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**FIRST JUDICIAL DISTRICT COURT OF NEVADA  
CARSON CITY**

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

Plaintiffs,

v.

THE STATE OF NEVADA, ex, rel., 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 Human Services; STACIE  
WEEKS, in her official capacity as Director of  
the Nevada Health Authority; NED GAINES,  
in his official capacity as the Acting Nevada  
Commissioner of Insurance; and JANEL  
DAVIS, in her official capacity as Acting  
Executive Director of the Silver State Health  
Insurance Exchange,

Defendants.

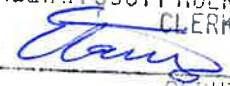
Case No. 25 OC 00109 1B

Dept. No. 1

**NOTICE OF APPEAL**

Please take notice that plaintiffs hereby appeal to the Nevada Supreme Court from

1. all judgments and orders in this case;

REC'D & FILED  
2025 NOV 20 PM 3:59  
WILLIAM SCOTT HOEN  
CLERK  
BY   
DEPUTY

2. “Findings of Fact, Conclusions of Law, and Order Granting Defendants’ Motion to Dismiss,” entered on November 3, 2025, (Ex. A); and

3. all judgments, rulings, and interlocutory orders made appealable by the foregoing.

DATE: November 19, 2025

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**CERTIFICATE OF SERVICE**

I, Cathy Ryle, certify:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5470 Kietzke Lane, Suite 100, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

On November 19, 2025, I caused the foregoing **NOTICE OF APPEAL**, to be served by the following methods(s):

☒ U.S. Mail: A true and correct copy was placed in Holland & Hart LLP's outgoing mail in a sealed envelope addressed as follows:

Jeffrey M. Conner (NSBN 11543)  
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☒ E-Mail: By e-mailing a true copy thereof to the following person(s) at the following e-mail addresses, pursuant to NRCP 5(b)(F):

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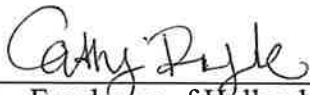
  
An Employee of Holland & Hart LLP

EXHIBIT A

EXHIBIT A

REC'D & FILED

2025 NOV -3 PM 1:35

WILLIAM SCOTT HEE  
CLERK  
BY Handwritten Signature  
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE CARSON CITY

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

Plaintiffs,

vs.

THE STATE OF NEVADA, ex rel.,  
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.

Case No. 25 OC 00109 1B

Dept. No. 1

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
ORDER GRANTING DEFENDANTS MOTION TO DISMISS**

This matter comes before the Court on Defendants' motion to dismiss. Defendants argue that Plaintiffs (National TaxPayers Union (NTU) and Senator Robin Titus, MD<sup>1</sup>) lack standing to challenge SB 420 and that the First Amended Complaint fails to state a

<sup>1</sup> The Court recognizes that Plaintiff Titus is both a state senator and a medical doctor. Because the caption refers to her by her status as a medical doctor, and she appears to bring this suit in her capacity as a healthcare provider, the Court refers to her throughout this order as Dr. Titus.

1 claim for relief under NRCP 12(b)(5). Plaintiffs assert multiple grounds for standing and  
2 argue that they have sufficiently pleaded their claims for relief. Because this Court  
3 concludes that Plaintiffs lack standing, the Court declines to address Defendants'  
4 arguments under NRCP 12(b)(5).

### 5 FINDINGS OF FACT

6 1. The Nevada Legislature passed SB 420, otherwise known as the Public  
7 Option, during the 2021 legislative session.

8 2. The Public Option is a publicly supported option for health insurance plans  
9 intended to achieve premium reductions that make health insurance more affordable and  
10 accessible.

11 3. SB 420 requires that Public Option health insurance plans must meet  
12 minimum standards for Qualified Health Plans (QHP) under state and federal law and be  
13 made available for consumers to purchase on the Silver State Health Insurance Exchange.

14 4. All payments on premiums for Public Option plans are subject to QHP carrier  
15 fees that provide the primary operating revenue for the Silver State Health Insurance  
16 Exchange.

17 5. All payments on premiums for Public Option plans are subject to a tax  
18 imposed on all health insurance premiums under state law.

19 6. SB 420 requires that Public Option health insurance plans meet premium  
20 reduction targets. The premiums must be "at least 5 percent lower than the reference  
21 premium for that zip code" and "must not increase in any year by a percentage greater than  
22 the increase in the Medicare Economic Index for that year."

23 7. SB 420 also allows Defendants to "revise" the premium reduction targets  
24 "provided that the average premiums for the Public Option must be at least 15 percent  
25 lower than the average reference premium in this state over the first 4 years in which the  
26 Public Option is in operation."

27 8. Defendants issued two guidance letters addressing revisions on the premium  
28 reduction targets, one on October 4, 2022, and one on November 20, 2023.

1           9.     Under SB 420, Defendants submitted a waiver application to the U.S.  
2 Secretary of Health and Human Services under 42 U.S.C. § 18052 to obtain “pass-through”  
3 funding from the federal government, which results in the state receiving federal funding  
4 that would have been paid as credits or reductions to participants in state health insurance  
5 exchanges.

6           10.    Plaintiffs challenged SB 420 while the waiver application remained pending,  
7 but this Court dismissed that complaint without prejudice on standing and ripeness  
8 grounds.

9           11.    The U.S. Department of Health and Human Services issued an approval letter  
10 that conditioned approval of the waiver on the State agreeing to various terms and  
11 conditions on January 10, 2025, and the State accepted all terms and conditions.

12          12.    Money collected from the fee and tax that apply to premium payments on  
13 Public Option plans and federal pass-through dollars will be deposited in the State Public  
14 Option Trust Fund, and SB 420 provides that “[i]f the State Treasurer determines that  
15 there is sufficient money in the Trust Fund to carry out the provisions of this chapter for  
16 the current fiscal year, the Director may use a portion determined by the State Treasurer  
17 of any additional money in the Trust Fund to increase the affordability of the Public  
18 Option.”

19          13.    SB 420 requires health insurance carriers that are contracted with the now  
20 former Division of Health Care Financing Policy (now part of the Nevada Health Authority)  
21 for administration of Medicaid managed care to submit a good-faith proposal to provide a  
22 Public Option plan.

23          14.    SB 420 requires Nevada healthcare providers to participate in at least one  
24 Public Option carrier’s network if they participate in the Public Employees Benefit  
25 Program, the Medicaid program, or the State’s workers compensation program and to  
26 accept new patients enrolled in a Public Option plan if they are accepting new patients.

27          15.    The terms of SB 420 take effect on January 1, 2026, with the exception that a  
28 limited number of provisions took effect on passage of SB 420 in 2021 “for the purposes of

1 procurement and any other preparatory administrative tasks necessary to carry out the  
2 provisions of those sections.”

3 16. After carriers submitted bids, Defendants finalized contracts with the  
4 carriers; the State Board of Examiners approved the contracts on April 8, 2025.

5 17. Plaintiffs filed a new complaint on July 7, 2025.

6 18. Plaintiffs amended their complaint on August 25, 2025.

7 19. The First Amended Complaint asserts four claims for relief: (1) SB 420  
8 violates Nev. Const. art. IV, §18(2); (2) SB 420 violates Nev. Const. art. IV, §19; (3) SB 420  
9 Nev. Const. art. III, §1; and (4) issuance of the guidance letters violated the Nevada  
10 Administrative Procedures Act.

11 20. Defendants moved to dismiss based on lack of standing and failure to state a  
12 claim for relief on September 8, 2025, Plaintiffs responded on September 22, 2025, and  
13 Defendants replied on September 29, 2025.

14 21. Plaintiffs also filed a motion for preliminary injunction on July 7, 2025, and  
15 an amended motion for preliminary injunction on August 26, 2025.

16 22. This Court heard argument on the motion to dismiss on October 21, 2025.

17 23. Plaintiffs’ arguments on standing are as follows:

18 a. NTU has standing to represent its Nevada members and supporters  
19 who are taxpayers.

20 b. Dr. Titus has standing because she is a taxpayer and will experience  
21 reductions in reimbursement rates as a result of the Public Option, as  
22 confirmed by the Defendants’ statements to the federal government.

23 c. Plaintiffs meet the public importance exception on standing because:

24 i. SB 420 is an issue of significant public importance in that it  
25 involves contracts with health insurance carriers “worth \$20-\$25 billion  
26 over the next five years,” “will result in \$401-\$760 million in federal  
27 funding,” and “will dramatically reshape healthcare in Nevada, a \$15  
28 billion industry that employs 160,000 people, which is more than 10% of



1 the State's workforce." As a result, quoting *Morency v. State Dep't of Educ.*,  
2 137 Nev. 622, 627, 496 P.3d 584, 589 (2021), Plaintiffs assert that SB 420  
3 "plainly affects 'the financial concerns of a significant number of  
4 businesses, organizations, and individuals throughout the state, as well as  
5 the state's budget.'"

6 ii. SB 420 is an expenditure or appropriation that violates Nev.  
7 Const. art. IV, §18(2), and Nev. Const. art. IV, §19, and it also violates  
8 separation of powers principles under Nev. Const. art. III, §1, by  
9 improperly delegating lawmaking functions to the executive branch and  
10 allowing executive-agency officers to modify the statute.

11 iii. Plaintiffs are proper parties because Dr. Titus is a physician, a  
12 taxpayer, and a legislator; NTU was involved with passage of Nev. Const.  
13 art. IV, §18(2); and Defendants have not identified who would be a more  
14 appropriate party.

15 d. Plaintiffs have taxpayer standing, especially because the act sought to  
16 be enjoined involves the assessment of an illegal tax.

17 e. Dr. Titus has standing to challenge Defendants issuing the guidance  
18 letters because she is likely to experience reductions in reimbursement rates.

19 24. Defendants' arguments on standing are as follows:

20 a. There is no taxpayer standing in Nevada.

21 b. NTU alleges no injury to itself.

22 c. NTU fails to establish representational standing because it has not  
23 provided any means to identify its Nevada members and supporters.

24 d. Dr. Titus fails to establish an injury-in-fact because, although Plaintiffs  
25 have asserted that SB 420 will result in reductions in reimbursement rates for  
26 healthcare providers, Plaintiffs allege that the contracts on Public Option plans with  
27 health insurance carriers for the 2026 calendar year are final but do not allege that  
28 Dr. Titus experienced a reduction in her reimbursement rates. Any reduction in

1 rates cannot drop below a floor that is consistent with existing reimbursement rates  
2 for existing federal programs. Additionally, even assuming Dr. Titus were to  
3 experience a reduction in rates at some time, she is likely to experience a net benefit  
4 resulting from the Public Option reducing the number of patients she serves that  
5 would be underinsured or uninsured without availability of Public Option plans,  
6 which makes her alleged injury too speculative to establish standing.

7 e. Plaintiffs do not satisfy the public importance exception to standing  
8 because:

9 i. Plaintiffs fail to meet the first prong of the test on public  
10 importance because this Court previously determined they failed to satisfy  
11 that prong and nothing material has changed since that time; Plaintiffs are  
12 the same parties bringing the same claims.

13 ii. Plaintiffs fail to meet the third prong of the test on being  
14 appropriate parties because Plaintiffs arguments on prong one admit that  
15 other parties are likely to have standing, NTU's failure to identify who its  
16 Nevada members and supporters are prevents the Court from assessing  
17 whether NTU is a "sham plaintiff," and allowing Dr. Titus to proceed when  
18 admitting that others can establish standing will undermine decades of  
19 caselaw adhering to the absence of third-party standing in Nevada.

## 20 CONCLUSIONS OF LAW

21 1. A complaint must be dismissed under NRCP 12(b)(1) when the Court lacks  
22 subject matter jurisdiction. *See also* NRCP 12(h)(3).

23 2. Subject matter jurisdiction is "the court's authority to render a judgment in a  
24 particular category of case." *Landreth v. Malik*, 127 Nev. 175, 183, 251 P.3d 163, 168 (2011).

25 3. It is Plaintiffs' burden to plead allegations sufficient to invoke the Court's  
26 jurisdiction. *Castillo v. United Federal Credit Union*, 134 Nev. 13, 15, 409 P.3d 54, 57  
27 (2018).

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1           4.     "[T]he district court can take evidence on the claim that the complaint does  
2 not fall within the subject matter jurisdiction of the court, and such evidence is not  
3 necessarily confined to the allegations of the complaint." *Morrison v. Beach City, LLC*, 116  
4 Nev. 34, 36–37, 991 P.2d 982, 983 (2000).

5           5.     Plaintiffs must establish standing for each claim for relief. *National Ass'n of*  
6 *Mut. Ins. Companies v. Dep't of Bus. & Indus., Div. of Ins.*, 139 Nev. 18, 27, 524 P.3d 470,  
7 480 (2023) ("NAMIC").

8           6.     In Nevada, with limited exceptions, only "one who possesses the right to  
9 enforce the claim and has a significant interest in the litigation" may bring an action. *High*  
10 *Noon at Arlington Ranch Homeowners Assoc. v. Eighth Jud. Dist. Ct.*, 133 Nev. 500, 507,  
11 402 P.3d 639, 646 (2017); *see also* NRCP 17(a).

12           7.     Plaintiffs must establish an "injury-in-fact" except in "the rare case involving  
13 a constitutional expenditure challenge or separation-of-powers dispute that will evade  
14 review if strict standing requirements are imposed." *NAMIC*, 139 Nev. at 27, 524 P.3d at  
15 480.

16           8.     Injuries that are "merely apprehended or feared" are too speculative to satisfy  
17 the "injury-in-fact" requirement for standing. *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.2d  
18 443, 444 (1986). An injury must have already occurred or there must be an "immediate  
19 danger of injury as a result of enforcement" of the challenged law. *Bryan*, 102 Nev. at 526,  
20 728 P.3d at 444.

21           9.     An association asserting representational standing must provide the Court  
22 with information that identifies the organization's members. *NAMIC*, 139 Nev. at 24–26,  
23 524 P.3d at 478–79.

24           10.    NTU lacks traditional standing because it has not alleged that it will suffer  
25 an injury-in-fact as a result of SB 420 and has nothing more than a general interest in  
26 prosecuting alleged constitutional violations. *Id.* at 22–23, 524 P.3d at 476–77.

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1           11.   NTU lacks associational standing because it has not provided the Court with  
2 the means to identify its Nevada members and supporters. *Id.* at 24–26, 524 P.3d at 478–  
3 79.

4           12.   Although Dr. Titus presents a closer case on standing, her alleged injury is  
5 insufficiently concrete and too speculative to establish the injury-in-fact that is required to  
6 prove standing because she does not allege that she has actually experienced, or is  
7 sufficiently likely to experience, a reduction in reimbursement rates as a result of the Public  
8 Option in general and more specifically with respect to the guidance letters. *Doe v. Bryan*,  
9 102 Nev. at 525–26, 728 P.2d at 444–45 (1986). Under the current circumstances, it is  
10 unknown how many people will utilize the Public Option; how many patients of Dr. Titus,  
11 if any, will utilize the Public Option; how much the reimbursement rates to Dr. Titus will  
12 be reduced; and the financial impact, if any, to Dr. Titus resulting from the implementation  
13 of the Public Option.

14           13.   Nevada has never recognized taxpayer standing. *Blanding v. City of Las*  
15 *Vegas*, 52 Nev. 52, 74, 280 P. 644, 650 (1929). It would be inappropriate for the Court to  
16 adopt a theory of taxpayer standing at this time, especially after the Nevada Supreme  
17 Court’s adoption of the public importance exception in a case where taxpayer status would  
18 have provided a sufficient basis for standing if taxpayer standing was recognized in  
19 Nevada. *See, e.g., Schwartz v. Lopez*, 132 Nev. 732, 382 P.3d 886 (2016).

20           14.   The public importance “exception applies only when the plaintiff  
21 demonstrates (1) the case presents ‘an issue of significant public importance, (2) the case  
22 involves ‘a challenge to a legislative expenditure or appropriation on the basis that it  
23 violates a specific provision of the Nevada Constitution” or is an “extraordinary case[]”  
24 within the category of cases with a plaintiff that “seeks vindication of the Nevada  
25 Constitution’s separation-of-powers clause,” and “(3) the plaintiff is an ‘appropriate’ party  
26 to bring the action.” *Nev. Pol’y Rsch. Inst., Inc. v. Cannizzaro*, 138 Nev. 259, 262–63, 507  
27 P.3d 1203, 1207–08 (2022) (quoting *Schwartz*, 132 Nev. at 743, 382 P.3d at 894–95).

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1           15. Plaintiffs fail to satisfy the public importance exception for standing. The  
2 Court rejects Defendants' argument that Plaintiffs have not satisfied the first prong of the  
3 test, which focuses on whether the claims address an issue of significant public importance.  
4 The *First Amended Complaint* offers much more robust allegations in this regard than the  
5 original Complaint. Based on those allegations, the Court is satisfied the general subject  
6 of health care in Nevada and the specific issues associated with the implementation of the  
7 Public Option are "of significant public importance." The parties agree that Plaintiffs'  
8 claims for relief satisfy the second prong of the test, at least with respect to the second  
9 cause of action and possibly the third as well. And this Court agrees that the second prong  
10 is satisfied, at least with respect to those claims. But the Court agrees with Defendants  
11 that Plaintiffs fail to satisfy the third prong of the test, which addresses whether Plaintiffs  
12 are a proper party.

13           16. Because NTU has not identified who its Nevada members are, there is no way  
14 for this Court to assess the propriety of NTU is an appropriate plaintiff as required.  
15 *Cannizaro*, 138 Nev. 266, 507 P.3d at 1210.

16           17. Dr. Titus again presents a closer case, but based on the current factual  
17 circumstances, the Court remains unconvinced that Dr. Titus is a proper party, especially  
18 where other parties are likely to meet the traditional requirements for standing to  
19 challenge SB 420. Allowing Dr. Titus to proceed when Plaintiffs admit others are likely  
20 able to meet the traditional standing requirements would conflict with decades of Nevada  
21 precedent on the absence of third-party standing. *Deal v. 999 Lakeshore Ass'n*, 94 Nev. 301,  
22 304, 579 P.2d 775, 777 (1978). In addition, this is not the sort of rare case that is likely to  
23 "evade review if strict standing requirements are imposed." *NAMIC*, 139 Nev. at 22, 524  
24 P.3d at 476.

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Dated this 3<sup>rd</sup> day of November, 2025.

  
Jason D. Woodbury  
DISTRICT JUDGE


**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on November 3, 2025, I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

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