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**IN THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,  
MORMON WOMEN FOR ETHICAL  
GOVERNMENT, STEFANIE CONDIE,  
MALCOLM REID, VICTORIA REID,  
WENDY MARTIN, ELEANOR  
SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, et al.,

Defendants.

**PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION ON  
COUNT XXII OF THEIR FOURTH  
SUPPLEMENTAL COMPLAINT**

**(Expedited Hearing Requested)**

Case No. 220901712

Honorable Dianna Gibson

## **RELIEF REQUESTED AND GROUNDS**

Pursuant to Rule 65A of the Utah Rules of Civil Procedure, Plaintiffs League of Women Voters of Utah, Mormon Women for Ethical Government, Stefanie Condie, Malcolm Reid, Victoria Reid, Wendy Martin, Eleanor Sundwall, and Jack Markman hereby move for a preliminary injunction on Count XXII of their Fourth Supplemental Complaint, which states a claim against Defendant Lieutenant Governor Henderson only. Plaintiffs are entitled to a preliminary injunction under Rule 65A for the reasons explained below.

## **INTRODUCTION**

For seven years, gerrymandering advocates have launched seemingly endless attacks on Proposition 4. First the Legislature repealed it and replaced it with S.B. 200. That was ruled unconstitutional. Second, the Legislature sought to mislead the voters into forfeiting their constitutional right to alter or reform their government. That was ruled unconstitutional. Third, the Legislature enacted SB 1011 to rewrite Proposition 4 to neuter its gerrymandering prohibition. That is unconstitutional. Now, six individuals supported by partisan special interests have hatched a plan that they believe will be the new death knell to Proposition 4's anti-gerrymandering reforms: collect signatures from 4% of Utah voters and on that basis provide cover for the Legislature to again repeal Proposition 4.

That too is unconstitutional. This latest gambit is not the end-run around the Constitution that its proponents believe. The Constitution creates *one* category of initiatives: those decided by the *People* by majority vote. Government reform initiatives adopted by majority vote are entitled to constitutional protections. But the proponents of this effort to repeal Proposition 4 have not sought to exercise their constitutional right to an initiative decided by the People. They instead seek to utilize a different mechanism—the “indirect initiative”—which is exclusively a creature of

statute enacted by the Legislature. It authorizes proponents of a law to collect signatures from 4% of voters—half as many as needed to put an initiative on the ballot—and submit it to the Legislature for adoption or rejection.

But Utah law prohibits an unconstitutional law from advancing through the “indirect initiative” process. Yet that is exactly what the latest effort seeks to accomplish. As this Court has already ruled, the Legislature’s repeal of Proposition 4 was unconstitutional. It infringed the People’s right to alter or reform their government via an initiative adopted by the majority of the voters. The Legislature—backed by 4% of voters—cannot accomplish that unconstitutional repeal via the “indirect initiative,” because that mechanism is a creature of statute with no power to overcome the constitutional right of the People to alter or reform their government through the sole constitutionally established initiative process: a majority vote of the People. The Legislature cannot enact a statute that affords it the ability to violate the People’s constitutional rights. And the Lieutenant Governor cannot interpret the “indirect initiative” statutory scheme in a manner that would violate Plaintiffs’ constitutional rights to adopt Proposition 4 via majority vote to alter or reform their government.

In a news interview after filing the application with the Lieutenant Governor, one of the sponsors said: “[i]t’s the process that [the courts] wanted us to go by, we will go by their process, we will play the games that the state Supreme Court and now our judiciary wants us to engage in. We’re up to the challenge, and the people of Utah will weigh in.”<sup>1</sup> This isn’t a game. And the mechanism the Constitution sets forth for “the people of Utah [to] weigh in” is not for 4% of voters to rubberstamp the Legislature repealing Proposition 4, which was adopted by a majority of Utah’s

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<sup>1</sup> Lindsay Aerts, *Utah republican party launches referendum on map C and initiative to ask legislature to repeal Prop 4*, ABC4, <https://www.abc4.com/news/politics/inside-utah-politics/utah-republicans-redistricting-map-c-referendum-prop-4-initiative/>.

voters. Because the “indirect initiative” proposes an unconstitutional law, the Lieutenant Governor should be enjoined from accepting the application, issuing signatures sheets, and/or submitting it to the Legislature.

### **FACTUAL BACKGROUND**

This Court has ruled that the Legislature violated Plaintiffs’ constitutional right to alter and reform their government via a voter-approved initiative when it repealed Proposition 4 via S.B. 200 because the Legislature did not advance a compelling interest that was served by narrowly tailored means. S.B. 200 is thus void *ab initio* and Proposition 4 is the law with respect to redistricting.

On October 14, 2025, six voters filed an application with the Lieutenant Governor with a proposed initiative to repeal Proposition 4.<sup>2</sup> But they did not seek to exercise their *constitutional* right to propose an initiative to be adopted by Utah’s voters, as Article VI, Section 1, provides. Rather, they seek to propose an initiative to *the Legislature* pursuant to a process created exclusively by statute. That process, known as an “indirect initiative,” was adopted by statute and allows voters to propose legislation for adoption by the Legislature. *See* Utah Code § 20A-7-102(1)(a). The indirect initiative process is subject to a lower signature gathering threshold—with signatures (including in 26 senate districts) of just 4% of active voters required (compared to 8% for the constitutionally-created voter-referred initiative process). *See* Utah Code § 20A-7-201(1)(a) & (2)(a). Signatures must be submitted to county clerks for verification by 5 p.m. of November 15, 2025. *See* Utah Code § 20A-7-206.1(2). And unlike a constitutional initiative, an “indirect

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<sup>2</sup> *See* Utah Lt. Gov, Statewide Initiative and Referendum Information, Repeal of Independent Redistricting Commission Initiative, <https://vote.utah.gov/wp-content/uploads/2025/10/Repeal-of-Independent-Redistricting-Commission-Initiative.pdf>.

initiative” is not presented to voters for approval or rejection on the ballot but is instead presented only to the Legislature once the 4% signature threshold is met.

Under Utah Code § 20A-7-202(5)(a)(i), “[t]he lieutenant governor shall reject an initiative application . . . and not issue signatures sheets if (a) the proposed law: (i) is unconstitutional.”

## **ARGUMENT**

### **I. Plaintiffs are likely to prevail on the merits.**

Plaintiffs are likely to prevail on the merits of their claim that Article I, Section 2 and Article VI, Section 1 of the Constitution foreclose the proposed indirect initiative application to repeal Proposition 4. This Court has already ruled that the Legislature violated Plaintiffs’ constitutional rights by repealing Proposition 4 and enacting S.B. 200. The Legislature had no compelling interest advanced by narrowly tailored means for doing so, and Proposition 4 is thus the law of the land.

The indirect initiative application submitted to the Lieutenant Governor proposes an unconstitutional law—that the Legislature *again* repeal Proposition 4. But cloaking that repeal in the “indirect initiative” process does not convert it from unconstitutional to constitutional. In adopting Proposition 4, the voters exercised two fundamental constitutional rights—their Article I, Section 2 right to alter or reform their government and their Article VI, Section 1 right to initiate legislation for approval by a majority of voters. *See League of Women Voters of Utah v. Utah State Legislature*, 2024 UT 21 ¶ 104, 554 P.3d 872 (“*League of Women Voters I*”) (holding that Article VI, Section 1’s “Initiative Process provides the people with a direct, legislative means of exercising their right to alter or reform their government, which they had retained in article I, section 2.”). “When these two constitutional provisions are exercised in this manner—within the bounds of the constitution and the legislative power—we conclude that they are constitutionally protected from

government infringement, including legislative action that impairs the government reform contained in an initiative.” *Id.*

The Constitution creates just *one* initiative process. Article VI, Section 1 provides that the legislative power is vested in both the Legislature and the People, and that “[t]he legal voters of the State of Utah, in the numbers, under the conditions, in the manner, and within the time provided by statute, may” “initiate any desired legislation and cause it to be submitted to the people upon a majority vote of those voting on the legislation, as provided by statute.” Utah Const. art. VI, § 1(2)(a)(i)(A). Thus the constitutional initiative process involves laws adopted *by the voters* through a *majority vote*.

The Legislature, by statute, adopted a second form of initiative—the indirect initiative whereby a small percentage of voters can propose laws to be adopted by the *Legislature*. *See* Utah Code § 20A-7-102(1) (authorizing initiatives that are submitted “to the Legislature or to a vote of the people”); *id.* § 20A-7-201(1) (setting forth process for proposing “an initiative submitted to the Legislature”); *id.* § 20A-7-206.1 (setting forth “[p]rovisions relating only to process for submitting an initiative to the Legislature for approval or rejection”). This form of indirect initiative does not arise from the Constitution, which defines the constitutional initiative right solely in terms of initiative legislation approved by a majority of *the voters*, not the Legislature.

When the People exercise their *constitutional* rights to alter or reform the government via an initiative adopted by the majority of *voters*, “they are constitutionally protected from government infringement, including legislative action that impairs the government reform contained in an initiative.” *League of Women Voters I*, 2024 UT 21 ¶ 104. Nothing about the *statutorily-created* “indirect initiative” process removes that constitutional protection from “legislative action that impairs the government reform contained in [Proposition 4].” *Id.* It allows

4% of voters to force the Legislature to vote on a proposed law. *See* Utah Code § 20A-7-201(1)(a). But it does not allow a proposed law that is unconstitutional to advance to consideration by the Legislature. *See* Utah Code § 20A-7-202(5). And a proposed law that impairs a government reform initiative adopted by the People (absent a compelling interest advanced through narrowly tailored means) is not a constitutionally permissible candidate for indirect initiative.

Because the indirect initiative process derives from *statute* and not the *Constitution*, it cannot be a vehicle for the Legislature to accomplish what the Court has ruled it cannot constitutionally achieve: the repeal of Proposition 4. A mere 4% of voters (70,374) cannot convert an unconstitutional legislative repeal of Proposition 4 into a constitutional one through a vehicle—the indirect initiative—with no constitutional genesis. To conclude otherwise would be to allow the Legislature enact by a statute a mechanism to violate the People’s constitutional rights. The Legislature cannot enact statutes that serve to evade the People’s fundamental constitutional right to alter or reform their government by voter-adopted initiatives. That is no different than the Legislature’s enactment of S.B. 200 that this Court has already declared unconstitutional.

Any action by the Lieutenant Governor approving the proposed indirect initiative application to repeal Proposition 4, issuing signature sheets, or submitting the measure to the Legislature would violate Plaintiffs’ Article I, Section 2 and Article VI, Section 1 rights by implementing an unconstitutional interpretation (as applied) of the indirect initiative statutes.

## **II. The remaining factors favor granting a preliminary injunction.**

Plaintiffs also satisfy the remaining preliminary injunction factors: (1) they “will suffer irreparable harm unless the . . . injunction issues,” (2) “the threatened injury to [them] outweighs whatever damage the proposed . . . injunction may cause the party . . . enjoined,” and (3) the

“injunction, if issued, would not be adverse to the public interest.” Utah R. Civ. P. 65A(f)(2)-(4); *see also* Utah Code § 20A-19-301(2)(b) (allowing preliminary relief if it is in the public interest).

First, Plaintiffs will suffer irreparable harm in the absence of an order enjoining the Lieutenant Governor from accepting the application, issuing signature sheets, and/or submitting the measure to the Legislature. Irreparable harm is harm that “cannot be adequately compensated in damages or for which damages cannot be compensable in money.” *League of Women Voters of Utah v. Utah State Legislature*, 2024 UT 40, ¶ 148, 559 P.3d 11, 42 (“*League of Women Voters II*”) (quoting *Hunsaker v. Kersh*, 1999 UT 06, ¶ 9, 991 P.2d 67). No money can compensate them for the loss of their constitutional right to alter and reform their government by enacting Proposition 4’s anti-gerrymandering reforms by voter-approved initiative without legislative impairment. Allowing an end-run around their constitutional right to alter or reform their government by majority vote of the People would strip them of their constitutional protections and the anti-gerrymandering reform they enacted and defended.

Second, the balance of the equities, which “considers whether the applicant’s injury exceeds the potential injury to the defendant,” also favors Plaintiffs. *Planned Parenthood Ass’n of Utah v. State*, 2024 UT 28, ¶ 210, 554 P.3d 998. Plaintiffs now face *another* unconstitutional repeal of the government reform initiative they finally succeeded in having reinstated following the Legislature’s initial unconstitutional repeal. The Lieutenant Governor, on the other hand, merely would be prevented from accepting an application, issuing signature sheets, and/or submitting to the Legislature a proposed unconstitutional statute. That cannot plausibly constitute an injury to the Lieutenant Governor because she is required by law to reject an application that advances an unconstitutional proposed law. *See* Utah Code § 20A-7-202(5).

Third, the public interest weighs in favor of an injunction. A majority of Utah’s voters—over 512,000—adopted Proposition 4 in 2018 to end the practice of partisan gerrymandering in this State. They have seen that reform stymied by an unconstitutional repeal for years and are just now—seven years later—on the precipice of seeing the fruit of their efforts. The public interest is hardly served by allowing yet *another* unconstitutional repeal effort—this time with just 4% of Utah voters along with the Legislature—to proceed. An injunction would restore the parties to the “last uncontested status between the parties which preceded the controversy.” *Planned Parenthood Ass’n of Utah*, 2024 UT 28, ¶ 226. That is, to the status as of the Court’s August 25, 2025 injunction with Proposition 4 the law of the land.

### **CONCLUSION**

For the foregoing reasons, the motion should be granted.

RESPECTFULLY SUBMITTED this 15th day of October 2025.

/s/ David C. Reymann

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