



KANSAS LEGISLATIVE
DIVISION *of*
POST AUDIT

A Performance Audit Report Presented to the Legislative Post Audit Committee

Evaluating Association Membership Fees and Dues and Lobbyist Payments

September 2020

Report Number: R-20-010

Introduction

Senator Dennis Pyle requested this audit, which was authorized by the Legislative Post Audit Committee at its April 30, 2019 meeting.

Objectives, Scope, & Methodology

Our audit objective was to answer the following questions:

1. How much money did state and local governments spend directly on lobbyists in 2019?
2. How much money did state and local governments spend on association membership fees and dues and to associations that provide lobbying services in 2019?

To answer question one, we reviewed the 2019 public funds reports Kansas lobbyists must file with the Secretary of State. In these reports, registered lobbyists declare how much public funds they received for lobbying from state or local governments. We interviewed staff at the Kansas Secretary of State and the Kansas Governmental Ethics Commission. We also interviewed a few lobbyists for associations of government entities.

To answer question two, we surveyed all state agencies and local governments in Kansas that we could identify. We asked how much they spent on association fees and dues in fiscal year 2019 and if they thought those associations had a lobbyist. The information survey respondents provided is self-reported, so we cannot verify its accuracy.

More specific details about the scope of our work and the methods we used are included throughout the report as appropriate.

Important Disclosures

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Overall, we believe the evidence obtained provides a reasonable basis for our findings and conclusions based on those audit objectives.

Auditing standards require that auditors be independent and impartial in their work. To that end, we need to disclose that our agency paid membership fees and dues to several associations in fiscal year 2020. Those included the National Association of State Auditors, Comptrollers, and Treasurers (\$4,500), the Society for Human Resource Management (\$219), and American Economic Association (\$34). We collected similar information for other legislative agencies, which we included in this

report. It is very unusual for our audit work to involve legislative agencies (especially our own). However, we do not think it affected our independence given the nature of our audit objectives.

Lobbyists registered in Kansas reported receiving almost \$1.3 million in public funds for lobbying in 2019.

Lobbying Services

State and local governments can employ lobbyists or belong to associations that employ lobbyists.

- State agencies and local governments are funded with public money (i.e., state and federal taxes, local taxes, special fees and assessments, etc.). They can use that public money to pay a lobbyist or hire staff to advocate for their interests in legislative matters. They may also use that money to pay a lobbyist for other services like research on relevant legislative issues or legal services (if the lobbyist is also a lawyer).
- State agencies and local governments also belong to local, state, national, and professional associations that hire lobbyists. These include the Kansas Association of Counties, the League of Kansas Municipalities, and the Kansas Association of School Boards. Governments typically belong to these associations for their professional resources and training services, not for their lobbying services. However, part of the fees and dues governments pay to these associations may be used to pay the associations' lobbyists.
- For this report, local governments include cities, counties, townships, and school districts. They also include special districts, which are political or taxing subdivisions of the state. Special districts are often created to address a need for certain services not provided by another unit of local government. Examples include fire districts, cemetery districts, rural water districts, and even community colleges.

Some people who lobby do not have to register as lobbyists.

- State law (K.S.A. 46-225) broadly defines lobbying as promoting or opposing any legislative, executive, or judicial matters or the adoption of any rule and regulation by a state agency. State law (K.S.A. 46-222(a)) more narrowly defines a lobbyist as anyone who:
 - is employed in considerable degree for lobbying
 - is appointed as the primary representative of an organization or person to lobby on state-owned or leased property
 - spends \$1,000 or more in any calendar year for lobbying
 - is hired as an independent contractor and compensated by an executive agency for the purpose of evaluation, management, consulting or acting as a liaison for the executive agency and who engages in lobbying
- Those who meet the definition of lobbyist in the statute are required to register with the Secretary of State each year. The Secretary of State

maintains a directory of all lobbyists in the state and their clients. In 2019 there were about 550 lobbyists registered in Kansas representing about 750 different clients.

- However, state law (K.S.A. 46-222(b)) exempts state employees, judicial employees, and advisory council members who lobby as part of their job from registering as a lobbyist. For example, an accountant from a state agency advocating for their agency's budget at a legislative hearing is lobbying but does not need to register. However, if the state agency hired an outside contractor to lobby for the agency budget at a legislative hearing, that person would need to register. Also, the exemption does not include local government employees, like a school district employee lobbying for their district. This exemption is important because it means no one has a full picture of lobbying in the state.
- We do not know how many state employees or other exempted individuals might be lobbying but are exempted from registering with the Secretary of State.

Only registered lobbyists are required to report receipt of public funds to the Secretary of State.

- State law (K.S.A. 46-295) requires all registered lobbyists to report the amount of public funds received from state agencies, local governments, or associations of governments for their lobbying services. They submit the public funds report to the Secretary of State each year. The Ethics Commission then reviews the reports and tries to ensure all registered lobbyists have reported.

State law does not define associations of governments, but examples of those reported include groups like the Kansas Association of School Boards and the State Association of Kansas Watersheds.

- Because the law only requires registered lobbyists in Kansas to report public funds received, these reports do not include all of Kansas' public funds spent on lobbying. For example:
 - The reports don't include public funds that state or local governments spend on federal lobbyists.
 - The reports don't include public funds that state agencies spend on their own employees who promote or oppose legislative action as part of their job duties. That is because state employees doing this are exempt by state law. If a state agency contracts with a lobbying firm for lobbying, that money is reported by the lobbyist. But if the state agency uses its own staff to do that work, the money isn't reported.

- The reports don't include payments from associations of government entities that come from non-public sources. For example, an association of government entities may choose to separate their public and non-public funding sources and pay their lobbyist with non-public funds only. In that case, the lobbyist's public fund report would say they did not receive public funds from the association of government entities.

Payments to Kansas Lobbyists

Lobbyists self-report the amount of public funds they receive for lobbying and some lobbyists did not file the required report for 2019.

- Registered lobbyists are required to file a report listing the amount of public funds received (even if the amount is \$0) for each client by January 10 of each year. We reviewed all reports that lobbyists filed for calendar year 2019.
- The information lobbyists submit is self-reported. It was not feasible for us to verify this information because it would require a detailed review of timekeeping and financial records. We did review this self-reported information at a high level to ensure it seemed reasonable and did not have any notable outliers.
- We found a potential issue with how much the Kansas Hospital Association pays for lobbying. The lobbyists on staff at the Kansas Hospital Association (KHA) reported receiving the highest amount, about \$240,000. They told us this amount is significantly overstated. They said they reported all funds received from their public community hospital members for lobbying as public funds. However, they said public community hospitals have many funding sources and include funds they consider to be non-public funds like commercial insurance payments for services.
- Further, not all lobbyists filed the 2019 report, which could understate the totals. At the end of February 2020, 110 reports (about 7%) were not filed from the about 1,500 reports we expected. Lobbyists can represent numerous organizations and some organizations are represented by multiple lobbyists. Because lobbyists are required to file a separate report for each client, the number of reports filed will exceed the number of registered lobbyists. Ethics staff reported there is no penalty in statute for not filing public funds reports, which makes it difficult to enforce. Ethics staff said they try to increase compliance by contacting lobbyists who did not file their public funds report or may have filed incorrectly.

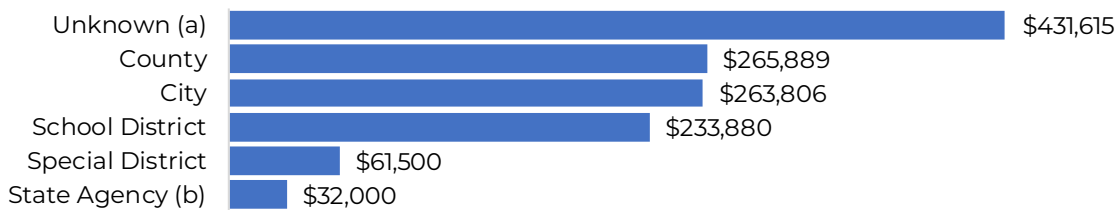
Lobbyists registered in Kansas reported receiving almost \$1.3 million in public funds for lobbying in 2019.

- A small portion of registered lobbyists report receiving public funds. 63 of the about 550 lobbyists registered in Kansas reported receiving public fund

payments from 52 state agencies, local governments, or associations of governments (i.e., their clients). The lobbyists reported those 52 clients paid them almost \$1.3 million in public funds in 2019.

- We grouped the 52 clients that paid lobbyists into categories by the type of government (state agency, county, city, school district, special district, or unknown). For example, the League of Kansas Municipalities was categorized as having city clients. As **Figure 1** shows, registered lobbyists reported receiving about \$250,000 each from counties, cities, and school districts in 2019.

Figure 1. In 2019, lobbyists reported receiving almost \$1.3 million in public funds to lobby, with school districts, cities, and counties paying about \$250,000 each.



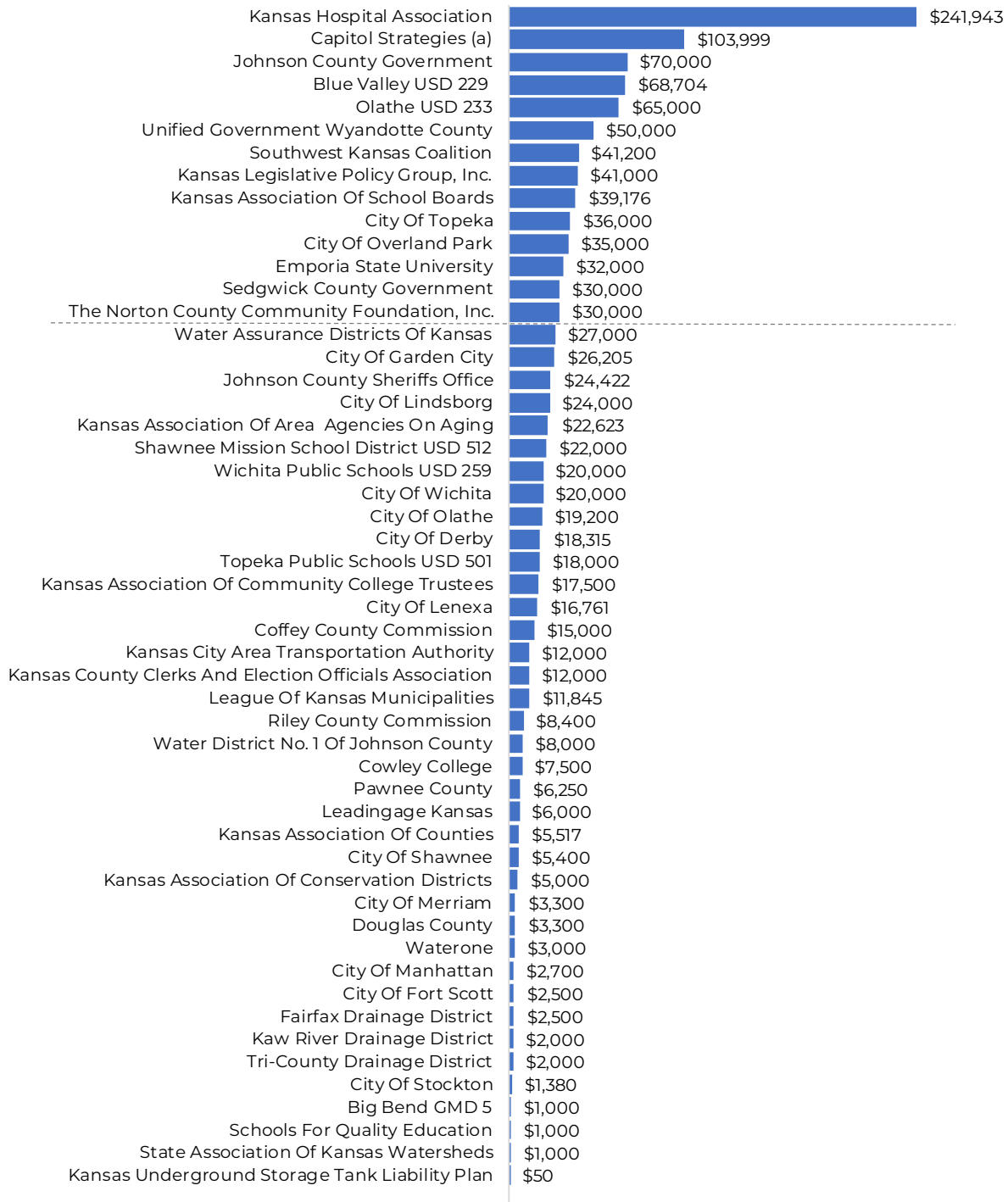
(a) Unknown means we could not determine which clients belonged to the association that paid the lobbyists.

(b) We included universities in the state agency category for this and later work.

Source: LPA analysis of Kansas Secretary of State data.

- As shown in **Figure 2**, most registered lobbyists who reported receiving public funds received less than \$30,000 from each client. For example, the City of Stockton paid \$1,380 for lobbying and the Topeka Public School District paid \$18,000.

Figure 2. In 2019, most registered lobbyists reported receiving less than \$30,000 from each client.



(a) Capitol Strategies is a lobbying firm. They do not identify in their public funds reports which governments or associations of governments pay the firm or how much each pays.

Source: LPA analysis of Kansas Secretary of State data.

Kansas state and local governments that responded to our survey reported spending about \$11 million on fees and dues to professional associations in fiscal year 2019 (\$5 million of which went to associations that lobby at the state or federal level).

There is no centralized information about state and local government spending on association fees and dues, so we had to request it from almost 3,800 state agencies and local governments.

- The Department of Administration collects general budget information from state agencies and local governments, but there are no requirements that state agencies or local governments specifically report which associations they belong to or how much they spend.
- To get the information we needed, we asked state agencies and local governments to report their spending on association fees and dues.

Although it is the best information available, only 936 (25%) of the almost 3,800 state and local governments responded to our survey.

- We requested data from almost 3,800 governments.
 - 76 out of 97 state agencies responded (78%)
 - 148 out of 286 school districts responded (52%)
 - 37 out of 105 counties responded (35%)
 - 160 out of 623 cities responded (26%), and
 - 515 out of 2,673 special districts and townships responded (19%). We could not find contact information for 450 special districts and townships. Most who responded (479 of 515 reported no spending on membership fees and dues at all.
- Response rates varied significantly depending on government type. Because some response rates were very low, the results of our survey cannot be projected statewide.
- Respondents self-reported their spending on associations. We found some issues with its completeness and accuracy. For example, some associations may be missing because respondents did not understand our request or simply didn't respond. We found several school districts that did not report belonging to KASB. However, KASB told us all but one school district in Kansas is a member of their association. Also, respondents often gave conflicting information on whether they thought a particular association provided

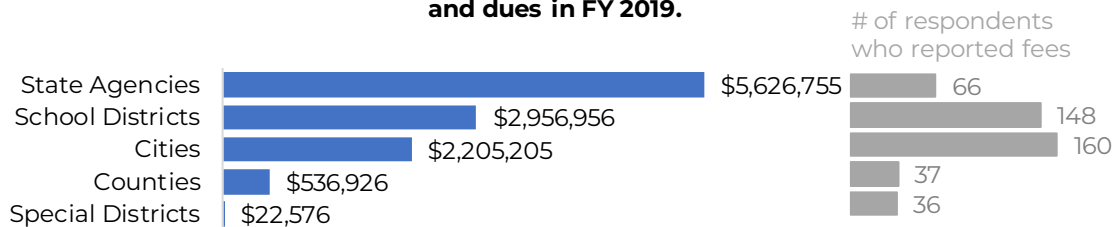
lobbying services. Because of the size of our data request we were not able to verify each answer.

- Governments also have other costs related to their memberships, like travel and registration fees for conferences. We did not review these types of costs because the scope was limited to membership fees and dues only.

About half of our 936 respondents reported spending no money on association fees and dues and the other half reported spending about \$11 million in fiscal year 2019.

- Of the 936 overall respondents, about half (489) reported spending no money on association fees and dues. The other half (447) reported spending about \$11 million on fees and dues to about 2,000 associations. Some associations are well known, like the League of Kansas Municipalities. Some are less well known, like the American Rabbit Breeders Association.
- Generally, spending on association fees and dues was less than 1% of the state agency or local government’s overall expenditures.
- We added up the spending of each type of government to get a total for each type (i.e., state agencies, counties, cities, school districts, and special districts). As shown in **Figure 3**, state agencies reported spending the most on association fees and dues. Special districts reported spending the least.

Figure 3. State agencies reported spending the most on association fees and dues in FY 2019.



Source: LPA analysis of Kansas state and local government survey responses.

Less than half (about \$5 million of the \$11 million) in fees and dues reported to us went to associations that lobby to some extent at the state or federal level.

- Of the 447 state and local governments that reported spending, 409 (or 91%) told us they paid about \$5 million in fees and dues to associations who offer lobbying services. Respondents reported that 357, or 18% of all the associations, offered lobbying services.

- Several associations we talked with said that lobbying is only a small portion of the services they offer. We interviewed three associations in Kansas that received a significant amount of fees and dues and offer lobbying services to their members (KASB, The League of Kansas Municipalities, and the Kansas Association of Counties). They told us that in addition to lobbying services, they provide training, legal advice, networking, and research on current legal or legislative issues relevant to their members. Each have staff that register as lobbyists, but they estimated those staff spent 25% or less of their time lobbying. KASB has four staff registered as lobbyists but said they spend 25% or less of their time on lobbying. The League of Kansas Municipalities has eight staff registered as lobbyists but said they spend less than 2% of their time on lobbying.
- We also compared what our survey respondents reported paying these three associations (which offer lobbying services) to the amounts their lobbyists reported receiving in public funds. As **Figure 4** shows, the amount governments reported spending on fees and dues is much larger than the amount reportedly spent on lobbying. This is not surprising, given that these associations offer many services to their members besides lobbying.

Figure 4. In FY 2019, respondents reported paying more in fees and dues than lobbyists reported receiving for lobbying.

Name of Association	Fees Respondents Reported Paying	Public Funds KS Lobbyists Reported Went to Lobbying
Kansas Association of School Boards	\$1,393,075	\$39,176
League of Kansas Municipalities	\$656,693	\$11,845
Kansas Association of Counties	\$117,449	\$5,517

Source: LPA analysis of Kansas state and local government survey responses and Kansas Secretary of State data.

Respondents reported that the other about \$6 million spent on memberships went to associations that have no or unknown lobbying services.

- Of the 447 state and local governments that reported spending, 304 (or 68%) reported spending about \$2.3 million on associations with no lobbying. Examples of associations that respondents said do not lobby are the Kansas State High School Activities Association, the Society for Judgment and Decision Making, and the Rural Sociological Society.
- 266 (or 60%) reported spending about \$3.8 million on associations with unknown lobbying services. Example of associations with unknown lobbying are the Association of American Veterinary Medical Colleges, the National Council of State Housing Agencies, and the Kansas Museums Association.

- It is also possible that some associations have lobbying services but the people lobbying are not required to register. We talked to representatives at the National Conference of State Legislatures and they said they technically lobby, but federal law exempts them from registering as lobbyists. Like the other associations we interviewed, they reported providing many other services to their members.

Less than 1% of the associations received almost 45% of the fees and dues reported by state or local governments.

- In total, 447 entities reported paying about \$11 million as fees and dues to more than 2,000 associations.
- As shown in **Figure 5**, 20 associations (less than 1%) received more than \$100,000 each. These 20 associations received more than \$5 million of the total \$11 million (46%) in association fees and dues that state and local governments reported.
 - The Kansas Association of School Boards (KASB) received the most money. The 148 school districts that responded to our data request reported they paid KASB about \$1.4 million in membership fees and dues in fiscal year 2019. All but one school district in Kansas belongs to KASB, along with some other education groups. KASB officials told us they provide many benefits to their members. One benefit was legal services so that members could have access to an attorney for questions. KASB officials also said they provide training seminars, workshops, research, and leadership services.
 - The League of Kansas Municipalities received the second largest amount with more than \$650,000. This association is primarily made up of cities in Kansas with about 550 out of 623 cities belonging. A League official told us they provide many benefits to their members like legal services, training opportunities, and research on whatever topics are needed.

Figure 5. 20 associations received more than \$100,000 each in FY 2019.

Association	Fees Respondents Reported Paying	Lobbyist Services	Entity Type (a)
Kansas Association of School Boards	\$1,393,075	Yes	School Districts
League of Kansas Municipalities	\$656,693	Yes	Cities
Accreditation Council for Graduate Medical Education	\$295,500	Unknown	State Agencies
Kansas State High School Activities Association	\$285,811	No	School Districts
Multistate Tax Commission	\$277,311	No	State Agencies
United School Administrators of Kansas	\$210,271	Yes	School Districts
Education Advisory Board: Education Technology Services	\$204,757	Yes	State Agencies
Schools For Fair Funding	\$201,657	Yes	School Districts
Kansas Municipal Utilities	\$201,146	Yes	Cities
National Conference of State Legislatures	\$162,156	No	State Agencies
National Center for State Courts	\$140,971	No	State Agencies
Regional Economic Area Partnership	\$139,511	Yes	Cities
Council of State Governments	\$133,564	No	State Agencies
Mid-America Regional Council	\$127,538	Unknown	Cities
Association of American Universities	\$123,000	Unknown	State Agencies
Conference of State Bank Supervisors	\$122,283	Yes	State Agencies
American Association of State Highway and Transportation Officials	\$121,000	No	State Agencies
Midwestern Higher Education Commission	\$120,610	Unknown	State Agencies
Kansas Association of Counties	\$117,449	Yes	Counties
Association of Public and Land Grant Universities	\$115,624	Yes	State Agencies
Total	\$5,149,927		

(a) For a few of the associations, a small portion of the total fees and dues reported came from a different category of government. For example, counties reported paying the League of Kansas Municipalities about \$10,500 of the \$656,693 total.

Source: LPA analysis of Kansas state and local government survey responses.

- Most associations received less than \$10,000 total from state and local governments. Of the approximately 2,000 associations, 91% received less than \$10,000 each.
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Conclusion

It's currently not possible to know the full amount of public funds spent on lobbying. State law requires registered lobbyists to report how much they received in public funds to the Secretary of State. However, those amounts don't include public funds paid to federal lobbyists or state employees who lobby as part of their job duties. The amounts also don't include payments that state and local governments make to lobbyists from private funds or donations. As a result, the available information is incomplete.

Further, determining how much public funding is spent on association fees and dues (and which of those associations might engage in lobbying activities) is extremely difficult. That's because Kansas has almost 3,800 state and local government entities that could be making these payments. Moreover, state law doesn't require government entities to report specifically on which associations they pay, and it's not often feasible to identify which associations might engage in lobbying activities. Even though the information we provide in this report is the best available, it is clearly not complete.

Recommendations

1. The Legislature should consider revising state law to include a penalty for lobbyists who do not file a timely public funds report with the Secretary of State.
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Agency Response

On August 5, 2020 we provided the draft audit report to the Secretary of State's Office and the Ethics Commission. Agency officials at both generally agreed with our findings and conclusions.