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WILLIAM SCOTT HOEN
CLERK

BY _____ DEPUTY

FIRST JUDICIAL DISTRICT COURT OF NEVADA
CARSON CITY

NATIONAL TAXPAYERS UNION, a non-profit organization, and ROBIN L. TITUS, MD,

Plaintiffs,

vs.

JOSEPH LOMBARDO, in his official capacity as Governor of the State of Nevada; ZACH CONINE, in his official capacity as Nevada State Treasurer; RICHARD WHITLEY, in his official capacity as Director of the Nevada Department of Health and Human Services; SCOTT J. KIPPER, in his official capacity as the Nevada Commissioner of Insurance; and RUSSELL COOK, in his official capacity as Executive Director of the Silver State Health Insurance Exchange,

Defendants, and

LEGISLATURE OF THE STATE OF NEVADA,

Intervenor-Defendant.

Case No. 24 OC 00001 1B

Dept. No. 2

**ORDER GRANTING
MOTIONS TO DISMISS
FIRST AMENDED COMPLAINT**

This matter came before the Court on motions to dismiss filed by Defendants. Plaintiffs filed their First Amended Complaint for Declaratory and Injunctive Relief on January 29, 2024. The named defendants, all members of the State executive branch ("Executive Defendants"), filed their motion to dismiss on February 23, 2024. The Nevada Legislature intervened in this action by way of a stipulated order entered on February 26.

1 The Executive Defendants and the Legislature filed, and joined in each other's, motions to
2 dismiss, the Plaintiffs filed their responses in March, and the Executive Defendants and
3 the Legislature filed replies by the end of that month. After reviewing the pleadings and
4 papers on file and considering the parties' arguments at the hearing on June 26, 2024, the
5 Court enters the following order.

6 **FACTUAL BACKGROUND**

7 In their First Amended Complaint ("FAC"), Plaintiffs raise several state
8 constitutional claims challenging the validity of specific provisions of Senate Bill No. 420
9 of the 2021 regular legislative session ("SB 420"). SB 420, 2021 Nev. Stat., Ch. 537, at
10 3614. SB 420 was passed and approved on June 9, 2021, although the many different
11 sections of the bill became, or will become, effective at the various times stated in section
12 41 of the bill. Plaintiffs also raise a state statutory claim under the Administrative
13 Procedure Act ("APA") in NRS Chapter 233B. In that claim, Plaintiffs allege that the
14 Executive Defendants violated the APA by adopting guidance letters concerning the state's
15 administration of the challenged provisions of SB 420 without complying with the
16 administrative rulemaking requirements under the APA. Each of Plaintiffs' four causes of
17 action articulated in the First Amended Complaint seeks declaratory relief under NRS
18 Chapter 30.

19 The Interest of the Plaintiffs in the Legislation

20 Plaintiff National Taxpayers Union ("NTU") alleges it is a public interest, nonprofit,
21 nonpartisan corporation organized under the laws of Delaware and authorized to do
22 business in Nevada. See FAC ¶ 6. It also alleges that its purpose is "to advocate for public
23 policies that promote transparency, accountability, and efficiency in government" and that
24 its leadership advocated for passage of the two-thirds supermajority provision for adopting
25 legislation which increases revenue. FAC ¶17. Even though it lists many of its purposes,
26 NTU does not allege that SB 420 will cause the organization any direct harm. NTU does
27 allege that its "forty-five Nevada members and supporters will be harmed by SB 420" but
28

1 has not stated who those members are and how they will be harmed and has not provided
2 any means for this Court to identify those members.

3 Plaintiff Dr. Titus is a state resident, a licensed and practicing physician, and a
4 member of the Nevada Legislature. She alleges she “will be personally harmed by the
5 Defendants’ continued implementation of the Public Option, a government-run health
6 insurance program that requires Nevada health care providers to participate and accept
7 lower reimbursement rates.” FAC ¶ 18. Dr. Titus does not allege that she has yet suffered
8 any injury, but only speculates that she will be harmed by the public option if it is allowed
9 to go into effect on January 1, 2026.

10 Plaintiffs assert in their first three causes of action a key identical allegation:
11 “Without this Court’s intervention, Defendants will proceed to implement SB 420 resulting
12 in irrevocable and irreparable harm to the rights of Nevada citizens protected under
13 Nevada’s Constitution.” FAC ¶ 87, 94, 101 (emphasis added).

14 The Challenged Legislation

15 The challenged provisions of SB 420 provide for the design, establishment, and
16 operation of “a health benefit plan known as the Public Option.” SB 420, 2021 Nev. Stat.,
17 Ch. 537, § 10(1), at 3617 (codified in NRS 695K.200(1)). Even though the challenged
18 provisions were enacted during the 2021 regular session, they do not become effective and
19 operative until January 1, 2026, with certain limited exceptions. SB 420, 2021 Nev. Stat.,
20 Ch. 537, §§ 2-15, at 3616-22 (codified in NRS Chapter 695K), and § 41(2), at 3648 (setting
21 forth the effective dates for the specific provisions of SB 420).

22 Under Section 11 of SB 420 (codified in NRS 695K.210), the Executive Defendants
23 must work collaboratively to apply to the United States Secretary of Health and Human
24 Services for a waiver under federal law and regulations to obtain pass-through federal
25 funding to carry out the challenged provisions of SB 420. Defendant Director Whitley
26 submitted the State’s waiver application to the federal government on December 29, 2023.
27 FAC ¶¶ 55, 56. *See* 42 U.S.C. § 18052; The Patient Protection and Affordable Care Act,
28 H.R. 3590, Pub. L. 111-148, § 1332, 124 Stat. 119, 203 (Mar. 23, 2010). Plaintiffs do not

1 allege that the State's waiver application has been granted, and they do not allege that the
2 program can go forward without resolution of the waiver application.

3 Section 14 of SB 420 (codified in NRS 695K.240) states that Nevada public option
4 health care provider reimbursements "must be comparable to or better than" the
5 reimbursement rates under existing federal programs. Section 13 of SB 420 (codified in
6 NRS 695K.230) only requires providers to participate in the public option if they also
7 participate in "the Public Employees' Benefits Program established pursuant to subsection
8 1 of NRS 287.043 or the Medicaid program, or [provide] care to an injured employee
9 pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS,"
10 which are more commonly known as the Workers' Compensation Laws. Under this section,
11 these health care providers must enroll as a provider in at least one Public Option provider
12 network but are not required to accept new patients; they are only required to "accept new
13 patients who are enrolled in the Public Option to the same extent as the provider accepts
14 new patients who are not enrolled in the Public Option." (emphasis added).

15 Section 41(2) of SB 420 provides that the APA exemption for the Public Option in
16 Section 20 of SB 420 became effective upon "passage and approval" for the "purposes of
17 procurement and any other preparatory administrative tasks necessary to carry out" the
18 public health insurance option, which includes the adoption, amendment, or repeal of any
19 rule or policy governing the public health insurance option. See 2021 Nev. Stat., Ch. 537,
20 § 20, at 3631-32 (amending the Nevada Administrative Procedure Act in NRS 233B.039),
21 and § 41(2), at 3648 (setting forth the effective dates for the specific provisions of SB 420).
22 The bill does not define what is meant by "purposes of procurement and any other
23 preparatory administrative tasks necessary to carry out the provisions of those sections . .
24 . . ."

25 The Constitutional and Legal Challenges

26 Plaintiffs assert three constitutional challenges to SB 420. First, they claim that the
27 legislation generates public revenue, but that the bill was not passed by a two-thirds vote
28 in both chambers of the Legislature. As such, Plaintiffs argue that the bill violates article

1 4, section 18 (2) of the Nevada Constitution which requires an affirmative vote of two-thirds
2 of each House for a bill “which creates, generates, or increases any public revenue in any
3 form” Nev. Const. art. 4, § 18 (2). Plaintiffs assert that the bill will require the State
4 to create a health benefit plan, or “Public Option,” available to consumers which will raise
5 revenues from the purchase of the health plan or from carrier premium fees or premium
6 taxes. FAC ¶¶ 2, 28-31, 39-61, 84-86.

7 Second, Plaintiffs allege that SB 420 authorizes defendants in section 15 of the bill
8 “nearly unlimited discretion to use unspecified amounts of funds from the state treasury
9 for unspecified purposes that the legislature did not approve in passing SB 420.” FAC ¶¶
10 3, 62-69, 92-93. Plaintiffs claim this violates the Appropriations Clause of the constitution.
11 *See id.*, art. 4, §19 (“No money shall be drawn from the treasury but in consequence of
12 appropriations made by law.”).

13 Third, it is asserted that the legislation violates the separation of powers doctrine in
14 article 3, section 1 of the constitution as executive branch officials are authorized by the
15 bill to revise statutory language (a power of the Legislature) which establishes health
16 insurance premium level reduction targets. Plaintiffs claim this revision was done by
17 defendants who issued guidance letters as authorized by the legislation. FAC ¶¶ 4, 73-80,
18 98-104. Similarly, in their fourth cause of action, Plaintiffs also claim that the issuance of
19 the guidance letters were effectively “regulations” which were not adopted and filed in
20 accordance with Nevada’s Administrative Procedure Act (“APA”) in Chapter 233B of the
21 Nevada Revised Statutes. FAC ¶¶ 105-114.

22 LEGAL ANALYSIS

23 A complaint may be dismissed at any time for lack of subject matter jurisdiction.
24 NRCPC 12(b)(1) & (h)(3). Upon a motion to dismiss for failure to state a claim under NRCPC
25 12(b)(5), this Court typically must take all factual allegations in the complaint as true and
26 draw all inferences in favor of Plaintiffs. The complaint should only be dismissed if it
27 appears beyond doubt that plaintiffs could prove no set of facts which entitle them to the
28 relief they seek. *Buzz Stew v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672

1 (2008). Nevertheless, this Court is not limited to the content of the complaint when it refers
2 in this case to, and relies upon, the legislation which is central to the claims and no party
3 questions the authenticity of the legislation. *See Baxter v. Dignity Health*, 131 Nev. 759,
4 764, 357 P.3d 927, 930 (2015) (citing cases). Here, no one questions the authenticity of SB
5 420.

6 It is also the case that, when plaintiffs assert constitutional questions, proof of
7 standing is a jurisdictional requirement. *Stockmeier v. Nev. Dep't of Corrections*, 122 Nev.
8 385, 393, 135 P.3d 220, 225-26 (2006), *overruled in part on other grounds by State ex rel.*
9 *Bd. of Parole Comm'rs v. Morrow*, 127 Nev. 265, 255 P.3 224 (2011). Thus, if these Plaintiffs
10 do not show standing to sue, or an exception to standing, the Court is without jurisdiction
11 to hear the case. The same is true when the allegations of a complaint are not ripe for
12 adjudication. The lack of ripeness also affects the court's jurisdiction to hear a case. *See*
13 *Allstate Ins. Co. v. Thorpe*, 123 Nev. 565, 571, 170 P.3d 989, 993 (2007) (failure to exhaust
14 administrative remedies rendered the matter unripe and nonjusticiable); *Herbst Gaming,*
15 *Inc. v. Heller*, 122 Nev. 877, 887, 141 P.3d 1224, 1230-31 (2006) (the focus is the degree to
16 which alleged harm is sufficiently concrete to yield a justiciable controversy).

17 Naming the State as a Defendant

18 The First Amended Complaint names state officers and employees as defendants but
19 does not name the State of Nevada as a defendant. Nevada law provides: "In any action
20 against the State of Nevada, the action must be brought in the name of the State of Nevada
21 on relation of the particular department, commission, board or other agency of the State
22 whose actions are the basis for the suit." NRS 41.031(2). This statute was adopted by the
23 Legislature which has authority to waive what is otherwise the State's immunity to suit.
24 Nev. Const. art. 4, § 22. The Nevada Supreme Court has held that section 41.031 does not
25 apply only to torts. *Echeverria v. State*, 137 Nev. 486, 490-92, 495 P.3d 471, 475-77 (2021).
26 A failure to comply with this statute deprives this Court of subject matter jurisdiction. *See,*
27 *e.g., Craig v. Donnelly*, 135 Nev. 37, 39-40, 439 P.3d 413, 415 (Nev. Ct. App. 2019).
28 Defendants acknowledge that the error can be addressed by granting Plaintiffs leave to

1 amend. Generally, leave to amend should be “freely given when justice so requires.”
2 *Harlow, Inc. v. Dist. Ct.*, 129 Nev. 394, 398, 302 P.3d 1148, 1152 (2013). Accordingly, this
3 Court will address the additional reasons for dismissal of the action.

4 Standing

5 Our rules state that “[e]very action shall be prosecuted in the name of the real party
6 in interest.” NRCP 17(a). A real party in interest “is one who possesses the right to enforce
7 the claim and has a significant interest in the litigation.” *Arguello v. Sunset Station, Inc.*,
8 127 Nev. 365, 368, 252 P.3d 206, 208 (2011). A plaintiff must demonstrate “standing” to
9 bring an action. This is to say that there must be a “showing of injury-in-fact,
10 redressability, and causation that federal cases require for [federal constitutional] Article
11 III standing.” *Nat’l Ass’n of Mut. Ins. Cos. v. State Dep’t of Bus. & Indus.*, 139 Nev. ____,
12 ____, 524 P.3d 470, 476 (Adv. Op. 3, 2023)[“NAMIC”](citing cases). Standing presents a
13 question of law. *Id.*, citing *Arguello v. Sunset Station, Inc.*, 127 Nev. 365, 368, 252 P.3d
14 206, 208 (2011). A speculative injury is insufficient to establish standing and it is up to the
15 plaintiffs to demonstrate that they suffered actual personal injury. *Doe v. Bryan*, 102 Nev.
16 523, 525-26, 728 P.2d 443, 444-45 (1986), cited by *Morency v. State, Dep’t of Educ.*, 137 Nev.
17 622, 626 n.5; 496 P.3d 584, 588 n. 5 (2021). In sum, standing requires either a showing of
18 injury-in-fact, statutory standing, or a constitutional expenditure challenge or separation-
19 of-powers dispute that will evade review if strict standing requirements are imposed.
20 *NAMIC*, 139 Nev. at ____, 524 P.3d at 476.

21 The question of standing concerns whether the party seeking relief has a
22 sufficient interest in the litigation. The primary purpose of this standing
23 inquiry is to ensure the litigant will vigorously and effectively present his or
24 her case against an adverse party.” [Schwartz] Thus, “a requirement of
25 standing is that the litigant personally suffer injury that can be fairly traced
26 to the allegedly unconstitutional statute and which would be redressed by
invalidating the statute.” [Ellie] A general interest in the matter is normally
insufficient: “a party must show a personal injury.” [Schwartz]

27 *Morency v. Dep’t of Educ.*, 137 Nev. at 625, 496 P.3d at 588 (2021), quoting *Schwartz v.*
28 *Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016) (“Schwartz”); *Elley v. Stephens*, 104 Nev.

1 413, 416, 760 P.2d 768, 770 (1988) (“*Elley*”). “[A] party generally has standing to assert
2 only its own rights and cannot raise the claims of a third party not before the court.” *Beazer*
3 *Homes, Beazer Homes Holding Corp. v. Dist. Ct.*, 128 Nev. 723, 730, 291 P.3d 128, 133
4 (2012). In Nevada, a person cannot show standing simply because he or she is a taxpayer.
5 *Blanding v. City of Las Vegas*, 52 Nev. 52, 74, 280 P. 644, 650 (1929).

6 Nevada does recognize a special exception to direct or personal standing known as
7 the public importance exception. *Schwartz*, 132 Nev. at 743, 382 P.3d at 894. *See also*
8 *Nevada Policy Research Inst. v. Cannizzaro*, 138 Nev. 259, 507 P.3d 1203 (2022)
9 (“*Cannizzaro*”). The general test for applying the public importance exception requires the
10 plaintiff to show that (1) the case “involve[s] an issue of significant public importance”; and
11 (2) the case “involve[s] a challenge to a legislative expenditure or appropriation on the basis
12 that it violates a specific provision of the Nevada Constitution” or when a “plaintiff seeks
13 vindication of the Nevada Constitution’s separation-of-powers clause”; and (3) “the plaintiff
14 must be an ‘appropriate’ party, meaning that there is no one else in a better position who
15 will likely bring an action and that the plaintiff is capable of fully advocating his or her
16 position in court.” *Cannizzaro*, 138 Nev. at 263, 507 P.3d at 1208; *Schwartz*, 132 Nev. at
17 743, 382 P.3d at 894-95. The public importance exception is a narrow exception intended
18 to apply only when a claim is likely to evade review. *NAMIC*, 139 Nev. at __; 524 P.3d at
19 476. Additionally, only “extraordinary cases” that fall within the separation-of-powers
20 class of cases will meet the exception. *Cannizzaro*, 138 Nev. at 263, 507 P.3d at 1208.

21 In this case, Plaintiff NTU does not have individualized standing under Nevada law,
22 and NTU does not meet the requirements for representational standing. This plaintiff has
23 neither alleged nor shown how SB 420 has any effect on the entity itself. It has also not
24 shown that there is no one else in a better position who will likely bring an action against
25 the legislation. NTU also neither identifies any of its purported Nevada members nor
26 provides any means to sufficiently ascertain who those individuals are for this Court to
27 analyze the limited exception of representational standing.

28

1 Plaintiff Titus also has not shown that she has individual standing under Nevada
2 law because any allegations of harm to her are purely speculative. Dr. Titus does not allege
3 she is currently harmed by SB 420. She asserts harm by the implementation of the public
4 option, “a government-run health insurance program that requires Nevada health care
5 providers to participate and accept lower reimbursement rates.” FAC ¶ 18. The plain
6 language of Section 14 of SB 420 (codified in NRS 695K.240), however, belies Dr. Titus’
7 allegations of any current harm, as it may prohibit in the future Nevada public option
8 provider reimbursements from being less than those under existing federal programs.
9 Plaintiff Titus also does not assert representational standing and cannot do so as she has
10 not demonstrated that no one else is in a better position to bring and advocate a position
11 against the legislation.

12 This Court said during the arguments on the motions to dismiss that it believed the
13 public importance exception to standing applied. Upon further reflection, the Court
14 believes that it does not apply. The case law on this exception has stated that it is a
15 “narrow” exception (*Schwartz*) when a claim is likely to evade review and is allowed in
16 “extraordinary cases” involving the separation of powers issue which will evade review and
17 be “rare” (*Cannizzaro*). The cases in Nevada have involved many citizens and parents of
18 children in school alleging a diversion of millions of dollars of public education funds to
19 private schools (*Schwartz*); “legislation affecting the financial concerns of a significant
20 number of businesses, organizations, and individuals throughout the state” (*Morency*); and
21 the protection of public funds in a separation of powers issue likely to recur (*Cannizzaro*).

22 In this case, there is a claimed legislative appropriation without a two-thirds vote
23 because the Public Option, if it ever takes effect, will generate or increase public revenues
24 in the future from the consumer purchases of the health plan or from carrier premium fees
25 or premium taxes. The asserted appropriation of money by the State Treasurer without
26 certainty and specificity from the Legislature is a vague and uncertain allegation which
27 does not appear to be sufficient to meet the “narrow” exception or “extraordinary” case
28 requirement. Similarly, the alleged separation of powers violations which stem from

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27 does not appear to be sufficient to meet the “narrow” exception or “extraordinary” case
28 requirement. Similarly, the alleged separation of powers violations which stem from

1 actions taken (or to be taken) by the Executive Defendants submitting a waiver application
2 and guidance letters without administrative rulemaking and does not appear to meet the
3 public importance exception for standing. Additionally, Plaintiffs have not met their
4 burden (beyond simply stating) that there is “no one else in a better position who will likely
5 bring an action and that [Plaintiffs are] capable of fully advocating [their] position in Court.
6 If and when the law is fully implemented and facts are known as to the impact of the
7 legislation, perhaps a more appropriate plaintiff or plaintiffs will bring the claims.
8 Plaintiffs have not met their burden in this case.

9 Both Plaintiffs also lack standing to assert the fourth cause of action because they
10 have not articulated a redressable injury resulting from the alleged violation of the APA.
11 This cause of action also clearly does not meet the public importance exception which is
12 limited to constitutional claims.

13 Ripeness

14 Most importantly, Plaintiffs must show that their claims are ripe for determination.
15 “This court is confined to controversies in the true sense. The parties must be adverse and
16 the issues ripe for determination. *Kress v. Corey*, 65 Nev. 1, 189 P.2d 352 (1948). We do not
17 have constitutional permission to render advisory opinions. Nev. Const. art. 6, § 4.” *City*
18 *of North Las Vegas v. Cluff*, 85 Nev. 200, 201, 452 P.2d 461, 462 (1969). Two factors control
19 the ripeness inquiry: “(1) the hardship to the parties of withholding judicial review, and (2)
20 the suitability of the issues for review.” *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 887,
21 141 P.3d 1224, 1231 (2006).

22 “Of course, the duty of every judicial tribunal is to decide actual controversies by a
23 judgment which can be carried into effect, and not to give opinions upon moot questions or
24 abstract propositions, or to declare principles of law which cannot affect the matter in issue
25 before it.” *NCAA v. Univ. of Nevada, Reno*, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981).

26 The Supreme Court of Nevada has articulated the standards for obtaining
27 declaratory relief, which Plaintiffs seek in this case:

1 The requisite precedent facts or conditions which the courts generally
2 hold must exist in order that declaratory relief may be obtained may be
3 summarized as follows: (1) there must exist a justiciable controversy; that is to
4 say, a controversy in which a claim of right is asserted against one who has an
5 interest in contesting it; (2) the controversy must be between persons whose
6 interests are adverse; (3) the party seeking declaratory relief must have a legal
7 interest in the controversy, that is to say, a legally protectible interest; and (4)
8 the issue involved in the controversy must be ripe for judicial determination.
9 Declaratory Judgments, Borchard, pp. 26–57.

10 *Kress v. Corey*, 65 Nev. 1, 26, 189 P.2d 352, 364 (1948). The allegations of Plaintiffs' First
11 Amended Complaint do not specifically state that they have currently suffered any harm.
12 The language chosen by Plaintiffs suggesting that “the State’s waiver application projects
13 that the State will directly receive hundreds of millions of dollars in pass-through federal
14 funding” [FAC ¶ 31 (emphasis added)] are both tacit admissions that these are elements
15 that are yet to happen or be definitively determined. As such, the alleged generation of
16 public revenue authorized by SB 420 without a two-thirds vote of the Legislature is
17 something that may or may not occur in the future, depending on whether the waiver
18 application is granted. Similarly, the alleged unlawful appropriations depend on money
19 being available in the Public Option trust fund, which has yet to happen. Plaintiffs will
20 suffer no hardship regarding these two issues by having to wait to adjudicate their
21 challenges to SB 420 until there is a more concrete dispute on the parameters of the public
22 option.

23 Plaintiffs assert that the ripeness requirement does not apply to the public
24 importance exception to standing. This Court disagrees. Standing and ripeness serve
25 different purposes—standing addresses who can bring a claim, while ripeness is a matter
26 of timing. *Herbst Gaming, Inc.*, 122 Nev. at 887, 141 P.3d at 1230-31, quoting *Matter of*
27 *T.R.*, 119 Nev. 646, 651, 80 P.3d 1276, 1279-80 (2003). For that reason, satisfaction of the
28 public importance exception to standing does not satisfy the standards for ripeness, and
Plaintiffs’ first three causes of action are not ripe for judicial determination. See *Jowers v.*
S.C. Dep’t of Health & Envtl. Control, 815 S.E.2d 446, 458-59 (S.C. 2018) (“The public
importance exception does not apply to a lack of ripeness.”); *Walker v. Munro*, 879 P.2d 920,

1 927-28 (Wash. 1994) (declining to apply the public-importance exception because plaintiffs'
2 constitutional challenge to statutory provisions was not ripe for review given that the
3 challenged statutes were not effective and not operative yet); *DiNino v. State ex rel. Gorton*,
4 684 P.2d 1297, 1300-01 (Wash. 1984) (declining to apply the public-importance exception
5 because plaintiffs' constitutional challenge to statutory provisions was not ripe for review
6 given that "[t]his case presents a hypothetical, speculative controversy."). So, even if
7 Plaintiffs could meet the public importance exception for the first three causes of action,
8 those causes of action remain subject to dismissal because they are not ripe.

9 CONCLUSIONS OF LAW

10 In this case, Plaintiff NTU lacks individualized and representational standing to
11 address the claimed violations of SB 420 under Nevada law. Similarly, Plaintiff Titus has
12 also failed to demonstrate individual standing under Nevada law because the harm she
13 asserts is too speculative. Plaintiff's also lack standing under the narrow public importance
14 exception because the appropriation of money by the State Treasurer is uncertain at this
15 time and, similarly, the alleged separation of powers claim is based upon actions which
16 have yet to be finalized. Nor is it clear that Dr. Titus is an appropriate party to pursue the
17 claims raised in this case. If SB 420 becomes fully implemented, it appears likely that the
18 claimed violations will be raised by someone who is in a better position to identify the
19 specific harm and that the issues will not evade review.

20 Plaintiffs NTU and Titus are unable to establish that the first three causes of action
21 are ripe for judicial determination because SB 420 is not fully implemented, and it is
22 currently unclear whether it will be fully implemented. Application of the public
23 importance exception, if this Court were to apply it to the standing issue, would not change
24 the requirement of ripeness in this case.

25 Finally, Plaintiffs lack standing to assert the fourth cause of action because they
26 have not articulated a redressable injury resulting from the alleged violation the
27 Administrative Procedure Act.

28

1 The issues of standing, ripeness and failure to state a claim addressed above could
2 only be corrected if Plaintiffs were to satisfy the legal standards and demonstrate a current
3 harm from the targeted legislation and could show that they meet the public importance
4 exception for standing. Any amended complaint would have to satisfy each of these issues.
5 Additionally, Plaintiffs would also be required to properly name the State of Nevada in
6 addition to the state officers and employees for this Court to properly have subject matter
7 jurisdiction under NRS 41.031(2). Accordingly,

8 IT IS HEREBY ORDERED that Plaintiffs' First Amended Complaint is dismissed
9 without prejudice.

10 IT IS FURTHER ORDERED that counsel for the Executive Defendants shall serve
11 written notice of entry of this order to all other parties and file proof of such service within
12 seven days after the Court sends this Order to counsel.

13 IT IS SO ORDERED.

14 July 30th, 2024.

15 

16 Kristin Luis
17 District Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the First Judicial District Court of Nevada; that on July 30, 2024, I served a copy of this document by placing a true copy in an envelope addressed to:

Joshua M. Halen, Esq. HOLLAND & HART LLP 5441 Kietzke Lane, 2 nd Floor Reno, NV 89511	Office of the Attorney General of Nevada Marni K. Watkins, Esq. Casey J. Quinn, Esq. 1 State of Nevada Way Suite 100 Las Vegas, NV 89119
Constance L. Akridge, Esq. HOLLAND & HART LLP 9555 Hillwood Dr., 2 nd Floor Las Vegas, NV 89134	Kevin C. Powers, Esq. Legislative Counsel Bureau, Legal Division 401 S. Carson St. Carson City NV 89701
Christopher M. Jackson, Esq. HOLLAND & HART LLP 555 17 th St., Ste. 3200 Denver, CO 80202	

the envelope sealed and then deposited in the Court's central mailing basket in the court clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for mailing.


Billie Shadron
Judicial Assistant