York's downstate delegation represents hundreds, if not thousands, of people who live, work, attend school, or were otherwise present in Lower Manhattan and the affected parts of Brooklyn, and were exposed to a toxic brew of contamination. Indeed, every member in this room represents a state that has people suffering from the negative health effects of 9/11.

And as this is unquestionably a national problem, it has always required a national response. But despite our sustained efforts to get the Administration to develop a comprehensive plan to deal with this growing public health problem that they themselves now finally acknowledge, the New York delegation has instead found itself, year after year, coming to Congress with its "hat in hand" to test its luck at the annual appropriations process. Thankfully, with growing bi-partisan support for that funding, we have had some key successes. And with those monies we have seen some critical first steps in federally-funded health care programming, thanks to dedicated public servants like Dr. John Howard. But this is simply no a longer a tenable course of action. Neither our heroes nor the excellent health care programs that currently serve them should have to rely on such an unpredictable funding process.

Passage of the James Zadroga 9/11 Health and Compensation Act would mark an end to this entire problematic approach and ensure that a consistent source of funding is available to monitor and/or treat the thousands of responders and community members and others already affected by WTC-related illnesses as well as those who are most likely to become sick in the future. And it would make sure that no matter where an affected individual were to live in the future, he or she could get care. Building on the expertise of the Centers of Excellence, the bill would fill key gaps in how we are currently providing treatment and monitoring. The bill would also require substantial data collection regarding the nature and extent of WTC-related illnesses. This is a particularly critical provision as there is still so much we have to learn about these illnesses and how they may have affected different exposure populations. And finally, as you know, this legislation would provide an opportunity for compensation for economic damages and losses by reopening the 9/11 Victim Compensation Fund.

The needs here are abundantly clear. We already have 16,000 first responders currently being treated for WTC-related illnesses and another 40,000 being monitored through a Consortium of providers, led by Mt. Sinai Hospital, and by the FDNY. And we have 3,000 sick community members being treated in an entirely City-funded program – the World Trade Center Environmental Health Program at Bellevue Hospital – with countless others being treated elsewhere either because they don't know about the Bellevue program or for a host of other reasons. Indeed, without a single federal dollar going to the Bellevue program thus far, it hasn't even had the means to do any real outreach and marketing as of yet.

But unfortunately, these are just today's numbers. In a February 2007 report to Mayor Bloomberg, entitled "*Addressing the Health Impacts of 9/11*," The City of New York estimated, conservatively in my opinion, that there were nearly 90,000 first responders (who were by definition heavily exposed to WTC toxins) and about 318,000 "heavily exposed" community members, who were living or working within an even more narrowly drawn radius than is used in this bill, who could ultimately become sick as a result of the effects of the 9/11 attacks.

As you may know, the preliminary cost estimates of the original version of the bill were far higher than our expectation of what would be needed to treat everyone who might be affected. As such, it was required that we redesign the bill in order to bring those costs down dramatically, by many billions. We made many different kinds of cuts, and some of these were tremendously difficult to swallow.

With respect to the community program, a variety of cuts were required. First, this new bill fundamentally shrinks the radius within which individuals who reside, go to school or work (including commuters from throughout the Tri-state area) would be eligible for services. Second, it caps the total number of new treatment slots to 35,000 (which, incidentally, is the same level as the responder program). It also creates contingency funds with strict dollar limits, and caps other kinds of spending.

With this necessity of cost cutting, concerns have been raised about the fact that we may have already mistakenly excluded some individuals who may have been or are still being exposed to 9/11 toxins and who may become sick. This is because although we do have a good deal of data about toxicity levels of the plume at certain distances from the WTC site, there has never been a systematic testing program to determine the geographic extent of indoor contamination, in concentric circles out from the site, as was prescribed by the EPA Inspector General. The concern arises as well because individual cap levels in the bill were determined in part by looking to the current number of people being treated in each of the existing programs. And as has been previously stated, we know that the population in the community program at Bellevue underrepresents the total population that is currently sick.

Nevertheless, I am hopeful that these fears are unfounded. Beyond the obvious goal in making sure we could provide this Committee with a bill whose price tag allowed for a real chance a passage, our aim was to use our best data and knowledge to date to estimate the actual numbers of people we believe are currently or will likely get sick. Our goal was not to deny any deserving individual care or compensation. Though it was a very difficult challenge, I believe the City of New York, using its World Trade Center Registry and other available data, has done a very good job at advising us regarding the community cap level. We are all obviously hopeful that there will be far fewer people who ultimately become sick than are eligible for care under this bill. And if we are wrong in the other direction, it will be for future Congresses to consider.

But today, you must decide if you are going to be a part of the beginning of an effort to honor the heroes and victims of 9/11 and to provide for their health and compensation for losses in a reasonable and responsible manner. Your decision is to begin a program that will benefit thousands of people who are now struggling to pay their medical bills and keep their families together. Your decision is about how you will respond to the September 11<sup>th</sup> attacks. I urge you to come to the aid of those who helped our country in its most desperate hour by supporting this legislation.

You would not be alone. The broader, original version of this bill had more than 100 bi-partisan co-sponsors. It stands to reason that we will see even more support for this new bill. This legislation is also strongly supported by Governor Paterson, Mayor Bloomberg, Speaker Pelosi, the national AFL-CIO, Building and Construction Trades Council, the Contractors' Association of Greater New York, the Building Trades Employers' Association, and numerous environmental and community advocacy groups.

Please join us in finally doing the right thing before the seventh anniversary of the 9/11 attacks. Support the James Zadroga 9/11 Health and Compensation Act.

I thank you for holding this hearing and look forward to the testimony of my colleagues and other witnesses today. Thank you.