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Date: February 18, 2025

To: Senate Committee on Government Affairs

From: Kent Ervin, Director of Government Affairs, Nevada Faculty Alliance

Subj: Opposition to and proposed amendment of SB32.

Proposed conceptual amendment to SB32 submitted by the Nevada Faculty Alliance to the Senate Committee on Government Affairs

The Nevada Faculty Alliance is testifying in Opposition to SB32 for the purpose of proposing the following conceptional amendment to return NSR 287.0426 to its original intent.

Replace the current subsection 2 of NRS 287.0426 (to be deleted per SB32):

> 2. The Director of the Department of Administration shall appoint a Quality Control Officer for the Program. The Director shall define the duties of the Quality Control Officer with the concurrence of the Board. The Quality Control Officer is in the unclassified service of the State and serves at the pleasure of the Director.

With the following conceptual substitution:

> 2. The Executive Officer of the Program shall appoint a Chief Financial Officer with oversight of the finances and budgets of the Program. The Executive Officer shall define the duties of the Chief Financial Officer with the concurrence of the Board. The Chief Financial Officer shall report on the finances and budget of the Program directly to the Board at least quarterly. The Chief Financial Officer is in the unclassified service of the State. The dismissal of the Chief Financial Officer by the Executive Officer is subject to the approval of the Board.

Background and rationale:

Prior to SB502 of the 2017 session [https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5734/Overview], the Public Employees' Benefits Program (PEBP) Quality Control Officer (QCO) was appointed by and served at the pleasure of the PEBP Board per NRS 287.0426 (1) "... The appointment and dismissal of an officer in charge of quality control are subject to the approval of the Board." The reason was to allow for independent reporting to the Board on financial matters, internal audits, and compliance.

The Public Employees' Benefits Program with an independent Board was established by SB544 in 1999 in part due to prior mismanagement of the health benefits program that was not timely reported to the former Committee on Benefits. After a Third Party Administrator stopped making payments on valid claims and went bankrupt, the Legislature had to bail out the state employee benefits program. From the Senate Government Affairs Committee minutes on 3/3/1999 for the BDR that became SB544(1999), the bill "provides for a quality-control officer who acts as an internal auditor and who cannot be fired without the permission of the board. Mr. Hansen noted this provision ensures audit findings would have to be heard by the board. He commented this proposed structure solves the problems that were found in the Legislative Counsel Bureau audit." [https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1999/SB544,1999pt1.pdf#page=7] In additional remarks to the Assembly Committee on Ways & Means on 5/24/1999: "The Quality Control Officer in the original draft of the bill was intended to provide a vender audit/quality control function and to ensure that the plan's operations were functioning in compliance with all relevant statutes and plan policies. The second reprint of S.B. 544 referred to the position as an Administrative Analyst. Because the Quality Control Officer was so important, Mr. Waterman expressed concern the functions of oversight and internal quality control were lost under the new title. He requested the committee to return the position title to Quality Control Officer." [https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1999/SB544,1999pt2.pdf#page=11]

The original intent of the Quality Control Officer to serve as an internal auditor and compliance officer has been lost due to changes in the duties of the position. A compromise made with SB502 of 2017 to have the QCO report to the Director of the Department of Administration instead of to the PEBP Board has not functioned well because in practice the QCO is supervised by the Executive Officer of PEBP with little contact with the Director of the Department of Administration.

Our proposed amendment makes the PEBP Chief Financial Officer (CFO) appointed by the Executive Officer, but it requires that the CFO give regular reports directly to the PEBP Board and that the CFO can be dismissed only with the approval of the Board. This returns to the original intent of SB544 of 1999 for independent oversight and reporting to the PEBP Board, but without requiring an open-meeting search and interviews for the position by the full Board and without the awkward reporting of the QCO to the Department of Administration. Requiring the concurrence of the PEBP Board for the dismissal of the CFO is a reasonable safeguard against a future Executive Officer from exerting improper influence over financial reporting to the Board and preventing the Board from doing its fiduciary duty. We have no qualms whatsoever about the ethics of the current administration of PEBP, but that is not a reason to remove statutory protections.

Thank you for your consideration of this amendment offered in good faith for the future health of the Public Employees' Benefits Program.