

*Policy Brief*

September 2024

# Initiated Statutes

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## Introduction

The Utah Legislature recently convened a special session in response to a Utah Supreme Court ruling concerning initiated statutes. During this session, lawmakers introduced a proposal to place a question on the November 2024 ballot, seeking to amend the Utah Constitution to broaden the Legislature’s authority to modify initiated statutes. In light of this development, and at the request of legislative and community leaders, the Gary R. Herbert Institute for Public Policy and the UVU Center for Constitutional Studies have prepared this fact sheet to inform and assist the community.

## What is an Initiative?

An initiative is a resident petition to propose a new law that is submitted to voters or the Legislature for their approval or rejection. A local initiative proposes a county, municipal, or metro township law, and a statewide initiative proposes a state law.<sup>i</sup>

## Utah State Laws on Initiated Statutes

In Utah, citizens can enact legislation through both direct and indirect initiatives. Direct initiatives allow Utahns to draft a proposed law and gather signatures to place it directly on the election ballot. If enough signatures are collected, the initiative goes directly to voters for approval or rejection in an election. Alternatively, Utahns may draft a proposed law and collect fewer signatures to submit it to the state Legislature for their consideration.<sup>ii</sup>

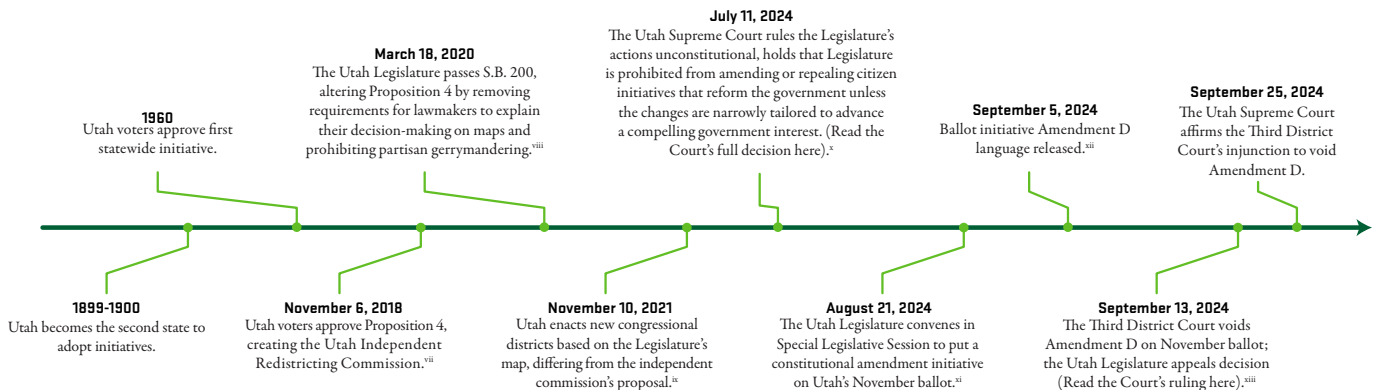
## How Does a Statewide Initiative Work?

Sponsors of an initiative must collect a certain number of handwritten signatures from registered voters to place an initiative on the ballot or submit it to the Legislature. If the sponsors want to place an initiative on the ballot, they must collect 134,298 signatures of registered voters in Utah. If the sponsors plan on submitting a proposed law to the Legislature for its consideration, sponsors must collect 67,149 signatures of registered voters in Utah. While signature collection is one way to propose a change in state law, it is more common for constituents to ask their legislator to sponsor a bill during a legislative session. Sponsors must also ensure that they meet specific signature thresholds in at least 26 of the 29 state senate districts. These requirements are based on the number of active voters on January 1, 2023. The requirements will change on January 1, 2025, and every two years.<sup>iv</sup>

## What did the Utah Supreme Court Say About Initiatives?

On July 11, 2024 the Utah Supreme Court issued a unanimous ruling of *League of Women Voters of Utah v. Utah State Legislature*.<sup>iv</sup> The Court ruled that any initiative passed that aims to “alter or reform [the] government,” cannot be repealed or modified by the State Legislature in a manner that undermines the intended reform the people sought. However, the Court specified two acceptable routes the Legislature may pursue to change initiatives intended to reform the government. First, the Legislature may amend an initiated statute if the changes

## Timeline of the Utah Redistricting Initiative and S.B. 200



are made to faithfully implement the people’s desired reform. Second, the Legislature may repeal or alter an initiated statute if their actions are found by the Court to be narrowly tailored to advance a compelling government interest.<sup>v</sup> This standard is commonly known in constitutional law as ‘strict scrutiny.’ This standard is only applied to initiated statutes that are understood by the Courts to “alter or reform [the] government” as outlined in the Alter or Reform Clause of article 1, section 2 of the Utah Constitution.<sup>vi</sup>

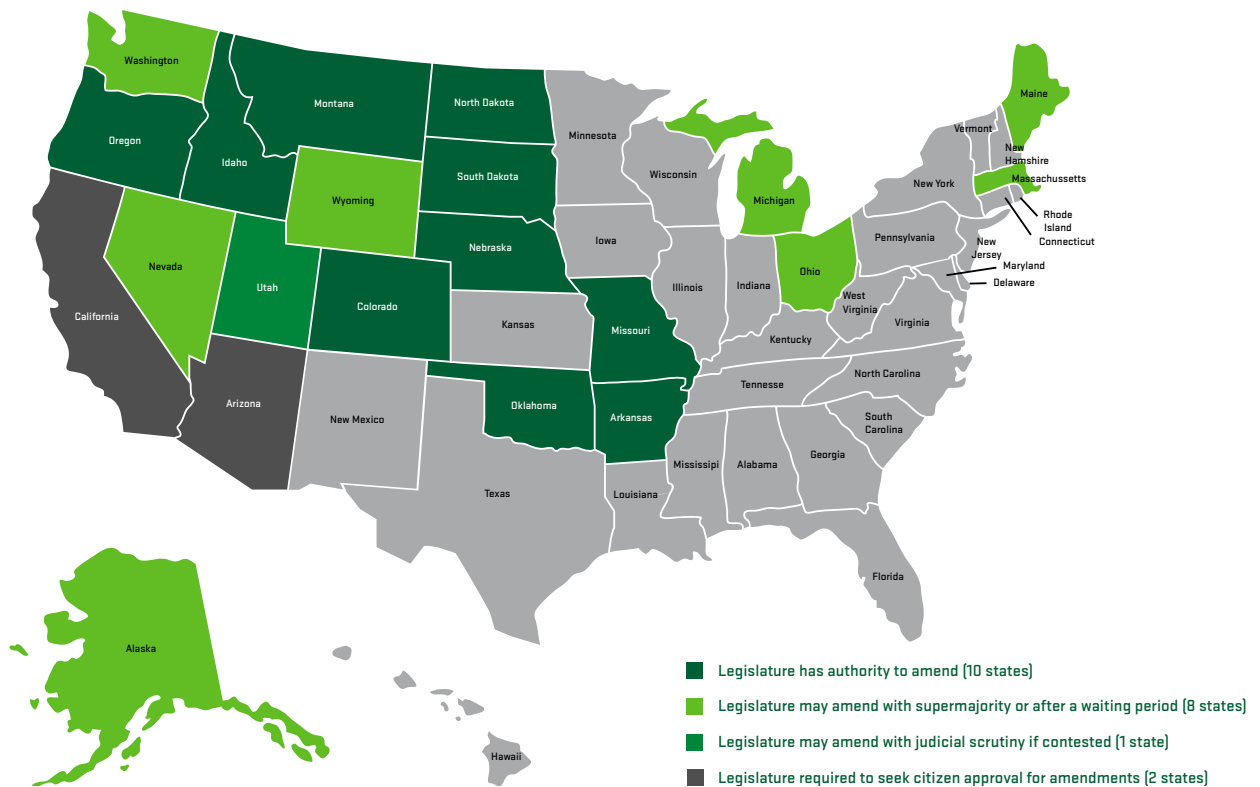
**Proposition 4 Results Table**

- Allow Utah citizens 50% more time to gather signatures for a statewide referendum.
- Establish requirements for the legislature to follow the intent of a ballot initiative.

**A National Perspective on Initiatives - Where Does Utah Fit In?**

In the United States, 21 states permit the use of initiated statutes (See Map 1). Among them, 10 states allow their legislatures to amend or repeal these statutes without restrictions, treating them like regular legislation. In contrast, 8 states impose additional requirements, such as a supermajority or time limits, as seen

Map 1



**What Will Amendment D Look Like on My Ballot?**

Should the Utah Constitution be changed to strengthen the initiative process by:

- Prohibiting foreign influence on ballot initiatives and referendums.
- Clarifying the voters and legislative bodies’ ability to amend laws

**If approved, state law would also be changed to:**

in Wyoming, where a 2-year restriction applies to legislative amendments. In California and Arizona, legislative amendments to initiated statutes are prohibited unless they receive voter approval. Meanwhile, Utah now permits legislative amendments to initiated statutes under limited circumstances.

**How Would Amendment D Change the Utah Constitution?**

If Amendment D is approved in November, it would introduce new language to Article 1, Section 2, and Article VI, Section 1 of the Utah Constitution. The underlined text on the next page represents the proposed changes:

**Article I, Section 2. All political power inherent in the people.**

All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government through the processes established in Article VI, Section 1, Subsection (2), or through Article XIII as the public welfare may require.

**Article VI, Section 1. Power vested in Senate, House, and People – Prohibition of foreign influence on initiatives and referenda.**

(1) The Legislative power of the State shall be vested in:

(a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah; and

(b) the people of the State of Utah as provided in Subsection (2).

(2)(a)

(i) The legal voters of the State of Utah, in the numbers, under the conditions, in the manner, and within the time provided by statute, may:

(A) initiate any desired legislation and cause it to be submitted to the people for adoption upon a majority vote of those voting on the legislation, as provided by statute; or

(B) require any law passed by the Legislature, except those laws passed by a two-thirds vote of the members elected to each house of the Legislature, to be submitted to the voters of the State, as provided by statute, before the law may take effect.

(ii) Notwithstanding Subsection (2)(a)(i)(A), legislation initiated to allow, limit, or prohibit the taking of wildlife or the season for or method of taking wildlife shall be adopted upon approval of two-thirds of those voting.

(B) The legal voters of any county, city, or town, in the numbers, under the conditions, in the manner, and within the time provided by statute, may:

(i) initiate any desired legislation and cause it to be submitted to the people of the county, city, or town for adoption upon a majority vote of those voting on

the legislation, as provided by statute; or

(ii) require any law or ordinance passed by the law making body of the county, city, or town to be submitted to the voters thereof, as provided by statute, before the law or ordinance may take effect.

(3)(a) Foreign individuals, entities, or governments may not, directly or indirectly, influence, support, or oppose an initiative or a referendum.

(b) The Legislature may provide, by statute, definitions, scope, and enforcement of the prohibition under Subsection (3)(a).

(4) Notwithstanding any other provision of this Constitution, the people's exercise of their Legislative power as provided in Subsection (2) does not limit or preclude the exercise of Legislative power, including through amending, enacting, or repealing a law, by the Legislature, or by a law making body of a county, city, or town, on behalf of the people whom they are elected to represent.



Visit UVU's Federalism Index Project  
for more information  
including an interactive map.

# Endnotes

September 2024

<sup>i</sup> “Initiatives and Referenda,” Utah Voter Information, accessed September 9, 2024, <https://vote.utah.gov/initiatives-and-referenda/>.

<sup>ii</sup> “Initiatives and Referenda,” Utah Voter Information, accessed September 9, 2024, <https://vote.utah.gov/initiatives-and-referenda/>.

<sup>iii</sup> “Initiatives and Referenda,” Utah Voter Information, accessed September 9, 2024, <https://vote.utah.gov/initiatives-and-referenda/>.

<sup>iv</sup> League of Women Voters v. Utah State Legislature, 2024 UT 29, No. 20220711 (Utah July 11, 2024), <https://legacy.utcourts.gov/opinions/supopin/League%20of%20Women%20Voters%20v.%20Utah%20State%20Legislature20240711.pdf>.

<sup>v</sup> League of Women Voters v. Utah State Legislature, 2024 UT 29, No. 20220711 (Utah July 11, 2024), 6, <https://legacy.utcourts.gov/opinions/supopin/League%20of%20Women%20Voters%20v.%20Utah%20State%20Legislature20240711.pdf>.

<sup>vi</sup> League of Women Voters v. Utah State Legislature, 2024 UT 29, No. 20220711 (Utah July 11, 2024), 5, <https://legacy.utcourts.gov/opinions/supopin/League%20of%20Women%20Voters%20v.%20Utah%20State%20Legislature20240711.pdf>.

<sup>vii</sup> Ben Lockhart, “Utah Proposition to Battle Gerrymandering Passes as Final Votes Tallied,” Deseret News, November 20, 2018, <https://www.deseret.com/2018/11/20/20659293/utah-proposition-to-battle-gerrymandering-passes-as-final-votes-tallied/>.

<sup>viii</sup> Utah State Legislature, S.B. 200, “Pandemic Response and Consultation Act,” 2020 General Session, <https://le.utah.gov/~2020/bills/static/SB0200.html>.

<sup>ix</sup> Sam Metz, “Utah Legislature Approves New Congressional Maps, Ignoring Independent Suggestions,” Associated Press, November 10, 2021, <https://apnews.com/article/congress-utah-salt-lake-city-redistricting-legislature-966ab9c764a69d8a4242013d0405af09>.

<sup>x</sup> Dennis Romboy, “Utah Supreme Court: Legislature Overstepped in Changing Voter-Led Redistricting Initiative,” KSL News, August 21, 2020, <https://www.ksl.com/article/51066474/utah-supreme-court-legislature-overstepped-in-changing-voter-led-redistricting-initiative>.

<sup>xi</sup> Katie McKellar, “New Initiative Aims to Change How Initiatives Work in Utah,” Deseret News, August 19, 2024, <https://www.deseret.com/politics/2024/08/19/initiative-amendment-utah/>.

<sup>xii</sup> Katie McKellar, “Utah’s Amendment D Explained: How It Could Stop Another Party-Switching Scenario,” Deseret News, September 5, 2024, <https://www.deseret.com/politics/2024/09/05/amendment-d-utah/>.

<sup>xiii</sup> Katie McKellar, “Ruling on Ballot Initiative Amendment Expected to Have Major Impact,” Deseret News, September 12, 2024, <https://www.deseret.com/politics/2024/09/12/ruling-on-ballot-initiative-amendment/>.

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