

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 a.m. on March 10, 2004 in Room 241-N of the Capitol.

All members were present except:

Representative Rob Boyer- excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Norm Furse, Revisor of Statutes

Renae Jefferies, Revisor of Statutes

June Evans, Committee Secretary

Conferees appearing before the committee: Wayne Maichel, Kansas Department of Human Resources
Senator Lana Oleen
Shirley Spittles, Director of Field Services, North Central
Flint Hills Area Agency on Aging, Inc.
Craig Kaberline, Executive Director,
Kansas Area Agency on Aging Association
Jim Snyder, Kansas Silver Haired Legislative Council
Matt Jordan, Director of Community Development,
Department of Commerce
Sherry Diel, Executive Director, Kansas Real Estate
Commission
Bill Yanek, KAR Director of Governmental Relations,
Kansas Association of Realtors

Others attending:

See Attached List.

The Chairman called the meeting to order and stated the first item of business would be continuation of the hearing on **SB 483 - Employment security laws; disqualification from receipt of benefits.** There were some questions yesterday regarding how a person working part-time was eligible for unemployment benefits. The Department of Human Resources was contacted and they will respond to questions in that regard today.

Wayne Maichel, The Kansas Department of Human Resources, stated a part-time employee can qualify for partial unemployment benefits but not the maximum of \$351.00 per week. If an employee's salary is \$200 per week, they receive 25% after the first \$50 is forgiven. Anything over that would be deducted dollar per dollar. Fifty dollars would be written off, leaving \$150, and the employee would draw \$100 in unemployment benefits. The Department of Human Resources thinks this is a good thing. With the large number of layoffs of people in the aircraft industry, some of them are teaching one day a week and draw unemployment for the rest of the week. Sometimes these jobs work into full-time employment. The part-time employees have to qualify just the same as a full-time employee. They must be ready, available and looking for work. If they turn down work they are not available and therefore not eligible for unemployment benefits. A card is sent out every month and if there is not a reply, unemployment is ceased. Incarcerated inmates can not receive unemployment benefits. It is difficult to administer when the information is handled on the telephone.

It was asked if employees are eligible for unemployment when they are fired because of a positive drug test?

Mr. Maichel responded, yes, they are eligible because they were not fired due to anything with their job performance. Most employers do not put their employees on the rolls before receiving results of the drug tests.

The Chairman closed the hearing on **SB 483.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE at 9:00 a.m. on March 10, 2004 in Room 241-N of the Capitol.

The Chairman opening the hearing on **HB 2908 - Membership of state and local workforce investment boards; local board advisory committees.**

Staff gave a briefing on **HB 2908** stating the board would include one older Kansan who has received assistance from a nonprofit agency or organization or public body providing services through the older Kansans employment program.

Senator Lana Oleen testified as a proponent to **HB 2908**. Prior to 2000, the federal government provided funding targeted for older workers for workforce development through the Job Training Partnership Act (JTPA). The "older worker" is designated by persons of age 55 or more. In 1999, federal workforce development funds were consolidated under one program called the Workforce Investment Act (WIA) Older workers workforce development funding is in the same pool of money as all other Kansans seeking workforce development. Older workers are a unique population with unique needs, and that age population continues to grow in Kansas. There would be very little fiscal impact as there is no salary involved, just mileage which is provided by federal grants. It would add depth to have older people on the board (Attachment 1).

Shirley Spittles, Director of Field Services, North Central-Flint Hills Area Agency on Aging, Inc., testified as a proponent to **HB 2908**. This bill is an act concerning the membership of the state workforce investment board and local workforce investment boards in the state of Kansas. It also provides for an advisory committee to each local workforce investment board. Older workers need representation on all five local boards and on the state workforce investment board. Representation on the boards would provide an opportunity for input into the plans and provide a forum for understanding into the special needs of older workers. This awareness would enhance the opportunity for funding to provide employment and training services for innovative specialized projects to serve older job seekers (Attachment 2).

Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association (K4A), testified in support of **HB 2908**. K4A's mission is to work to improve services and supports for all older Kansans and their care givers. K4A represents all eleven Area Agencies on Aging (AAA) who coordinate services for seniors in all 105 counties of Kansas. We would like the phrase "Kansans aged 55 and over shall be designated as a special population group under the Workforce Investment Act (WIA)" added under (d), line 37. (Attachment 3).

Jim Snyder, Kansas Silver Haired Legislative Council, testified in support of **HB 2908**. This supports older Kansans who wish to or have to re-enter the work force. The Kansas Silver Haired Legislative Council would recommend an amendment by inserting after the period on line 15, the sentence, "Kansans aged 55 and over shall be designated as a special target population under the Workforce Investment Act" (Attachment 4).

Matt Jordan, Director of Community Development, Kansas Department of Commerce, stated the Department requested no action be taken on **HB 2908**. The Department does not oppose the intent of the bill. Rather, Commerce believes there are very important issues raised by this proposal that deserve careful study and consideration. The Governor's Executive Reorganization Order #31 will consolidate the workforce training programs of the Department of Commerce and the Department of Human Resources as a part of the Administration's continuing search for changes in government to better serve Kansans. In light of these important changes to the state's workforce system, Commerce believes it is prudent to delay action on this bill until the next legislative session. As was stated earlier, Commerce plans to make changes to the current system to ensure that all Kansans have access to meaningful employment opportunities.

Federal law governs the requirements for the configuration of the state boards and the local boards. The Kansas board is a "grand fathered" board under the previous federal law - Job Partnership Training Act. This is known as an "Alternative Entity" under the Workforce Investment Act. We need to determine if this change in the board would require Kansas to dissolve the "alternative entity" and reconfigure the board in accordance with the Workforce Investment Act. We would like clarification from the U.S.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE at 9:00 a.m. on March 10, 2004 in Room 241-N of the Capitol.

Department of Labor concerning the ramifications, if any, of this proposed change in law (Attachment 5).

The Chairman closed the hearing on **HB 2908**.

The Chairman opened the hearing on **SB 404 - Real estate brokers and salespersons; licensure prohibited acts**.

Sherry C. Diel, Executive Director, Kansas Real Estate Commission, requested introduction of **SB 404** as a clean up measure to clarify the authority of the Commission. The requested amendments are derived from the experience over the past two years of the agency staff and the Investigation Committee in drafting agency orders for denial of licensure or for discipline purposes. The Commission has to cite several statutes to deny an application for licensure or to discipline a licensee. To discipline a salesperson or associate broker for paying compensation to an unlicensed person, the Commission must cite at least three statutes as statutory support for the violation. The proposed language attempts to specifically address issues of this nature. The proposed language repeals the limited prohibition on licensees providing a buyer or seller with a gift or gratuity (Attachment 6).

Bill Yanek, KAR Director of Governmental Relations, Kansas Association of Realtors, testified as a proponent for **SB 404**. A particular area of interest in the bill is Sec. 3 paragraph (11), which repeals the prohibition of offering or giving prizes, gifts, or gratuities which are contingent upon an agency agreement or the sale, purchase or lease of real estate.

Mr. Yanek also requested as amendment on Page 4 line 7 to add "Kansas or" between "in" and "another" and on line 9 between "the" and "out-of-state" (Attachment 7).

The Chairman closed the hearing on **SB 404**.

The Chairman asked if the committee wished to take action on **HB 2908**.

Representative Ruff moved and Representative Patterson seconded to move **HB 2908** out favorably. The motion carried.

The Chairman asked what the committee's wishes were on **SB 410** that had a hearing yesterday.

Representative Johnson moved and Representative Hill seconded to move **SB 410** out favorably.

Representative Ruff moved and Representative Lane seconded a Substitute Motion to refer **SB 410** to the Employment Securities Advisory Council.

A Division was called. 10 Yeas and 7 Nays.

SB 410 was referred to the Advisory Council.

The meeting adjourned at 10:25 a.m. The next meeting will be March 11, 2004.

COMMERCE AND LABOR COMMITTEE

Date March 10, 2004

NAME	AGENCY
Wayne Maehes	KDHR
Andy Shaw	Goodyear Tire & Rubber Co.
Ron Seeber	HCU Law Firm
SCOTT SCHNEIDER	GABA
Kent Dederick	IAFF
Jim W. Hoff	KS AFL-CIO
Jim DeCoursley	KDHR
LEON COON	Senate
BILL YANEK	KS Assn of REALTORS
Craig Kaberline	KS AREA AGENCIES ON AGING ASSN.
Sherry Niel	KS Real Estate Commission
Kathy Slesler	KS Dept on Aging

State of Kansas

LANA OLEEN
SENATOR, 22ND DISTRICT
GEARY AND RILEY COUNTIES
(785) 296-2497



COMMITTEE ASSIGNMENTS
CHAIR: CONFIRMATION OVERSIGHT
STATE-TRIBAL RELATIONS
VICE CHAIR: ORGANIZATION, CALENDAR & RULES
MEMBER: STANDING & JOINT COMMITTEES

Majority Leader Kansas Senate

SENATE CHAMBER, STATE CAPITOL
TOPEKA, KANSAS 66612-1504

March 10, 2004

House Commerce and Labor Committee Testimony on House Bill 2908

Chairman Dahl and Members of the Commerce and Labor Committee:

I appreciate the opportunity to offer my support of the provisions of House Bill 2908.

Prior to 2000, the federal government provided funding targeted for older workers for workforce development through the Job Training Partnership Act (JTPA). The "older worker" is designated by persons of age 55 or more. In 1999, federal workforce development funds were consolidated under one program called the Workforce Investment Act (WIA). Older workers workforce development funding is in the same pool of money as all other Kansans seeking workforce development.

Since consolidation of funding, there has been a very significant drop in the number of older workers served. I have attached a graph that illustrates the number of older workers served for four program years under the JTPA versus four program years under the WIA. Older workers are a unique population with unique needs, and that age population continues to grow in Kansas. They deserve representation on the workforce investment boards. I support HB 2908 because it affords older workers representation in the consideration of workforce investment programs and dollars.

Thanks again for the opportunity to submit written testimony. I encourage your favorable consideration of HB 2908. Should I be able to provide you additional information on this subject, please contact me.

Respectfully submitted,

A handwritten signature in black ink that reads "Lana Oleen".

Lana Oleen

HOME
3000 STAGG HILL ROAD
MANHATTAN, KANSAS 66502
(785) 537-3300

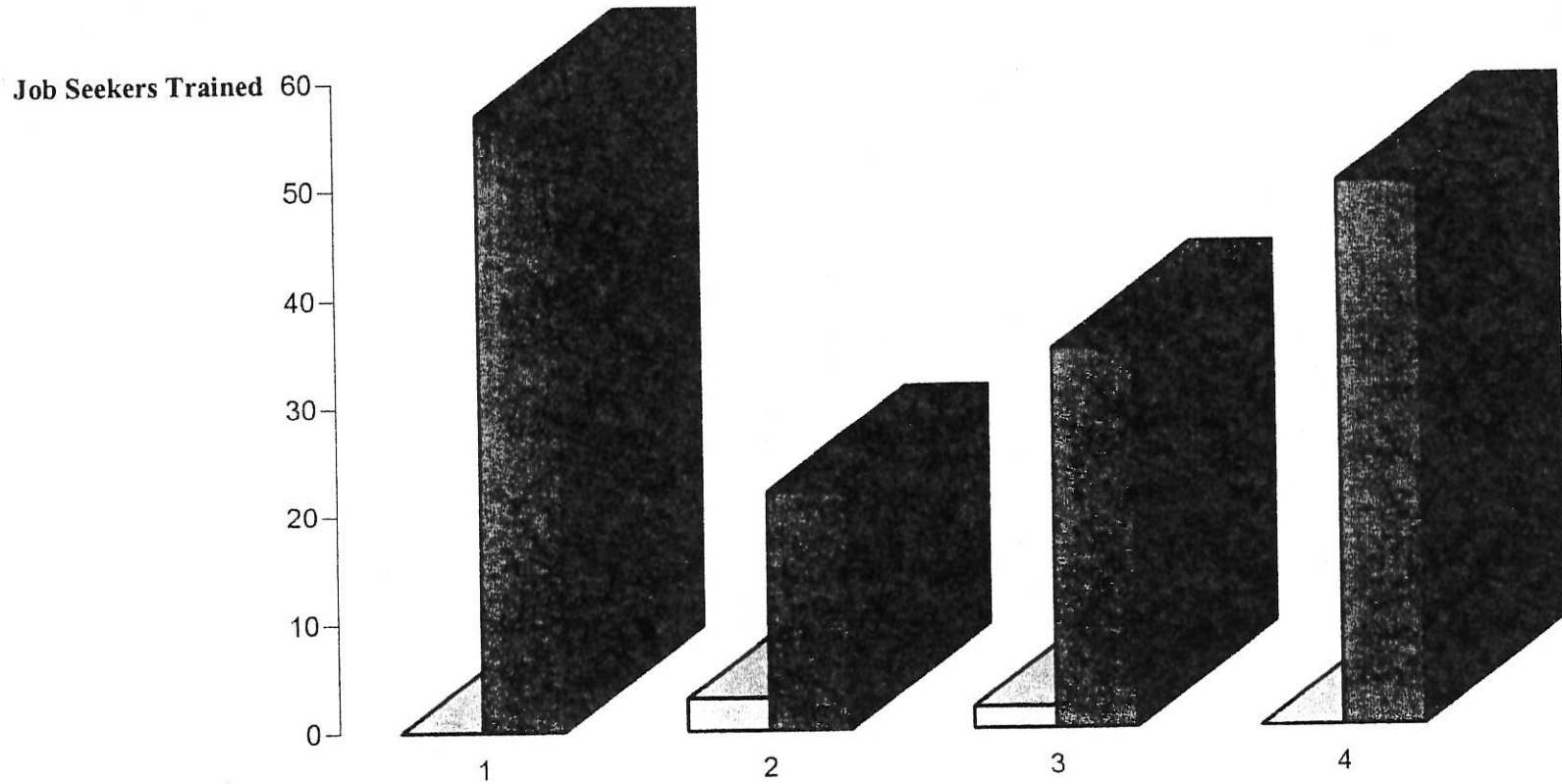
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MANHATTAN, KANSAS 66502
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Comm Labor
STATE OFFICE
STATE CAPITOL, ROOM 356-E
FAX (785) 296-6718
1-800-432-3924 (JAN.-APRIL)
E-mail: oleen@senate.state.ks.us
3-10-04
Atch #1

1-2

Four Year Comparison of Trained Participants 55+ in North Central-Flint Hills Region Workforce Investment Act (WIA) and Job Training Partnership Act (JTPA)

(Sources: KS Department of Human Resources and North Central-Flint Hills Area Agency on Aging)



light color = Green = Year 2000 Green = Year 2001 Green = Year 2002 Green = Year 2003
dark color = Burgandy = Year 1996 Burgandy = Year 1997 Burgandy = Year 1998 Burgandy = Year 1999

Green: WIA services to low-income 55+ job-seekers provided by
Workforce Centers

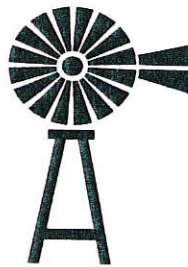
WIA
 JTPA

Burgandy: JTPA services to low-income 55+ job-seekers provided by
NC-FH AAA Older Kansas Employment Program

Testimony
to the
House Commerce and Labor Committee

March 10, 2004

Shirley Spittles
Director of Field Services
North Central-Flint Hills Area Agency on Aging, Inc.



North Central - Flint Hills
AREA AGENCY ON AGING, INC.

401 Houston Street
Manhattan, Kansas 66502-6148
785-776-9294
1-800-432-2703

Comm Labor
3-10-04
Atch # 2

Good afternoon.

I am Shirley Spittles, Director of Field Services of the North Central Flint Hills Area Agency on Aging. I have been with the Agency since 1983 – the second year of the Older Kansans Employment Program. Julie Govert Walter, Executive Director, currently serves as Chair of the Kansas Area Agencies on Aging Association's Legislative Committee and Workforce Issues Task Force.

Representative Dahl, I appreciate the opportunity to address this sub-committee. I wish to speak specifically to the need for House Bill No. 2908 to be passed. This bill is an act concerning the membership of the state workforce investment board and local workforce investment boards in the state of Kansas; and providing for an advisory committee to each local workforce investment board.

Older workers need representation on all five local boards and on the state workforce investment board. Having older workers represented on the boards would provide an opportunity for input into the plans and provide a forum for understanding into the special needs of older workers. This awareness would enhance the opportunity for funding to provide employment and training services for innovative specialized projects to serve older job seekers.

I can say with confidence that there is a lack of representation of Older Workers on the Workforce Investment Boards in Kansas. Local Workforce Investment Board Region Five does have an Older Kansans Employment Program member. Local Workforce Investment Board, Region One has a representative for the federal low-income program American Senior Work Experience Program.

During the early months of transition to WIA and in the last three years, WIA funds have been allocated to the Local Workforce Investment Boards. Not a lot of attention has been given to the needs of older job-seekers in our state. Since the inception of WIA, only one Local Workforce Investment Board, (Region III) has allocated WIA funds to an OKEP provider. The bottom line is that statistics show that WIA monies are only minimally serving older job-seekers through the current Workforce Investment Act network.

The 55 plus population is the fastest growing population segment in our state. Older job seekers face serious challenges when searching for employment. Unfortunately, age discrimination is a reality in our society. Employers routinely devalue individuals on the basis of age, rather than recognizing the fact that with added years comes added experience and wisdom.

Older Kansans looking for employment to meet their living expenses, to keep up with unanticipated and exorbitant costs of prescription drugs for themselves and/or a family member or for other reasons, often lack self-confidence. Most need help with the tools needed to ensure a successful job-search. Many need to update their skills or need some re-training, such as keyboard or computer skills, in order to fit into today's workforce. Older job seekers have special and specific needs and confront significant barriers that their younger counterparts do not have to face and need to be designated as a special population in the WIA state plan.

More than just an income, a job often gives meaning and purpose to life. The state funds for OKEP help older job-seekers recognize the skills they have to offer and our experienced staff gives them self-confidence to sell their skills in the marketplace.

We know first-hand about the challenges of using federal money to meet the job-search needs of older Kansans.

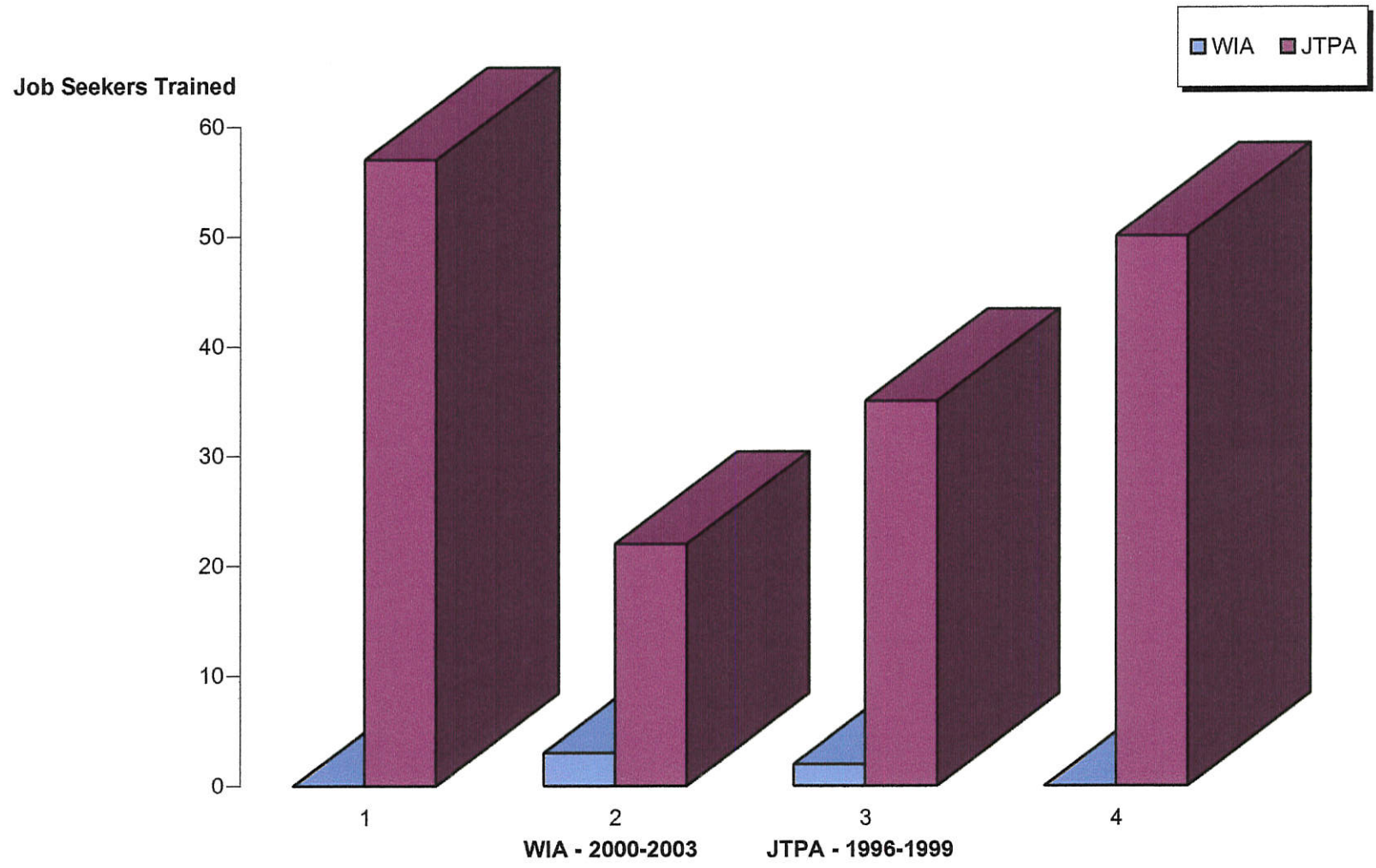
Until program year 2000, older Kansans were designated a special population and federal funds were awarded to serve older Kansans who met the restrictive federal requirements. Beginning in the late 1980s, an average of about \$168,000 was available, statewide, to serve the most hard to serve older job-seekers and provide these folks with training.

The five Older Kansans Employment Programs currently active in Kansas extend help to any job-seeker 55 and older. More than forty counties are served under this program. The major trade areas served include: Wichita, Topeka, Chanute, Manhattan, Junction City, Emporia, Salina and Dodge City.

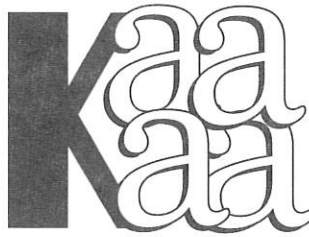
My message today is to support House Bill 2908 concerning the membership of the state Workforce Investment Board and Local Workforce Investment Boards and to encourage the designation of older job-seekers as a special population group under WIA.

Thank you.

Four Year Comparison of Trained Participants Workforce Investment Act (WIA) and Job Training Partnership Act (JTPA)



THE
KANSAS
AREA AGENCIES
ON AGING
ASSOCIATION



Meeting the Needs of Older Kansans

1720 SW TOPEKA BOULEVARD • TOPEKA, KS 66612 • 785-235-8734 • FAX - 785-235-8747

To: House Commerce and Labor Committee
From: Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association
Date: March 10, 2004

Testimony in Support of Senate Bill 2908

Representative Dahl and members of the committee, thank you for this opportunity to appear before you today to provide testimony regarding HB 2908. My name is Craig Kaberline and I am the executive director of the Kansas Area Agencies on Aging Association (K4A). K4A's mission is to work to improve services and supports for all older Kansans and their caregivers. K4A represents all eleven Area Agencies on Aging (AAA) who coordinate services for seniors in all 105 counties of Kansas.

I appear before you today in support of House Bill 2908, which relates to membership of the state workforce investment board and the local workforce investment boards; providing for an advisory committee to each local workforce investment board. Currently there is only one local board across the state that has an Older Kansans Employment Program member.

K4A believes older workers need representation on all five local boards and representation on the State Workforce Investment Board. The added representation by someone who has received assistance through the Older Kansans Employment Program (OKEP); a provider of employment services to older workers; and an Area Agency on Aging would help to bring program awareness to other members and increase the possibility of funds being used to provide employment and training services for innovative specialized projects serving older job seekers.

The state's Local Workforce Investment Areas' program performance for older individuals 55 and over for the most part has been very poor since the inception of Workforce Investment Act (WIA). Only one of the OKEP providers has received funding in LWIB III to serve low income seniors. Their involvement in Local Workforce Investment Area III has proven to be successful in the Kansas City area. The state's older worker program has 22 years of experience that can improve the statewide performance numbers of seniors served, trained, and placed into private sector jobs - if additional funding can be obtained from the Local Workforce Investment Boards.

We would also like to see the following addition made to the bill:

Under item (d) it is recommended that the bill include an additional statement to read.....

"Kansans aged 55 and over shall be designated as a special population group under the Workforce Investment Act (WIA)."

I thank you for your commitment to older Kansans. I ask for your support of House Bill 2908.

AREA AGENCIES ON AGING:

CENTRAL PLAINS • EAST CENTRAL KANSAS • JAYHAWK • JOHNSON COUNTY • NORTH CENTRAL - FLINT HILLS • NORTHEAST KANSAS
NORTHWEST KANSAS • SOUTH CENTRAL KANSAS • SOUTHEAST KANSAS • SOUTHWEST KANSAS • WYANDOTTE - LEAVENWORTH

e-mail: k4aed@hotmail.com

Comme labor
3-10-04
Atch # 3

**HOUSE BILL 2908
REMARKS OF
JIM SNYDER
MARCH 10, 2004**

Members of the Commerce and Labor Committee. My name is Jim Snyder and I am a member of the Kansas Silver Haired Legislative Council. I appear in favor of House Bill 2908.

The Silver Haired Legislature, during its 2003 Session approved what has become HCR 5037. This is our way of supporting older Kansans who wish to...or have to...reenter the work force. So, we have been active in this area.

During our recent successful attempts to retain the Kansas-funded Older Kansans Employment Program, it was made quite clear to us that the Federally-funded program -- Workforce Investment Act (WIA)-- is still in the process of fine-tuning and could use some input from areas as stated in House Bill 2908. We also understand that Kansas can add these people by statute.

For instance, Attachment #1 illustrates the success of the Older Kansan Employment Program in getting jobs for those needing them, and doing it at about 1/3 the cost of the Federal Workforce Investment Program. Therefore, with the addition of some experienced people to the Local WIA Boards, this program could be more efficient and help more people who need to get back into the workforce. Additionally, when this happens, it helps provide more funds for Kansas in the form of Income Taxes and Sales Taxes. So, you can see, it is a win/win situation.

Attachment #2--map of Kansas--shows the activities of the present Older Kansas Employment Program and where they are located. By adding experienced people to the Workforce Boards, we feel that improvements will be made in the present areas, and expansion into the Counties not presently covered (those with nothing showing), will be encouraged.

We also would recommend an amendment to this bill by inserting after the period in line 15, the sentence "Kansans aged 55 and over shall be designated as a special target population under the Workforce Investment Act." This amendment would help define a segment of our fellow citizens who have every intention of remaining active in their lives.

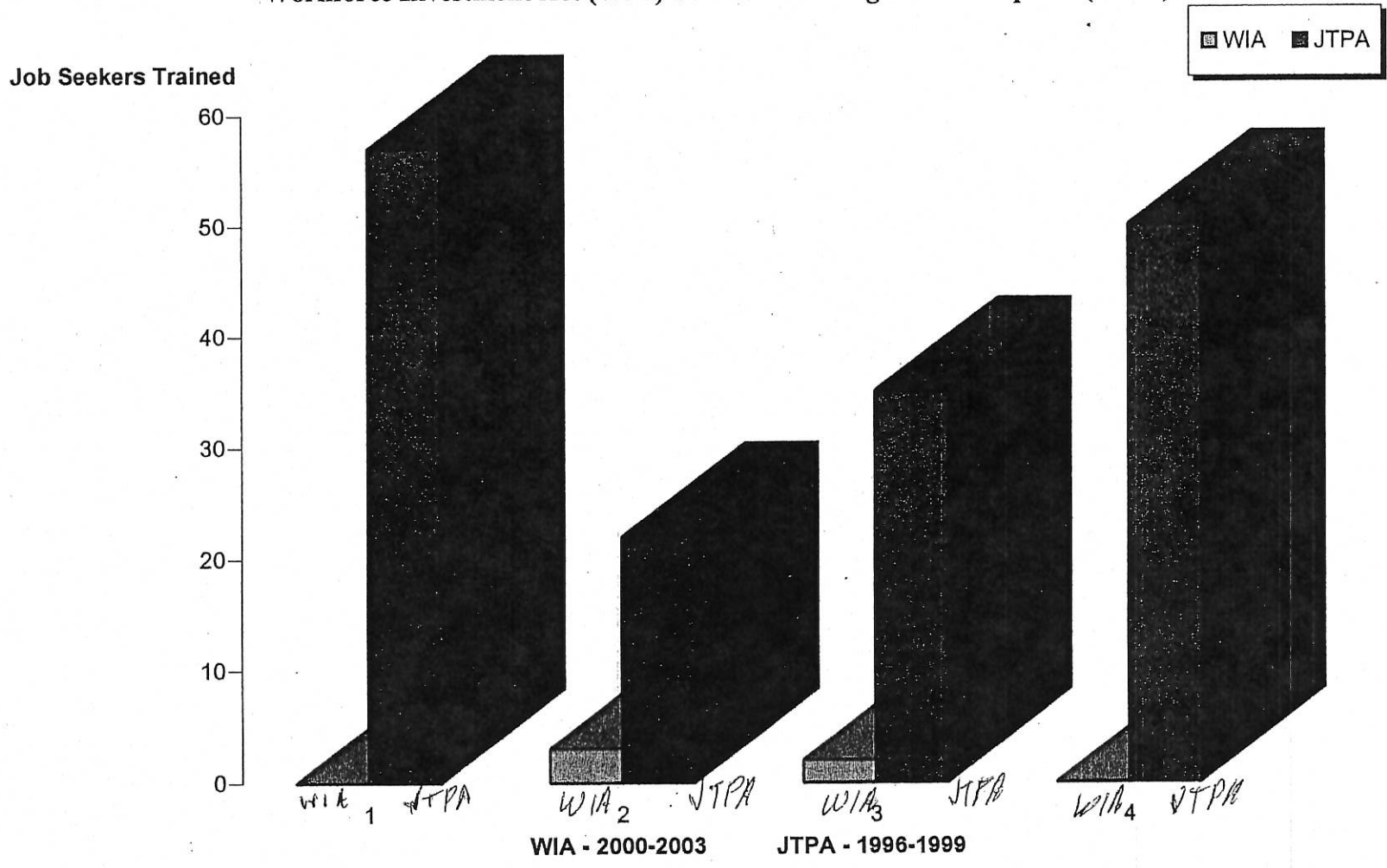
I urge your support of House Bill 2908. Thank you.

Jim Snyder, 343 SW Elmwood, Topeka, KS 66606 (785)354-4891 rsnyder409@aol.com

Comm + Labor
3-10-04
Atch #4

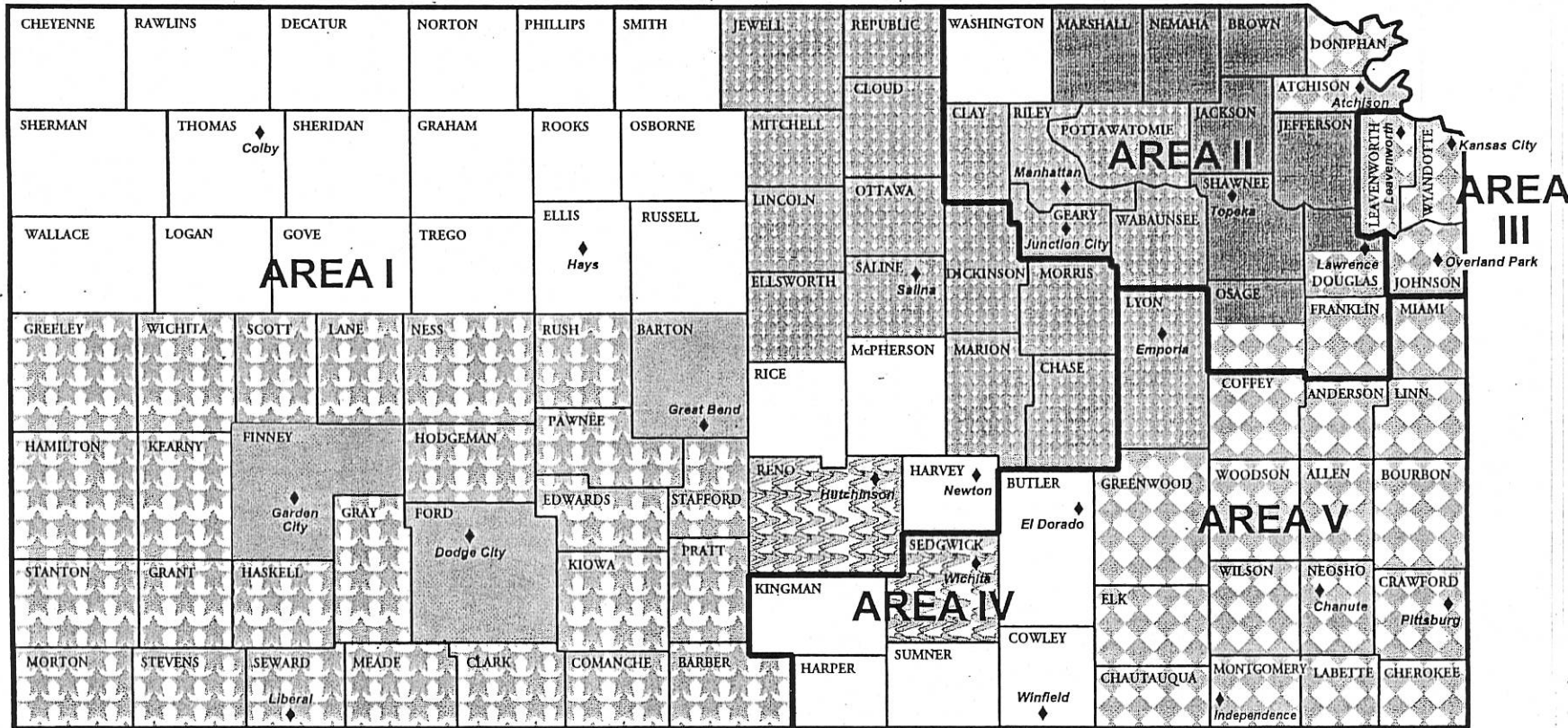
4.2

Four Year Comparison of Trained Participants 55+ in North Central-Flint Hills Region Workforce Investment Act (WIA) and Job Training Partnership Act (JTPA)



#1

OLDER KANSANS EMPLOYMENT PROGRAM (OKEP)



- 17 -

LEGEND ♦ Job Service Local Office Service Areas

- Southwest Kansas Area Agency on Aging
- Senior Services, Inc. of Wichita
- North Central Flint Hills Area Agency on Aging
- Let's Help, Inc.
- Southeast Kansas Area Agency on Aging
- Service Area (no services)

Service Area Map

ATTACHMENT II

3-7

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11
11

Testimony on HB 2908
The House Committee on Commerce and Labor

Matt Jordan
Director of Community Development
Kansas Department of Commerce

March 10, 2004

Chairperson Dahl and members of the committee, my name is Matt Jordan and I serve as the Director of Community Development for the Kansas Department of Commerce. I stand before you today as the legislative liaison for Commerce to request the committee to take no action on House Bill 2908 during this Legislative session.

The Department of Commerce does not oppose the intent of the bill. Rather, Commerce believes there are very important issues raised by this proposal that deserve careful study and consideration. As you all know, the state's workforce development system is about to experience fundamental changes that Commerce believes will significantly improve the way services are delivered in Kansas. The Governor's Executive Reorganization Order #31 will consolidate the workforce training programs of the Department of Commerce and the Department of Human Resources as a part of the Administration's continuing search for changes in government to better serve Kansans. This committee has been briefed on the intent behind this reorganization and how such change is expected to accomplish the following goals:

- Create a single point of contact for businesses to promote accountability and efficiency in state government
- Create an integrated workforce system designed to address the needs of new and existing Kansas businesses and citizens
- Integrate workforce training programs with those functions that promote job creation, retention and attraction
- Ensure that all Kansans, including persons with disabilities and older adults, have access to meaningful employment opportunities through a new, integrated workforce system

In light of these important changes to the state's workforce system, Commerce believes it is prudent to delay action on this bill until the next Legislative session. Commerce appreciates the spirit in which this bill has been drafted. However, there is concern that the implications of these changes would be best analyzed once the new system has been implemented. As was stated earlier, Commerce plans to make changes to the current system to ensure that all Kansans have access to meaningful employment opportunities.

In addition, federal law governs the requirements for the configuration of the state boards and the local boards. The Kansas board is a "grandfathered" board under the previous federal law – Job Partnership Training Act. This is known as an "Alternative Entity" under the Workforce Investment Act. We need to determine if this change in the board would require Kansas to dissolve the "alternative entity" and reconfigure the board in accordance with the Workforce Investment Act.

Comm & Labor
3-10-04
Atch # 5

Also, under federal law membership on the local boards are to be selected by the Chief Elected Officials of the counties in each local area.

The Kansas Department of Human Resources has a request into the US Department of Labor for clarification of the impact, if any, of this legislation on the current configuration of the state board and the local boards.

We would urge no action be taken at this time on HB 2908. We are in the midst of a significant transition involving the state and local boards. In addition, we would like clarity from the U.S. Department of Labor concerning the ramifications, if any, of this proposed change in law.

Again, Mr. Chairman, thank you for the opportunity to share this information with you and the members of the committee. I would stand for questions.



KANSAS

KANSAS REAL ESTATE COMMISSION
SHERRY C. DIEL, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

Memo To: Members of the House Commerce and Labor Committee
From: Sherry C. Diel, Executive Director
RE: SB 404—Clarification of Authority of Kansas Real Estate Commission
Date: March 10, 2004

The Kansas Real Estate Commission requested introduction of SB 404 as a clean up measure to clarify the authority of the Commission. The requested amendments are derived from the experience over the past two years of the agency staff and the Investigation Committee in drafting agency orders for denial of licensure or for discipline purposes. Many times, the Commission has to cite several statutes to deny an application for licensure or to discipline a licensee. For instance, to discipline a salesperson or associate broker for paying compensation to an unlicensed person, the Commission must cite at least three statutes as statutory support for the violation. The proposed language attempts to specifically address issues of this nature. In addition, the proposed language repeals the limited prohibition on licensees providing a buyer or seller with a gift or gratuity.

The proposed legislation includes the following provisions:

- Page 1, Line 27-29: Amends K.S.A. 58-3043(a)(4) to clarify that the Commission may consider a licensee's reputation for honesty, trustworthiness, integrity or competence to transact the business of real estate for purposes of a renewal application. The Commission clearly has authority to consider these traits for purposes of applications for original licensure. For renewal purposes, the Commission's authority would only be found in the catchall language of current subsection (a)(4), which provides "such other matters as deemed pertinent by the commission".
- Page 2, Lines 20-26: Amends K.S.A. 58-3050 to clarify that the Commission has authority to deny licensure or to take disciplinary action against a licensee if the licensee's real estate license in another jurisdiction is revoked, suspended or placed on probation. The proposed legislation also clarifies that the Commission may deny licensure or take disciplinary action when a professional or occupational license issued to the real estate applicant or licensee by the State of Kansas or another jurisdiction is revoked, suspended or placed on probation.

- Page 3, Lines 30-31: Amends K.S.A. 58-3062(a) to include a licensee who functions as a transaction broker in a real estate transaction as being subject to the "prohibited acts" section of the real estate license law. This appears to be an oversight when BRRETA II became effective in October of 1997.
- Page 4, Lines 20-27: Amends K.S.A. 58-3062(a) by eliminating the limited prohibition on a licensee offering gifts and gratuities to a principal in a real estate transaction. The current language is extremely difficult for agency staff to interpret. A great deal of staff time is spent with complaints and inquiries from licensees asking if a gift is legal. The Commission has not received any complaints from the public on this issue. Kansas is in the extreme minority of states that significantly limit gifts and gratuities. Those states that have eliminated the prohibition have not reported any significant problems. Market forces seem to play a significant role in restraining the industry. In addition, other provisions of the law are still in place, such as the prohibition on paying compensation to an unlicensed person and the prohibition on payment of rebates.
- Page 4, Lines 27-29: Amends K.S.A. 58-3062(a) to clarify that paying compensation to an unlicensed person for activities that require a real estate license is prohibited.
- Page 7, Lines 12-14: Amends K.S.A. 58-3062(b) to prohibit a salesperson or associate broker from paying another person for performing a licensed real estate activity. An exception to the prohibition exists so that a team leader may continue to pay compensation to their affiliated team members as long as the team leader has the written consent of the supervising broker.
- Page 7, Lines 15-23: Amends K.S.A. 58-3062(b) to clarify that the Commission has authority to discipline a salesperson or associate broker for conducting licensed real estate activities without the knowledge and outside the supervision of the supervising broker.

I will be happy to respond to any questions from the Committee. On behalf of the commissioners and myself, thank you for your consideration of the proposed amendments.



TO: HOUSE COMMITTEE ON COMMERCE AND LABOR
FROM: BILL YANEK, KAR DIRECTOR OF GOVERNMENTAL RELATIONS
DATE: March 10, 2004
SUBJECT: Senate Bill 404

The Kansas Association of REALTORS® supports Senate Bill 404.

A particular area of interest in SB 404 is Sec. 3 paragraph (11), which repeals the prohibition of offering or giving prizes, gifts, or gratuities which are contingent upon an agency agreement or the sale, purchase or lease of real estate.

This prohibition was enacted to protect consumers from the unscrupulous offering of inducements linked to agency agreements or the sale, purchase or lease of real estate.

However, the reality of today's real estate marketplace ensures that the offering of such inducements is limited or economically not feasible. Increasingly, the amount of profit real estate transactions yield is decreasing. This is the result of factors such as the use of the Internet in searching for and researching real estate information. The real estate industry is also regulated at an ever-increasing rate, thus leading to increases in overhead and compliance costs. All of these factors make less realistic the offering of inducements that would further erode the profit a real estate transaction may yield.

It is also important to note that the Real Estate Commission rarely, if ever, receives consumer complaints about the offering of inducements.

The Kansas Association of REALTORS® urges favorable passage of SB 404.



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Commerce Labor
3-10-04
Atch # 7

17-2

1 property of the licensee's principals with the licensee's own money or
2 property, except that nothing herein shall prohibit a broker from having
3 funds in an amount not to exceed \$100 in the broker's trust account to
4 pay expenses for the use and maintenance of such account.

5 (4) Accept, give or charge any rebate or undisclosed commission.

6 (5) Pay a referral fee to a person who is properly licensed as a broker
7 or salesperson in another jurisdiction or who holds a corporate real estate
8 license in another jurisdiction if the licensee knows that the payment of
9 the referral fee will result in the payment of a rebate by the out-of-state
10 licensee.

Kansas or

11 (6) Represent or attempt to represent a broker without the broker's
12 express knowledge and consent.

13 (7) Guarantee or authorize any person to guarantee future profits that
14 may result from the resale of real property.

15 (8) Place a sign on any property offering it for sale or lease without
16 the written consent of the owner or the owner's authorized agent.

17 (9) Offer real estate for sale or lease without the knowledge and con-
18 sent of the owner or the owner's authorized agent or on terms other than
19 those authorized by the owner or the owner's authorized agent.

20 (10) Induce any party to break any contract of sale or lease.

21 (11) ~~Offer or give prizes, gifts or gratuities which are contingent upon~~
22 ~~an agency agreement or the sale, purchase or lease of real estate. Products~~
23 ~~or services which are offered or given pursuant to a licensee carrying out~~
24 ~~the duties of a seller's agent pursuant to K.S.A. 2003 Supp. 58-30,106,~~
25 ~~and amendments thereto, a buyer's agent pursuant to K.S.A. 2003 Supp.~~
26 ~~58-30,107, and amendments thereto, or a transaction broker pursuant to~~
27 ~~K.S.A. 2003 Supp. 58-30,113, and amendments thereto, shall not be con-~~
28 ~~sidered to be a prize, gift or gratuity~~ Pay a commission or compensation
29 to any person, not licensed under this act, for performing any activity for
30 which a license is required under this act.

31 (12) Fail to see that financial obligations and commitments between
32 the parties to an agreement to sell, exchange or lease real estate are in
33 writing, expressing the exact agreement of the parties or to provide, within
34 a reasonable time, copies thereof to all parties involved.

35 (13) Procure a signature to a purchase contract which has no definite
36 purchase price, method of payment, description of property or method
37 of determining the closing date.

38 (14) Engage in fraud or make any substantial misrepresentation.

39 (15) Represent to any lender, guaranteeing agency or any other in-
40 terested party, either verbally or through the preparation of false docu-
41 ments, an amount in excess of the true and actual sale price of the real
42 estate or terms differing from those actually agreed upon.

43 (16) Fail to make known to any purchaser or lessee any interest the