

**BOARD OF REGENTS  
BRIEFING PAPER**

**AGENDA ITEM TITLE:** Furlough Policy for NSHE Faculty and Employees Due to COVID-19 Budget Shortfall During Fiscal Year 2021

**MEETING DATE:** November 13, 2020

**2. BACKGROUND & POLICY CONTEXT OF ISSUE:**

In July 2020, the 31st Special Session of the Nevada State Legislature was convened at the request of Nevada's Governor to address economic and budget shortfalls due to the COVID-19 global pandemic.

Assembly Bill (AB) 3 was passed by the Nevada State Legislature and signed into law by the Governor and provides the following:

- Section 131.2(1)(b) provides that AB 3 applies to the Nevada System of Higher Education (NSHE).

- Section 131.2(1)(a) provides that “[f]or the period beginning on January 1, 2021, and ending on June 30, 2021, each employee of the State shall:

- (1) If he or she is a full-time employee, take 48 hours of unpaid furlough leave during the fiscal year.

- (2) If he or she is employed less than full time, take a number of hours of unpaid furlough leave during the fiscal year which is equal to the average number of hours worked per working day multiplied by 6.

- Section 131.3 provides that employees required to take furlough leave must be held harmless pursuant to the accumulation of retirement credit pursuant to NRS Chapter 286 (Public Employee Retirement System (PERS)).

- Section 131.4(1) provides that “[i]t is the intent of the Legislature to limit exceptions to the requirement of furlough leave for employees of the State . . . to identified areas of critical need. If an employer participating in the program . . . determines that a position cannot be subject to furlough leave because of the need to provide appropriate services that are necessary to the protection of public health, safety and welfare, the governing body of the agency must make findings on the record in a public meeting that:

- (a) The position is necessary to the protection of public health, safety or welfare;

- (b) The public health, safety or welfare will be significantly diminished if mandatory furlough leave is implemented for employees in these positions; and

- (c) No alternatives exist to provide for the protection of public health, safety or welfare.

- Section 131.4(2) provides that any decision by the Board of Regents to grant an exception to the furlough requirements of AB 3 must be reported to the Interim Finance Committee of the Nevada State Legislature on a quarterly basis.

- Section 131.4(4) provides that any position that is granted an exception to the furlough leave requirements of AB 3 must still have their salary reduced by 4.6 percent from January 1, 2021, through June 30, 2021.

Pursuant to the law as set forth in AB 3, the Furlough Policy for NSHE Faculty and Employees Due to COVID-19 Budget Shortfall During Fiscal Year 2021 (the Policy) was drafted to be included and codified as Chapter 4, Section 20 of the Procedures and Guidelines Manual.

Due to the fact that NSHE faculty members and employees receive their pay for work performed during the preceding month, balancing the interests of fairness to NSHE faculty and employees while also adhering to the plain language of AB 3 requires the Policy to commence on December 1, 2020. This will allow the ability to take furlough leave before a reduction in pay is experienced and will also allow the budget savings from AB 3 to occur during the last half of fiscal year 2021. Faculty members and employees will see the first 4.6 percent pay reduction on the January 1, 2021, pay date and the final reduction on the June 1, 2021, pay date (6 monthly pay dates).

This Policy does not apply to undergraduate students, graduate students, and fellows employed in temporary positions for the purpose of completing certification, licensure or specific experience requirements.

This Policy also does not apply to employees who work within the classified personnel system of the State. The Nevada Department of Administration and/or other government entity will oversee the implementation of AB 3 for classified employees.

If approved by the Board of Regents, notices pursuant to emergency amendments to Title 2, Chapter 5, Section 5.4 of the Code (which were approved by the Board on May 29, 2020, and September 17, 2020, respectively), must be sent to all impacted faculty members and employees 10 days before December 1, 2020.

**3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

Approve the Policy as drafted.

**4. IMPETUS (WHY NOW?):**

AB 3 is law and requires implementation by January 1, 2021.

**5. CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:**

Not Applicable to NSHE Strategic Plan Goals

**INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL**

N/A

**6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

N/A

**7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:**

Some members of the NSHE community advocate for a more restricted implementation of AB 3, so that certain letter of appointment and/or temporary faculty or employee positions are exempted from the Policy.

**8. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:**

N/A

**9. RECOMMENDATION FROM THE CHANCELLOR’S OFFICE:**

The Chancellor’s Office recommends that the Board approve the Policy as drafted.

**10. COMPLIANCE WITH BOARD POLICY:**

- Consistent With Current Board Policy: Title 2, Chapter 1, Section 1.3.3.(a), (b)
- Amends Current Board Policy: Title 2, Chapter 1, Section 1.1.(a) (Amends)  
Title 2, Chapter 5, Section 5.4.4 (Amends)  
Title 2, Chapter 5, Section 5.4.12 (New Section)
- Amends Current Procedures & Guidelines Manual: Chapter 4, Section 20 (New Section)
- Fiscal Impact: Yes  No  
Explain: This Policy implements budget savings for NSHE during for fiscal year 2021 as directed by AB 3.

**NEW POLICY**

**Chapter 4, Section 20 of the NSHE Procedures & Guidelines Manual**

New Section Chapter 4, Section 20

Additions appear in **boldface italics** and deletions are [~~stricken~~ and bracketed]

***Section 20. Furlough Policy for NSHE Faculty and Employees Due to COVID-19 Budget Shortfall for Fiscal Year 2021***

***1. Amount of Furlough Leave***

***Pursuant to Assembly Bill (AB) 3 passed by the Nevada State Legislature during the 31st Special Legislative Session, employees of the Nevada System of Higher Education will be required to take the following amount of furlough leave from December 1, 2020, through June 30, 2021, and a corresponding 4.6 percent reduction in monthly compensation from January 1, 2021, through June 30, 2021.***

- a. Academic and administrative faculty on a 12-month contract (Contract A) will be required to take 6 furlough days (48 hours).***
- b. Academic faculty on a 9-month contract (Contract B) will be required to take 4 furlough days (32 hours).***
- c. A full or part-time faculty member or employee who does not fall within the above categories will be required to take an amount of furlough leave based upon the number of hours worked during an average day multiplied by the number 6 and a proportional reduction in compensation as determined by the institution's human resources department.***

- d. *A faculty member or employee hired after December 1, 2020, will be required to complete an amount of furlough leave that is based upon the number of pay dates that remain as of their employment start date. This number shall be calculated by their institution's human resources department.*

## **2. Use of Furlough Leave**

*On December 1, 2020, faculty members will receive upfront in Workday the total amount of furlough leave they are required to take. Furlough leave may be taken in full or half-day increments and shall be requested by the faculty member through the normal Workday process. Furlough leave will be subject to supervisor approval. Academic faculty may not take furlough leave during instruction times. It is not required that any set amount of furlough leave be used in a given month; however, the faculty member's compensation will automatically be reduced every month whether or not furlough leave is used by the faculty member during that month.*

*All furlough leave must be used by the faculty member by June 30, 2021. Unused furlough leave has no monetary value, and a faculty member will not be entitled to payment or compensation for unused furlough leave if the faculty member separates from employment or leave remains unused at the end of June 30, 2021. If a faculty member's amount of furlough leave exceeds the number of monthly salary reductions and the faculty member separates from employment, the exceeded amount of furlough leave may be deducted from the faculty member's annual leave balance.*

## **3. Exempt Positions**

*Positions that may be exempt from this policy are for identified areas of critical need and are limited to those positions that are necessary to the protection of public health, safety and welfare. Before any position may be exempt, the Board of Regents must make findings on the record at a public meeting of the following:*

- a. The position is necessary to the protection of public health, safety or welfare;**
- b. Public health, safety or welfare will be significantly diminished if mandatory furlough leave is implemented for this position; and**
- c. No alternatives exist to provide for the protection of public health, safety or welfare.**

**If the position is determined not to be subject to furlough leave pursuant to these criteria, the compensation of the employee must still be reduced by 4.6 percent for the portion of the period beginning on January 1, 2021, and ending on June 30, 2021. The Board of Regents shall report to the Interim Finance Committee on a quarterly basis all positions that have been determined not to be subject to furlough leave pursuant to the above criteria and the reasons for such determinations.**

#### **4. Student Academic Positions**

**This policy does not apply to undergraduate students, graduate students, and fellows employed in temporary positions for the purpose of completing certification, licensure or specific experience requirements. Positions must be temporary in duration and employment ends after completion of the requirement(s).**

#### **5. Classified Employee Positions**

**This policy does not apply to employees who are within the classified system of the State. Furlough policies for classified employees will be established by the Nevada Department of Administration and/or other appropriate State agency.**

**6. Implementation**

***Human resource departments of each institution shall be responsible for applying and implementing this policy in a fair and consistent manner in accordance with the intent of the Board of Regents and the Nevada State Legislature, and any ambiguity in its interpretation or unforeseen circumstance should be resolved in consultation with the NSHE Chief General Counsel.***

**7. Expiration**

***This policy shall expire on June 30, 2021.***