

**Supplemental Testimony of Michael Palmer, J.D., Ph.D.
Before the House Committee on Government Operations
Concerning Senate Bill 8**

Montpelier, April 12, 2017

This statement supplements my testimony before the Senate Government Operations Committee (made available to this Committee as well), which refers to the possibility that Vermont could be losing as much as \$250 million a year from fraud, theft, and corruption. We don't know the correct amount but even if it's only 1/10th of 1 percent of annual spending, the loss is at least \$5 million.

Those unfamiliar with how organizations lose money to fraud and theft may find even this number surprising and too high. Please consider the following known instances of fraud affecting the coffers of the State of Vermont in recent months and years:

Since Vermont's False Claims Act was enacted in 2015, the following matters have come to light (others may be under confidential investigation):

- [Keene Medical Products](#) paid the State \$460,000 to settle a Medicaid fraud claim.
- Mousetrap Pediatrics has agreed to [pay the State of Vermont \\$66,553.65](#) to correct improper billing, including a \$15,000 civil penalty.
- [Burlington Labs](#) agreed to [pay \\$6.5 million](#) to the State of Vermont to settle a Medicaid false claims case.
- In May 2016, an accounting firm agreed to [pay the U.S. and the State of Vermont a total of \\$105,000](#) to settle a false claims case.
- The Vermont Attorney General is investigating an allegation that the Brattleboro Retreat [defrauded the State out of millions of dollars](#).
- [Vermont physician](#) pays [\\$76,000](#) to resolve false claims acts violations.

Before the False Claims Act, Vermont's Medicaid fraud unit collected [\\$23.5 million in settlements from 2010 to 2014](#), a number some observers say would have been higher had the False Claims Act been in place. That amount alone averages \$4.7 million per year.

In a February 2016 settlement of a false claims case, [Dr. Gamal Eltabbakh and Lake Champlain Gynecologic Ontology](#) paid \$500,000, with part of the funds going to Vermont and the balance to the United States.

In June 2016, Raymond James and Associates agreed to [pay the State of Vermont \\$5.9 million](#) in connection with violations of the state's securities laws. While the bulk of that money went to the Receiver in the Jay Peak case, Vermont received \$1.45 million. In addition, several Vermont towns, cities, and utilities have been the [victims of significant embezzlement crimes](#), including \$1.6 million embezzled from the [Hardwick Electric Department](#).

When no ethics hotline, internal audit, or management review is in place, frauds of this kind are **most often discovered accidentally**.¹ Because Vermont's administrative agencies lack the structural safeguards that are typically part of a professional ethics and compliance regime, it is likely that the examples mentioned above constitute only a small part of the losses the State is incurring.

Moreover, the list above does not include the losses to Vermont's treasury from pilfering, false statements, padded expense account reports, inflated hourly billing, and unnecessarily high construction and other contracts as a result of sole-sourced sweetheart deals, said to be 40% of government contracting in our State.

Fraud and theft losses in an organization are like the energy a house loses because of poor insulation. Currently, Vermont government is like an 1876 farm house that has never been insulated or upgraded but uses oil and electricity to keep the place toasty. We have taken effective steps to combat this kind of energy waste. We should do the same with losses from fraud, theft, and corruption. A thoroughgoing and effective ethics program will make a significant contribution to that result; and it almost certainly will more than pay for itself.

¹ See [2016 Report to the Nations](#) 21 (Association of Certified Fraud Examiners).