



STATE *of* NEBRASKA
OFFICE OF THE GOVERNOR
LINCOLN

EXECUTIVE ORDER NO. 20—03
CORONA VIRUS – PUBLIC MEETINGS REQUIREMENT LIMITED WAIVER

WHEREAS, In order to provide flexibility to assist in meeting the emergency conditions and subsequent impacts brought on from COVID-19, a state of emergency was declared in Nebraska on March 13, 2020; and

WHEREAS, the State of Nebraska is committed to providing seamless government operations to the people of Nebraska throughout the state of emergency; and

WHEREAS, state and local governmental boards, commissions and other public bodies must comply with the Open Meetings Act so that citizens may exercise their democratic privilege of participating in meeting of public bodies; and

WHEREAS, for public health purposes, meetings and gatherings have now been limited to no more than 50 people and may be further limited if the presence of COVID-19 warrants;

NOW THEREFORE, I, Pete Ricketts, Governor of the State of Nebraska, by virtue of the authority vested in me by the Constitution and laws of Nebraska, hereby issue this limited waiver of certain requirements of the Nebraska Open Meetings Act.

Pursuant to this declaration, I hereby order the following:

1. This executive order applies to all governing bodies as defined in Neb. Rev. Stat. §84-1409 (1) and to all public meetings as defined in Neb. Rev. Stat. § 84-1409 (2).
2. All governing bodies may meet by videoconference or by telephone conferencing or by conferencing by other electronic communication so long as there is made available at such meeting access to members of the public and to members of the media.

3. The advanced publicized notice and the agenda requirements for meetings that are set forth in Neb. Rev. Stat. §84-1411 and the remaining provisions of Nebraska's Open Meeting Act shall continue to be complied with by all governing bodies and are not waived by this executive order.
4. This waiver shall apply to all public governing body meetings that occur from today through May 31, 2020.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nebraska to be affixed on this 17th day of March, 2020.

ATTEST:



Pete Ricketts, Governor



Robert B. Evnen, Secretary of State

84-1407. Act, how cited.

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

Source: Laws 2004, LB 821, § 34.

84-1408. Declaration of intent; meetings open to public.

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

Source: Laws 1975, LB 325, § 1; Laws 1996, LB 900, § 1071; Laws 2004, LB 821, § 35.

Annotations

- Nebraska's public meetings laws do not apply to school board deliberations pertaining solely to disputed adjudicative facts. *McQuinn v. Douglas Cty. Sch. Dist. No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000).
- The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. *Marks v. Judicial Nominating Comm.*, 236 Neb. 429, 461 N.W.2d 551 (1990).
- The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. *Grein v. Board of Education of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- A county board of equalization is a public body whose meetings shall be open to the public. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

84-1409. Terms, defined.

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

Source: Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2.

Annotations

- A township is a political subdivision, and as such, a township board is subject to the provisions of the public meetings laws. *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- A county agricultural society is a public body to which the provisions of the Nebraska public meetings law are applicable. *Nixon v. Madison Co. Ag. Soc'y*, 217 Neb. 37, 348 N.W.2d 119 (1984).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).
- As an administrative agency of the county, a county board of equalization is a public body. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- The electors of a township at their annual meeting are a public body under the Open Meetings Act. *State ex rel. Newman v. Columbus Township Bd.*, 15 Neb. App. 656, 735 N.W.2d 399 (2007).
- The meeting at issue in this case was a "meeting" within the parameters of subsection (2) of this section because it involved the discussion of public business, the formation of tentative policy, or the taking of any action of the public power district. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).
- Informational sessions in which the governmental body hears reports are briefings. *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then

intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

Source: Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29; Laws 2012, LB995, § 17.

Annotations

- There is no absolute discovery privilege for communications that occur during a closed session. *State ex rel. Upper Republican NRD v. District Judges*, 273 Neb. 148, 728 N.W.2d 275 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- The public interest mentioned in this section is that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities. *Grein v. Board of Education*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Hearing in closed executive session was contrary to this section since there was no showing of necessity or reason under subdivision (1)(a), (b), or (c), but did not result in reversal of board decision. *Simonds v. Board of Examiners*, 213 Neb. 259, 329 N.W.2d 92 (1983).
- Negotiations for the purchase of land need not be conducted at an open meeting but the deliberations of a city council as to whether an offer to purchase real estate should be made should take place in an open meeting. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Public meeting law was not violated where the Board of Regents of the University of Nebraska voted to hold a closed session to consider the university president's resignation, and also discussed the appointment of an interim president during such session. *Meyer v. Board of Regents*, 1 Neb. App. 893, 510 N.W.2d 450 (1993).

84-1411. Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of

more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site; and

(e)(i) Except as provided in subdivision (2)(e)(ii) of this section, no more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference; or

(ii) In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, such organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conferencing.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, of the governing body of a public power and irrigation district, or of the Nebraska Brand Committee may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, Nebraska Brand Committee, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which there will be present: (i) A member of the educational service unit

board, council, community college board of governors, governing body of a public power district, governing body of a public power and irrigation district, Nebraska Brand Committee, or entity's or pool's governing body; or (ii) A nonvoting designee designated under subdivision (3) (f) of this section;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site;

(g) The telephone conference call lasts no more than five hours; and

(h) No more than one-half of the board's, council's, governing body's, committee's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that:

(i) The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing; and

(ii) An organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act may hold more than one-half of its meetings by telephone conference call if the organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conference call.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

Source: Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5.

Effective Date: September 1, 2019

Cross References

- **Intergovernmental Risk Management Act**, see section 44-4301.
- **Interlocal Cooperation Act**, see section 13-801.
- **Joint Public Agency Act**, see section 13-2501.
- **Municipal Cooperative Financing Act**, see section 18-2401.

Annotations

- Under subsection (1) of this section, the Legislature has imposed only two conditions on the public body's notification method of a public meeting: (1) It must give reasonable advance publicized notice of the time and place of each meeting and (2) it must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- An emergency is "(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- An agenda which gives reasonable notice of the matters to be considered at a meeting of a city council complies with the requirements of this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- When notice is required, a notice of a special meeting of a city council posted in three public places at 10:00 p.m. on the day preceding the meeting is not reasonable advance publicized notice of a meeting as is required by this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Teacher waived right to object to lack of public notice in board of education employment hearing by voluntary participation in the hearing without objection. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- A county board of commissioners and a county board of equalization are not required to give separate notices when the notice states only the time and place that the boards meet

and directs a citizen to where the agendas for each board can be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

- A county board of equalization is a public body which is required to give advanced publicized notice of its meetings. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Notice of recessed and reconvened meetings must be given in the same fashion as the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- True notice of a meeting is not given by burying such in the minutes of a prior board proceeding. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- An agenda notice which merely stated "work order reports" was an inadequate notice under this section because it did not give interested persons knowledge that plans for a 345 kv transmission line through the district was going to be discussed and voted upon at the meeting. Inadequate agenda notice under this section meant there was a substantial violation of the public meeting laws; however, later actions by the board of directors cured the defects in notice, and such actions were in substantial compliance with the statute. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

84-1412. Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making a telephone conference call available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act;

(f) Reasonable arrangements are made to provide viewing at other instate locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and

(g) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

(8) Public bodies shall make available at the meeting or the instate location for a telephone conference call or videoconference, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Source: Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1.

Annotations

- To preserve an objection that a public body failed to make documents available at a public meeting as required by subsection (8) of this section, a person who attends a public meeting must not only object to the violation, but must make that objection to the public body or to a member of the public body. *Stoetzel & Sons v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003).

84-1413. Meetings; minutes; roll call vote; secret ballot; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written, except as provided in subsection (6) of this section, and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an

additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

Source: Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1.

Annotations

- If a person present at a meeting observes and fails to object to an alleged public meetings laws violation in the form of a failure to conduct rollcall votes before taking actions on questions or motions pending, that person waives his or her right to object at a later date. *Hauser v. Nebraska Police Stds. Adv. Council*, 264 Neb. 944, 653 N.W.2d 240 (2002).
- Subsection (2) of this section does not require the record to state that the vote was by roll call, but requires only that the record show if and how each member voted. Neither does the statute set a time limit for recording the results of a vote, after which no corrections of the record can be made. If no intervening rights of third persons have arisen, a board of county commissioners has power to correct the record of the proceedings had at a previous meeting so as to make them speak the truth, particularly where the correction supplies some omitted fact or action and is done not to contradict or change the original record but to have the record show that a certain action was taken or thing done, which the original record fails to show. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).
- There is no requirement that a public body make a record of where notice was published or posted. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring

compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

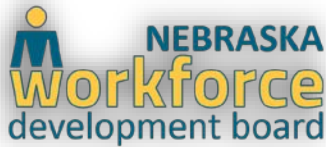
(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Source: Laws 1975, LB 325, § 9; Laws 1977, LB 39, § 318; Laws 1983, LB 43, § 5; Laws 1992, LB 1019, § 126; Laws 1994, LB 621, § 2; Laws 1996, LB 900, § 1074; Laws 2004, LB 821, § 40; Laws 2006, LB 898, § 4.

Annotations

- The Legislature has granted standing to a broad scope of its citizens for the very limited purpose of challenging meetings allegedly in violation of the Open Meetings Act, so that they may help police the public policy embodied by the act. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010).
- Any citizen of the state may commence an action to declare a public body's action void. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- The reading of ordinances constitutes a formal action under subsection (1) of this section. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- Under the Public Meetings Act, a county lacks capacity to maintain an action to declare its official conduct "void" for noncompliance with the act. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).
- When a petitioner under this section is successful in the district court, that court may allow attorney fees. *Tracy Corp. II v. Nebraska Pub. Serv. Comm.*, 218 Neb. 900, 360 N.W.2d 485 (1984).
- Informal discussions between the Tax Commissioner and the State Board of Equalization in which instructions were clarified, with such clarification leading to the amendment of hearing notices, did not constitute a public meeting subject to the provisions of this section. *Box Butte County v. State Board of Equalization and Assessment*, 206 Neb. 696, 295 N.W.2d 670 (1980).
- The right to collaterally attack an order made in contravention of the Public Meeting Act must occur within a period of one year as is specifically provided by this section. *Witt v. School District No. 70*, 202 Neb. 63, 273 N.W.2d 669 (1979).
- Statutory change, requiring "publicized notice" for board of education employment hearings, occurring between dates meeting scheduled and conducted, held not to void proceedings. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Once a meeting has been declared void pursuant to Nebraska's public meetings law, board members are prohibited from considering any information obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Actions by the board of directors were merely voidable under this section, and not void. Pursuant to subsection (3) of this section, the plaintiffs were awarded partial attorney fees because they were successful in having the court declare that the board of directors was in

substantial violation of the statute, even though the plaintiffs did not get the relief requested of having the board's actions declared void. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).



Nebraska Workforce Development Board
Meeting Minutes
March 6, 2020, 9a – 12p
Nebraska Educational Telecommunications (NET)
(AKA Terry M. Carpenter Telecommunications Center)
1800 North 33rd Street, Lincoln, Nebraska 68503

Agenda item 1. Call to Order

Chair Mark Moravec called to order the meeting of the Nebraska Workforce Development Board (the Board) on March 6, 2020 at approximately 9a at Nebraska Educational Telecommunications (NET), 1800 North 33rd Street, Lincoln, Nebraska.

Agenda item 2. Roll Call

Yvette Montes Jung called roll and advised Chair Moravec that quorum was established.

Members in attendance

- | | |
|-----------------------|-----------------------|
| 1. Greg Adams | 10. Tate Lauer |
| 2. John Albin | 11. Susan Martin |
| 3. Troy Brooks | 12. Mark Moravec |
| 4. Brian Deakin | 13. Don Nordell |
| 5. Gary D. Dixon, Jr. | 14. Terri Ridder |
| 6. Jason Feldhaus | 15. Bradley Schroeder |
| 7. Michael Geary | 16. Becky Stitt |
| 8. Allan Hale | 17. Paul Turman |
| 9. James Hanson, Jr. | 18. Lisa Wilson |

Members absent

- | | |
|---------------------------|----------------------|
| 1. Governor Pete Ricketts | 7. Anthony Goins |
| 2. Senator Joni Albrecht | 8. Kyle J. Nixon |
| 3. Kyle Arganbright | 9. Jennifer Sedlacek |
| 4. Elizabeth Babcock | 10. Dannette Smith |
| 5. Phil Bakken | 11. Carol Swigart |
| 6. Lindy Foley | |

Nebraska Department of Labor (NDOL) Board Support Staff

- | | |
|---|--|
| 1. Maryanne Bradfield, Deputy Commissioner for Reemployment Services | 4. Dawn Carrillo, WIOA Program Analyst, Office of Employment & Training |
| 2. Brad Pierce, Workforce Services Administrator, Office of Employment & Training | 5. Deb Andersen, WIOA Policy Coordinator, Office of Employment & Training |
| 3. Erin Cooper, Workforce Services Administrator, Office of Employment & Training | 6. Yvette Montes Jung, Employment Services Program Specialist, Office of Employment & Training |

Agenda item 3. Notice of Publication

Yvette Montes Jung announced that the Notice of Public Meeting was duly published, in accordance with the Nebraska Open Meetings Act, in the Beatrice Daily Sun, Grand Island Independent, Lincoln Journal Star, North Platte Telegraph, Omaha World Herald, and Scottsbluff Star-Herald. Yvette also announced that notice of the meeting was posted on the State of Nebraska Public Meeting Calendar.

Agenda item 4. Approval of Minutes

Chair Moravec called the Board's attention to the draft minutes from the last meeting of the Board held on December 6, 2019, which were included in the Board Members' meeting packets as Handout 1. The minutes were emailed to Members of the Board on March 5, 2020. Chair Moravec asked if Members Board had additions or corrections to the minutes. No additions or corrections were provided.

Chair Moravec opened the floor for public comment on the draft minutes. No public comments were made. James Hanson, Jr. motioned to approve the minutes of the December 6, 2019 meeting of the Board, and Michael Geary seconded the motion. Members of the Board in attendance voted on the motion by voice vote. The vote carried unanimously.

Chair Moravec reminded the Board that agendas, minutes, and packets provided during meetings of the Board are available on Board's webpage, which is accessible at <https://dol.nebraska.gov/EmploymentAndTraining/LCRWP/WIOA/NWDB>.

Agenda item 5. Old business

a. Proposed MOU with the Homeless Continua of Care

Michael Geary addressed the Board regarding the proposed memorandum of understanding (MOU) between the Board and Nebraska's homeless continua of care, a matter that was first raised and discussed during the September 13, 2019 meeting of the Board. Michael reminded the Board that Jason Feldhaus presented to the Board during the September meeting regarding the continuums' interest in entering into an MOU with the Board. At that time, it was agreed that the Strategy and Innovation Subcommittee would consider the request and make a recommendation to the Board. The Strategy and Innovation Subcommittee met with Randy McCoy and Jeffrey Chambers on January 14, 2020. Randy is the Executive Director for the Metro Continuum of Care for the Homeless. Jeffrey is the Project Director in the Center for Children, Families, and the Law at the University of Nebraska – Lincoln. The purpose of the meeting was to hear from Randy and Jeff on the possibility of implementing an MOU between the Board and the three homeless continuums of care in Nebraska.

Randy and Jeffrey informed the subcommittee that the three continuums apply annually for funding from Housing and Urban Development (HUD) to provide homeless-related services in their respective geographic areas. During the 2019 application cycle, HUD asked about the continuums' relationships with the Board and the local workforce development boards, asking specifically if MOUs were in place with the boards that define how the continuums and boards work together to support the provision of services to individuals experiencing homelessness. Since that time, the continuums have worked to establish MOUs with the local boards. The Metro Continuum is entering into an MOU with the Greater Omaha Workforce Development Board; and the Center for Children, Families, and the Law is entering into an MOU with the Greater Nebraska

Workforce Development Board. The Lincoln-area continuum is working to establish an MOU with the Greater Lincoln Workforce Development Board. Michael directed the Board's attention to Handouts 5 and 6, copies of the Greater Omaha and Greater Nebraska MOUs.

Randy and Jeff advised subcommittee members that the purpose of an MOU with the Board would be to memorialize the Board's support of the statewide efforts of the three continuums and their partnerships with the local boards as they work to insure:

- co-enrollment in workforce and homeless assistance programs for individuals experiencing homeless; and
- prioritized access to employment or training programs for the homeless and those at risk of homelessness.

Michael advised the Board that the subcommittee members voted to recommend to the Board the establishment of an MOU between the Board and the three continuums of care.

Chair Moravec opened the floor for discussion regarding the subcommittee's recommendation. Hearing none, Chair Moravec asked for a motion regarding the recommendation. Vice-Chair Bradley Schroeder motioned that the Board establish an MOU with the continuums. Terry Ridder seconded the motion. Members of the Board in attendance voted by roll-call vote on the motion. All but one Member of the Board voted in favor of the establishment of an MOU. Lisa Wilson abstained from the vote. The motion, therefore, passed.

Chair Moravec asked Deb Andersen to assist Michael Geary in coordinating with NDOL Legal to begin work on the MOU.

b. Subcommittee Roles and Responsibilities

Chair Moravec addressed the Board on the topic of subcommittee roles and responsibilities, a topic that was discussed at length during the December 6, 2019 meeting of the Board. Chair Moravec reminded the Board that during that discussion the comments of the Board Members focused generally on three topics:

- frequency and conduct of subcommittee meetings;
- roles and responsibilities of the Board's subcommittees in relation to the Board's required functions; and
- structure of the Board's subcommittees.

On the topic of the frequency and conduct of subcommittee meetings, opinions varied among Board Members.

- Some said they prefer quarterly face-to-face meetings immediately following Board meetings.
- Some said they would prefer to have subcommittee meetings occur as breakout sessions during Board meetings.
- Some said they are comfortable with a mix of face-to-face and virtual meetings held on an as-needed basis.

Chair Moravec reminded the Board that its bylaws are flexible on this matter, leaving decisions up to the chairs of the subcommittees when it comes to the frequency and conduct of Board meetings.

On the topic of subcommittee responsibilities and the Board's required functions, it was generally agreed:

- that some functions are very technical, time sensitive, and best handled by a structured subcommittee; and
- some are more tenuous and could be handled by a less structured subcommittee.

On the topic of the Board's subcommittee structure, Chair Moravec reminded the Board that a question was raised during the December meeting as to whether the Board needs three subcommittees. Chair Moravec commented on that possibility, saying there are factors to keep in mind while considering such a change.

- Responsibilities of the Evaluation and Review Subcommittee are technical and time sensitive, like those of the Policy and Oversight Subcommittee.
- If the Evaluation and Review Subcommittee were disbanded and its members reappointed to the other two subcommittees, there might be issues relating to the establishment of quorum of the full Board during subcommittee meetings.
- Any change to the structure of the Board's subcommittees would have to be based on an amendment of the Board's bylaws.

Chair Moravec opened the floor for further discussion on the question.

- Terry Ridder, former chair of the Evaluation and Review Subcommittee, commented on the possibility of changing the structure. She indicated that she agreed with the proposed change as that subcommittee's responsibilities align more closely with those of the Policy and Oversight Subcommittee.
- Vice-Chair Bradley Schroeder agreed with Terry. He further commented that the responsibilities of the Evaluation and Review Subcommittee seem better assigned to NDOL for fulfillment.
- Lisa Wilson also agreed with Terry and Vice-Chair Schroeder regarding disbanding of the Evaluation and Review Subcommittee. She further commented that the Greater Nebraska Workforce Development Board has two subcommittees and is able to meet its responsibilities with just two.
- Michael Geary asked for clarification regarding Chair Moravec's remarks relating to quorum. Chair Moravec asked Deb Andersen to provide that clarification.
 - Deb explained that the reappointment of Board Members from the Evaluation and Review Subcommittee to the other two subcommittees may result in the establishment of a quorum of the full Board in the event of full attendance of Board Members at a given subcommittee meeting.
 - Chair Moravec asked if exclusion of Executive Committee members from participation on subcommittees would resolve the quorum issue for the subcommittees.
 - Deb indicated that that exclusion of the Executive Committee members would resolve the quorum issue for the subcommittees but would result in the exclusion of the contributions of the Executive Committee members to the work of the subcommittees.
 - James Hanson, Jr. asked if some Board Members could be designated as non-voting subcommittee members.
 - Deb advised that all Board Members have voting rights on the subcommittees on which they serve.
 - Commissioner John Albin provided further clarification regarding the Nebraska Open Meetings Act and quorum of the full Board, stating that quorum is

dependent upon the number of Board Members present at a given location, regardless of the reason for their presence. He commented further that changing voting status would not resolve the quorum issue. Commissioner Albin also stated that he liked the idea of excluding Executive Committee members from subcommittee service, as that approach would segregate the functions of the subcommittees from those of the Executive Committee, which has the ability to act on behalf of the full Board.

- o James Hanson, Jr. indicated he agreed with the exclusion of Executive Committee members from subcommittee service based on Commissioner Albin's further clarification, acknowledging that 100 percent attendance of Board Members at a subcommittee meeting was highly unlikely.
- o Commissioner Albin further commented in response to James' remarks. He agreed that the chance of 100 percent attendance by Board Members at a subcommittee meeting is remote. However, if attendance did reach 100 percent for a particular subcommittee meeting, the meeting would have to be adjourned because the subcommittee would not have issued the required public notice for that meeting. Commissioner Albin also reminded the Board that should the proposed alternative subcommittee structure not work the Board could change the structure and reiterated his support for the exclusion of Executive Committee members from subcommittee service.

Chair Moravec concluded discussion of the possibility of revision of the Board's subcommittee structure by asking if a vote should be taken regarding the restructuring. Deb Andersen advised the Board that procedural steps would need to be taken to effect that change. Specifically, the bylaws of the Board would need to be revised. To revise the bylaws, the proposed changes would need to be provided to the Board Members at least 10 days prior to the public meeting at which the Board intended to take action to approve changes to its subcommittee structure. Deb advised the Board that it had not met that standard at that point in time. Deb indicated that the proposed changes to the subcommittee structure could be acted upon during the June meeting of the Board.

Chair Moravec stated that the proposed revision of the Board's bylaws to effect a change to the structure of the Board's subcommittees would be considered during the June meeting of the Board.

Agenda item 6. New business

a. 2020 Workforce Development Excellence Award Task Force

Chair Moravec addressed the Board on the topic of the *2020 Workforce Development Excellence Award*. The Board established the *Workforce Development Excellence Award Program* in December of 2018. Through the program, the Board recognizes an individual or organization, on an annual basis, for exceptional contributions or achievements in the area of workforce development in Nebraska. The award recipient is selected from the submitted nominations by a five-member task force that includes the Chair and Vice-Chair of this Board and the chairs of the Board's subcommittees. Chair Moravec reminded the Board that the office of chair of the Evaluation and Review Subcommittee is currently vacant, so he announced that he was temporarily appointing the vice-chair of the subcommittee, Lisa Wilson, to the 2020 selection task force.

Chair Moravec reminded the Board Members that nominations for the 2020 award must be submitted by March 31, 2020 to the WIOA policy mailbox ndol.wioa_policy@nebraska.gov.

b. Blueprint Nebraska

Jim Smith, Executive Director of Blueprint Nebraska, presented to the Board on the findings of Blueprint Nebraska's public report, "Growing the Good Life" (published in July 2019).¹ His presentation was provided as Handout 2.

c. Subcommittee Reports

Evaluation and Review Subcommittee

The report for the Evaluation and Review Subcommittee was provided by subcommittee vice-chair Lisa Wilson regarding the subcommittee's review of the WIOA Annual Statewide Performance Report Narrative for Program Year 2018.² Lisa's presentation was provided as Handout 3.

Lisa reminded the Board that the WIOA annual performance report narrative for Program Year 2018³ provides information regarding Nebraska's progress toward meeting its strategic vision and goals for the state's workforce system as they relate to WIOA Title I youth, adult, and dislocated worker programs and Title III Wagner-Peyser Employment Service. Lisa advised the Board that Nebraska performed well, overall, during Program Year 2018.

Customer satisfaction outreach activities were not a strong point.

- The state requires each local board to conduct customer satisfaction assessments regarding the effectiveness of their local one-stop delivery systems and one-stop centers, including how well the system and centers:
 - integrate available services for job seekers and employers;
 - meet the workforce development needs of job seekers and employment needs of local employers;
 - operate in a cost-efficient manner;
 - coordinate services among the one-stop partner programs; and
 - provide access to one-stop partner program services to the maximum extent practicable, including providing services outside of regular business hours where there is a workforce need identified by the local board.
- During Program Year 2018, all three local areas struggled to produce generalizable results or did not conduct the required outreach altogether.
 - Greater Lincoln Workforce Development Area
 - Results of customer satisfaction outreach to a sample of Title I program participants were not generalizable or representative of the participant population.
 - Results of outreach to other one-stop customers did not provide sufficient information to make a determination.
 - Outreach to employers and one-stop partners did not occur at all.
 - Greater Nebraska Workforce Development Area
 - Results of customer satisfaction outreach to a sample of Title I program participants did not provide sufficient information to make a determination on their generalizability.
 - Outreach to one-stop partners was not performed.

¹ The report is accessible at https://blueprint-nebraska.org/wp-content/uploads/2019/08/BlueprintNE_Public.pdf.

² The narrative is accessible at <https://dol.nebraska.gov/webdocs/getfile/5f7f3553-0007-42bd-8fb6-03036370ac2c>.

³ Program Year 2018 began July 1, 2018 and ended June 30, 2019.

- Results of customer satisfaction outreach to a sample of employers were generalizable to the employer population.
- Greater Omaha Workforce Development Area
 - Customer satisfaction outreach to Title I program participants and one-stop partners was not performed.
 - Outreach to employers was performed but results were not generalizable to or representative of the population size.
 - Outreach to other one-stop customers was performed and the results were generalizable.
- NDOL will provide technical assistance to the local areas regarding survey generalizability.

Evaluation and research was another weakness during Program Year 2018.

- States are required to conduct evaluations of activities of WIOA Title I programs in order to promote continuous improvement and research, test innovative services and strategies, and achieve high levels of performance and outcomes.
- According to the US Department of Labor, the labor availability and skills gap studies conducted by NDOL do not adequately satisfy the evaluation requirement.
- Nebraska is not the only state struggling to meet this requirement. For that reason, the US Department of Labor published several evaluation resources in December, including an *evaluation readiness assessment tool* and an *evaluation design assessment tool*.
 - The *evaluation readiness tool* is designed to help state workforce agencies develop a clear understanding of their readiness to conduct rigorous evaluation, identify their strengths and deficiencies, and establish feasible steps to improve evaluation capacity and meet WIOA evaluation requirements.
 - The *evaluation design assessment tool* is a resource intended for state workforce agencies that are ready to conduct rigorous evaluations. Its main purpose is to highlight the major design and implementation issues that agencies should consider when planning an evaluation project. It is also meant to help identify challenges, potential opportunities, and areas where technical assistance or additional resources may be needed.
- Prior to USDOL's release of those resources, NDOL identified at least one methodology that could be used to conduct evaluations, the Provus Discrepancy Model, an alternative strategy for evaluating programs where performance standards are established.
- NDOL is working to identify the best approach to meeting the evaluation requirement.

Co-enrollment of Trade program participants in local adult or dislocated worker programs was also a challenge during Program Year 2018.

- As of May 2019, only 36 percent of Trade program participants were enrolled in Title I adult or dislocated worker programs, well short of the Federally established target rate of 50 percent even though co-enrollment of Trade program participants has been required under state policy for a number of years.
- The state's policy regarding co-enrollment was recently revised to explicitly state that co-enrollment of Trade program participants in local adult or dislocated worker programs is mandatory.
- NDOL has provided technical assistance to Trade program staff and local area adult and dislocated worker program staff on several occasions and will continue to do so as needed.

Performance among the state's youth, adult, and dislocated worker programs at the state level is much better than originally thought.

- Since the State's annual performance report narrative was submitted at the end of November, USDOL provided NDOL with an analysis of Program Year 2018 performance of Nebraska's youth, adult, and dislocated worker programs and the Wagner-Peyser Employment Service.
- The analysis included USDOL's calculations of adjusted levels of performance and revealed that Nebraska, at the state level, did not fail to meet performance on the credential attainment indicator for the youth program as stated in the report.
- Guidance provided in USDOL's assessment also revealed that statements in the report relating to local area performance are no longer accurate.
 - Regarding youth program performance on the credential attainment indicator, it is likely that only one local area (Greater Lincoln) failed to meet performance on that indicator for the second consecutive year, rather than all three local areas. Confirmation of this assumption is pending NDOL's calculation of adjusted levels of performance Program Year 2018 (within the next few months).
 - Regarding adult program performance on Q4 employment rates, all local areas met performance on that indicator.
 - Regarding dislocated worker program performance on the Q2 and Q4 employment rates, all local areas met performance on those indicators.
- NDOL is looking into the possibility of submitting these revisions to USDOL and Nebraska Legislature.

Expansion of Registered Apprenticeship programs continues in Nebraska.

- Nebraska received an ApprenticeshipUSA Accelerator Grant in 2016 to support expansion of Registered Apprenticeship programs across the state.
- Since receiving the grant, employer participation in Registered Apprenticeship increased by 40 percent.
- Expansion of Registered Apprenticeship programs in Nebraska has extended to programs for youth.
 - Prior to 2017, there were no Nebraska employers sponsoring youth Registered Apprenticeship programs.
 - As of November 2019, 14 public and private high schools had been approved as non-sponsoring intermediaries and 21 businesses were participating as sponsors.

Jobs for American's Graduates (JAG) is another successful initiative in Nebraska.

- JAG was established in 1980 to help high-barrier youth graduate from high school and make successful transitions to postsecondary education or meaningful employment.
- JAG provides student participants with more than 80 competencies that lead to successful outcomes, including workplace readiness and life skills.
- JAG has been successfully implemented by states around the country for decades.
- NDOL began introducing JAG in Nebraska in the fall of 2018.
- As of November 2019, three schools had launched JAG with nearly 75 students enrolled.

The layoff aversion strategy for Ariens Company and FAST Global Solutions was another success.

- In 2018, NDOL was informed about the upcoming closure of Ariens Company in Auburn and the elimination of up to 175 advanced manufacturing jobs.
- Initially, NDOL worked with local organizations to share information with potential buyers about employment and training services available through WIOA Title I programs.

- Once FAST Global Solutions announced its intent to purchase the Ariens Company building and retain all Ariens employees, a Rapid Response event was held at the Ariens facility for over 150 employees.
- All of those employees completed one-on-one appointments with NDOL staff.
- Approximately 40 of those employees were identified as needing employment and training assistance through the Greater Nebraska dislocated worker program.
- Several of those individuals received on-the-job training funded by the program.

Policy and Oversight Subcommittee

Subcommittee chair James Hanson, Jr. provided the report for the Policy and Oversight Subcommittee. James advised the Board that the subcommittee and state plan partners continued work on the state plan.

- The subcommittee created a manual for plan development, which was provided as Handout 4.
- In that handout, timelines for submission of the state plan were provided on page 8.
- Subcommittee members and plan partners met January 16 – 17, 2020 to discuss and make decisions on content for the plan.
- The current draft of the state plan was published for public comment on January 30, 2020 and accessible online at dol.nebraska.gov and may be accessed by clicking on:
 - *Employment and Training*, then
 - *Workforce Innovation and Opportunity Act*, then the
 - *Manuals, Plans, and Reports* tab.
- A public hearing was held on February 10, 2020 in Lincoln and simultaneously broadcasted to nine additional locations across the state.
- Plan partners are currently entering content into the state plan portal.
- The plan will be submitted to Federal reviewers no later than April 1, 2020.

Strategy and Innovation Subcommittee

Subcommittee chair Michael Geary provided the report for the Strategy and Innovation Subcommittee. Since the December meeting of the Board, the Strategy and Innovation Subcommittee met twice. The first meeting was held January 14, 2020 to discuss the proposed MOU with Nebraska's homeless continuums of care (as discussed earlier in the meeting). The second meeting was held February 27, 2020. The purpose of the second meeting was to discuss how the subcommittee could best support the Board's goal of alignment of workforce-focused groups and initiatives in order to enhance collaboration and eliminate duplication of effort, as discussed during the December 6, 2019 meeting of the Board.

Michael reminded the Board that during the December 2019 meeting several Board Members indicated that they were aware of numerous workforce-focused groups and initiatives operating across the state, some of which are mentioned in the draft minutes of the December Board meeting of the Board. Board Members also talked about compiling and maintaining a list of those groups and initiatives and working to connect with them and learn about their efforts. During its February 2020 meeting, the subcommittee discussed approaches to identifying the groups and initiatives and decided to recommend a low-tech, networking method: distribution of a form. A preliminary draft of the form was provided as Handout 7.

Michael advised the Board that the presented draft was very basic in form and that the idea behind its simplicity is that it could be completed by anyone who is aware of workforce-focused group or initiative. Michael also stated that the subcommittee's intended use of the form would be its wide distribution in digital and paper format to:

- support compilation of a list of groups and initiatives while not over-burdening them with completed requests for information from numerous sources; and
- provide access to that list to the Board and the identified groups and initiatives, as well as employers, workers, and job seekers that may be interested in or benefit from the purposes of those groups and initiatives.

Michael advised the Board that the subcommittee would like feedback on the form. Specifically, the subcommittee asked if the Board had recommended changes on the form or feedback on the subcommittee's approach. The Board Members made no recommendations on the form and did not provide feedback on the subcommittee's proposed approach. Michael indicated that the subcommittee would move forward to determine methods for operationalizing use of the form and development of the publically available list and take the imperative to "keep it simple." He also said that the subcommittee would report to the Board during the June meeting and will rely upon the Members of the Board to participate and promote this initiative of the Board once it is implemented fully.

d. Member Updates

Chair Moravec asked Members of the Board for updates on their respective industries or organizations and local workforce development area activities for the Members who also serve on local workforce development boards. Members of the Board provided updates as requested.

Agenda item 7. Public Comment

Chair Moravec opened the floor for public comment. No public comments were made.

Agenda item 8. Next Meeting – Date and Time

Chair Moravec reminded the Members of the Board that the next meeting of the Board is scheduled for June 5, 2020 from 9a to 12p and will be held at the Administrative Services Building, Development Center, Lower Level, 1526 K Street, Lincoln, Nebraska. If the date or time of the meeting changes, Members of the Board would be notified by email.

Members of the public may confirm the dates and times of the meetings of the Board by checking the Upcoming Meeting section of the Board's webpage. The Board's webpage is accessible at <https://dol.nebraska.gov/EmploymentAndTraining/LCRWP/WIOA/NWDB>.

Agenda item 9. Adjournment

Chair Moravec asked for a motion to adjourn the meeting. Michael Geary motioned that the meeting be adjourned, and John Albin seconded the motion. Members of the Board in attendance voted by voice vote on the motion, which carried unanimously. The meeting adjourned at approximately 11a.